

Freedom From Hate  
Free Speech as Positive Liberty

Ola Skar



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Veiledet av professor Reidar Maliks

UNIVERSITETET I OSLO

Institutt for filosofi, idé- og kunsthistorie og klassiske språk

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# Freedom From Hate – Free Speech as Positive Liberty

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# Abstract

There is a category of speech, call it hate speech, which dehumanizes. In virtue of dehumanizing it undermines its victims' ability to speak. Traditional, liberal theories of free speech based on a negative conception of liberty do not in themselves give us the tools to acknowledge hate speech's badness due to their commitment to neutrality between opinions. Instead, they function so as to give us the tools to discuss our differing opinions. But this is a problem because hate speech, in virtue of dehumanizing, implicitly claims the utterer is infallible and that counter-argumentation is superfluous. It thus rejects any debate free speech as negative liberty might facilitate. To attempt to engage with hate speakers in conversation is therefore potentially self-defeating on the part of someone who subscribes to free speech as negative liberty.

In order to rectify this problem, we might want to develop a theory of free speech which in itself requires us to hold some opinions better than others. One way to do this is to base one's understanding of free speech on positive liberty. Positive liberty is concerned with self-realization, typically understood as adhering to one's authentic moral intuitions. Merging Charles Taylor's understanding of reasoning and strong evaluation with K. E. Løgstrup's concept of the ethical demand and fundamental trust allows us to conceive of other people as a kind of inescapable and external moral source, and as such universally demand what I call 'care-for'.

To most authentically adhere to a moral intuition on this understanding of positive liberty is to provide other people with care-for. Because other people are fundamentally unknowable and inexhaustible as moral sources, and because they function so as to provide us with our sense of self, it becomes impossible for us to authentically believe ourselves infallible. Thus, moreover, in conceiving of free speech as positive liberty, understood in terms of care-for, it becomes impossible for us to hate speak whilst maintaining our own freedom of speech.

Consequently, unlike what was the case for free speech as negative liberty, subscribing to free speech as positive liberty in itself obligates us to reject hate speech. Accepting the surely uncontroversial idea that it would be bad for our concepts of free speech to be self-defeating, this must be said to render free speech as positive liberty superior with regards to its stance on hate speech.





# Preface

I would like to thank my supervisor Reidar Maliks for his kind and perspicacious reading of my text, my parents for their patience, and Ane for continuously showing me that freedom and dependency are commensurable entities.





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## Introduction

In its broadest iteration, the question posed by this thesis is *what is free speech?* It is an attempt to conceptually analyze the concept of free speech. More precisely, it aims to establish how we should conceive of free speech in light of the fact that hate speech represents a problem many of our current concepts of free speech are incapable of addressing. The first premise of my thesis, then, is that free speech rests on a broader conception of liberty. The second is that hate speech can undermine certain understandings of free speech. The third premise is that if our conception of liberty is incapable of addressing the problem of hate speech, it should be thought of as lacking.

It is my contention that on certain prevalent conceptions of liberty and the conceptions of free speech that issue from them, hate speech represents an unsolvable problem. Mainly, these are conceptions in the liberal mold, espousing a variant of liberty we refer to as ‘negative liberty’, or freedom understood as the absence of external obstacles, including other people. Generally, these are conceptions that rely on what Charles Taylor termed ‘atomism’, namely the view that persons are fundamentally independent and isolated from communal obligations. Consequently, they tend to take the view that any utterance is permissible as a matter of principle. Not discriminating one utterance from another, they tend to hold that just about any utterance that does not incite physical violence is permissible.

However, it is my view that hateful utterances are qualitatively different from other utterances. Not simply to be counted as expressions of opinion, they effectively function so as to bereave their victims of their ability to speak. They do this by way of *dehumanization*. *Hate speech*, I argue, *is speech that dehumanizes*, and in so doing they undermine others’ freedom of speech.

It is my view, furthermore, that it is generally a good thing for us to preserve our freedom of speech. Since hate speech effectively diminishes the amount of free speech available to us, therefore, we should want to reject it. But, I argue, dehumanizing speech attacks its victims at a deeper level than our typical negative understandings of free speech can address. Free speech as negative liberty, I argue, does not make claims about people’s fundamental nature as persons. Thus, to hate speak is not like offering up criticisms of someone’s opinions. Rather, it is to reject the notion that one’s victim is properly a person to begin with. It thus falls outside the purview of free speech as negative liberty.

In light of this difficulty, I wish to develop an alternative to the negative theories of free speech. In doing so, I wish to continue to draw upon Charles Taylor's work. I wish, in the first instance, to utilize his work on the concept of *positive liberty*. Positive liberty understands liberty as the power of self-determination – it is about one's ability to live life according to one's own authentic desires.

Secondly, I wish to utilize aspect drawn from the closeness ethics of K. E. Løgstrup. Løgstrup makes claims about the way in which human beings fundamentally relate to one another. Specifically, he makes claims to the effect that we cannot but meet each other with a fundamental kind of trust. In light of this trust, I argue that it must be our authentic desire to engage others in conversation. Moreover, I argue that we cannot authentically reject the notion that another person is in fact a person<sup>1</sup>. In doing this, I believe I will have grounds for rejecting hate speech.

In building my rejection of hate speech on positive liberty, I do not, mean to suggest that positive liberty must be the only viable take on free speech. At no point during my thesis do I suggest that free speech as negative liberty as such is an unviable take on free speech. I critique one iteration of negative liberty, namely J. S. Mill's protean one, for its inability to reject hate speech, but also agree that free speech as negative liberty fulfills its intended function in enabling us to justify sharing and discussing opinions. Free speech as positive liberty will pertain to our freedom to express our fundamental trust in one another. But in subscribing to this concept, it does not appear to me that we are obligated to reject a concept of free speech which pertains to our opinions.

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<sup>1</sup> In doing so, I will eventually veer dangerously close to having to launch into a discussion about what is meant by the term 'person', as well as in virtue of what we consider someone a person. Due to the confines of this assignment, a thesis on free speech, as well as simply concerns about space, I will unfortunately not be able to carry such a discussion to its required length; surely, that topic would require an entire thesis of its own. Nevertheless, I do eventually attempt to provide a conjecture as to the kind of concept of the person we would have to subscribe to in order to make my assertions about the inauthenticity of rejecting someone's personhood work. I hope my tentative outline in that regard will suffice for the time being.

## **Chapter 1 – What is hate speech?**

In this chapter I conceptually analyze the concept of ‘hate speech’. I begin by presenting a set of archetypal cases of hate speech. These are cases which I believe are broadly accepted by most who grapple with the concept to constitute hate speech. I then analyze and assess different attempts to single out the defining and bad-making features of such cases, as well as critique all of them as such. Several attempts have been made to explain which utterances hate speech might include, as well as what makes these utterances bad. I identify three different defining and bad-making features that hate speech has been alleged to contain. These features are not meant to be mutually exclusive, and overlaps may occur. However, I do believe that they can be singled out as individual (alleged) features of hate speech. They are (1) words that wound, (2) words that subordinate and (3) words that silence. I argue that none of these accounts fully capture the nature of archetypal cases of hate speech. In other words, I will not argue that either of these accounts are wrong, but rather that they are insufficient. Drawing upon all of them, I propose my own account, which I will call the ‘dehumanization account’, arguing that it captures a central element of these cases, namely that they seek to dehumanize their victims.

The overarching aim of this chapter is to *conceptually analyze* the concept of hate speech. To begin with, I offer up a couple of examples I believe illustrate what we would normally think of as hate speech. My hope is to use these as a launching point for my discussion as a whole. I then analyze one attempt to characterize hate speech, namely the proposal that hate speech is hurtful speech. In doing so, I conclude that it misses out on at least one seemingly fundamental characteristic of the hate speech cases, namely that they seek to undermine the victim’s ability to communicate. I then analyze two other proposals, namely the subjugation account, and the hurtfulness account. I conclude that none of these accounts fully explain what makes hate speech bad. I propose that my own account, the *dehumanization account*, offers a more satisfying explanation than any of them.

### **The badness of hate speech**

While our precise reasons for thinking hate speech is bad might differ, I believe most people would still agree that some utterances are in fact hateful. I believe presenting at least a few cases will be helpful in trying to establish precisely why we should consider it hateful.

A skinheads walks up to a black man, yelling “damn gook, go back to Africa!”. Presumably, we can all imagine how the victim of such an event would find the ordeal highly troubling. A Hutu broadcast refers to Tutsis as “cockroaches”, claiming that they intend to infiltrate and undermine Rwandan society. The speaker at a Nazi rally refers to Jews as rats. Intuitively, there seems to be something about expressions like these whose badness transcends that espoused by other slurs. Presumably, this badness was what lead county authorities to attempt to block the planned 1977 Nazi march in Skokie, a town with a large proportion of Jewish Holocaust survivors (Global Freedom of Expression – Columbia University). I posit that these are all examples of a certain form of speech, let me call it ‘hate speech’, which is bad. Moreover, I posit that it is bad in a way distinct from the way in which other slurs are bad. Several attempts have been made to define precisely what makes hate speech bad. In what follows, I will try to assess three such attempts – the hurtfulness, subjugation and silencing accounts respectively – as well as offer up my own alternative.

### **Words that wound**

In this section I address claims that hate speech is wounding speech, and that it is bad in virtue of its hurtfulness. By “wound” I will mean roughly “cause pain” in the typical consequentialist sense of causing the brute feeling that harm is being done. There may be some intuitive appeal to this contention, since most people will probably agree that insults, rejection, criticism, etc. can all be the source of considerable inner turmoil. Moreover, the contention that if something hurts there is a prima facie reason to label it “bad” would probably seem similarly intuitive to many. The jump from “bad” to “hateful” may not, then, seem that great. However, I will argue that making the jump from ‘painful’ or ‘hurtful’ to ‘hateful’ is not without its difficulties.

Hate speech, it has been argued, does not consist in mere words. Rather, it can be “assaultive,” similar to “a slap in the face” (Lawrence, 1993, 68). Anthony Cortese likens it to “a breathtaking punch in the stomach, a quick stiff jab to the nose, or a forcible slap in the face (2006, 2). Lawrence, Matsuda, Delgado and Williams Crenshaw all describe it as a “weapon” capable of being “assaultive” and meant to “wound” (1993, 1). In short, it is said, hate speech causes pain. Mari Matsuda adds that its effects are “real and immediate,” and that the victims “experience physiological symptoms and emotional distress ranging from fear in

the gut to rapid pulse rate and difficulty in breathing, nightmares, post-traumatic stress disorder, hypertension, psychosis, and suicide” (24, 1993). Its effects are explained as a brute, Benthamian kind of pain, an experience which in itself requires no further justification than its hurtfulness to be considered bad.

### **Argument against hurtfulness**

If the sole requirement for an utterance to count as hateful is that it wounds, then certain kinds of speech that virtually no one would consider hateful might end up with the label. E.g., a doctor, part of whose job it is to inform parents that their child is suffering from cancer, may find himself accused of hate speech. Characterizing the doctor’s speech as hateful would be inappropriate. While his speech undoubtedly hurts, it is likely that he is simply performing his Hippocratic duties with little intention of doing harm. Typically, when we want to assign moral blame, we take account of people’s intentions. We do not typically assign moral blame if an action was not intended to harm. What is bad in this situation is the cancer, not the doctor’s words, because, presumably, the doctor’s words cannot be blamed for causing the cancer. The doctor is informing about the cancer, but he has not caused it. It appears to me that our aim in using a term like ‘hate speech’ is to denote something that is, precisely, morally blameworthy on the part of the utterer. We do not simply want to describe a phenomenon, hate speech, that happens to be bad. Why? Because speaking is an action, something for which someone is responsible. Being hurt by words is not like falling down the stairs and breaking one’s arm, because it is not simply a regrettable event; it involves a perpetrator. If hate speech is like a “breath-taking punch in the stomach,” there is a puncher involved. Furthermore, the puncher causes the pain. Further still, assuming that he intended to cause the pain, this intention was what caused him to make the decision to cause the pain, and that is what makes him morally blameworthy. So we should take account of intentions if we want to find out if the action is morally blameworthy; so, too, if we want to find out if it is hateful. In short, when we describe hate speech, we should take account of the perpetrator’s intentions. The doctor’s words cannot just be hurtful; he must share the news about the child’s cancer with the intention of hurting.

But we should not just say that the doctor intended to cause pain, because not all intentions to cause pain are necessarily hateful. This way of looking at it does not provide us

with the tools to differentiate between intentions. The doctor who informed the parents about their child's cancer might suffer from a severe case of narcissistic Messiah complex. He might go out of his way to share details about his patients' diseases to their relatives, thus causing them pain, leading in turn to their adoration should he succeed in curing said diseases. The doctor is indiscriminate in his detail-sharing practices, and it would be incorrect to say that he particularly wanted to hurt the parents. While the intention is there to harm, he is primarily trying to satiate his ego. And whatever else we might say about his attitude towards himself, it is unlikely that we would label it "hateful" – it is unlikely that he intended to hurt himself. His attitude was such that while it lead him to intend to hurt them, it was not in fact directed at them. Wanting to harm the parents was not the primary motivation behind his utterances, and so his words should not be seen as reflective of something that he felt towards or thought about them. In short, it should strike us that not just any intention to hurt should be labeled as hateful, because the perpetrator's intentions to hurt must ultimately be directed at the victims and so have as their cause something that the perpetrator thinks about them.

It seems, then, that we should apply Elizabeth Anscombe's work (1957, 1-2) and say that what matters is the *overarching* intention, and that this intention must have the victims as its target. The doctor must have shared the news of the child's cancer with the intention of thereby hurting the parents. It must be the doctor's *final* aim to hurt the parents. Perhaps the parents drew the doctor's narcissistic ire when they failed to properly acknowledge his expertise, upon which he decided to do them harm. Or maybe not. It strikes me that this pertains to something the parents did, something we might even, if we were feeling particularly punitive, have them agree to stop doing after the whole ordeal. It strikes me that not properly praising the doctor would only results in passing pangs of anger, however severe the pangs may be; similarly, then, for his desire to harm. Of course, it could just be that the above cases demonstrate anger, and little more. However, if we look a little closer, I believe we can infer that they pertain to something of a more lasting and ubiquitous nature than "mere" temporary, extreme rises in temper. E.g., being a "gook" is an inescapable "condition", something that the victim has no power to change. On the other hand, not praising is. Does the former indeed reduce to the latter, or can we ascribe something to the former that we would not ascribe to the latter?

What is required for a dislike to be permanent and ubiquitous? Let me invoke a distinction that is sometimes made. We can dislike someone for something that they do, an



action they perform. Allow to refer to this somewhat rough concept as ‘anger’ – the idea that we might be angry at someone due to an agreeable action on their part seems a fairly intuitive and workable understanding of the concept to me. This might have been what the doctor was feeling when the parents did not praise him. On the other hand, we can dislike someone for something that they *are*. This conception is often applied in virtue ethics, which views people’s character traits as the decisive feature of moral thought, as opposed to e.g. the consequences of their actions (say, the consequence that the doctor now suffers from a deficit of attention and praise). This alternative conception seems more comprehensive, in the sense that it pertains to someone’s personality, and so will have ramifications for how we view everything that they do. Our dislike isn’t connected to just one instance. Rather, it comes up in every instance. The blameworthiness of a bad action should not carry over to our other actions. However, character traits do not simply disappear from our consideration once the event has passed, because they pertain to people’s identities, to whom they are as persons, and people do not, nor do our ideas about them, typically disappear with their actions. Consequently, we could continue to blame someone for their bad character even after the event has passed. This connection to people’s personalities also makes it more fundamental. Our dislike is tied to something that we would use to describe the person as such. We do not find the persons’ non-praise reprehensible. We find their selfishness and their self-importance reprehensible, and these things carry over from event to event. Let’s assume, then, that the parents’ mishap caused the doctor’s narcissistic tendencies to kick in and lead him to conclude that the parents were selfish and self-important. Would we be justified in saying that his words about their child’s cancer were hateful, given that they were uttered with the intention of hurting them in light of his disapproval towards their character traits?

No. Because even conversation undertaken with a view towards hurting someone, can carry with it a desire to convince the other that you are correct in the assertions implicit in your harmful remarks. That is, it can carry with it a desire, after all is said and done, that you come to agreement. Launching into conversation, even hostile conversation, can carry with it the implicit desire for reconciliation. Perhaps we could expand on our understanding of anger as the desire to correct a former injustice, a harm done to oneself by inflicting some proportional harm on the perpetrator – i.e., perhaps we might understand anger as the desire for revenge. It involves a desire that the other come to feel what we have felt, and thus see things from our perspective, as well as recognize that perspective. I believe, then, that anger implies vulnerability, because it involves a desire to open up and expose ourselves to

the one who has hurt us. Angry, hurtful remarks can be attempts to make the other feel what we have felt and admit its badness, and thus be roundabout requests for recognition and reconciliation. Continuing our argument in the Anscombian vein, the overarching aim of angry, hurtful remarks isn't necessarily to hurt. Hurtful words do not necessarily represent a rejection. They can rather be an expression-cum-reflection of the harm inflicted, an expression that is seen as necessary for the recognition to include and the reconciliation properly reflect the preceding harm. Not at all something we would extend to someone we saw no way of making amends with.

Extending our understanding of anger to encompass character traits as well as actions, we could interpret angry, hurtful remarks as flawed requests that the other re-evaluate their personality, their character traits. We may want to think that even if someone's actions led us to infer that they had deplorable character traits, we do not thereby hate them. When we are angry at someone we do not always direct our anger at their actions only, but at their character traits as well. Often, our message isn't simply "if you do not acknowledge my efforts, I cannot see us remaining on good terms," but rather "if your self-centered personality does not change, I cannot see us remaining on good terms." The point to note is that even if we despise someone's character traits, we do not immediately cut the person from our lives. If we have faith in their ability to change and grow as a person, we may give them a chance to do just that. Therefore, we should say that even if we dislike someone's personality, we do not necessarily hate them – dislike of someone's character traits, even if of a more fundamental nature than anger towards their actions, is not necessarily permanent. It is possible to just be angry at someone for their personality.

We should want, then, to add the requirement that hate requires we see no possibility of reconciliation. That whomever our disapproval is directed towards has no possibility of doing away with their bad character traits, and that our dislike is therefore permanent. But this should give us pause. If hurtful speech is, in fact, speech (a truism, if anything is), shouldn't this give us reason to think that any speech performed with the intention of hurting is performed with a hypothetical view towards reconciliation? Put more simply, if we saw no way of reconciling, would we even bother speaking? If hate points to the elimination of reconciliation and further relations as a telos, then so, too, would it point to the collapse of communication. If the slur "gook" is indeed hateful, it should denote a dislike that has no prospects of disappearing, and consequently an absence of relations, or at least a desire that

existing relations disappear. Communication-cum-reconciliation would be an impossibility. But as I have argued, even words intended to hurt someone on grounds of their bad character traits are not meant to exclude the possibility of reconciliation.

I have now argued that even speech intended to be hurtful on grounds of someone's bad character traits have further relations as its telos. I have also argued that speech that aims at further relations cannot be hateful. Therefore, I conclude that speech intended to be hurtful cannot be hate speech. Hate speech, then, must be characterized by disregard, by an *absence* of intentions towards the victim, not by intention to hurt. It must be characterized by an absence of communication, by what I would like to call 'silence'. This is what I will argue next.

### **Hate and inherent vices**

At first glance this might appear like a paradox. Can speech really reflect disregard and a breakdown of communication and of relations as a telos? Is it consistent to claim that there is a category of speech that expresses an absence of intentions and a desire to eliminate the possibility of communication on grounds of someone's abhorrent character traits? Insofar as hateful speech is indeed speech, an utterance that is after all addressed to someone and carrying a certain content that somehow pertains to the one spoken to, i.e. the victim of the hate speech, it would perhaps appear intuitively to convey some kind of intention towards said victim. In short, the very act of speaking would seemingly convey intentions, viz. the rhetorical question I posed above about whether, if we really saw no way of reconciling, we would even bother speaking. I do not disagree with this thesis; however, I do believe it should be supplemented so as to accommodate also the thesis that words can in a certain sense cut communications off. In arguing this, I would like start off by saying something about what hateful speech conveys.

I used the word "gook" as a typical example of a hateful utterance. To elaborate on my use of this example above, I would say that the content of such a slur is something like "you are an intrinsically despicable person, and that despicability is such that you cannot be considered my equal as a person. You are intrinsically inferior to me as a person". How so? Because "gook" typically references skin color, something the victim could not possibly do away with, and a belief in the victim's inferiority on that grounds. "Gook" denotes a

purportedly permanent dislike. Whilst we could conceivably come to change our opinions about someone following a change in their personality, it would be more difficult to change one's opinion about a feature that it is ostensibly impossible to change.

Skin color is a constant. Something like skin color can make easier targets of hate because if it can be related to certain bad character traits, it can operate as an ineliminable marker of something deplorable. Skin color is a brute fact, and we should not change our opinions about brute facts. Moreover, skin color is not the kind of thing we can change (the surgical alterations of certain infamous pop stars notwithstanding). If, therefore, we are convinced that skin color is related to, say, greed, we are in a position to label some people as *inherently* greedy. By extension, we cannot then view them as equal moral beings, as beings even capable of possessing moral personalities on a par with ours. We remove any grounds, in other words, for viewing them as full persons. We *dehumanize*.

The connection between hate and dehumanization is well-established. Looking at some of the most egregious cases of hate-driven crimes, we see human beings stripped of their humanity. Nazi propaganda regularly depicted Jews as rats and Hutus commonly referred to Tutsis as “cockroaches” before and during the Rwandan genocide. A more contemporary example still might include depictions on internet messageboards of Niqab-clad Muslim women giving birth to explosives, implying that Muslims are inherently more predisposed towards becoming suicide bombers. Their inhumanity was then connected to various deplorable character traits: Jews were greedy, devious and conniving. Tutsis were said to apply their cockroach-like covertness to infiltrate and undermine Rwandan society under the cover of darkness. Muslims might be seen to possess inherently savage dispositions.

Vices, then, are depicted not as a matter of bad character, of culture, bad upbringing, etc., but of nature. However, if someone is simply inferior to us by nature, they must be incapable of fully communicating with us about matters of moral significance. The notion that someone is intrinsically viceful therefore removes the possibility of many kinds of conversation, because conversation often has as its goal that we come to agreement about some issue or other. But if there is some part of us which is *intrinsically* viceful, then it would surely be impossible for us to change, compromise or agree about certain issues on which we are currently in disagreement. Furthermore, if we are viceful, then we are surely a threat to those around us, or at the very least despicable.

So dehumanizing someone, claiming that they are inherently morally lacking, eliminates the possibility of certain kinds of communication. This is what I mean by ‘silence’: abstaining from or breaking off communication with someone in light of a belief that the other is inherently incapable of or at least lacking with regards to understanding a moral concept.

There is, of course, little empirical precedence for believing such things. We have every reason to think that Tutsis are in fact capable of understanding the concept of kindness. Consequently, our non-communication with them in that regard would take the form of an absence of recognition for their *actual* moral capabilities. But simultaneously, in rendering them inhuman, there is no need to listen to their pleas to the contrary. Hate thus stems from a belief which purports to be undisprovable, and as such is perfectly circular. Hate is the result, in other words, of a belief in the infallibility of our own knowledge, and that, as J. S. Mill points out in ‘On Liberty’, makes no sense. Silence is then the *absence of recognition for someone’s actual moral capabilities and status*. I therefore posit that dehumanizing speech denotes the denial of the victims’ humanity, their status as moral beings.

Furthermore, I believe is what I believe a slur like “gook” denotes. It is tied to the victims’ race, and therefore denotes something ineliminably deplorable or morally sub-par about them. This ineliminability also eliminates the possibility of certain kinds of conversation. Hate speech, then, is speech that marks a breakdown of communication due to its underlying premise that the victims are inherently incapable of the proper kinds of communication. It is speech that, to return to my thesis above, purportedly removes the possibility of agreement or, if there was any previous animosity, of reconciliation, and thus also of certain kinds of intentions. In short, *hate speech is dehumanizing speech*, and dehumanizing speech denotes the absence of intentions towards others as moral beings.

### **Words that subordinate and words that silence**

This way of defining hate speech that I have begun to sketch out resembles somewhat two other proposed defining characteristics, namely the silencing characteristic, and the subordination characteristic. Both proposals have their merits and are somewhat similar to my dehumanization proposal.

For the former, the similarity consists in the view that hate speech eliminates conversation. However, while proponents of the silencing characteristic tend to explain hate speech purely in terms of the silencing of the victims, as I have explained, I believe that a proper definition of hate speech should also include the fact that the act of silencing is primarily a silencing of oneself. In addition to constituting a dehumanization of the other, hate speech requires that we dehumanize ourselves.

For the latter, the similarity consists in the view that hate speech is an attempt to relegate certain individuals or groups to a lower social standing – indeed, I have already described that the act of subjugation is one of the chief motivations behind hate speech. It appears to involve the removal of control from the victims over their own lives, and thus display the aforementioned disregard for their preferences. However, I will argue that the act of subordination, to the extent that it takes place, must be a subsidiary to the act of silencing, and should therefore not be taken as a defining characteristic on its own.

### **Words that subordinate**

In this section, I address claims that hate speech consists of utterances that seek to subordinate its victims to some lower social rank. It sets out its argument by appealing, first, to J. L. Austin's speech act theory. Speech can function, it claims, not merely to communicate meaning, but can itself function like an action (1962, 101). Austin himself uses the example of a man yelling to another, "Shoot her", and in so doing not only utters a sentence with a meaning, but *urges* the other man to shoot: in speaking he has performed an action. If an utterance can urge someone to shoot, the claim goes, then it can subordinate someone as well. E.g., MacKinnon (1993, 92) argues that pornography literally subjugates women. Furthermore, one might argue, seeing how things like pornography to such an (allegedly) extreme extent subjugates, this might be considered hateful.

I would oppose the claim that hate speech is *necessarily* subordinating. I imagine that hate speech *can* subordinate. But I disagree with any claim that hate speech *must* subordinate. E.g., one might say that an employment contract subordinates the employee, in the sense that the employee is now obligated follow the professional requirements laid out by his manager. This is often part and parcel of obtaining gainful employment. And whatever else we might

think of the labors of obtaining gainful employment, it does not seem to me that most people would label them 'hateful'.

Nevertheless, though, perhaps we can imagine that managers demand things from their employees which would subordinate them in such a way that the subordination was rendered hateful. E.g., company managers are not typically allowed to ask their employees to provide sexual favors, or require that they don a fool's hat and perform card tricks. To most people, these would both be considered demeaning in the extreme, so much so, perhaps, that we might say the manager hates his employees.

I think we can reasonably say that there is a connection to be made between demeaning someone and subordinating them. When I say "demean" I mean something like the perpetrator implying that his victim is somehow less important. E.g., if as a manager I tell my employee that he is not important enough to be included in a board meeting, but rather that his importance, or lack thereof, is such that he is only suited to being laughed at. Carrying little value, it is just as well that we laugh him off in his insignificance. By 'demean', then, I mean that we express that we grant someone little value, credence or importance. Perhaps this gives us reason in our own minds to relegate them to positions of extreme subordination, such as the role of a fool. Perhaps, then, hate speech is speech which subordinates by demeaning. Not content to merely stipulate that our employees must follow through on our requirements of them, we must also demean them.

However, as was the case with hurtful speech, it occurs to me that not just any demeaning behavior could qualify as hateful. Rather, it must have a particular kind of motivation. If e.g., like the doctor, our company manager only subordinates because he suffers from a severe case of narcissism, then it would be imprecise to say that his speech is actually directed at his victims, rather than form indirect compliments towards the manager's own ego.

At this point, it seems to me that the remainder of my argument against hate speech as subordinating speech could take much the same form as my argument against hate speech as hurtful speech. I might continue my line of thought by adding the requirement that the manager's speech must actually be directed towards the victims, but that this precludes the possibility of the manager actually demeaning his victims in the way his speech appears to intend. If subordinating speech intends to lower the victims to the rank of insignificance, then,

just like what was required of hateful as hurtful speech, it should signal the absence of intentions towards the victims. But clearly, that is not what is happening: after all, if the manager simply had no intentions towards his victims, then surely he would not have bothered to address them at all, not even to demean them. Consequently, and again, I would posit that any utterance worthy of the label “hate speech” must signal the absence of intentions, i.e., function to dehumanize its victims. And that, as I just explained, is not something subordinating speech, qua demeaning, can achieve.

### **Words that silence**

In this section, I address claims that hate speech consists of words that silence. Some utterances, the claim goes, can themselves undermine other people’s freedom of speech, and this is silencing speech (Sunstein, 1993, 186). It is perhaps worth noting that this is much the same notion as the one I operate with in regards to hate speech as dehumanizing speech. The difference consists in the fact that while the silencing account appears to set the limit of acceptable speech to the fact that the perpetrators silence, I operate with the further addendum that the perpetrator must not just silence, but act in a way which denotes a certain kind of moral blameworthiness in doing so. After all, not all silencing denotes the kind of moral blameworthiness we typically associate with dehumanization. Let me try to explain.

If all an utterance needs to be considered hateful is that it silences, we are once again obligated to label utterances virtually no one would consider hateful, as hateful. E.g., non-disclosure agreements presented to military personnel upon embarking on highly classified military operations might be considered hateful. Surely, though, that must strike most people as absurd. Provided, like I argued with regards to the hurtfulness account, hate speech also requires a certain kind of moral blameworthiness on the part of the utterer, there should be something morally unsavory about requiring that military personnel not disclose sensitive information if silencing is indeed hateful. But in most cases, there is surely little which is morally unsavory about keeping military information secret. Very often, such information could endanger the lives of many if disclosed to the wrong people. It seems to me that maintaining a level of secrecy in military matters is necessary in order to preserve human life and safety, and that is not something we would consider morally blameworthy.



It strikes me that the purpose of non-disclosure requirements in military matters is to protect the life and limb of the people involved, and that this is what justifies them. Could we perhaps say, then, that these requirements are hateful provided they are not imposed with regards to the safety of the people involved? E.g., is it hateful for a genocidal dictator to require his death squads keep their mouths shut about human rights violations in order to preserve his legitimacy as head of state?

Not necessarily. It should probably strike most of us that claiming dictators hate their death squads and not the victims of the death squads is a bit of a misnomer, and yet here the members of the death squads are the ones being silenced. So silencing speech is not necessarily hateful if the silence is not imposed with a view towards the safety of the people involved in the events about which we are required to be silent. The silencing in this case is not directed at the people we would consider the objects of the dictator's hate, and this prevents us from saying that the silencing is hateful.

Is it hate speech, then, if the dictator's silencing speech is in fact directed at the ethnic minority? Not necessarily. Perhaps the dictator is "merely" trying to prevent members of the oppressed minority from airing their complaints in public, thus increasing the likelihood of domestic unrest among the people not negatively disposed towards them. Perhaps, in other words, the dictator is more preoccupied with protecting his authority than actually oppressing the minority. In that case, his intentions are directed towards himself, and surely his intentions towards himself cannot be considered hateful.

Thus, we should say that in order for our speech to be considered hateful, it is necessary that it not only be directed at the victims, but that, once again, it is our overarching intention that it be so. Clearly, in the previous case, the dictator intended to silence his victims, but a decisive factor which prevented us from saying his speech was hateful was the fact that overarchingly, his speech had more to do with his intentions towards himself and his own authority rather than his victims. Is it hateful, then, to intend to silence someone, and in light of this overarching intention direct speech towards our victims which purports to silence?

I think it is. But in affirming this notion, I believe the concept of silencing speech reduces to dehumanizing speech. Let me begin to explain by trying to say something about what is implied by the term 'silencing'. It occurs to me that in order to silence someone, we

must already have a sense that the person we are attempting to silence is talking. Furthermore, let me posit that if we entertain the notion that someone is talking, we also entertain the notion that that someone is a person. Surely, central to the concept of ‘person’ will also in most people’s eyes be the ability to communicate. Thus, to silence someone is to imply that they are inhuman. Thus, silencing speech effectively reduces to dehumanizing speech.

While I recognize that silencing speech may not necessarily look like dehumanizing speech, I believe it functions so as to imply dehumanizing propositions. Effectively, then, while they might be syntactically different, semantically they would be the same. And the semantics, it seems to me, would primarily be closer to what I described above as dehumanizing than what most people would describe as silencing.

## **Conclusion**

I have now analyzed three proposed variants of the concept of hate speech, the hurtfulness account, the subordination account and the silencing account. I have also evaluated their viability as such. I have argued either that they are incoherent, or that they reduce to another, more plausible account. In all cases, I have concluded that my own account, the dehumanization account, is superior in virtue of the fact that it offers a more plausible account of instances of hate speech, as presented by me through the use of various examples. Therefore, I conclude that the dehumanization account is better than at least these three proposals when it comes to defining hate speech, and that hate speech should properly be characterized as dehumanizing speech.

## Chapter 2 – Negative liberty

In this chapter I discuss the plausibility of free speech construed as a negative form of liberty in relation to hate speech. In doing so, I begin by offering up one account of negative liberty, namely the seminal one offered up by Isaiah Berlin in ‘Two Concepts of liberty’ (1969). I use this text mainly because Berlin’s account must be said to constitute much of the foundations for later accounts of negative liberty. Moreover, it must be said to have begotten many of the debates between positive and negative liberty. As such, I believe it can serve as a suitable launching point for discussion. I then lay out one prominent and influential theory about free speech, namely J. S. Mill’s, as he developed it in ‘On Liberty’. I then show how, in light of Berlin’s theory, Mill’s conception of free speech can be understood as a negative form of liberty. I also argue that Mill’s theory, in spite of indications in his text and secondary sources, should not be seen to include positive elements. I then argue that hate speech functions so as to undermine the public discourse, inasmuch as it denies its victims their ability to speak. By extension, I argue that it would diminish the amount of negative liberty present within a society. Because negative liberty lends itself to criticism of silencing speech but not dehumanizing speech, I argue that its proponents would fail to properly identify the problem with hate speech. I argue that their failure in this regard is a consequence of their unwillingness to pick out certain goods as better than others. The result would be a further unwillingness to reject hate speech as bad. This would be a problem because hate speech also amounts to a rejection of the notion that counter-arguments to the claims it makes are permissible. To take a neutral stance towards hate speech, therefore would effectively compose an incoherency. And yet such a neutral is what proponents of free speech as negative liberty appear obligated to espouse. I conclude, therefore than in order to avoid the potentially self-defeating effects of harboring hate speech, one must embrace a theory of free speech which includes the notion that some opinions, values or goods are in fact better than others.

### Negative liberty

Berlin uses the term ‘negative liberty’ to denote an understanding of liberty as *the absence of obstacles, barriers, constraints or interference from others*. Its purpose is to enable us to delineate the range of choices available to us, given our co-existence with other people: we use it, he says, to answer the question “What is the area within which the subject – a person or

group of persons – is or should be left to do or be what he is able to do or be, without interference by other persons?” (1969, 155). To that extent, it delineates our range of available choices along the lines of non-coercion: “If I am prevented by other persons from doing what I could otherwise do, I am to that degree unfree ... [This] can be described as being coerced”. Furthermore, because coercion is an activity performed by other people, it can be said to denote a political kind of liberty: “You lack political liberty or freedom ... if you are [thus] prevented from attaining a goal by human beings.” The extent of our negative liberty is decided in cooperation with other people, and this is what makes it political; its limitations are decided, presumably, on pain of some form of punishment or sanction, and this is why negative liberty is delineated along the lines of non-coercion or non-interference by other people. In summary, “by being free in this sense I mean not being interfered with by others. [Thus,] the wider the area of non-interference the wider my freedom” (156). We are free to the extent that our choices are not being precluded by the interference of others.

The justification for this concept rests in the first instance on a desire to avoid social chaos and a resulting inability of many people to satisfy their needs. Citing “classical English political philosophers”, Berlin posits that if the sphere of non-interference were to be unlimited “all men could boundlessly interfere with all other men”. In that instance the danger would be prevalent that “men’s minimum needs would not be satisfied; or else the liberties of the weak should be suppressed by the strong. Because they perceived that human purposes and activities do not automatically harmonize with one another”.

Secondly, however, unlimited non-interference would be bad because “they put high value on other goals, such as justice, or happiness, or culture, or security, or varying degrees of equality”. Consequently, “they were prepared to curtail freedom in the interests of other values and, indeed, of freedom itself. For without this, it was impossible to create the kind of association that they thought desirable. Consequently, it is assumed by these thinkers that the area of men’s free action must be limited by law”. However, this does not entail a *carte blanche* on the curtailment of our freedoms in the interest of other aims: “there ought to exist a certain minimum area,” Berlin cites, “which must on no account be violated; for if it is overstepped, the individual will find himself in an area too narrow for even that minimum development of his natural faculties which alone makes it possible to pursue, and even to conceive, the various ends which men hold good or right or sacred” (157).

In other words, Berlin and the classical liberalists take an assumption about human nature as fundamentally ends-driven as their starting point. Furthermore, our ends are what we should in the final instance attempt to achieve. However, because our ends do not always mesh, first, the strong will have a tendency to trample on the weak. Or second, they will simply be unable to obtain their ends because they engage in different activities, preventing one or both from attaining their ends. To avoid this, we should curtail our freedoms. This gives rise to a need for social structures and norms, and by extension, what we might call certain social values, such as justice, equality, solidarity, etc. Berlin himself does not use this term. I do not mean to use it in a particularly technical sense. Rather, I mean it to denote the kind of behavior we expect people to display qua members of some kind of community, so as to distinguish it from the ends Berlin cites them possessing simply for their own interests. That is, it is meant to describe the kind of behavior people are expected to display so as to gain membership in some community in the interest of further down the line obtaining their more fundamental personal ends.

The goods our social values pick out must not be given so high a priority as to completely demote our more fundamental and personal goods – the goods which, after all, served as the foundations for these, let us call them, social goods. Consequently, the extent of our freedom rests upon a balancing act between the attainment of social goods and the attainment of personal goods, where the goal would be to find the weighting optimally conducive to the attainment of the latter. Thus, while we should say that our freedoms ought to be curtailed with a view towards achieving social goods, it is incumbent upon us not to curtail them so much that they preclude our attainment of personal goods. Consequently negative liberty can be said to concern the division between social and personal goods. It is the choice range available to us in the pursuit of our personal goods without precluding others' ability to pursue their personal goods. Summa summarum, “a frontier must be drawn between the area of private life and that of public authority” so that we may pursue our personal goods. Simultaneously, “a practical compromise has to be found” between our weighting of social goods and political-cum-negative liberty precisely in order to facilitate our attainment of those personal goods.

### **Freedom of speech as negative liberty**

One of the goals of this chapter is to offer an argument against the concept of negative liberty on the basis of its application as a form of freedom of speech. Furthermore, I wish to treat it as featuring within a trend in liberalist thinking. Unfortunately, Berlin does not explicitly talk about freedom of speech. However, I believe that in certain iterations, freedom of speech can be construed as a form of negative liberty. Furthermore, I believe it can be found as such within some prominent liberal accounts. Whilst I will be unable to criticize all liberal accounts of free speech as negative liberty, I believe that by identifying and criticizing it within some highly prominent liberal accounts, we can plausibly claim that it represents a trend broadly present within the liberal tradition. I will attempt to identify and criticize it in J. S. Mill's theory of free speech. I choose this account because of its strong and pervasive influence on the liberal tradition. Consequently, I believe that by picking out Mill, I can reasonably be said to grapple with large portions of the liberal tradition.

Also perceiving people as fundamentally ends-driven, in the introduction to the chapter on free speech in 'On Liberty' Mill says that "the sole end for which mankind are warranted ... in interfering with the liberty of action ... is to prevent harm to others" (2002, 12). This thesis is typically referred to as the 'harm principle' (from here: "HP"), and is perhaps the most central aspect of his theory: "I regard *utility* as the ultimate appeal on all ethical questions [my italics]" (13). To Mill, utility should form the cornerstone of moral or ethical judgments, and can be used to justify curtailment of our freedom if our freedom leads to harm.

However, HP comes with a few restrictions. While we may limit citizens' freedom of action, we should not limit their "tastes" or their "pursuits" (14-15). He then draws up one of the most extensive accounts of free speech to have been produced. A "complete" freedom to harbor and express opinions is desirable: "there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered" (17). Free debate is useful for three reasons. First, if we were previously wrong, free debate allows us to learn the truth. Not to allow contrary opinions is to think oneself infallible, and that obviously does not make sense (18-25). Second, if we were previously right, free debate produces a "livelier" impression of the truth (35-45). Third, if two contrary opinions are both wrong but contain grains of truth, free debate allows us to combine the correct parts and discard the faulty parts (46-48). In other words, expressing our opinions is useful both when they are correct and when they are wrong – it is useful regardless of their

content. Consequently, the majority has no right to “exercise ... coercion, [and] power itself is illegitimate” (17-18). Furthermore, “mankind would be no more justified in silencing one person, than he, if he had the power, would be justified in silencing mankind (loc. cit.). From the claim that every *opinion* should be open to debate, it follows that every *person* should be allowed to debate.

Like Berlin, then, Mill appears to operate with a notion of what I called ‘personal goods’. Furthermore, he too appears obligated to the view that our personal goods do not always mesh and that this can lead to oppression, or violence of some kind. The worth of our personal goods are to be explained with reference to utility, and our actions, including any action which might oppress others, should be judged in light of the utility it produces. But the same does not hold for tastes and pursuits. Inasmuch as utility is the ultimate moral guide, the rationale, it then appears, is that the utility achieved by allowing any taste or pursuit simply outweighs any utility which might be achieved by their suppression.

While Berlin uses the terms ‘interference’ or ‘coercion’ to refer to things that might limit our freedoms, Mill also uses the term ‘silencing’. Presumably, this is so because, unlike Berlin, he is writing about speech. Nevertheless, the implications appear relevantly similar. As we saw in the last two quotes, Mill relates the action of silencing to the exercise of power. Assuming that he is operating with a notion of ‘power’ which is similar to the typical one that power is the ability to force someone to do something that they would otherwise not have done, or abstain from doing something that they otherwise would have done, I believe silencing can reasonably be said to conform to Berlin’s earlier descriptions of coercion as a kind of forced limitation upon our actions – or in this case, speech. On Mill’s account, then, I believe silencing can properly be described as the coercion of someone with a view towards preventing them from expressing their opinions.

In other words, Mill emphasizes *coercion* as a factor which might limit speech. Utility is the basic building block of Mill’s moral theory; it is what moral goodness is said to consist in. Coercion as silencing is bad because it limits open debate, and open debate is conducive to utility. This appears to be reflected in Berlin’s description of negative liberty. Berlin, too, saw people as fundamentally ends-driven. On these grounds, he too saw coercion as the delineator of negative liberty as a political liberty. Mill took the step of specifying speaking on the list of actions which might be available to us, but can also be precluded by coercion. Consequently, I

believe that in at least this respect, Mill's conception of free speech can be construed as a negative kind of liberty.

A note of clarification: Berlin did not specify any particular measure of goodness, but if anything his essay was meta-ethical rather than ethical. He appeared to construct a framework within which a range of moral measures might operate – indeed, at one point he explicitly picks out Mill's theory of liberty as one that might appropriately be thought to fit within the negative mold himself. They both hold that as ends-driven, people can be said to be free to the extent that they are not interfered with by external forces<sup>2</sup>. Mill takes the further step of specifying what our ends consist in, namely utility, on account that he is as much a moral philosopher as a meta-ethical one.

### **Does Mill's understanding of liberty involve a positive conception of liberty?**

I have now laid out Mill's account of free speech as involving a negative conception of liberty. One of my aims in this chapter is to criticize his understanding of free speech as a negative one, on the grounds that as such, the phenomenon of hate speech exposes an incoherency. However, the point has been made in various ways that Mill's approach is not too dissimilar to the positive one, or that he might underpin his account of liberty with an account of the kind of personality that one should possess in order to fully make use of one's liberties – a notion, in other words, that some goods more properly reflect our real interests. E.g., John Christman (2005) argues that positive liberty has more to do with the way in which desires are formed than their precise content. Another approach involves claiming that rather than denote a sphere of non-intervention, negative liberty should be thought to denote a set of conditions which *enable* non-intervention (e.g., Pettit 1997). If this is correct, then my contention against liberalism, built as it will be on the notion that its conception of free speech does not properly take people's authentic desires into account, might run into trouble.

However, it is my opinion that Mill does not operate within the kind of framework which would allow for positive liberty. If there should indeed be few or no restrictions on

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<sup>2</sup> I am not claiming that Berlin believes negative liberty to be the only viable conception of liberty; indeed he acknowledges in one of his opening remarks that negative (and positive) liberty is (are) only one (two) among a plethora of possible meanings to that term. I am simply stating that to the extent that he might practically operate on the negative conception, this is one of the standards that he would be beholden to by his own admission.



matters of “taste” and “pursuit”, then we should think that whichever taste or pursuit is better is still up for grabs, still to be debated. In that case, Mill’s account of a debater’s desired personality is also up for grabs. Essentially, he appears to be trapped in a circular argument. He launches his discussion of free speech with the claim that its purpose is to cultivate utility. However, if matters of taste and pursuit are up for grabs, and if we accept the notion that certain goods more properly reflect our real interests, then we should think that the merits of utility, too, as a matter of taste, should be debated. There are plenty of examples of cultures and societies which do not place primary importance upon utility as a good. It is fully possible for us to form second-order intuitions about our moral intuitions, and our second-order intuitions could well be used to reject utility, depending on the kind of personality the evaluator possesses. This point connects somewhat with the objection I forwarded against Berlin above that our social goods do not necessarily reflect our personal goods and must in that case be reevaluated, leaving the open the possibility that we might reject the viability of whatever entity underpinned the debate – in Berlin’s case, the notion that negative liberty was desirable; in Mill’s, the notion that utility is a good moral guide. It is not necessarily the case that utility is the ultimate moral standard.

However, Mill’s account, I believe, cannot abide other moral standards than utility. This was what enabled him to claim that certain personalities, those in the inquisitive, original and eccentric mould, are better than other personalities. Because they are conducive towards the production of utility, they are desirable. In short, Mill emphasizes the development of certain personalities, giving off the impression of a positive kind of liberty. But it is my contention that his underpinning adherence to utility should not be taken for granted and is fully up for grabs. Therefore, it is not necessarily the case that utility is the moral standard that people would authentically subscribe to. Claiming that a certain kind of personality is better qua conducive to utility does not necessarily mean it is more authentic, because it does not purport to properly *reflect* people’s personalities. Rather, it purports to provide a guide according to which we should *mould* our personalities. In other words, while conceptions of positive liberty will tend to hold that our goods should reflect our real personalities, Mill appears to claim that our personalities should reflect a moral conception, namely the one contained in his brand of utilitarianism. Mill has gotten the teleological connection between personality and moral conception the wrong way around. Authentically desiring something might involve questioning the moral underpinnings of our ideas. But this is precluded within a theory which views our personalities as tools with which we should, rather than question,

simply put those underpinnings into practice. Thus, I would conclude that Mill's account should not be thought to allow a positive theory of liberty.

### **Hate speech as a problem for free speech as negative liberty**

To some, the liberal way of construing free speech might appear to provide us with the resources we need to reject hate speech. Inasmuch as the silencing of others was related by Mill to power, we could construe hate speech as an exercise of power. It could be construed as instances of the strong trampling on the weak, as coercion or silencing, much as was feared would be the case within an unlimited sphere of non-interference. Indeed, given my construal of hate speech in the previous chapter, one might suppose that there is precedence for doing so. The act of dehumanization could, e.g., be framed as a form of silencing, a phenomenon which I argued was indeed part and parcel of dehumanization. Inasmuch as it purports to relegate its victims to the subhuman, we should think that their words were seen to matter less in the public discourse at large – I do not think it is unreasonable to suppose that the public discourse concerns itself primarily with the opinions of humans, or at least persons. We could say that hate speech, although not primarily silencing, nevertheless involves silencing. Negative liberty would then have to be said to contain the conceptual resources with which to reject hate speech as a form of silencing.

However, there is at least one problem with this construal in relation to the phenomenon of hate speech, provided that my interpretation of Mill's account is correct. It has to do precisely with infringements upon free speech as being primarily construed on Mill's account as silencing speech. His main objection to infringements upon free speech relate to the fact that alternative and potentially sensible views cannot be voiced – be that through coercion, mockery or exclusion from various social arenas in a display of majority dictatorship. The problem, in either case, is that certain people are prevented from speaking, and this surely conforms fairly well to the definition of silencing speech I presented in the previous chapter.

I posit that while silencing speech is no doubt a problem, I also explained that silencing speech, when silencing speech was also hate speech, reduced to dehumanizing speech. Thus, it is fair to say that the infringements upon free speech imposed by silencing speech is in fact a result in the first instance of dehumanization, and not silencing as such.

Silencing would be a result of dehumanization, inasmuch as the implication of silencing, as I explained, is that our victims are not properly human.

In the previous chapter, I addressed claims that hate speech is silencing speech. I also concluded that thinking of hate speech as dehumanizing speech offered better a explanation for hate speech's badness than thinking of it as silencing speech would. Consequently, while I am no stranger to the idea that dehumanizing speech might silence, I believe it is also important that we be aware of its more fundamental nature as dehumanizing. If we were primarily occupied with its silencing effects, we would fail to identify its causes. In that case, in rejecting hate speech, we would reject one of its effects, namely silencing, but not the dehumanization as such. As I have said, it is in virtue of its dehumanization that hate speech silences. And by not addressing the dehumanization, we would fail to address the underlying cause of the silencing.

This is a problem because in not merely silencing, but in rejecting the possibility of conversation, hate speakers would simultaneously reject even the usefulness of debate. To return to my point that Mill's theory cannot contain a positive element, it occurs to me that negative liberty in itself does not pick out any particular good as better than others. Negative liberty in itself is value-neutral. It does not in itself delineate which goods are worth adhering to, but rather opens up a space in which to decide which goods are worth adhering to. It does not in itself supply us with the tools to differentiate between desirable and undesirable goods.

But this means that if one is convinced that he is correct and is closed off to the possibility that he might be wrong, along the lines of my description in the previous chapter, then we appear to be at a practical impasse. In that case, calls for more debate and conversation do little to help us – the point is precisely that debate and conversation are not forthcoming.

Hate speech functioned precisely, among other things, to bereave others of their status as humans and thus their participation in society, including their utilization of the things that citizens would expect to be able to utilize – in this case free speech. And because they were inhuman, we should not take their attempts to convince us otherwise seriously. Because hate speech dehumanized, but was also a kind of speech, it was conversation that precluded conversation. Furthermore, because hate speech is speech, its permissibility would be decided by our conceptions of free speech. To the extent, then, that hate speech would be deemed

permissible by our conceptions of free speech, our conceptions of free speech must be said to preclude conversation. To reformulate: *conceptions of free speech which deem hate speech permissible would simultaneously have to deem their own preclusion permissible*. This is potentially self-defeating, and as such appears to me a weakness in the negative understanding of free speech.

### **Conclusion about free speech as negative liberty**

If negative liberty does not in itself provide us with the resources to differentiate between desirable and undesirable goods – that is, does not allow for the capacity to form second-order intuitions about our moral judgments – it is still unclear precisely how far our negative liberty ranges. Specifically, in this case, it does not offer us the resources we would need to reject hate speech as a legitimate part of the public discourse. This is a problem because, as I have shown, hate speech does not in fact function so as to enrich that discourse, but rather undermines it, in the sense that it would prevent potential speakers from speaking. It purports to reduce the amount of free speech, negatively conceived, on offer. Consequently, we should grant, as Mill appeared obligated to hold, that a sensible definition of free speech must take the fact that we are value-driven creatures as fundamental in delineating the extent of our freedom. But simultaneously, we should not, as he also appeared obligated to hold, think that things like hate speech are in fact valuable parts of the public discourse. That is, I will want to produce a theory of free speech that, contrary to what Mill held, is not neutral with regards to our opinions, but rather holds that some opinions are in fact better than others.

### **The road ahead: positive liberty as a solution to the problem of hate speech**

This might appear to lead me into the dangerous waters of totalitarianism, wherein the judgment of the powers-that-be about what counts as valuable would override that of the public. But it also leads me neatly into what will compose the majority of my thesis, namely the attempt to construct a theory of liberty which avoids the undermining effects I argued hate speech can have when it underpins our theories of free speech. Part of my claim will be that hate speech cannot be authentically performed. Drawing upon Charles Taylor's work on the concepts of positive liberty and authenticity, and K. E. Løgstrup's conceptions of 'trust' and

‘responsibility’, I will argue that hate speech can issue from a kind of vulnerability on the part of the perpetrator, a vulnerability which keeps him from speaking in accord with his authentic desires. But these concepts can also provide us with the resources we need to address said vulnerability. By extension, I believe they can provide us with the conceptual resources we need to rework the negative conception of liberty in a way that also provides us with the resources we need to combat hate speech. I propose, in short, that by underpinning our conception of free speech with this modified conception of liberty, free speech no longer suffers from the inconsistency of having to condone a form of speech which would undermine it.

Doing this will not, I think, automatically mandate a ban on hate speech, inasmuch as legal bans can be more than just moral measures, but also, say, practical or prudential. We can, e.g., imagine that bringing hateful opinions into the light of day will ease the task of exposing or arguing against them – perhaps even in a sense caring for those who espouse them, inasmuch as, as I will want to argue, hate speech issues from vulnerability. My aim, in other words, will not be to lay out clear and absolute legal prescriptions.

Rather, my aim will be to find out precisely how we might reject hate speech. This will be useful because it might allow us to prevent our free speech as negative liberty to be undermined by hate speech. In the first instance, this will involve something about what is at stake morally when someone makes a hateful utterance – in this case, the *perpetrator’s ability to realize his own authentic desires*. Because it is this ability, or rather inability, which leads him to make hateful utterances and thus reduce the amount of free speech available to us. My position in this regard, firstly, I believe resembles somewhat Aristotle’s dictum that we must want to live in accord with our consciences. And secondly, is that we cannot authentically want to dehumanize others. Drawing upon Løgstrup, I will argue that there is something about the logic of our encounter with someone other, of making an utterance, which forbids dehumanization. I want to supplement this statement with Taylor’s position that authenticity is achieved through a kind of mutual affirmation between different persons, and that authenticity is tied to living in accord with one’s deepest moral or ethical convictions. Our moral convictions have others as one of their sources. I want to claim that while Taylor’s account is sensible, he fails to properly relate it to an external moral source. I will argue that the encounter with an other can provide such a source. This ‘demand’, to use Løgstrup’s term, therefore corresponds to our own authentic desires. Authenticity thus consists in living in

accord with our deepest desire to fulfil the demand to affirm some other. And this, we should say, satisfies the conditions required of a positive understanding of liberty.

In light of all this, I will want to claim that it must be the perpetrator's deeper desire to participate in a conversation even with his victims. As a result of this, I will be able to conceive of free speech as a tool which can help us realize our authentic desire for conversation. Our authentic desire must be to participate in conversation with others, not to eliminate it.

### **Chapter 3 – Charles Taylor and the debate between positive and negative liberty**

In this chapter I begin to set out what a positive conception of liberty should look like. In doing so I will draw most heavily on Charles Taylor's work. I do this because it ties into some of his other concepts, like strong evaluation, the notion that we need external moral sources, and to some extent, with his critique of 'atomist' theories. These are concepts and notions which I intend to utilize, albeit to varying extents, in my thesis overall.

In writing out this chapter, I begin by accounting for Taylor's critique of negative liberty. I then summarize his proposed solution, namely that we adopt some measure of positive liberty as our preferred concept of liberty. I then evaluate his critique, as well as his solution, issuing as it does from the former. I argue that parts of Taylor's assessment of negative liberty and the requirements for a sensible conception of liberty are sound. But I also argue that he does not fully satisfy the requirements he sets out himself for a viable theory of positive liberty and authenticity. More precisely, this concerns what I see as his lingering committal to what I will call 'internal moral sources'. In place of this, I prescribe what I will call 'external moral sources'. I believe our ability to access these sources will depend on the concepts of freedom we operate with. Simultaneously, I believe Taylor in his work on freedom fails to provide us with the resources we need to identify these external sources. Thus, I conclude that while there are merits to his account, he would ultimately fail to provide us with a fully viable alternative to negative liberty. I nevertheless conclude that parts of his theory are useful, and will carry a somewhat limited take on his work over to other parts of my discussion.

#### **Taylor's take on negative liberty**

In starting off 'What's Wrong With Negative Liberty' (1979), Taylor affirms Berlin's notion that "there are two [different] families of conceptions of political freedom abroad in our civilization" (211, 2010), namely negative and positive liberty. The essay "is an attempt to resolve one of the issues that separate" these two concepts (op. cit).

Launching his discussion of negative liberty, he remarks that there is a certain tendency to caricature negative theories as purely preoccupied with external obstacles and believing that the inner holds little to no importance (212). Remarking that while these

caricatures may be apt in the case of thinkers like Hobbes and Bentham, he quickly cites thinkers like Mill and Tocqueville, one of whose fundamental points was that freedom must involve people's capacity to realize their individually conceived ends. If for Mill and Tocqueville freedom is also about self-realization, then clearly inner obstacles, too, can matter on negative theories (op. cit.).

In explaining the difference between the two trends, he then draws a distinction between what he respectively terms *exercise* concepts and *opportunity* concepts of freedom. By the former, he means freedom as essentially involving "the exercising of control over one's life" (op. cit.). On the latter, freedom "is a matter of what we can do, of what it is open to us to do, whether or not we do anything to exercise these options" (op. cit.). Negative theories *can* rely exclusively on the latter. This is what we are meant to see in the theories of Hobbes and Bentham. In the theories of Mill and Tocqueville, we are nevertheless meant to see negative theories which fundamentally involve exercise concepts.

In short, Taylor conceives that theories about freedom can be built on opportunity concepts or exercise concepts of freedom. The former involves external obstacles, the latter, internal. While all negative theories of liberty involve an opportunity concept, they can also involve exercise concepts.

### **Taylor's critique of theories which rely purely on an opportunity concept**

But, he observes, a fair number of negative theories are, to their detriment, built purely on opportunity concepts. Citing Berlin, he observes that there is a tendency among proponents of negative liberty themselves to identify purely with the opportunity concept (213). Any *sensible* negative theory of liberty, he believes, must rely partly on an exercise concept of freedom. Because our notions of liberty, even those based on an opportunity concept, necessarily rely on a background understanding of the importance of various different goals and activities (217-218), and the importance of goals and activities are better explained in terms of exercise concepts. In proving this, he formulates a critique directed towards those negative theories which rely purely on an opportunity concept.

He launches his critique by presenting us with the intuition that some obstacles are intrinsically more grievous than others. The decision by local authorities to put up a traffic



light at a nearby intersection is simply not as serious an infringement as the decision to forbid me from worshipping according to my faith (218). Even if we supposed that the traffic lights prevented me from moving about freely to a greater extent than a ban on worship, we would not say that they represented a more serious infringement. In fact, he says, *no amount* of infringements upon my ability to move about on the roads is comparable to the infringement we would suffer if we were forbidden from worshipping (219).

What does the distinction between the two infringements consist in, which allows him to claim that one infringement is worse than the other *simpliciter*? The difference is not quantitative, as we would expect someone like Bentham to say. Rather, it is *qualitative*. In support of this claim, he cites his own concept of *strong evaluation*, which refers to “the fact that we human subjects are not only subjects of first-order desires, but of second-order desires, desires about desires” (220). We not only value freedom to worship more highly, we *desire* to value it more highly, in virtue of the second-order judgment that freedom to worship is a more worthy cause.

### **Discussion of Taylor’s critique**

Perhaps somewhat strangely, Taylor does not outright explain how or why second-order desires are different from first-order desires, but rather seems to take it for granted. That is, he does not actually explain why second-order desires would denote qualitative differences, as opposed to quantitative ones. Since he does not actually explain this, I do not think it is unreasonable to suppose that we are expected to think that the distinction arises precisely in virtue of their being second-order desires. Second-order desires, I think we must suppose he means to say, necessarily denote qualitative differences between desires.

But it appears to me that second-order desires *do not* necessarily denote qualitative differences. A consequentialist might say that desire itself is pleasurable, and that this is what leads us to form second-order desires about our desires. In Ingmar Bergman’s movie ‘Persona’, the main character Alma recounts an event where she and her friend had a romantic encounter with two boys in the summer heat. The scene’s significance is not simply that the encounter was pleasurable, but also that thinking and talking about this pleasure is pleasurable. Her second-order desire for the desire she felt in the summer heat does not look like a judgment that the desire to have romantic encounters in the summer heat is a

particularly worthy or noble one. Rather, it looks suspiciously like one of Bentham's moral gut reactions. In other words, it can be enough for us to simply desire something in order to feel pleasure. Because desire itself can be pleasurable. So we can desire desire and still have this second-order desire be a weak evaluation. So we should not say that second-order desires automatically make qualitative distinctions between desires, make such distinctions simply in virtue of being second-order desires. Second-order desires can perfectly well be weak evaluations.

It is thus necessary if we want to preserve strong evaluation that we distinguish between second-order desires qua desires from first-order ones not only in virtue of their being *second-order* desires. In order to maintain Taylor's critique of theories based purely on an opportunity concept, we must explain in virtue of what second-order desires might be strong evaluations. There must be something about second-order desires other than the fact that they are *second-order* desires that enables them to denote qualitative differences. But what?

In answering this, let me begin by trying to say something about what is required for something to be intrinsically valuable. The whole notion of intrinsic value is of course not something endorsed by Bentham, who famously stated that "the game of *push-pin* is of equal value with the arts and sciences, of music and poetry" (1830, 206). What matters is the amount of pleasure produced, and pleasure can be produced by either push-pin or poetry, regardless of any consideration about their worth beyond being immediately pleasurable. Moral value is thus tied to a kind of spontaneous 'gut reaction', which stems from our biological inclinations, tendencies, preferences, or whatever. It is not that which we find pleasurable which is valuable, but rather our *sense* of pleasure. Moral value, we should think, is thus seen by Bentham to have its source, in a sense, within us. It arises on account of our own resources, our own capacity to find things pleasurable or less so. The individual is the genesis of morality.

But if that is the case, we cannot then transfer our preferences to others, whose feelings of pleasure are similarly beholden to *their* preferences. Granting Bentham's premise that moral value is nevertheless a function of pleasure pure and simple, either our notions of moral value holds good. In short, if push-pin is as good as poetry, and neither is intrinsically good, we should think that our notions of moral value stems purely from our immediate, natural sources, our *internal* sources. Consequently, we should also think that in order for

something to be considered intrinsically good, to be qualitatively different from other goods and not just quantitatively different qua objects of our gut reactions, its source must be in some sense *external* to us. This, then, is what we should think second-order desires as strong evaluation must denote – an object external to us which nevertheless holds moral value, and not our sense of, say, pleasure. The genesis of morality must be something other than the individual making the moral judgment. It must be external.

### **Taylor on authenticity**

Does Taylor's work include something like an external moral source? I would have to reply in the negative. Contrary, to what Taylor should have to think, I believe that he is in certain ways as guilty of locating the source of our morality within ourselves as those he disagrees with. In order to see this, we must retreat from his theory of liberty to his more fundamental one about authenticity. As we saw, his theory of liberty was at least in part a positive one. It purported to explain liberty in terms of people's ability to realize their *authentic* desires. These were the desires that were supposed to become clear by way of strong evaluation, inasmuch as they reflected people's deepest or most fundamentally held moral or ethical beliefs. But where would these desires have their source? Not, as we saw, in moral gut reactions.

Nevertheless, they must be said in his view to stem in a sense from within the person himself. In 'The Ethics of Authenticity' (1991) Taylor reflects positively upon the notion that our values should reflect our true personalities. His support for the notion is not unambiguous, but he nevertheless shares the general gist of it. It is such, I believe, that he falls victim to some of his own criticisms against 'atomism'<sup>3</sup>, from which many negative theories of liberty are said to issue.

The "ethic of authenticity," he states, "builds on earlier forms of individualism, such as the individualism pioneered by Descartes, where the demand is that each person think self-responsibly for him- or herself, or the political individualism of Locke, which sought to make the person and his or her will prior to social obligation" (25). That is, the concept of authenticity stems from a tradition which, firstly, places a fair amount of importance upon the

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<sup>3</sup> His own term for the belief that humans are fundamentally self-sufficient and do not in principle require others in order to maintain a sense of the right or good.

notion of the rational individual as separate from other individuals. And secondly, as a result of this places importance upon the concept of individual responsibility, and of this responsibility as prior to communal obligations.

However, its pedigree can also be traced to “the Romantic period, which was critical of the disengaged rationality and of an atomism that didn’t recognize the ties of community” (op. cit.). In other words, it also has ties to a tradition which, unlike Descartes’ account, rejects the notion of the rational and fundamentally independent individual. It also stands opposed to Locke’s account, viewing our communal obligations as fundamentally important.

It then developed out of “the eighteenth-century notion that human beings are endowed with a moral sense, an intuitive feeling for what is right and wrong” (25-26). Human beings were thought to have an innate conception of morality. Furthermore, this conception was seen as a reliable guide towards judging what is right or good. As such, it arose out of opposition to the then-contemporary view that “knowing right and wrong was a matter of calculating consequences... Understanding right and wrong was not a matter of dry calculation, but was anchored in our feelings. Morality has, in a sense, a voice within” (26). Out of a notion which would disconnect morality from our inner lives, the counter-notion arose that morality is precisely beholden to our emotions, which speak to us reliably about right or good.

It finally arose as the notion of following our inner voice came to be seen not as a means towards acting rightly, but rather hold moral value in itself (op. cit). The change consisted in the fact that rather than operating with a moral source which was seen to be outside of us (Taylor uses the examples of God, or the Idea of the Good), we ourselves were now seen as the moral source. The function of the inner voice was not to connect us with something outside of us, but rather with something within us (op. cit.). The good was thought to be located already within us, and now the work consisted in trying to uncover it. We were considered authentic to the extent that we had succeeded in understanding ourselves, and this was considered morally valuable, too.

How so? Citing Herder, Taylor explains that the justification for this concept was that “each person has his or her own “measure”” (28). That is, each person had his own standard for what should be considered good or right. “There is a certain way of being human,” he explains, “that is *my way*” (28-29). Because, every person is unique, so too must be the

standard by which he can be said to act morally or be good. What it means to be human depends on which particular human we are dealing with. So too what it means to be moral. Thus, “I am called upon to live my life in this way, and not in imitation of anyone else’s” (29). We cannot truly be said to be good or act morally unless we are or do so in a way that reflects our own unique way of being human.

Consequently, understanding our own individual natures gains “crucial moral importance” (op. cit.). It becomes not merely a matter of obtaining knowledge, but also of understanding what it means to be moral. Furthermore, since being moral depends on being true to ourselves, “each of our voices has something of its own to say” (op. cit.). Since what it means to be moral is different for every person, every person’s input in that regard is valuable.

Consequently, “being true to myself means being true to my own originality, and that is something only I can articulate and discover. In articulating it, I am also defining myself” (op. cit.). We only do right by ourselves, if we act in a manner which reflects our unique natures. And since they are unique, we cannot rely on others to provide or explain them for us. Thus, in discovering what is right or good we simultaneously discover who we are as human beings, who we are authentically.

Now, Taylor rejects a wholesale embrace of this line of thinking. “Can one say anything in reason,” he asks rhetorically, “to people who are immersed in the contemporary culture of authenticity? Can you talk to people who are deeply into soft relativism, or who seem to accept no allegiance higher than their own development?” (31). That is, if we were to accept the premise that personal development were the highest good, we would instantly have to succumb to the notion that any good holds as well as the other. In that case, conversation has broken down, other than perhaps the instrumental kind, as we are in no position to place moral demands on each other. That would be tantamount to a full-on embrace of relativism, since any notion would be as good as the other. But then morality has become trivial, in the sense that it in principle matters little to others what anyone chooses to spend his time on. But clearly, this goes against the basic gist of there being such a thing as morality in the first place.

How does he propose we solve this problem? Well, “reasoning in moral matters is always reasoning with somebody,” he begins (op. cit.). It is a fact for him that whenever we

reason morally, we reason with somebody: it is a “general feature of human life” (32). Furthermore, as such it is a feature which “condition(s) the fulfilment of [any] ideal” (op. cit.). That is, the fulfilment of any ideal relies on reasoning, and reasoning about moral matters is always performed with somebody else. Further still, the ideal of authenticity was a moral ideal. Thus, we could not possibly work towards the fulfilment of this ideal without reasoning with somebody else. To achieve authenticity requires that we deal with other people. Thus, “the more self-centred and “narcissistic” modes of contemporary culture are manifestly inadequate” (35). Given that the formulation and fulfilment of our authentic ideals require the participation of others, to view self-fulfilment as a purely individual undertaking is a project doomed to fail. Rather, it requires that we engage with others.

How, exactly, is this supposed to occur, though? Observing in a further critique of ‘soft relativism’ that no decision can be judged right or good just because we “feel that way” (36), he infers that “things take on importance against a background of intelligibility” (37). That is, simply referring to the way something makes us feel is not enough to make sense of it. As moral phenomena our feelings are unintelligible in themselves. To leave morality at the stage of emotion would be akin to reducing it to a mere mechanism. Rather, we need an explanation for *why* we have the kinds of feelings we have (op. cit.). And if a phenomenon has an explanation, it can be right or wrong: an explanation “is open to criticism. What if the explanation is wrong, doesn’t pan out, or can be replaced with a better account?” (op. cit.). In short, we require discussion, debate, dialogue. That leaves our notions of the good open to evaluation by the standards, demands, etc. of others, and that is juxtaposed to the notion of relativism.

The account thus develops naturally into the further question about which conditions must be met for discussion, conversation, or whatever, to take place. “Things take place,” he clarifies, “against a background of intelligibility” (op. cit.). In opposition to accounts which see human rationality as an isolated phenomenon, or self-fulfilment as a purely individual undertaking, he posits that in order to reason we must already come pre-equipped with some notions about what matters. If reasoning is reasoning about something, and is reasoning with someone, and the something about which we reason was previously developed by way of reasoning, then it follows that it is inherited from someone other than ourselves alone. Thus, we always approach conversation (etc.) with some notion of what matters which is not

entirely of our own making. Moreover, since we could not reason without them, having such notions must also be a precondition for conversation.

In summary, then, since reasoning is required for authenticity, and a ‘background of intelligibility’ is required for reasoning, a background of intelligibility is required for authenticity. Either involves the participation of other people. Other people are required for us to reason with. But moreover, we inherit our background of intelligibility from others as well. At both stages, that is, both at the inception of our notions of the good, and at their development into something authentic, other people are necessary.

### **Does Taylor’s concept of authenticity involve external moral sources?**

At first glance, the answer might appear affirmative: the essential involvement of other people, intuitively external to ourselves, at both these stages in the development of our notions of the good would perhaps entail that those notions were also external. But I am not sure this is the case. While our notions are undeniably inherited from someone other than ourselves, and developed with their participation, it does not follow that our notions must in themselves be external. Moreover, I think Taylor is in fact obligated to the opposite view – to the view that our notions are internal. Further still, I think this renders them unable to inspire the kind of allegiance that Taylor prescribes from our moral sources.

This has to do, I think, with the fact that, while he acknowledges the inherited nature of our notions, the fact of their inheritedness could not on his account, as far as I can see, entail a form of allegiance, indebtedness, perhaps even duty, towards something – in this case our moral notions. Because the fact of a moral notion’s inheritedness does not mean that it could not hold value as something *we* hold in virtue of our own particular measure of humanity. E.g., we can imagine being taught as children to be kind. In order for that notion to hold value we would have to take it over, make it our own, justify it by way of our own resources. Taylor implicitly makes this point when he describes how positive liberty pertains to internal forces. These are precisely the internal moral intuitions which allow us to act. Thus, even if they were inherited, part of making them reflect our own deepest nature means transforming them in such a way that they reflect our own measure of humanity. But in that case, they hold moral significance to the extent that they play out internally, and not in virtue of something external to ourselves. So inheritedness does not in itself prevent the possibility

that our moral sources are internal, that they rely on some standard which reflects precisely our own measure of humanity. But it is my contention that a moral measure which reflects a purely individual moral standard cannot properly speaking be owed something like our allegiance. How so?

Well, my answer ties in the first instance into Taylor's accusation against soft relativism that it renders the concept of morality vacuous. If the notion of moral value is tied to reasoning and reasoning is an intrinsically social activity, then the notion that moral intuitions are ultimately a subjective matter seems to clash with the notion that we might reason. Because if reasoning is a social activity, then it would seem that our reasoning is beholden to standards not entirely of our own making. But this is precisely a view I just argued Taylor could not properly espouse. Even for Taylor, who embraces a partially social conception of reasoning, the notion the concept of reasoning seems somewhat muddled. Precisely how inspired by our individual resources must our reasoning be in order to produce authentic intuitions? Does it even make sense to speak of something like a "partially individual" intuition, as seems to be the product of his attempt to describe reasoning as a social activity?

Simultaneously, that our conceptions of the good rely on the input of others, either through inheritance from a background of intelligibility or through reasoning as a social activity, does not mean that we heed everyone's opinion. In that case, we could end up with a *cultural* kind of relativism. Indeed, it seems to me that rather than solve the problem of relativism, the proposal that reasoning is social at best moves the goalposts to include the people we have actually reasoned with. While not as individually relativistic as the strictly Herderian kind of relativism, Taylor still appears, then, to fall into a softer kind of relativism than the one he sees in modern society. But a relativism nonetheless. We still need to establish a moral source everybody can subscribe to.

The prescription for an external moral source which every person can subscribe may seem like a stringent one on my part. After all, it is surely a high expectation that we all agree on some moral proposition. Whilst perhaps practically unrealistic, however, I do not think I am out of bounds in trying to establish a sound moral proposition which purports to be universally applicable. Many thinkers have already done so. The categorical imperative springs perhaps most readily to mind. The veil of ignorance, behind which we are thought to become capable finally of agree on a universally binding set of moral propositions.



Consequentialist thinking, too, arguably contains a universalistic element, inasmuch as the notion of a good outcome must surely rely on some established notion of the good. In short, I do not think I am veering far off the beaten path by trying to establish an external moral source which purports to be capable of commanding the allegiance of every person. Furthermore, the notion that this source be universally binding does not seem unreasonable to me, inasmuch as it is simultaneously involved in a broader, meta-ethical description of at least a part of what enables morality in the first place (specifically, the fact of human socialness)<sup>4</sup>.

At any rate, we seem to have caught Taylor in a contradiction, a contradiction which inadvertently leads him into another variant of soft relativism he sees as an unfortunate ingredient in modern culture. Why does this present a problem to the notion that we might owe something our allegiance?

Because if everyone were to owe their allegiances purely to their own intuitions, intuitions which may yet be revised if we were to change our minds, then the whole concept of ‘allegiance’ seems rather vacuous to me. It seems to me that the concept of ‘allegiance’ presupposes something over which we do not ultimately hold power, which is not ours to control or preside over. Owing something one’s allegiance might involve us sometimes acting in accord with it despite perhaps desiring to act towards something different. It means that we are dealing with something which is owed something, regardless of our own wants. It means that we might be obligated to set our own wants aside for the benefit of that something. E.g., we might desire to spend all our newly earned money on expensive vacation trips. But we might still believe it better to invest that money in a college fund for our children. Because many of us would say that a decent education is something which our children are owed. Why is that?

We saw that Taylor imagined that the development of our moral intuitions took place by way of reasoning, intrinsically social. It appears to me that if we were to reason our way into justifying the provision of an education for our children, we might expect our children to participate in that process. Because if reasoning is social, then reasoning appears to

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<sup>4</sup> For the time being, I will allow myself to take for granted the notion that communal obligations fundamentally feature in human morality. Despite my misgivings about Taylor’s construal of the communally engaged rationality, I nevertheless accept this premise, and the chapters preceding the current are to a large extent an attempt to salvage that concept, if in the service of the wider aim of establishing a viable concept of free speech. Precisely why I believe communal obligations fundamentally feature in human morality, therefore, will be made clear by extension of the account which I attempt to produce further down the line.

presuppose a certain degree of reciprocity among the parties who stand to gain something from the reasoning process. How so? Well, Hobbes conceives that when we convene to bring us out of the state of nature, we do so because we believe we have something to gain from it. So we don't necessarily reason over sensible moral precepts. Rather, we attempt to reach compromises which will enable each individual participants to satisfy their disparate desires to a satisfactory degree. So our underlying desires motivate us to compromise and engage in reciprocal activities so as to satisfy these desires to some certain extent.

Reasoning only makes sense if it goes both ways. E.g., we might imagine that a political debate about immigration policy places certain demands of politeness and an absence of ad hominem on the participants. But these demands only make sense if they go both ways: we wouldn't say that they were reasonable if they only stated that members of one political party abstained from ad hominem while the others were given free reign. Reasoning, in short, requires mutual participation, and that places certain demands on all the participants.

But is this what happens when we send our children off to school? I don't think so. When we say that our children should go to school we don't expect them to provide a service for us in return. Because providing our children with an education is just something we ought to do. There is really no debate to be had about the matter. We don't typically discuss whether children should have some form of education or tutelage. Children do not participate in that discussion because *no one* participates in that discussion – because there is no discussion to be had. And thus, there can be no talk of reciprocity in the provision of an education for children.

To this, a proponent of the reciprocal reasoning scheme might reply that we do in fact reason about whether or not children should an education. We just don't expect the children themselves to participate in the reasoning process. Because typically, we say that they aren't mature enough. Therefore, we accept a degree of benign paternalism from someone who knows better when we are dealing with children. Thus, he might say, the reciprocal reasoning scheme still holds good. The education of children isn't an applicable case.

But I think that this would be poor pedagogics. Any decent teacher knows precisely that children *should* in some way be engaged in the formation of their own curricula. Because any decent curriculum aims not merely to supply children with knowledge, but also develop their capacity for acquiring such knowledge on their own. And it is a truth widely

acknowledged that this capacity is best developed when children are allowed to participate in the creation of their own education. A good teacher isn't paternalistic in the sense that he makes decisions on his students' behalf. Rather, he will typically attempt to guide them towards making independent but informed decisions. He will typically observe what the child's capabilities are and then attempt to bring them to fruition by asking the child leading questions which then enable him to discover the solutions to whatever problem he is confronted with himself. E.g., when presenting his students with a difficult math problem, a teacher will very rarely simply present them with the answer and task them with committing it to memory. Rather, by a series of leading questions, he will attempt to coax them into discovering the answer themselves. The students thus do the work of not merely committing to memory, or even of just doing the hard maths involved here. They are also frequently expected to work out the methods by which they will discover the answer. The teacher may eventually present them with the method and an explanation after all is said and done, but a decent teacher will rarely do so before the children have attempted to do it themselves.

How does this demonstrate that children participate in working out justifications for the intuition that they should have an education? Because the goal of a decent education, it strikes me, is not simply to impart information, but to cultivate the student's character. The goal of a decent education is also to cultivate the kind of character traits which enable the student to participate in the society in which he is brought up. This is reflected e.g. in the Norwegian government's summary of the kind of skills a student should possess. One of these skills is that of being a 'decent' person. Whatever the precise meaning of this term is supposed to be, I think it is reasonable to suppose that it has something to do with his personality. But what it does mean, I think, is that a certain amount of freedom should be left to the student to try to discover the relative value of the goods available in his society. That is, we expect our educational systems to not merely teach our children to do maths, but to decide upon the value of their various potential goods. Thus, we should say that as and when they pass through their education, they should also evaluate those goods. But, if education is the tool with which we develop our capacity to perform these evaluations, we should think that even our education is subject to such evaluation. And that would mean that students should be encouraged to reflect upon their education as and when they pass through it – upon its proficiency in equipping them with the necessary skills to perform even this kind of evaluation. And then, to the extent that this is indeed the case, we should say that children are involved in the formulation of their own educations.

I think bears some resemblance to Socrates' questioning of Meno's slave. The purpose of this kind of questioning – besides recollecting the eternal Forms – is precisely to cultivate one's potential, one's latent abilities (which will enable one to more accurately resemble the Idea of the Human). It is primarily about self-realization, and secondarily about obtaining knowledge or acquiring information.

But does not claiming that engaging with other people is supposed to result in self-realization run into the same difficulty that Taylor did in holding to the notion that the good ultimately had to be a matter of personal preference? I do not think so. But I believe explaining this warrants transitioning into a new chapter. In the next chapter, therefore, I will try to explain what a universally applicable moral intuition which nevertheless preserves the concept of authenticity and strong evaluation might look like.

### **Further discussion: basic intuitions and salvaging external moral sources**

But does not claiming that engaging with other people is supposed to result in self-realization run into the same difficulty that Taylor did in holding to the notion that the good ultimately had to be a matter of personal preference? I do not think so. But I believe explaining this warrants transitioning into a new chapter. In the next chapter, therefore, I will try to explain, by drawing upon closeness ethicist K. E. Løgstrup, what a universally applicable moral intuition which nevertheless preserves the concept of authenticity and strong evaluation might look like. I want to show that our moral intuitions fundamentally arise necessarily out of a kind of *demand* which our encounters with others place upon us.

Beyond this, I want to argue that being reliant on others *entitles* one to a certain kind of treatment – a certain kind of support, or perhaps even nurture. I will thereby try to establish also obligation as a mechanism by which we may enable others to carve out their sense of self from a position of vulnerability.

I will also try to argue that persons should be understood as fundamentally reliant on others. I will thereby try to extend my analysis of obligation to include every person. Every person, I will argue, is due that kind of treatment. Because the obligation is universal, it is due to every person simpliciter. Arguing this, I will attempt to add the premise that obligation arises necessarily out of our encounters with others.

In light of this, I will argue, finally, that it is incumbent upon every person to fulfil that obligation towards others. Everyone is, in other words, not just due support, but also owe it to others to provide that same kind of support. The obligation will rely on external sources, namely other people themselves. Therefore, I believe my account will distinguish itself from the Benthamian one that Taylor could not quite overcome.

The following chapter being an attempt to salvage part of Taylor's theory, I will occasionally reference parts of his work I have felt a need to include in this chapter. I hope, in other words, to somewhat synthesize Løgstrup and Taylor's work, and hope to avoid any incommensurabilities.

And finally, I believe my account will be superior to Taylor's, firstly, because it salvages the concept of strong intuition. And secondly, because it avoids the soft relativism Taylor stumbled into. In both cases, its superiority will be due to my embrace of external moral sources, whose viability will be made clear, I believe, by way of elucidation of the concept of reliance on other people in the next chapter.

In short, because it consists in working out part of my account of external moral sources, I believe the next chapter will succeed in offering a viable alternative to theories of liberty which are based purely on an opportunity concept of freedom.

## Chapter 4 – Løgstrup and the ethical demand

In this chapter, I venture, first, to write out an analysis of K. E. Løgstrup's theory about the 'ethical demand'. The ethical demand, as I interpret it, is the notion of an inarguable intuition that the other should be cared for in virtue of a kind of trust he places in us simply in virtue of encountering us. We cannot reject this trust and maintain that we have acted well. Rather, in order to act well, we must respond to it by caring for the truster. I will then argue that the demand can be interpreted as an expression of positive liberty, not dissimilar to Kant's notion of duty. To act on the ethical demand means to act on moral attitudes we necessarily hold at the deepest levels of our moral personae. I arrive at this conclusion by referring to what I will call 'the logic of the encounter', by which I will mean that encountering other person necessarily raise certain moral demands, on pain of which we maintain our personhoods. This concept will be my own contribution. I will argue that, given the ethical demand, which is facilitated by the encounter, we could not maintain our identities and our moralities without caring for the people who place their trust in us. To do otherwise would contradict the way in which we view morally viable behaviour. In other words, I argue that we could not possibly conceive of reciprocating trust with not-care and still maintain that we act well. To do otherwise would be at best a form of delusion. In short, in this chapter, I intend to lay Løgstrup's concept of the the ethical demand, and to supplement it with my own concept of the encounter. In doing so I believe I will have proved that caring for people who place their trust in us is necessary both in order that we may conceive that we act well. Second, I will then offer up a critique of Løgstrup's theory, and in light of this critique a refinement of it. I will then argue that the ethical demand satisfies the requirement for the kind of 'basic moral intuition' that I prescribed towards the tail-end of the previous chapter – that it is inarguable, universal, and takes the form of the kind of positive moral requirement. In doing so, I believe I will also have satisfied a requirement for an external moral source, namely the other, who will now be the genesis of our moral requirements. As I showed in the previous chapter, this was in turn a requirement for strong evaluation, as well as a requirement for making Taylor's theory of positive liberty fly. In short, *I believe my take on the ethical demand will enable my account of free speech as positive liberty to function.*

I believe I will be able to apply the conclusions I reach in this chapter to show that hate speech as dehumanizing speech undermines the speaker's liberty. In light of this, finally, because of this, I believe I will may use them to produce my own account of free speech as

positive liberty. This problematic will merit its own chapter, and will take the form of applied ethics, rather than “mere” ethics, but will require the conclusions I reach in this chapter to be properly solved.

### **Fundamental trust**

Løgstrup conceives that it is a fundamental feature of human life that we meet each other with an unconditional kind of trust: “Det hører vårt menneskeliv til at vi normalt møtes med en naturlig tillit til hverandre” (1991, 29). Trust is a necessary feature of being human, of the way in which humans function. It is in a sense unavoidable, we *cannot but* trust each other.

He arrives at this claim not by way of empirical investigation, but rather posits that it is a logical consequence of the way in which human life functions. In showing this, he begins by imagining what would happen if we were to meet each other with fundamental *distrust*. Such distrust would undermine much of our ability to attain fulfilment: “Vi ville simpelthen ikke kunne leve, vårt liv ville visnet og blitt forkrøplet hvis vi i utgangspunktet møtte hverandre med mistillit” (op. cit.). Fundamental distrust of others would lead us into a deprived state of affairs. We might become somewhat like an Aristotelian hermit, who, incapable of participating in public life, is also rendered incapable of partaking in the goods that public life offers – a feature essential to attaining *eudaimonia*. So clearly, fundamental distrust is not the way to go. Rather, we need some way of explaining how we engage in social interaction<sup>5</sup>.

His description of a life colored by distrust appears somewhat vague to me. On the one hand, he says that we would be simply *incapable* of living with fundamental distrust. But on the other, he says that our lives would “merely” *withier* with fundamental distrust. What is the distinction? Well, in the first instance, fundamental distrust looks like an impossibility: life and FD are incommensurable, we couldn’t live with it, we can’t imagine life with FD – to be human and to have FD is a contradiction. But the latter appears rather to describe a very

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<sup>5</sup> In describing how humans engage with one another, Løgstrup does not, as far as I can see, lay out any alternatives to fundamental trust and fundamental distrust. I am not sure whether this is meant to indicate that there are no such alternatives or whether the perceived impossibility of fundamental distrust is simply meant to elucidate his point that we necessarily engage each other with at least a minimal degree of trust. Given that the former seems intuitively implausible – we can surely meet a relative stranger with a degree of trust that they will adhere to, say, some social norms without thereby trusting them with our lives – I will venture to assume that he means the latter.

decrepit life – a life very short on fulfilment and value, but a life nonetheless. That is, he appears to give two conflicting descriptions, where the first denotes a logical contradiction between a particular kind of distrust, namely FD, and the fact our being alive. And the second denotes merely the adverse effects a certain degree of distrust would have on our lives. Of course, he rejects either. But the first one he rejects on ontological grounds – we “simply couldn’t live” – we couldn’t exist. The concept of living, of being human, contradicts that of fundamental distrust. Clearly, though, we do exist, so the concept of fundamental distrust doesn’t make sense. But the latter, he rejects on moral grounds – it would merely be very bad for us to distrust each other very much. Perhaps this ambiguity is unintentional from Løgstrup’s side. But I think it is important to make the distinction. Because clearly, as I just pointed out, fundamental distrust is not the same thing as very strong distrust. But which, then, is the more sound interpretation? Which concept can provide the logical counterpoint to fundamental trust? Or, to phrase the question differently, which of the concepts is incommensurable with fundamental trust?

Is it very strong distrust? I don’t think so. Because we can imagine scenarios where we distrust someone’s, say, words, but still trust them at a more fundamental level. E.g., I could be highly sceptical of the oncologist’s claim that my grandfather did not suffer in his final hours due to his advanced skin cancer. However, I can still trust him at the more fundamental level of a care worker whose job it is also to protect the emotional well-being of his patient’s relatives. Thus, we can say that while I distrust his words, I nevertheless trust him in his capacity as a care worker. Moreover, we should say that this trust is more fundamental, since my distrust of his words do not necessarily undermine my faith in his skills as a competent oncologist. My very strong distrust of his words does not undermine my more fundamental trust in his medical expertise. Consequently, we should not say that very strong distrust serves as the logical counterpoint to fundamental trust. Thus, to the extent that Løgstrup wants to establish the conditions of fundamental trust, we should take fundamental distrust as its counterpoint.

What is missing, then, from very strong distrust which renders it incapable of shaking our trust in our oncologists to the very core? Well, the problem was that our trust in oncologists qua oncologists stems from our belief in their medical expertise, but not their ability to produce benevolent fibs to patients’ relatives. If fundamental distrust is supposed to render us incapable of trusting someone simpliciter, then we should imagine that it renders us



incapable of trusting them in virtue of the absence of something that is supposed to be essential to them. I think the notion that medical expertise is an essential feature of being an oncologist is fairly intuitive, and one I can allow myself to take for granted. Thus, a fundamental distrust in my oncologist should amount to my being incapable of trusting his medical expertise. Analogously, I would claim that in order for us to say that our trust in other humans were shaken to the very core – that we met them with fundamental distrust – we should have to claim that we did not really believe they were properly human. We can distrust someone very strongly without thereby distrusting their claim to humanity. But fundamental distrust, we should think, is precisely that we do not believe they are properly human. In light of this, then, we should claim that if we believe someone is human, we cannot but trust them, whatever trusting someone as a human entails.

In short, the fact of someone's humanity begets a kind of trust – we trust that they will behave as the kind of moral creatures that humans are. Inasmuch as they are human, we necessarily, then, trust them. This kind of trust, in other words, is fundamental to our relationships with other humans. We can thus reasonably call it 'fundamental trust'.

A quick remark on fundamental distrust as distrust of someone's humanity. It will perhaps occur to the perceptive reader that fundamental distrust appears a lot like the kind of claim I argued was implicit in hate speech – that their victims are not fully human. This is no coincidence, and I will return to this convergence when I attempt to apply this chapter's analysis on hate speech in later chapters. Essentially, my argument will be that to subject someone to hate speech is a behaviour inconsistent with the speaker's humanity, inasmuch as he is highly unlikely to authentically distrust his victims' humanity. By extension, I will argue that to subject someone to hate speech is simultaneously to undermine our own humanity, to dehumanize ourselves, and to really fall into the state which Aristotle warned against – that we condemn ourselves to living in the company of someone we cannot abide.

One might be tempted to object here that, surely, proving we do not meet each other with fundamental distrust does not show that we meet each other with fundamental trust. After all, the fact that we do not always and fundamentally distrust each other does not rule out distrust altogether – and so demonstrate that our lives are not just filled with trust. To this I would reply that this does not appear to me Løgstrup's point, and that his position is still plausible. The point about the lying oncologist was precisely that we can distrust certain aspects of someone's behaviour while still trusting them in virtue of a feature essential to

them – in this case, we still trust in him in virtue of his medical expertise. Obviously, being human is not like being an oncologist – I do not think I am out of line in simply supposing that humanity is not something we can be disqualified from. Consequently, we should think that even if we sometimes and in some limited sense distrusted a human, we do not thereby distrust their humanity. And that is what I interpret Løgstrup as saying when he talks about fundamental trust. It is a trust we hold in each other in virtue of a feature essential to us as humans. Consequently, if we suppose that someone is indeed a human, we would be justified in saying that we trust that they so are.

There is more to be said, of course. It remains to be explained precisely what a ‘human’ is. Nevertheless, I do not think I am out of line in simply supposing, also, that being human means to have a sense of the moral – to have, among other things, a background against which we may act and carve out an identity. And that, for the time being, will suffice for the discussion at hand. The reason will become clear during the course of this chapter, as I attempt to lay out the content and some of the implications of the ethical demand.

### **The ethical demand**

However, our trust in other humans is not merely a safeguard against suspicion. It does not merely enable us to convene with others without fear that they might interfere in our doings. That is, it is not merely negative. Rather, it is also positive. Rather than simply hold that we should not act in certain ways in relation to others, it begets also a ‘demand’, a kind of duty, for how we should act in relation to others. Moreover, since our trust in each other is fundamental, so too is this demand.

There is, Løgstrup posits, a demand to care for others (38). In trusting each other, in revealing our wants, desires, etc. – our identities – we also give each other power to play a part in shaping our identities. “Gjennom vår holdning til hverandre,” he says, “er vi med på å gi hverandres verden dens form” (39). Trusting someone is not merely a belief in their non-interference in our lives. Rather, it involves the exact opposite – it means that they play an active part in our lives, and in so doing shape our identities. This understanding of trust seems plausible to me. E.g., when we say that a child trusts his parents, we do not mean that he believes they will play no part in his life. That would be an absurd conception of parenthood. Parenthood consists precisely in providing our children with an education, a proper diet,

health care, and the general nurture that children are known to require. We mean the exact opposite – that parents should take a very active role in the child’s life by providing him with these things. Moreover, the function of taking an active part in a child’s life is not merely to secure that child’s survival. It is also to ensure that the child matures into a well-rounded and virtuous person, that he develops a certain kind of identity. In short, when we talk about parenthood we mean, among other things, that parents provide for their children, and in so doing shape their personalities. Trust, then, involves allowing others to shape our identities.

But if trust allows others to shape our identities, then we shouldn’t trust just anyone. Because if the trustee is a bad influence he might shape our personalities in ways that would be detrimental to us. E.g., if we fall in with a deadbeat lover, we might be compelled to sacrifice our working lives in favor of long, alcohol-induced binges on the town. We might become fickle, unreliable and unambitious, transforming us into someone most people would consider untrustworthy.

Furthermore, it appears to me that we would often like others to trust us as well. Having others trust us might have a bearing on the way in which we see ourselves. In being seen by the other as trustworthy, and having their view of us displayed to us, we might come in turn to see ourselves as trustworthy, surely a good image to have of oneself.

Further still, I think this shows that not only would we like to trust in others, and have them trust us. Because the way in which others see us have a bearing on how we see ourselves, I think we can conclude that the way in which others see us have a bearing on our sense of self.

Consequently, we should think that breaking someone else’s trust would simultaneously undermine our own sense of self, as well as our ability to experience value. If the other shapes our identity, and we, by breaking the other’s trust simultaneously breaks his ability to trust in us, making him see us as someone who cannot be trusted, we might very easily come to see ourselves as someone who cannot be trusted. But this would contradict our fundamental intuition that humans are to be trusted. In other words, there would be a dissonance between the way in which we fundamentally believe we are like and the way in which our identity takes shape. That is, our deepest, underlying view of ourselves as that of someone who is to be trusted might be contradicted by the way in which people, and by extension we ourselves, view us. In that case, we might further imagine that our sense of self as someone trustworthy becomes muddled, that our identities become confused, and we so

lose our ability to orient ourselves in the landscapes of our lives, to make plans, decisions, judgments etc. We would lose, in other words, our capacity to experience meaning. Indeed, the effects of social rejection, of loneliness and the like, on our sense of self is well documented.

Furthermore, our identities, we should say, are tied to our moralities. Because surely, beyond being a source of meaning qua organizer of our actions and identities, trust is also a moral phenomenon. Children in need of education and health care are not merely, we would say, potential sources of meaning, but rather compel us as a matter of value to aid them. Trust pertains, we should think, not merely to rote scientific definition, but to the way in which we believe we should act. It is not merely a fact of life, but denotes also the way in which we believe things should be. So our identities are tied not merely to the way in which we are, trusting of one another. It is tied also to the way in which we believe things should be, to some outcome we believe is good.

Consequently, we should think that by breaking someone's trust, and having others reflect poorly on us, we come to see ourselves as bad people. Much like Aristotle's murderer, by breaking someone's trust we might condemn ourselves to spending the rest of our lives in the company of a person who is not to be trusted. But since our image of ourselves is fundamentally that of a good person, a trustworthy one, the dissonance arises. So, too, to whatever extent, the loss of meaning, as it becomes more difficult for us to orient ourselves in the world like we imagine a good person would.

Consequently, humans see others and themselves as fundamentally trustworthy. This results in a demand, an ethical belief we necessarily hold as humans, that we make positive efforts to foster others' sense of self. Because inasmuch as we see ourselves and others as fundamentally trustworthy, others hold the power to co-shape our identities by way of either rejection or affirmation. To break the other's trust would result in their viewing us in a way which conflicts with our fundamental view of ourselves. And since they play a part in shaping our identities, we would then come to view ourselves in a way which contradicts our more fundamental view of ourselves. We would struggle to understand ourselves, as well as orient ourselves in the world. Moreover, since trust is a moral phenomenon, this would result not merely in a scientific kind of confusion, confusion over how we should be defined. It would result also in a loss of value. Our lives would not merely make less sense. They would become less valuable in our own eyes. We take jobs and start families not simply because we

are programmed to do so, but because we see these things as valuable, and because they fit into a life narrative which is shaped by our teleologies, which are in turn shaped by our moral intuitions and the goods we pursue. And these are the things which would become less valuable if we saw ourselves as untrustworthy, and thus less worthy of pursuit, leading to a loss of both meaning and value.

In short, others are fundamentally involved in building and shaping our identities. Moreover, our identities simply are our moralities. Consequently, first, in order to preserve and develop our identities we must preserve and develop our sense of the moral. And second, since our sense of the moral relies on our relationships with others, in order to preserve and develop our moralities, we must preserve and develop others' sense of self, which will in turn enable our relationships with them to do the same for us. This results in a demand, an inescapable kind of duty, a duty which rests with us simply in virtue of being persons, that we work positively towards caring for others.

### **Giving shape to the other's world: defining care**

We are fundamentally involved, then, in shaping out others' worlds, as are they involved in giving shape to our worlds. But given that we are thus involved in shaping out each other's worlds, what does being duty-bound to care for others, to foster their sense of self, mean?

Does it mean, e.g., that we work to ensure that their moral personae, which, as I have said, compose their worlds, their identities, develop in an agreeable direction? Unlikely. That smacks of paternalism. The fear of paternalism is of course one of the objections often raised against positive liberty<sup>6</sup>. If liberty consists in realizing our innermost intuitions, and we know people's innermost intuitions, why should we not think we would be doing other people a favor by simply imposing these intuitions on them? This would strike most people as an absurd understanding of freedom.

However, and moreover, it would surely strike most of us that it would be hard to authentically subscribe to an intuition we have been forced into. On Taylor's description, we come to authentically hold an intuition once we have reasoned our way to it. The activity of

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<sup>6</sup> Positive liberty stemming in turn from authenticity, and authentically subscribing to a set of intuitions in its turn meaning, as I have explained, to harbor a strong sense of self, a fully shaped world.

reasoning as a foundation for authentic subscription surely is at odds with the notion that we can have our intuitions imposed on us and still authentically subscribe to them. Since to have a strong sense of self has been connected here to authenticity, it should be clear that paternalism is out of bounds on the account I have begun to develop.

That still leaves us with the question, though, of how precisely we not only might, but indeed should participate in giving shape to each other's worlds, how we should care for one another. If simply imparting certain intuitions in order to steer the recipients of our care in a particular direction will not do, what will?

The term 'care' is not, of course, a completely novel one. And while Løgstrup does not himself appear to use the term in a particularly technical sense, I have nevertheless attempted to build my interpretation of his theory around it. In my use of the term, 'care' means *the validation of a person's moral intuitions, allowing its deeper articulation*, along the lines described by Taylor<sup>7</sup>. For Taylor, to articulate the good means to "come closer to [the goods we subscribe to], to have a clearer view of them, to come to grasp what they involve, is for those who recognize them to be moved to love or respect them, and through this love/respect to be better enabled to live up to them" (1989, 96). In other words, articulation is important in empowering us to act according to the good, and that is important insofar as it is our goal to lead what we consider good lives.

In addition, then, to avoiding the paternalism I mentioned above, I stress the importance of enabling the recipient to articulate his own intuitions so as to prevent things like the validation of someone's unhealthy habits from falling under the heading of 'care'. Clearly, reinforcing a megalomaniac's megalomaniacal tendencies would not fall under most people's intuitive understanding of care. Stressing that the recipient must be rendered more capable of articulating his intuitions ensures that he, e.g., not simply fall more heavily into harmful patterns of behavior. Rather, the point of care on this definition is to equip the

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<sup>7</sup> I am, in other words, attempting to synthesize Taylor's and Løgstrup's theories, wherein I see Taylor's view on the constitution of the self – as consisting of the narratives developed by the pursuit of whichever goods we consider most worthy – as forming the basis, and the ethical demand as forming the most viable intuition available to us. By "viable" I mean that the ethical demand, or at least my interpretation of it, is what must be arrived at if we attempt to rationally arrive at a moral intuition worthy of our allegiance. This rational viability of the ethical demand is what I laid out in the concluding paragraph of the previous section; our dependency on other people's validation creates a need for us to care for them. This care will then enable them to validate our intuitions. And that validation, finally, will confirm the meaningfulness and existence of our moralities, and hence ourselves.

recipient with the tools to reason (again, a feature essentially involved, according to Taylor, in arriving at authentic intuitions) over his intuitions, not necessarily to encourage any particular behavior.

Again, and to be perfectly clear, my view on meaning and how it might be attained is by and large appropriated from Taylor, with the addendum laid out in the previous chapter that his view on authenticity needs some reworking. That my Løgstrup-inspired theory of dependency and recognition fits in with this view I think will become clear during the course of this and the next chapter. At any rate, I believe it is useful to be aware that I do not intend to denote anything by the term beyond what I just said. I do not intend to invoke, e.g., Heidegger's use of the term; or any uses employed within care ethics. Whilst it would not, perhaps, be entirely surprising if overlaps between these other uses and my use might exist, any such overlaps would be coincidental.

### **The ethical demand as silent**

At any rate, the ethical demand can be understood as a kind of duty that we participate positively towards fostering someone's capability of shaping out their moral persona. The implication here appears to be that we see certain behaviors as better than others. We do not in our social interactions seek to simply fulfil all our, say, hedonistic impulses; nor do we simply seek to satisfy the other's every desire. Rather, healthy relationships typically enable either party to live out and articulate their desires, and do so without dominating the conversation. Although as the ethical demand purports to reflect our fundamental wishes and desires, it is "silent" and "unspoken" (42). We do not, indeed should not, outright and explicitly communicate our every desire. Rather, it is left to the individual relationship to converge upon their satisfaction. If we were to fully and perfectly and in all cases communicate our desires, Løgstrup says,

ville en kommunikasjon mellom oss av det slaget der én personlig eksistens har å gjøre med en annen personlig eksisten, i det hele tatt ikke være mulig. For hvis det bare gjaldt å oppfylle den andres forventning og etterkomme hans ønske, ville vårt liv sammen bare gå ut på – ansvarsfritt – å gjøre seg til redskap for den andre (42-43).

That is, the perfect communication of our desires, seeing that their satisfaction is demanded, would result in one party's utter subjugation. Complete and perfect explication would require us to completely dominate the conversation, leaving no room for anything that might dilute it – including the other's desires. But such an explication would reduce the other to a mere tool, an object, to the satisfaction of our desires (or subjugate us to the other's desires). Clearly, this would violate Kant's maxim that we not violate others' autonomy.

By extension, it would, as far as I can see, violate my above interpretation that sense of self relies on the affirmation of others. If the other is a mere tool, thus not fully human in the sense of having desires of his own worth satisfying, then surely there is not much in him which would grant his affirmation of us much worth. We might become like the playground bully, who, desperate for validation, frightens the other children into submission, only to then receive false adoration. Sensing that their adoration is indeed false, because it does not reflect their genuine admiration of him, but rather what is expected of them qua tools geared towards the satisfaction of his ego the bully would then feel no closer to genuine fulfilment and have his authentic need for validation no more satisfied. Or, he might actually buy into their flattery and develop an exceedingly vapid notion of social interaction as the simple massaging of his ego. In either case, the results would be bad. The bully might develop a deep-rooted suspicion of others, "trust issues", or even social anxieties, later in life. These would then have the further consequence that his sense of self corrodes, unable as he now is to connect with others. Or, if he bought into the flattery, it would render him incapable of refining and defining his personality, dependant as that tends to be on the honest and sometimes critical assessment of one's behavior. With no one to correct his flaws, the bully might come under the misapprehension that the objects he currently values are vastly more worthy than they really should be, and thus fail to develop his capacity for pursuing a teleology of much worth. In short, a complete explication of our desires would play out as a kind of domination and thus be unable to produce genuine validation.

At any rate, our desires should not be fully explicated within our relationships. Rather, the person with whom we communicate must willingly seek their satisfaction, having himself been afforded the validation required to see us as valuable parts of his life. Thus, it makes sense to call the ethical demand "silent", because it requires that we modulate our behavior qua aimed at the satisfaction of our desires, so that we might express them within our relationship without subjugating the other.



To some extent, it seems to me that this is really just a reiteration of Mill's critique of Bentham about the ranking of goods. The affirmed bully is a satisfied pig, but the sensual pleasures of pigs are not conducive towards the recognition we need to develop a rich and full sense of self. His network of goods, we would imagine, is lacking in terms of both scope and nuance. If, as I posited above, morality and teleology are in fact constitutive of our identities, then the result would again be a rather vacuous sense of self on the part of the bully. In short, the lack of genuine validation which results from the domination of others would be bad for us because it precludes the kind of validation and behavioral feedback we need to develop a rich and full sense of self.

In short, an attempt at the complete communication of our desires to others would be bad for us, speaker and listener alike. Consequently, we should think that our desires should at least to some extent be left unspoken and 'silent'.

### **Tension between Taylor's concept of articulation and the ethical demand as silent?**

So the ethical demand is silent. It is, in a sense, necessary that we not fully spell out our goods in our encounters with others. However, does this potentially run up against Taylor's notion that it is beneficial to us to more fully articulate our goods? If articulation is such a vital phenomenon in our search for meaning and value, wouldn't the requirement that we abstain from doing so potentially undermine that search?

Not necessarily. Beyond what I just said, I would like to add another point I see as salient to the ethical demand as silent, namely that the requirement that we do not fully express it seems to fit with the nature of teleology (central to Taylor's theory of action and narrative, which I have based my thesis on) as such. This, I think, would be beneficial to my thesis not just in the sense that it would dispel any dissonance between the concept of articulation and silence. It would also, I think, strengthen what has so far been an assumption on my part that Taylor's view on the constitution of the self (as organized around hypergoods) is commensurable with my view that the ethical demand can serve as our most fundamental moral intuition (and pick out other people as the highest of hypergoods, and moreover, a hypergood we must necessarily subscribe to).

Surely, other persons being persons, they are not things that can be “attained”. We might be on good terms with them, care for them, enjoy regular interaction with them, etc. – all things which indicate they are valuable to us. But it seems to me that we could never really possess someone. Because however much we might exercise control over their actions, say, in seeing to it that they vigorously attempt to satisfy our every desire through excessive articulation, we could surely never gain access to, e.g., something like William Nagel’s ‘what-it’s-like’. There is surely some reach of other people we can never access. And so there must be some part of the other we could not possibly control, could not possibly possess.

Second premise: it occurs to me that our moral lives as organized in teleologies must function so as to be necessarily unsatisfiable. A moral telos, a “for-the-sake-of-which”, it seems to me must denote a moral good which has not yet been attained. Because if we already possessed whatever it is we consider good, then surely there would not be much reason to pursue it. But if we saw no reason to pursue it, then we would have no reason to act; and if we had no reason to act, then we would have no recourse by which we might formulate our narratives, viz. Taylor. But in that case, our lives would have no meaning. Furthermore, if our lives had no meaning, then surely neither would the goods which feature in our lives. Thus, if we already possessed the goods towards which we would aspire, then we would have no sense of the good. Like the protagonists in the movie ‘Stalker’, we would surely find that if all our goals were reached, we would not somehow attain a state of complete fulfilment, of bliss, or something of the sort. Rather, we would be left to seek out other goods towards which we might aspire, lest our lives be rendered less meaningful, now bereft of their original purpose.

In a sense, then, the notion of complete moral fulfilment is meaningless. But that means whichever demands our sense of the good places upon us is intrinsically unattainable, and unattainable because it is meaningless. Let me try to draw a parallel here between the concept of meaninglessness and the concept of silence, as Løgstrup appears to use it. I posit that it is sensible to describe meaninglessness as uncommunicable. Because to say that something is meaningless would also be to say that we could not possibly understand it. Thus, whatever we posit is meaningless also cannot be communicated. Another way of putting this might be to say that any speech which attempts to communicate the meaningless must take the form of silence. Tying this notion into what I said in the previous paragraph, then, we could say that talk about the complete fulfilment of our teleologies would at best take the form of silence.

Now, other being completely other, and in virtue of this complete otherness being viable as sources of validation for Løgstrup, it would also make sense to say that as (hyper)goods, they are also ultimately unattainable. Nevertheless, to care for the other is what the ethical demand demands. In that case, to come full circle and return to Løgstrup's formulation, it is reasonable to say that this demand to care for the other must be silent.

This might appear like a weakness in my Løgstrup-inspired theory: haven't I, after all, prescribed a moral source which does not depend on whims the likes of which, according to Taylor, we saw in much of contemporary society's soft relativism? Is it less whimsical (sic.) of me to claim that a moral good which is fundamentally unattainable might serve as a moral source? Worse still, is it coherent to say that an intuition which is fundamentally uncommunicable can be subject to the kind of articulation Taylor subscribes?

I don't think there is as much of a problem as there might initially appear. I believe other people's unattainability is one of the strengths of making other people the necessary center of our teleologies. It appears to me that something not quite unlike what Kierkegaard described as the 'religious' stage of life could be obtained through commitment to the well-being of others, others being fundamentally unknowable and unpossessable<sup>8</sup>. The religious stage of life, briefly, is one wherein we are devoted to a moral source which cannot be fully consumed, used up or emptied because it is fundamentally unknowable (1980, 82). I have already pointed out what I see as one problem with consumable goods, namely that it relies on factors internal to ourselves to render them valuable. That, as I pointed out in **chapter 3**, ran the risk of pushing us into the realm of weak intuitions. Having already treated my argument to this effect at some length in that chapter, I will not repeat it here. Suffice to say that Kierkegaard's account of the religious stage of life, which I see as somewhat analogous to my Taylor-Løgstrup inspired account of a meaningful and value-filled life, explicitly rejects the notion that consumable goods are the best sources for deciding which goods we consider valuable, can properly satisfy our need for value.

Kierkegaard's description of the religious stage of life is motivated precisely by the need for a moral source which is unconsumable. Whilst he does not explicitly recommend belief in a deity in the religious stage, he chooses the term because it points to the nature of the divine as fundamentally unknowable and thus unconsumable. If we, despite the doubts we

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<sup>8</sup> I do not here mean to launch into a discussion of the viability of Kierkegaard's theory, but rather to elucidate my point that other people can function as unconsumable and constant moral sources, by way of comparison.

might have regarding its existence, perhaps even his own goodness, can retain our faith, we are provided with a constant source of meaning and value, a source towards which we might continuously aspire, precisely because it is fundamentally unconsumable.

Of course, keeping one's faith in an unprovable and unconsumable good despite its elusiveness requires that we forgo our normal epistemic standards. Believing religiously is not like believing in scientific propositions, because it is subject to our moral sensibilities, not our powers of sense and evidence-gathering. This attestation is what Kierkegaard refers to as the 'leap of faith', and involves that we attest to the existence of this good despite our lack of evidence.

Is this like the way in which we relate to people? In at least one way, I think it is; we can, and indeed very often do, trust in others despite their inner reaches being ultimately inaccessible. It seems reasonable to me to claim that we are ultimately left in the lurch regarding our knowledge about others – we can never be entirely sure about the contents of another's mind.

Does the fact of the other's unknowability render our belief in them absurd? If we cannot ultimately chart others' inner lives, are we really justified in saying that the inner lives of others exist? I think so. On the one hand, I think we can make an empirical case for this. We cannot really know the inner reaches of our friends, but our experiences can nevertheless teach us that they will treat us well. Whilst we cannot prove conclusively that they will not hurt us, we can nevertheless be convinced by experience that they won't. In this sense, we can choose to trust.

However, more fundamentally and for my purposes importantly, my stance on this relates back to my interpretation of Løgstrup's account of our encounters with others as *necessitating* trust. In a more fundamental way, we have no choice but to trust. Our trust does not, I claim, just rely on empirical evidence. On what, in that case, does it? I propose that it relies on *the logic of the encounter* as such. Just to conceive of an encounter is already in a sense to have an encounter; just thinking we are engaged in an encounter confronts us with an idea, if nothing else, of the other. But then we are also already operating with certain notions about how the other should be treated, regardless of whether we could definitively prove that they exist, or of whether we have access to their innermost reaches. The existence of the idea of the other implies the existence of morality. Furthermore, provided that moral reasoning, as

Taylor seems to think inasmuch as he thinks humans are fundamentally moral creatures, is an activity fundamental to us, the idea of other people must exist provided that we exist<sup>9</sup>. The question of whether we are justified in believing others exist is not at root, then, a matter empirical evidence. Rather, our belief in the existence of others is implied by the fact of our reasoning. So the fact of the other's unknowability does not render our belief in them absurd. Their mysteriousness means that we cannot *know* others exist. But it seems to me that it is necessarily the case that we *believe* they exist. And as far as trusting them goes, believing they do in fact exist must surely suffice.

Furthermore, fundamental, empirically unsubstantiated trust in other people I believe has an edge over the former kind in that it renders their recognition more valuable. Inasmuch as others effectively acted as the representatives of the various intuitions we encounter in our moral reasoning, they would be the ones who imparted these intuitions unto us. In that case, if we understand care as the imparting of moral intuitions, and recognition as the acknowledgment of our moral intuitions, others are responsible both for the imparting and recognition of our moral intuitions. But then furthermore, to be cared for and recognized by others is to undergo the very creation of our identities, the very creation of the self. Not only, then, would it be the case as I stated in previous paragraph, that the existence of others is implied by our reasoning. It would also be the case that others are responsible for our existence. Without intending to veer heavily into religious terminology, it would in that case be reasonable to say that other people are responsible for our creation.

This, furthermore, I think marks the proper intersection between my approach and Kierkegaard's. To trust in the existence of others is to grant oneself access to an inexhaustible moral source qua enabler of reasoning. It is perhaps worth mentioning also that dedication to the betterment of other people's lives is termed by Kierkegaard the 'ethical' stage of life, and is considered by him inferior precisely in virtue of a belief on his part that we can easily grow tired of other people. I believe my description of other people as unknowable and thus inexhaustible strongly contradicts that claim. Consequently, I am perhaps justified in saying that rather than just rephrasing and appropriating Kierkegaard's thesis, I have offered here his partial rejection. To trust in others is to allow oneself to engage in moral reasoning, to be receptive to the moral intuitions which the other embodies, and so allow oneself to be created. But since moral reasoning is also already a human activity, it is not a matter of allowing us to

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<sup>9</sup> I have no intention whatsoever of questioning the *cogito*.

be created spontaneously. Rather, it would have to be a matter precisely of uncovering the intuitions that were already latent in us – a matter, in other words, of arriving at our more authentic intuitions.

I propose, therefore, that other people could fulfil the function Kierkegaard describes in the religious stage. The ethical demand, as Løgstrup says, is “mysterious” and “unknowable”, as are surely other people. Thus, they are not like our objects of hedonistic delight. Rather, and not as paradoxically as it might initially seem, they occupy precisely in virtue of their mysteriousness a position of constancy in our moral lives. Being subjects with fundamentally unknowable inner lives and goals in themselves, they are unconsumable, requiring that we reason indefinitely over our intuitions and shape out narratives, so also teleologies. They feature in our reasoning as representatives of the intuitions we investigate, and thus function so as to impart these intuition unto us, should we find them reasonable.

Moreover, since they are the representatives of these intuitions, it is incumbent upon us to treat them in a way which facilitates reasoning qua conversation. To me, it appears that this might be what Løgstrup meant in using the term ‘demand’. Facilitating conversation requires, it seems to me, that we treat our conversationalists in a certain way. E.g., we would not hurl abuse at our conversationalist, lest the conversation surely collapse. That is, it is required of us that while the other allow us to speak and reason, we must also allow the other to properly present his side in the matter.

Lastly I do not think such a commitment would necessarily result in our subjugation either. That was, as Løgstrup pointed out, the precise purpose of the other’s unknowability; if all the other’s desires were known, we would feel ourselves under an obligation to meet them. But since they are unknowable, we cannot satisfy them in their original form, as manifested by that person to himself. In a sense, then, it would be impossible for us to properly satisfy another’s desires. Rather, the point is that we can merely acknowledge their existence, despite our not fully knowing whether they really do, and attempt to aid in its realization, as must they do for us. And acknowledgment, as I have spent much of this chapter arguing, not satisfaction of the other’s desires, was the primary purpose of the ethical demand.

### **Taylor and Løgstrup revisited**

Let me return, then, to the question of whether there is a tension in the fundamental unarticulability of the ethical demand and Taylor's notion that our goods need articulating. As far as I can see, Taylor at no point requires that we articulate our goods fully. Thus, it does not seem to me that he would claim we should need a perfect articulation of our goods in order to hold them valuable. Moreover, it occurs to me that inasmuch as Taylor subscribes to a narrative conception of the self, he would be able to concur that it is sufficient for us to conceive of goods as worthy of pursuit in order to be considered valuable. Value for him should not be a function of the goods we possess, but the goods we pursue. Further still, therefore, I believe his view should be compatible with my view, presented just above, that using teleology as a basis of our understanding of morality means that we must view the good as something ultimately unattainable. Thus, while we might want to produce progressively better articulations of the good, it might still on Taylor's account be the case that we could never complete our articulations. To me, this seems to fit quite well with the notion that the ethical demand pertains to a good, other persons, which is fundamentally unknowable.

### **Differentiating recognition**

At the basis of this account of morality and meaning I have now offered have been the concepts of 'recognition' or 'validation'. These concepts are not, of course, entirely novel, and more accounts than my own have been developed which many people consider viable. E.g., Axel Honneth in 'The Struggle for Recognition' (2005) attempts to build a rather substantial theory of social conflict around the concept of recognition. Taylor, too, writes at some length about recognition; in e.g. 'Multiculturalism and the Politics of Recognition' (1993), he attempts to answer whether or not political recognition for things like someone's gender or sexual orientation is essential to their dignity.

My reason for preferring Løgstrup over someone like Honneth or even Taylor is not so much the product of any particular dislike towards their approaches. Rather, it has been the result of my need, as I explained in the previous chapter, to identify a moral source which is wholly other and simultaneously demands allegiance. It has thus necessitated an ontological description of persons and the relations between persons as such. It is my belief that describing social conflict would not be as useful in this regard as describing at some length

what is involved in being a person as such (such as saying that persons are beings capable of moral reasoning and fundamentally trust in each other).

My objective has been both ethical and meta-ethical. It has been not just to establish a(n external) moral source, but to establish a source which explains how moral relations might be possible which exclude the viability of hate speech as an expression of a legitimate moral view, and that is what I believe Løgstrup has enabled. This, in turn, was rendered necessary by my contention that hate speech functioned so as to undermine the very possibility of conversation by denying its victims' humanity. A total rejection of conversation, a rejection even of the possibility of conversation, I believe it has been necessary to establish that we could not possibly want, in the final instance, to make such utterances, lest we run the possibility of conceding that hate speech might hold legitimacy as a moral expression (however wrong it might be empirically), and consequently that rejecting the humanity of its victims might hold legitimacy if not from an empirical, then at least from a moral point of view. That is what the ethical demand, holding not merely the need for conversation, but indeed the duty to converse, as fundamental and fundamentally good. To reject conversation would be not merely to remove one of the resources one would need to formulate one's moral intuitions, but automatically to reject a good in the first place. In order to render it so, it has been necessary to establish that conversation itself is a good. This, I have argued, is the case, precisely because it provides us with recognition. In proving this, I have argued that people, being the sources of conversation, are themselves the more fundamental moral sources. That, lastly, means that people hold value from the outset. Whilst we would probably think that some people hold more importance to us than others, it could never on this account be the case that a person is not important at all, people being intrinsically important qua automatically potential providers of recognition.

One might perhaps object to this point by saying that while it is certainly important to obtain the recognition of the people we care about, it can surely be the case that there are some people whose opinions of us we do not value in the slightest, and whose recognition as such would be nigh on worthless. I would like to bite that bullet and claim that no person of whom we are aware can we want not to be recognized by. Surely, it would be better if we could get hate speakers to listen to us than simply ignore our protestations and carry on with their activities. Whilst we would certainly hold their behavior, and quite possibly their very personalities in disdain, we must surely agree that it would be better if we could get them to



listen to our points in an attempt to bring them around. My point here is that we could not want a person whose behavior impacts on our lives, whatever that behavior might be, not to recognize and listen to us. It is not the case that there is someone whose recognition is worthless.

My goal here is really to produce an argument against hate speech which does not rely on empirical knowledge of its victims' non-deplorability. If our argument against hate speech is that it is empirically wrong, then, whilst certainly true, we would still have to concede that if the hate speakers were in fact correct in their empirical assertions, they might actually be on to something with regards to their preferred treatment of the victims. But surely, the kind of treatment often prescribed through hate speech must strike most people as undesirable, regardless of the victims' humanity or not.

Perhaps this assertion would seem contentious to some; although I do very well imagine that most people must baulk at the kind of behavior which hate speech prescribes. Would it be wrong for a hate speaker to want to eradicate his victims if he is strongly convinced that they are vermin? Could it not just be the case that, while he is certainly wrong in his empirical assertions, he is in fact operating in good faith? My contention is that he is not in fact operating in good faith. Why precisely do I think this? Answering this question will be the objective of the next chapter. In the course of doing so, I believe I will also have answered the question about the ethical demand's viability as a fundamental moral intuition.

### **Summary: care and recognition**

In this chapter, I have attempted to describe how we might establish a concept of the kind of 'one-sided moral commitment' I prescribed towards the tail-end of the previous chapter. I have argued that such a commitment can be produced if we conceive that moral intuitions are themselves produced on the basis of a need for recognition. Recognition, I have argued is necessary in order for us to develop full moral personalities, rather than become, say, Benthamian pigs. But simultaneously, recognition is best obtained if we forgo our own desires and rather prioritise the desires of others over our own. The idea is that such a prioritisation might allow us in the first instance to nurture them into persons with full moral personalities. This will in turn enable them to provide us with the recognition we need. I have argued that the beginnings of a theory to this effect can be found in the closeness ethics of K.

E. Løgstrup, who conceives that persons have a kind of trust towards each other, and that this trust arises necessarily, simply in virtue of them encountering each other. In other words, trust according to Løgstrup is an essential feature of social interaction, in the sense that it simply cannot be done away with, *cannot not* exist. Inasmuch as this is the case, trust is also an essential feature of being a person. But that means trust goes both ways. And we could not betray another's trust without simultaneously having our own trust in the other be rendered a non-feature. That would amount to a negation of a part of our person. And because personality is constituted at least in part by morality, that would be bad for us. In short, betraying someone else's trust means we simultaneously come to see ourselves as less valuable, just like Aristotle's murderer did. Surely, this is a bad thing. The key, then to obtaining recognition and personhood is to forgo our desires in favor of aiding others.

## **Chapter 5 – Care as prerequisite to freedom**

In this chapter, I build on two notions I developed in the previous chapter. First, I build on the notion that we cannot but reciprocate trust with care in order to maintain that we act well. And second, on the notion that care can thus be conceived of as a kind of duty to both the other and oneself. Specifically, I move to argue that this *reciprocating trust with care is also necessary in order to achieve some measure of free speech, conceived as positive liberty, for the provider.*

Once again, much of my understanding of positive liberty is appropriated from Charles Taylor, with the provision, provided precisely in this chapter, that it requires we care for others. In other words, I infer from the claim I arrived at in the previous chapter that providing care is an ethical prescription, to the claim that providing care is a precondition for freedom when we connect the concept of freedom with the notion that we are only free when we act according to our authentic beliefs. It is a necessary fact, I argue, that wanting to provide care unconditionally conforms to our authentic moral beliefs. Thus, I conclude that caring for others is a precondition for freedom. I aim, in short, to produce a viable conception of positive liberty, in line with my prescription in chapter 3, by drawing upon the conclusion I arrived at in chapter 4 that care is an authentic moral exercise.

In order to do this, I argue that properly recognizing others' moral intuitions, involving the kind of validation I described in the previous chapter, as well as simply opening up new possibilities for action, must involve some degree of care. I will attempt to provide a definition of 'care' during the course of this chapter – it will be one which makes clear the need to focus on the cultivation of a person's capacity for forming his moral intuition and identity, as well as the satisfaction of the recipient's needs.

### **Care as a precondition for freedom**

Care, I think, can facilitate freedom in the carer. I do not mean to argue that care is necessary for the one being cared for, although I imagine it very well is: very few children will grow up to be anything like what we consider free persons, nor grow up at all, without the proper care. A child whose various needs are not provided for will neither subsist nor flourish. Without food or medical care, he will perish. Without an education, he will not have the same number

of options (negative liberty), nor develop the mental faculties to formulate the options he would most like (positive liberty). But that is not what I want to argue in this section. Rather, what I will argue is that caring for someone can facilitate the carer's own freedom.

This proposition may seem counterintuitive in at least some cases. After all, caring for someone will very often mean that we opt out of other options: parenthood is an arduous undertaking and very often requires that we sacrifice certain professional options, the option to go out and enjoy our Saturday nights on the town, or that part of our afternoons we would otherwise spend watching sports. Care could thus be conceived as a burden we would do well without if we did not choose to care for someone ourselves.

I think there are at least two viable responses to this problematic which could illustrate that care can be an expression of freedom. First, while we could reasonably say that we opt out of certain options, the fact may well be that we simply prefer parenthood to spending our Saturday nights on the town, and that the former is thus a more genuine expression of our particular freedom than the latter. This is perhaps the most intuitive response: care facilitates freedom if we value caring for someone more than we value, say, watching sports in the afternoon. On this response, care would have to be conceived of as one good among others, if perhaps a higher good, like one of the *hypergoods* described by Taylor. Very briefly, hypergoods are the goods arrived at by way of strong evaluation – they form the bases of our moral frameworks, and are the goods we overarchingly aim towards in our lives. They feature centrally in our narratives and so our sense of self (1989, 92-93).

However, second, I think there is a strong case to be made that care can be not simply an *expression* of freedom, but also a *precondition* for freedom. Not simply one good or even hypergood among others, and in that sense not intrinsically different from them, I think we could not have a concept of freedom without also having some understanding of care. *Only someone who cares*, I posit, *can be free*. Care is not just another good, but something which facilitates other goods, and by extension, action and freedom. In short, I conceive that care performs a dual function. First, that it may act to achieve a good. And second, it can also be described meta-ethically as enabling the existence of other goods.

In order to see that care can facilitate freedom, it would probably be helpful first to have a working understanding of what 'care' and 'freedom' actually mean. I have already

gone some way in defining the latter, so will not go any further on that point. But I have yet, I think, to fully explain what I mean by the former. So that is what I will do next.

### **Further defining ‘care’**

In the previous chapter I attempted briefly to define care in order to explain what I thought was involved in an obligation to care for others. I described it partially as a relationship between a person who provides for another, in the sense of attempting to cultivate the other’s capacity to articulate and pursue goods. I illustrated this with the relationship between a parent and a child; I do not think it is unreasonable to say that part of a parent’s job is to provide the child with framework it needs to explore various attitudes, identities, interests, etc., as well as provide it with the resources it needs to do so. This, or something fairly close to it, is perhaps already fairly widely in use, particularly in that field of ethics called ‘care ethics’, and espoused prominently by thinkers like Simone DeBeauvoir, Carol Gilligan and Nel Noddings.

But the term ‘care’ is perhaps more multifaceted than to just mean providing for another in the sense I just described (without thereby meaning to claim that was the extent of the aforementioned thinkers’ understandings). It could perhaps be taken to mean also something like being interested in, or “passionate about” something. E.g., we sometimes find ourselves saying that we “care about” the arts. Or about a sports team. Or even the well-being of another person. There are both, I think, distinctions and connections to be drawn between these two uses of the term. Let me begin by trying to lay out what I see as one of the distinctions.

On the one hand, we can say that we (1) *care for*. But on the other, we might say that we (2) *care about*. 1 is the meaning we might invoke when we talk about a parent providing for his child. Whereas we might invoke 2 when we say that we are interested in sports. Intuitively, I suppose it is fairly obvious that caring *for* a child is not the same thing as caring *about* a sports team. Perhaps one might be able to locate a common source of these two variations. E.g., Bentham would presumably refer to his push-pins and say that one is not better than the other. Pointing to a common emotive denominator, he might say that there is little difference. Indeed, I suppose that child care could very well, and more often than not does, contain strong emotive elements. I imagine child care can be highly enjoyable.

Nevertheless, when we say that we care *for* a child we mean among other things that we provide the things the child needs in order to flourish – be it emotional support, intellectual tutelage or material goods. It does not strike me that these things are inherently enjoyable. Quite often, these things require much investment and strain on the part of the parent, and might at times be fairly un-enjoyable. In justifying this behavior, then, we might refer to a Marxist-Aristotelian theory like the ‘capability approach’ developed by Martha Nussbaum and Amartya Sen, and say that people need a minimum of material goods in order to exercise their *capabilities* – roughly speaking, their talents and their resources – in order to be the kind of persons they would like to be or to do the kind of things they would like to do. These *beings* and *doings* are then collectively taken to say something about the person’s well-being. If people exercise their capabilities in line with their preferences, then we are justified, the claim goes, in saying that they are well off, and this is a good thing, morally speaking [2001, 4-14]. I think this is a fairly viable take on things like parenthood. It seems fairly intuitive to me that human beings require many of the things described by Nussbaum and Sen. Moreover, I think we would often say that the aim of providing these things is to allow them to exercise their talents, in order to then live out full and rich lives, as well as develop into full-fledged and functional members of society. And that is a good thing, even if it is not always enjoyable.

Using this as a rough sketch of what it might mean to care-for someone, I think it is quite clear that it is different from the other use of the word. When we say that we care *about* something we don’t necessarily mean that we will or should aid towards its well-being. We often say that we care about sports teams. But surely, in most cases, we do not use the term in the nurturing sense that we apply when it comes to caring for children. We might be very interested in what happens on the soccer pitch, and derive much mirth from our team’s performances without thereby having strong intentions to secure its well-being. But what would it even mean for a sports team to enjoy a level of well-being? If we were asked as fans to provide an opinion, we might say that it had something to do with success on the pitch. But if we were then asked to state why we believe this should be the case, we might reply that we simply enjoy seeing our team be successful, or play the game in an aesthetically pleasing manner. In other words, I posit that the joy we derive from our team’s performances often comes from the things we ourselves gain from them. The team’s success is valuable in virtue of what it provides for us, like the visceral sort of satisfaction we gain from seeing people perform extraordinary physical feats, or perhaps the Kantian aesthetic sort of delight we

sometimes gain from seeing a soccer team execute a particularly complicated bit of play. Is this what is involved in child-raising?

I don't think so, at least not ideally. Ideally, the child's success, if "success" is even the appropriate term here, should be that the child achieves what *he* would like to do, not what we would like to see it do. The care we have for children is unlike the care we have for (sic.) sports teams in that the child should not be successful for our sakes, but for his own sake. We should think that the child is valuable unto himself, not in virtue of what he does for us. When a child gets his college degree we do not so frequently see parents talk with joy about *their* accomplishments. And when we do we think with concern about the child's emotional well-being, clearly under much pressure from his controlling and ambitious parents, eager to see him realize their own unfulfilled dreams. And that is why it is important that we provide for him – he holds a kind of value which does not rely on our satisfaction, he is valuable in himself.

Granted, parenting is exceedingly rewarding for many people, but would we thereby say that these rewards are the *primary* reasons we persist in our task? Hardly. Rather, we say that we are primarily acting in accord with a responsibility to care for someone who is exceedingly vulnerable and who relies upon us for his survival and flourishing. To say that this individual's value resides primarily in what he can provide for us would once again strike most people as exceedingly unintuitive, as well as violate Kant's maxim.

I think this is one basic assumption implied by the term 'care for': an intrinsic kind of value which, being intrinsic and not up for grabs depending on the contingencies, demands that we provide the tools a person needs to realize his own goals.

In short, people hold value in themselves. Furthermore, this value, being intrinsic, *demand*s our care in the sense that we should provide the things they need to subsist or flourish. This is what is contained in the term 'caring for'. It does not in itself mean that the recipient might provide us with something, as was the case with care-about.

### **Care-for as a source of meaning**

So care-about alone is insufficient when it comes to providing a meaningful life. Care-for is required for meaning.

I said that only someone who cares can be free. In the intuitive sense this may seem clear. After all, if we didn't care about any of our options, then we would have no motivation to act. But if we don't act, then what is really the point of having freedom? Consequently, if the ability to act was all we meant by care, then care-about would suffice. But as I believe I have now shown, care-about just doesn't explain our motivations when it comes to things like child-care or friendships. In certain relationships, to act according to care-about can be positively harmful for the recipient. It would consequently undermine our ability to act out on those relationships, inasmuch as we should think hurting someone doesn't garner their authentic, sympathetic reciprocation. So sometimes, care-for is required if we are to have the ability to act and be free.

Furthermore, care-for would be a means of obtaining meaning. Once again, my argument begins from the fact that neglecting to care-for might deprive us of others' validation. And lack of validation, of confirmation that the things we value are in fact valuable, would in turn deprive us of the sense that things are valuable. And by extension of our ability to construct narratives, organized as they are around teleologies, and so of sense of self.

Perhaps one would point out here that we sometimes care for persons who cannot give us validation, e.g. a severely demented person, and yet find the undertaking to be rewarding. To this, I would reply by referring back to Taylor's claim that reasoning is inherently social. In that case, the moral intuitions we use to justify our care are nevertheless socially validated, if perhaps in a weaker sense. I will return to the claim that as moral creatures we necessarily sense that we are engaging with someone later on in this chapter.

I claim that care-for, not just a denotation for enabling others to form moral intuitions, is also a means by which we might gain others' validation. It is my claim that the recipient of care-for can sometimes also care for his caretaker. Mutual care-for is a potential and significant source of fulfilment and meaning. I said that to care-for is to acknowledge that whomever we care for has intrinsic value; care-for is an expression of the sense that someone<sup>10</sup> has intrinsic value. But if the other has intrinsic value, he himself is a moral

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<sup>10</sup> For the purposes of this thesis I will limit my discussion to include a fairly intuitive understanding of the concept of 'people'. Perhaps one would argue that objects, too, can hold intrinsic value, and ask if it is not reasonable to care-for objects as well. Indeed, it seems to me that arguments in this vein have become somewhat prominent among, e.g., panpsychist and within the environmentalist movement. I am not dismissive towards this line of thinking, and frankly believe that it might hold a good deal of credence. I claim in this



source. Moreover, inasmuch as the other is in fact other, he is located outside ourselves. He is an external moral source. This, of course, in line with my prescription in chapter 3.

But why is it important that we receive care-for from the other qua moral source? Previously, I have said that validation is important. I would now like to argue that the other is important qua moral source because they are the provider of validation.

In order to argue why other people are intrinsically important, I want first to argue that validation cannot be obtained without external sources. Validation, I posit, is not something we can grant ourselves. My intuition is that when we think about validation, we often think about being met with the approval of other people. We do not typically think that we can obtain it in isolation. This is so, I think, because implicit in our understanding of validation as a kind of approval is the understanding that approval is a kind of reflection.

To see this, remember again Taylor's work on second-order intuitions. Second-order intuitions were precisely judgments that certain goods were better than others. In other words, while certain goods might meet with our approval, other goods might not. A happy marriage was better than playing cards with the boys. One might want to claim here that none of this proves my claim that validation is necessarily provided by other people: after all, Taylor's "I" performed all of these evaluations himself. Perhaps it would seem that we could validate ourselves.

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chapter, as I did in the former, that one cannot conceive of oneself as a person without simultaneously, in some sense, have the experience that one is dealing with other persons. Provided this is correct, it seems to me that we might go with at least two options. First, one might attempt to explain everything as ontology and say that everything is encompassed by the self, perhaps not entirely unlike what Heidegger attempted in 'Being and Time', and thus personified. At least one problem I see with this is that if one were to explain everything as ontology, then we would surely be forced to do away with the notion that others are in fact other. In that case, we would no longer really have anyone to reason with. And in that case, the self would perish as well. One alternative in that case might be to join the panpsychists and think not of the self as everything, but of everything in nature, bracketing humans too as nature, as persons. Quite frankly, this seems to me a sensible solution.

However, I believe I am justified in avoiding an extensive discussion about the distinction or non-distinction between culture or human, and nature. It seems to me that when we talk about freedom of speech most people operate with an understanding of persons which coincides broadly with one already intuitively in place in common parlance – say, something roughly akin to the *zoon politikon*. Moreover, I have not as of yet found anything within the existing literature on free speech to suggest that efforts to expand our working concept of the person is currently underway. That it has always been so does not, of course, mean that it always should. Nevertheless, I do beg some indulgence and understanding for my desire to not veer more than I have already from the existing literature, as well as perhaps try to focus my discussion along lines I believe would be intuitively acceptable by most people interested primarily in free speech and not necessarily environmental philosophy.

But my claim is not that we are incapable of evaluation or of reflecting on our goods, and that other people must do this work for us. I mean rather that *second-order intuitions as such are conversational in nature*. Inasmuch as second-order intuitions are judgments about our other intuitions, to form second-order intuitions might be thought of as having a kind of conversation with oneself. As a reference point, although I realize I might be in danger of repeating myself *ad nauseam*, I would once again refer to the Socratic understanding of conscience as an ongoing discussion with oneself, and the implied notion that one person can harbor several conversationalists within oneself. What we find in Socrates is precisely a kind of process by way of which we evaluate our more basic intuitions – i.e. form intuitions about our intuitions.

Consequently, inasmuch as we do in fact try to make sense of our lives (surely another proposition I can allow myself to take for granted), we should think it is impossible for us to imagine a world where we are not connected to someone other than ourselves as conversationalists. And furthermore, that we rely on there being such a thing as an other whose opinions hold weight and whose significance must therefore rely on sources independent of ourselves, for meaning.

This, finally, conforms eminently well to what I have said about care-for as an obligation we feel towards things we see as intrinsically valuable, valuable in virtue of something other than what we ourselves might feel about the matter. Others matter, then, because they allow us to form moral intuitions. They are, to return to my thesis above, preconditions for value.

But simultaneously, because value could not exist without them, it is surely sensible to say that other people, too hold a kind of value. But not just value in the sense of care-about. Rather, since value could not exist without them, they are irreplaceable. And so must be thought of as intrinsically valuable. And that means they must be the targets of care-for<sup>11</sup>. More specifically, then, care-for is a sense of obligation towards an other whose moral intuitions render them conversationalists who must as such be granted credence in formulating second-order desires.

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<sup>11</sup> My thinking here goes along the lines of the ethical demand, according to which, on my reading, because other people were the providers of validation, had to be cared for (cared-for).

To come full circle, then, the idea that there are other people, even if those others are projections of ourselves, is a precondition for there being such things as goods in the first place. This all means that other people, whether those others are factual others or projected selves, are the sources of our moral intuitions. And simultaneously, they are valuable in themselves.

### **Second-order desires and freedom**

I have now said that reflection, understood as the formation of second-order desires within our relationships with others, allows us to conceive of something as good. I now move to say that, by extension, reflection allows us to obtain meaning.

Forming second-order intuitions allows us to construct narratives; they say something about which goods are worth pursuing, and so allow us to conceive of some potential future we might end up in. Why is it important that reflection allows us to construct narratives? The answer has to do with the fact that I subscribe to a narrative conception of the self, and consequently of meaning.

Once again, I would like to appropriate much of Taylor's, on whose understanding of a narrative conception of the self much of my thesis rests. Much of his thinking in this regards resonates throughout his work, including his work on liberty. As such, I have already made mention of some relevant points. Much of his view on the self stems from his underlying theory of action. Quintessentially Anscombian in outlook, it refers to the theory of best explanation, or adduction, and posits that persons organize their lives around the pursuit of certain intrinsically worthy goods, namely the 'hypergoods' I have referenced several times already. Simultaneously, he subscribes to Heidegger's notion that people are "thrown" into the world – that initially we inherit a set of goods which function as templates for our future activities (the frameworks I mentioned in chapter 3). Thus, all our moral projects take the form of a story wherein we move from a certain background towards a future where we have taken over the goods present in our background, and have through reasoning arrived at versions of these goods we can authentically subscribe to (1989, 105-106). Thus, all our moral activities feature as parts of a story of self-creation, issuing into what we might appropriately term a narrative conception of the self.

Seeing, then, as I have argued, that reflection allows us to formulate goods, this means that reflection allow us to say something about who we are, providing us with a more thorough sense of self, because reflection involves the discovery of worthy goods and pursuits, and so the establishment of narratives. This, as I have explained, is synonymous with saying that our lives make sense – that they have meaning. So reflection is necessary in order that we may lead meaningful lives.

From this we can infer that reflection qua validation from others is necessary in order that we may establish a sense of self. If we did not have a sense that our goods were in some sense real, then surely they could not be worth pursuing. And if this sense of realness is what others' validation provides us, then we should think validation is necessary if we are to think some things are in fact good. Furthermore, since, provided Taylor is right, the self is constructed through narrative, then others' validation is necessary in order that we might have a strong sense of self.

Seeing this, I would like to suggest caring for others, qua necessary for others' validation of us, is necessary in order that we might obtain some measure of freedom. Since other people's validation comes from our caring for them, and validation is necessary in order that we may have moral intuitions, so a sense of self and something worth pursuing, worth acting towards, we should think by transitivity that caring for others is necessary in order that we may obtain a measure of freedom. Moreover, I think caring for others is an authentic desire, because since reflection is intrinsically social, we could not conceive authentically of moral intuitions without simultaneously thinking that the people who provided us with the validation it needs to hold purchase in our lives hold value. In other words, I claim that it is necessary the case that we think of other people as intrinsically valuable. And since they are seen as intrinsically valuable, they in all cases trump other goods for value. That is, we cannot but authentically believe that other people are intrinsically valuable. This, finally, must mean that acting in accord with the belief that other people are intrinsically valuable, exercising care-for, is a means of obtaining liberty.

Therefore, and lastly, I would like to suggest that caring for others, seeing that the articulation of goods and the caring of others essentially involves dialogue, is necessary in order that we might obtain some measure not only of liberty, but of free speech. My point here is really just that if reflection is dialogical, then it seems fairly intuitive to say that reflection essentially includes a notion of speech as the articulation of goods. In other words, I

conceive that at least in this sense, we should not draw up a distinction between freedom of speech and freedom as such. The act of speaking is essentially to make our goods explicit in the way of formulating second-order desires. It is thus essentially involved in facilitating our freedom.

The point, then, that moral intuitions are dialogical not only begets the moral claim that caring for other people is good, but is also a descriptive claim about how moral intuitions are formed. No matter what our moral intuitions, we cannot want to violate the thing which enables moral intuitions to exist – that would be self-defeating. And that thing is other people. Since dialogue is so essentially involved in our relationships with other people, I think it makes sense to at least in this respect dissolve the distinction between liberty and freedom of speech. To have freedom in the sense of pursuing one's authentic moral beliefs *is also essentially to express those beliefs*.

But this means that to care-for is to exercise one's freedom of speech. Because since validation is also centrally involved in allowing our beliefs to come to expression, and validation requires care-for, exercising care-for is necessary in order that we may express our beliefs. And this, finally, means that care-for is necessary in order that we might obtain a measure of freedom of speech.

### **Conclusion: care-for as prerequisite to freedom**

I have now argued that caring for others is necessary in order that we might obtain some measure of free speech. I have done so by relying on accounts stating that moral intuitions are formed through dialogue. In addition to this, I have suggested the premise that dialogue requires that we provide each other with a degree of care, or care-for, as I have called it. I have then synthesized the notion that moral intuitions are formed through dialogue with the positive conception of liberty to infer that positive liberty requires that we engage in dialogue with each other. Since dialogue and therefore other people, I have argued, are prerequisites for the existence of moral intuitions in the first place, other people hold intrinsic value, and this means that caring for them conforms to our authentic moral intuitions. I thus make both an ethical claim and a meta-ethical claim: the meta-ethical one is the claim that other people are prerequisites for positive liberty. And from this meta-ethical claim follows the ethical claim that other people ought to be cared for in order that they may be able to function as

conversationalists. Once we have established other people as conversationalists we are finally in a position to hammer out our other moral intuitions, and so develop a sense of value. Consequently, since dialogue required that we show care, it follows that care is a prerequisite to positive liberty. And lastly, I have argued that, since dialogue is fundamental to freedom as such, we should not think of freedom as such as fundamentally distinct from freedom of speech. Therefore, I have believe I have effectively argued that exercising care-for is a prerequisite to obtaining freedom of speech.

## Chapter 6 – Free speech as based on care: free speech as positive liberty

In the previous chapter I argued that we should not think of the concept of positive liberty as such as essentially distinct from the concept of free speech. I did this based on the premise that care-for functions as the basis for the formation of our moral intuitions and so our sense of value, by facilitating dialogue; I said that dialogue as a form of reasoning produced moral intuitions. Positive liberty was essentially tied up with authentic moral intuitions and authentic moral intuitions were produced through speech as an expression of care-for. Because other people were in that sense responsible for our ability to arrive at our authentic beliefs, it must also be our authentic belief that other people should be cared-for as conversationalists.

In this chapter, I build on these notions in order to more properly establish free speech as positive liberty as a viable take on free speech. Specifically, I attempt to show that free speech as positive liberty can offer a more effective counter-argument against hate speech than free speech as negative liberty could. I attempt to show that it is in that sense superior to the negative understanding of free speech I have framed as its counterpoint.

In order to do this I begin by trying to say something about what the aim of exercising care within the public discourse should be. I then compare and contrast this aim with the aim of public discourse as perceived by Mill. I then try to see if a public discourse based at least partly on my assertion that care-for is an authentic moral behavior can be said to withstand the problem of hate speech. I argue that a public discourse based at least partly on care-for is better equipped than a more purely negatively conceived understanding of free speech, since it is capable of perceiving that hate speech stems from an adherence to inauthentic moral intuitions. Returning to my assertion in chapter 1 that hate speech is dehumanizing speech, I argue that the perpetrator cannot possibly authentically dehumanize his victims; dehumanizing others, I say, requires that we also dehumanize ourselves, and surely this is not something anyone can seriously do. In light of this, I argue that an understanding of free speech based on positive liberty as obtained through care-for, in contrast to the negative conception of free speech, can reject hate speech. It is in that sense, I conclude, superior.

In concluding that an account of free speech based on positive liberty as obtained through care-for is superior to certain accounts based on negative liberty, I believe I will have succeeded in developing a *good* account of free speech. I say this because I believe I will have

accomplished two things: 1) to develop an internally coherent account of free speech; and 2) to show that this account is superior to certain existing accounts of free speech. In other words, I will have satisfied what I take to be at least two widely, if not almost universally, accepted and commonsensical epistemic standards. Namely, 1) a standard of coherency; and 2) inference to the best explanation. Furthermore, this was the goal I set out for myself in chapter 1. Consequently, in light of the conclusions I reach in this chapter, I will believe myself to have successfully accomplished my aims in a manner satisfactory to good epistemic practice. In other words, in light of these conclusions, I will consider my thesis completed.

### **Comparison between free speech as positive liberty and free speech as negative liberty**

In order to explain how an understanding of free speech based on positive liberty through care-for is superior to one based on negative liberty with regards to hate speech, it would no doubt be helpful to see precisely what it is about the former that renders it superior to the latter. I have already argued that the latter could not cope with at least one difficulty presented by hate speech. In order to establish precisely how the former is superior, I will begin this chapter by briefly summarizing what I wrote about the respective approaches in chapters 2, 3 and 4. I will then see how they compare with regards to their ability to handle hate speech.

Since Mill's understanding of free speech as negative liberty is the one I have been basing my critique on so far, I will once again revert to him and start this section by providing a brief recap of what I said about free speech as negative liberty in chapter 2. Mill's understanding of free speech, I argued, could reasonably be classed 'negative'. He saw free speech as stemming fundamentally from an interest in utility, utility being the basic building block of Mill's moral theory as a whole. A discourse which allowed for all opinions to be voiced was the most likely, he believed, to produce knowledge, and he considered knowledge to be of utility. Furthermore, he appeared to place no boundary whereupon knowledge would cease to be useful; the more knowledge, the better. Consequently, it followed that there should be no restrictions upon the contents of the opinions we should include in our debates and discussions. Debates should be open to all people and any opinion. This view that free speech was demarcated by the absence of external restrictions conformed eminently well with Berlin's description of negative liberty. Consequently, I argued that we could reasonably term Mill's theory of free speech 'negative'.



However, to build a theory of free speech on a particular moral aim, I argued, rendered it inapplicable in very many cases. Odds are, I said, that we might come up against people who do not share Mill's preference for utility. In that case, we would have little to secure the credence of our free speech, premised as it was on the notion that utility is the highest good. His theory seemed inapplicable to the reality of a plural society in which many conceptions of the good might occur. A person who values, say, loyalty and conformity to tradition more highly than utility and scientific advancement would perhaps find arguments to the effect that even statements mocking age-old customs are to be welcomed and valued, unconvincing. If the latter is already convinced that loyalty is a higher good than utility, to say that free speech is good in virtue of its utility will surely have little effect. Justifying our theories of free speech by referring to its conformity to a particular moral standard, I argued, required that we in the first instance make judgments about the status of our co-conversationists – in order to carry a conversation with someone, I said, we would have to first decide that someone was in fact worthy and/or capable of conversation. But seeing that I defined hate speech as dehumanizing speech in the preceding chapter, this rendered it vulnerable to one particular difficulty. Namely, that if the possibility of conversation rests on our preconceptions towards others, then there was a danger that we might decide to break off conversation with particular individuals. Not in itself a problem, this was nevertheless dangerous, as became apparent by my reference to hate speech cases wherein hate speakers had utilized conceptions about their victims' inhumanity and so effectively cut them out of public conversation. How might we argue against people who do not see a portion of the citizenry as humans?

The perhaps most obvious solution would be to point out that e.g. black people are in fact human. But, as we often see, and as appears to be backed up by a fairly substantial amount of research, hate and dehumanization often comes packaged with strong a strong sense of suspicion towards various kinds of authority, including scientific authority.

Alternatively, perhaps we might revert to the matter of utility and reiterate Mill's point that any conversation is useful. To this, a racist might reply that surely even Mill would concede that only human beings can actually contribute to a debate, and that black people, being not human, would surely have little of value to contribute? To reiterate my point from earlier, it would be difficult debate someone who will not consider the possibility that he might be wrong. At this point, an advocate of a purely negative conception of free speech might throw up his hands and conclude that there is clearly no arguing with racial chauvinists,

and that we must simply accept their presence as a necessary evil. And at any rate, there are plenty of reasonable debaters left to prevent the public discussion from devolving into an epistemic anarchy which rejects the scientific method and distrusts the political elite, like the chauvinists do. Practically, this is perhaps not the worst solution: the advocate of negative liberty is clearly right in his assertions about the reasonableness of the wider public. But it is nevertheless unsatisfactory to me. As I see it, we should not be content to leave racial and cultural chauvinists to do as they might and trust majority opinion to save the day.

The solution, I proposed, to return to my issue with the notion that we should start our understanding of conversation with our view of others, was to reverse this order, and say that in understanding conversation, we must first establish how we view ourselves. In other words, I posited, in order to carry a conversation, we must first have some notion of ourselves. Building the possibility of conversation on intuitions about the nature of the right or good, or about potential conversationalists, therefore, saw the negative theory potentially undermined by hate speech, inasmuch as hate speech functioned so as to end conversation, and so also diminish our communities' freedom of speech. This led me to the concept of positive liberty.

The notion that certain statements could be disingenuous harkened to my mind to an understanding of liberty often overlooked in our accounts of free speech, namely positive liberty. In light of this, I set out to develop a theory of free speech which incorporated a positive element. Setting out on this task, I based myself on another seminal work, namely Charles Taylor's 'What's Wrong With Negative Liberty'. Setting out an explanation of what he saw as some of negative liberty's limitations, its inherent meaninglessness without underlying moral intuitions which allow us to effectively utilize our liberty, he argued that a fuller understanding of liberty should incorporate the notion that liberty also comes from subscribing to our authentic moral intuitions. This was positive liberty. In describing how we might arrive at authentic moral intuitions, I read him as saying that we must locate what I called 'external moral sources', or goods which derived their value from something other than ourselves. In order to subscribe to something authentically, we had to see it as intrinsically good, as something worthy of allegiance regardless of what it might provide for us or how pleasurable we might find it. Since I had already said that the notion that free speech had to be considered intrinsically good in order for us to defend it against the challenge of hate speech, positive liberty as presented by Taylor suited my needs quite well.

But simultaneously, I perceived a weakness in the notion which Taylor borrowed from Herder that each person has his own measure of the good. While Taylor rejected many of the iterations of this notion as present within contemporary culture, he nevertheless appeared to embrace the gist of it, in that he believed it was up to each to work out his own take on the intuitions in question. This partial rejection, I argued, was not strong enough to take his theory out of the clutches of ‘soft relativism’. An external moral source, I argued, would need a measure of the good which was seen to derive its power wholly from outside the self.

I found the beginnings of a theory which could provide this in K. E. Løgstrup’s ‘The Ethical Demand’, in which he argued that human life is fundamentally dependent on the acceptance and care of other people. On my reading, and synthesizing it with Taylor’s idea that moral intuitions are fundamental to our sense of self, this meant that human beings rely fundamentally on other people’s validation of their moral intuitions in order to be able to perceive that these intuitions even exist. In the moral-ontological sense, then, human beings could not exist without validation. Neither, then, could they exist without other people, other people being the providers of validation. Furthermore, because validation was the creator of value, and other people were the sources of validation, other people had to be seen as the sources of our sense of value. Further still, because common sense tells us that we could not really know what it is like to be another person, other people had to be seen as wholly external to ourselves. Thus, other people could be seen as a moral source wholly external to ourselves. This satisfied the demand for the kind of wholly external moral source required by but absent from, on my reading, Taylor’s proposal.

So other people had to be seen as moral sources fundamental to us, and wholly external, and thus intrinsically valuable because irreplaceable qua wholly external and unique. But simultaneously it was clear that qua human and flawed, they were subject to vulnerabilities, imperfections and various needs themselves. Thus, it was clear that it was not a given that we should be able to access these moral sources, in the sense of obtaining their validation. Because the moral source was human, and so subject to the same needs as us, in order for us to be able to obtain their validation and so realize our human functioning qua moral, we had to enable other people to do the same in relation to ourselves. We ourselves had to be seen as moral sources for others.

Thus, validation could only be obtained if the validation was mutual. We had in some sense to enable others to validate us, in spite of their own vulnerabilities, imperfections and

needs. I called this enabling ‘care-for’, a relation wherein we put the needs of other people before our own, and in so doing obligate ourselves to help them cultivate their moral capabilities. I then developed the concept into one of mutuality, wherein this cultivation took dialogical form, and either conversationalist might alter their perceptions, rather than, say, one-sided, paternalistic attempts from one participant at shaping another’s personality in a way he found agreeable. Thus, our relations with others qua external moral sources had both an ethical and a meta-ethical dimension. I saw care-for as performing two functions: 1) providing us with a mode of fulfilling an ethical obligation to care for (care-for) others; and 2) providing us with a means of arriving at authentic moral intuitions. I concluded that positive liberty could be obtained through care-for. Thus, lastly, authentic moral intuitions could be arrived at through persons’ mutual care-for for each other.

I then rounded off my discussion by reasoning that since care-for is fundamentally dialogical in nature, and places primary importance upon the cultivation of the recipient’s ability to communicate, it would be reasonable to say that positive liberty as obtained through care-for performed many of the same functions we normally think free speech should. Consequently, I believed I was justified in dubbing positive liberty as obtained through care-for ‘freedom of speech’. My question now, in order to establish if my understanding of free speech is superior to the negative understanding, is whether it is obligated to classify hate speech as an expression of authentically held beliefs.

### **Can hate speech be an expression of freedom?**

I finally return, then, to the problematic of whether hate speech can reflect an authentically held belief. I first raised it in relation to the point, raised in turn in chapter 1, that *hate speech should be seen as expressing a belief in the infallibility of our own knowledge.*

It has been necessary to answer this question for two reasons. The first one pertains to the nature of free speech as negative liberty. As I explained above, it was not clear that negative liberty as such was in a position to declare hate speech bad; negative liberty opens up the possibility of discussing hate speech. But that is not the same thing as producing any judgment about the goodness as such of hate speech.

This introduces some limitations as to what negative liberty might achieve with regards to actually instituting liberty within a society. As I explained, and as Charles Taylor indirectly explains, a requirement for freedom (or in Taylor's case: democracy) to actually obtain is that people in fact share some common perception as to which resolutions and goods should obtain<sup>12</sup>. Otherwise, groups within that society, even nominally democratic ones, might consistently see their interests overruled and be rendered incapable of living according to their beliefs. Surely, a society which heeds few or none of our interests could not be said to genuinely enable our freedom (2011, 125). Thus, we could imagine a nominally democratic society in which by majority vote a hateful majority consistently passes exclusionary resolutions, severely hampering its victims' ability to live out their lives in the ways they see fit. Thus, while free speech as negative liberty might open up discussions about hate speech within a society, it does not in itself counterpose the infringements upon liberty that hate speech effects within that society.

Granted, a theorist of negative liberty might be able to identify the majority's infringement upon the freedom of the minority as just that – an infringement. But if the hateful majority can be relied upon to mostly win out in the public discourse, it does not seem to me that more debate can necessarily solve the problem. In fact, more discussion might just produce echo chambers where hateful opinions obtain more traction and cement themselves more firmly. In that case, all negative liberty has offered us is a way of ratifying the most commonly held opinion – not the correct one. If the majority harbors hateful views, then having a large amount of negative liberty is just as likely to strengthen their presence and make life more difficult for the victims. Despite Mill's claim that free speech should obtain in order to beget utility, negative liberty appears to me distinctly value-neutral – even utility might be rejected within the arena of public discussion.

This point ties into another point I made in chapter 2. Can we reasonably expect open debate to occur, I asked, with a person who does not see his opponents as worthy of speaking or being listened to? If, as I argued in the preceding chapters, conversation is a fundamental human function, not to see someone as a person must surely preclude conversation. Moreover, as seems a reasonable assumption to me, if debate can be seen as a form of conversation, then debate must surely be out of the question to someone who espouses the view that someone is subhuman. Perhaps Mill would reply that the problem here is precisely a lack of debate, and

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<sup>12</sup> 'Democratic Exclusion (and Its Remedies)'

that allowing the oppressed to convey their opinions would go some way towards solving this problem. But, as I explained, it seems to me that with regards to convincing someone already convinced that debate with the victims is superfluous, having the victims voice themselves would not achieve much

The second reason for why it has been necessary to answer the question of whether hate speech should be seen as expressing a belief in the infallibility of our own knowledge has to do with positive liberty. If hate speech can in fact be said to reflect our genuine beliefs, then a positive understanding would run the risk of having to not merely tolerate hate speech. It would have to view it as downright conducive to our liberty.

In short, then, if I can prove that a belief in our own infallibility must be inauthentic, I will finally be in a position to justify the claim that hate and hate speech undermines free speech by undermining the hate speaker's own freedom. Having proved this, I will finally be in a position to claim that positive liberty is superior to negative liberty with regards to their stances on hate speech. In my view, this should be seen as a fairly substantial advantage, inasmuch as hate speech, as I have argued, effectively functions so as to deny its victims' humanity and thus undermine the public conversation, effectively purporting to bar swathes of the public from even participating. That must surely be seen as a blow also to the negative liberty on offer in the society at hand. In effect, then, what I will have argued is that when hate speech obtains, supplementing our traditional negative account of liberty with aspects of positive liberty allows us to strengthen the former, negative liberty having not, as I have argued, been supplied with the underpinnings which would be necessary to reject the claims that hate speech makes<sup>13</sup>.

### **The inauthenticity of believing in our own infallibility – how free speech as positive liberty is superior**

I think believing in our own infallibility requires that we do in fact adhere to certain intuitions inauthentically. Specifically, I think *believing in our own infallibility requires that we dehumanize ourselves*. Because to believe oneself infallible is to exclude the possibility of conversation. If we believe ourselves infallible on some issue, there is surely nothing anyone

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<sup>13</sup> Specifically, in my case, the underpinning of care-for, which stands counterposed to hate speech's claim that certain groups or individuals are subhuman and should not be allowed to participate in the conversation.

can say to change our minds in that regard. And so conversation is rendered redundant. But conversation, as I have argued in the preceding chapters, is an essential feature of human life, in virtue of its essential role in forming our intuitions and our identities as composed by moral intuitions. Thus, to believe oneself infallible is to reject the notion that we have identities. And surely, if there is one thing which can be rightfully described as inhuman, it is to be without identity – more like an object than a subject. The other being wholly other and unknowable is surely not the kind of thing we can have infallible knowledge about. Simultaneously, their inaccessibility was precisely what rendered them capable of functioning as conversationalists and validators. The notion that we might be infallible, in short, is incommensurable with the notion that we might be human.

Obviously, appeal to the absurdity of believing in the infallibility of our knowledge was precisely what spurred Mill to launch his description of free speech, which I described in chapter 3 as negative. His aim in doing so was to demonstrate the importance of open discussion on the grounds that it would produce more and better knowledge. These are no doubt powerful arguments, and I mean neither to critique nor reject them. I wish rather to point out that while this argument of mine for the inauthenticity of believing in our own infallibility springs from the same premise as Mill's defense of free speech as negative liberty, my claims to that effect are not thereby already accounted for in Mill's theory. On the contrary, and firstly, I also explained in chapter 2 how I believe Mill's theory incapable of properly including a positive element, despite indications that it might be capable of such a thing. Moreover and more to the point, Mill's argument appeared to me an appeal to the principle of non-contradiction in that to believe oneself infallible itself constitutes a knowledge claim, and is thus open to doubt. I fully endorse Mill on this point. Nevertheless, what I offer here is an alternative line of critique not mutually exclusive to Mill's, in saying that to believe oneself infallible and so inhuman is to make a claim which contradicts our nature as creatures capable of communicating and experiencing value.

Furthermore, I grant that Mill too saw free speech as conducive to goodness in the form of utility. But utility was the final aim of free speech, value was conditional upon the existence of freedom. On the other hand, I think that on the positive understanding, freedom of speech was instead predicated on our already believing that human beings are fundamentally social creatures, and that conversation is valuable. In a sense, it seems to me that positive liberty requires that we invert the order of things as laid out by negative liberty.

Whereas on negative liberty, we see free speech as a prerequisite to certain valuable objects, on positive liberty we should see free speech as predicated on our already subscribing to certain intuitions.

Therefore, I believe I am well within my rights to say that my line thinking on this point differs from Mill's. We agree that it is absurd to believe oneself infallible. But our reasoning for doing so is fundamentally different. My thinking, issuing as it does from an interest in people's interest in acting according to their authentic beliefs, is therefore not something which could be encapsulated by Mill's theory. As Løgstrup showed us, on my reading, to be human is to rely fundamentally on other people's validation. So to believe oneself infallible is not just epistemically absurd, as Mill rightly claimed, but also to contradict what I have claimed to be an inescapable intuition – that we fundamentally rely on other people – and thus how we understand ourselves.

Since no one can seriously believe they are inhuman, no one can seriously believe what hate speech asserts. This means that no one can seriously believe in their own hateful utterances. Thus, to hate speak is to affirm intuitions about the world and ourselves which we do not truly believe. Surely, this conforms perfectly well to what we think of when we think of inauthentically subscribing to an intuition. It would be to act in conflict with any Socratic conscience we might harbor; or to articulate intuitions we do not actually hold in high esteem. It would be, in other words, to lead one's life in a way which did not give one much in terms of value. Furthermore, since to assert hateful utterances is to assert one's inhumanity, and to assert one's inhumanity is to assert inauthentically, and our authenticity is tied up with our freedom, to assert inauthentically is to render oneself unfree. We cannot authentically hate speak, so to hate speak is to render oneself unfree.

This means, I believe, that with regards to the problem of hate speech, free speech as positive liberty is superior to free speech as negative liberty. Because by describing hate speech as *an expression of unfreedom in itself*, and by subscribing to what must be the uncontroversial notion that freedom on the whole is of the good, we are finally operating within a conceptual framework which allows us to reject hate speech without running up against the problem that hate speech will itself reject the very notion that we should try to argue against it within the speech spaces provided by negative liberty.



Why, precisely, is it a good thing to be able to reject hate speech? I have given various reasons throughout the course of this thesis. It is, however, perhaps worth compiling them at this juncture in order to properly compare the two counter-positions (positive and negative liberty), as well as explain why it has been necessary to give different reasons at different points of the thesis.

My initial reason for rejecting hate speech had to do with its relation to negative liberty, and I first enumerated it in chapter 2. Briefly, it was my claim that because hate speech silences (although I have argued that it is not primarily silencing speech), it would serve so as to effectively diminish the amount of negative liberty available to its victims. To claim that someone was inhuman, I said, was tantamount to saying that they should not be listened to. And depriving someone of listeners would be tantamount to depriving them of the ability to voice their opinions, depriving them of their negative liberty. Surely, most people, though not racists, sexists or cultural chauvinists, would agree that hate speech is a bad thing on these grounds. Furthermore, since it serves to undermine the presence of (negative) free speech, it must surely be a good thing for us to be able to defend our concept of (negative) free speech by rejecting it.

My second reason for rejecting hate speech stemmed initially from what I saw as negative liberty's inability to in fact reject hate speech. Because free speech as negative liberty was primarily occupied with silencing speech, it would be incapable of properly identifying the problem with hate speech, namely that it dehumanized. Hate speech, I said, silenced in virtue of its dehumanization. But in only identifying its silencing, by adopting free speech as negative liberty, we would not be able to properly diagnose hate speech as dehumanizing, nor, consequently, be able to produce an alternative to hateful speech. I had thus to produce an account of hate speech's badness which did not rely on the fact that it would undermine its victims' negative liberty.

This led me to argue that hate speech could also render us unfree on a positive understanding of liberty. Chapters 3, 4 and 5 have all been dedicated in part to shaping it out, and I believe I have more or less carried it to its conclusion in this sub-section. As I have said, it is a good thing that we reject hate speech on positive liberty because to hate speak is to articulate intuitions one could not possibly entertain – it is to espouse a moral intuition inauthentically. Consequently, it is to deprive oneself of one's positive liberty. Surely, once again, this is not something most people would like. And once again, since hate speech would

serve to undermine our (positive) free speech, it would surely be a good thing if we could defend our concept of (positive) free speech by rejecting it.

Having established that it is good that we reject hate speech, I should perhaps also summarize why we are better situated to reject hate speech on grounds of positive liberty than we are on grounds of negative liberty. Well, negative liberty was value-neutral, and we could therefore not produce any argument against hate speech on grounds of negative liberty itself. Furthermore, it occurred to me that to even try to argue against hate speech would be a futile gesture, because hate speech effectively rejected counter-arguments from the outset. Therefore, it was necessary that we find out how we might reject hate speech before conversation was even joined, that we located our argument against hate speech at a point as fundamental as the rejection of speech. That is what conceiving of free speech as positive liberty has now allowed me to do, concerning itself as it does, on my reading, with our fundamental makeups as persons. Hate speech effectively fundamentally rejected conversation.

Secondly, it seems to me that by adopting a positive concept of free speech, we are more capable of preserving our negative free speech than we would be if we were operating on grounds of a purely negative understanding. I have during the course of my thesis not ventured to reject the concept of negative liberty as such. I have not claimed that the concept is inherently inconsistent. Furthermore, as I have also pointed out, I am quite in agreement with Mill's rationale regarding the benefits of (negative) free speech. Nevertheless, I have not been able to reject hate speech before adopting the positive understanding. It seems to me, therefore, that if we adopt positive free speech whilst maintaining, say, Mill's tenets for negative free speech we can apply the former's rejection of hate speech and in so doing preserve also the negative free speech we might otherwise lose to hate speech on a purely negative understanding.

I have now argued that conversation is a fundamental aspect of being a person. I believe therefore, that with regards to their ability of producing an argument against hate speech, free speech as positive liberty is better than free speech as negative liberty.

### **An objection commonly raised against positive liberty: tyranny**

Before I proceed to the final point of this thesis, that free speech can viably be thought of as positive liberty, I would briefly like to address one objection which is commonly raised against positive liberty, namely that of tyranny. I have resisted addressing this objection until now because I have believed it necessary to properly formulate my account of positive liberty before I explain how it might resist any potential objections. The argument from tyranny against positive liberty has been articulated by Berlin himself (1969, 24). Being concerned with uncovering people's authentic beliefs, the argument goes, if someone were to claim that they were reliable authorities on what people subscribe to deep down, then wouldn't they be justified in imposing these views on the rabble on the grounds that they don't know their own good? And wouldn't this be a form of tyranny?

I don't think my understanding of positive liberty, based on the notion that the other is wholly unknowable, falls prey to this criticism. Since we cannot definitively know what the other wants or needs it would be unreasonable to claim that we should impose our intuitions on them. Conceivably, we could probably try to act in their best interests based on conjectures. But attempts to act in others' best interests based on conjectures does not strike me as justifiable grounds on which to appropriate their moral lives, their ability to make moral choices.

Furthermore, and perhaps more pertinently, since the ethical demand prescribes conversation in order to not just clarify others' interests, but, as I explained in chapter 5, to *converge* upon their satisfaction, in no way seems to legitimate attempts on our part to act on their behalf. My point has been that validation of our respective interests or moral intuitions is important. But that does not mean that is something different from appropriating their ability to act on moral grounds. Løgstrup and my point has been that while we must seek others' validation, and others must seek our validation, that neither means nor entails that we may decide on their interests. The satisfaction of a person's interests, having been already satisfied, may be recognized as validated. But it would be impossible for us to validate an interest we have not yet recognized. That would mean further that satisfaction of an interest as envisaged by Løgstrup could not have occurred if that interest is instantiated by the self. If we appropriated the other's interests then any recognition-and-validation on our part would effectively be recognition-and-validation of our own interests. Consequently, it does not seem to me that recognition and validation as envisaged by Løgstrup and I could justify anything like the imposition of intuitions by the self upon the other.

How, then, could freedom be achieved by acting in line with the ethical demand? Precisely by engaging in conversation. Since recognition and validation are prerequisites for freedom, freedom is achieved by talking to people, thus producing new articulations of our goods in relation with them. Rather than potentially excluding conversation on the grounds of paternalism, my account of freedom of speech as positive liberty prescribes conversation and non-paternalism.

### **Free speech as positive liberty**

To summarize this chapter: hate speech dehumanizes. Human beings are fundamentally carers-for; they are fundamentally communicating creatures. To dehumanize others is to reject the possibility of conversation. Thus, to dehumanize others is to reject the notion that we ourselves are communicating creatures; to dehumanize others is to dehumanize ourselves.

Negative liberty is value-neutral. Mill's justification for free speech as negative liberty is the epistemic absurdity of believing oneself infallible, but makes no other justifications for free speech; he believes free speech is conducive to utility, but this conduciveness is not itself part of his fundamental argument for free speech. On the other hand, free speech as positive liberty, on my reading bases itself on human beings' fundamental nature as carers-for and communicators.

Hate speech makes claims about human beings' fundamental nature. Positive liberty as care-for also makes claims about human beings' fundamental nature. It is thus able to reject hate speech's claims about human beings' fundamental nature. Negative liberty does not make claims about human beings' fundamental nature. Therefore it is not capable of attacking hate speech's claims about human beings' fundamental nature. Therefore, given that our aim is to produce an argument against hate speech, and it seems to me that this is something we should try to do, if based merely on a common sense intuition that hate speech is bad, we should do so from the basis of positive liberty. Consequently, it appears to me that with regards to their ability to produce an argument against hate speech, free speech as positive liberty is superior to free speech as negative liberty.

In light of this, I believe I have now explained why free speech as positive liberty is superior to free speech as negative liberty in relation to the problematic of hate speech as

dehumanizing speech. I have drawn upon my understanding of free speech as positive liberty, developed over the course of the preceding chapters, and applied it to the problem of hate speech (the fact that hate speech infringes upon our freedom of speech) to see whether it might offer up a solution. I have argued that since free speech as positive liberty, and more precisely as care-for, posits that to care-for is to render oneself free as a speaker, to reject others' humanity and thus to effectively view oneself as infallible is to deprive not only one's victims but oneself of the ability to speak. More than just epistemically absurd, this would require an absurd view of what it means to be a person, because it contradicts our basic human functioning as carers-for. As fundamentally social moral creatures we cannot make hateful utterances without contradicting a basic human impulse – we cannot authentically make hateful utterances.

Granted, precisely what constitutes a human being is perhaps not entirely undisputed. I recognize that this is a point I may not have properly addressed during the course of my thesis. I believe I have made somewhat of a statement about my stance on this topic in footnotes earlier in this chapter, and would beg, as I did then, the reader's indulgence for my unwillingness, considering confines of the assignment, to veer heavily from a discussion on free speech into a discussion on the definition of 'person'. I hope also it will suffice to briefly repeat my statement that I believe my at least partial acceptance of Taylor's and Løgstrup's work implies an adherence to the perhaps vaguely Aristotelian idea that to be human is to care for the well-being of the other, and to want to participate in conversation with others.

Having argued this, I now believe myself to successfully have made the case that hate speakers act inauthentically, thus rendering themselves unfree positively. By extension, I have proved that no human in fact subscribes to his hateful utterances. Because to truly subscribe to hateful utterances would be to subscribe to the notion that we ourselves are inhuman, and surely that is not something anyone could really do. This in contrast to the negative understanding of free speech, which, I believe it is reasonable to suggest, should hold that any argument against hate speech must be developed within the speech space already defined by our understanding of freedom. But hate speech effectively rejects the notion that speech might take place in the first place. Thus, the normal conditions of argumentation and counter-argumentation which we would normally expect to take place within our speech spaces cannot apply. And that is what free speech as positive liberty has allowed us to circumvent. Locating its argument against hate speech at as fundamental a level as the rejection of our

ability to speak and form moral intuitions, free speech as positive liberty is capable of addressing the claim implicit in hate speech that speech is superfluous. This, I believe, renders it superior to the negative understanding, which has yet to face the risk of hateful ideas or ideologies gaining widespread traction within our societies. I believe adhering negative liberty as a concept obligates us to run this risk; subscribing to positive liberty allows us to reject these ideas before they enter into discussion.

I believe this means I have successfully proved not only that free speech as positive liberty is a coherent concept, as I did in the previous chapter, but that free speech as positive liberty is in fact superior to free speech as negative liberty, with regards to the problem of hate speech. Returning to the aims I set out for myself in the introduction to this chapter, I believe this satisfies at least one widely (if not practically universally) accepted epistemic standard, namely inference to the best explanation. Free speech as negative liberty appeared effectively beholden to majority opinion, surely an epistemic as well as a democratic flaw, inasmuch as argument from majority is a fallacy and well-functioning democracies must surely reject majority dictatorships. On the other hand, by subscribing to my variant of positive liberty and seeing care-for as a basic moral intuition, we can reject hate speech rather than potentially having to concede the points hate speech espouses, thus not only rendering its victims vulnerable, but also threatening its very presence within the communities which would otherwise harbor it. Furthermore, purporting to be value-neutral, despite its aim being utility, it has appeared to me that free speech as negative liberty is not in itself equipped to reject any hateful utterances made by a chauvinistic majority as morally bad. I have argued that free speech as positive liberty based on care-for must reject hateful utterances as inauthentic expressions. I believe free speech as positive liberty is in this regard superior, and should thus be seen as a viable understanding of free speech.

## Chapter 7 – Conclusion

In the course of this essay, I have, first, defined hate speech. I have presented three possible takes as to its definition and argued that they all have difficulties in properly explaining what most people find problematic about hate speech. In light of this, I have offered up an account of my own which I believe superior to either of them, namely the *dehumanization account*.

I then presented and offered up a criticism of the negative conception of free speech. In doing so, I attempted to demonstrate that J. S. Mill's take on free speech could properly fit within the description of negative liberty provided by Isaiah Berlin. I then argued that Mill's take on free speech, not in itself producing claims about which opinions were right or good, would become undermined by the presence of hate speech, since hate speech effectively rejects the idea of debate, of free speech as such. What Mill lacked was the ability to argue from his theory of free speech against a phenomenon, hate speech, which effectively rejected it.

I then presented one prominent take on positive liberty, namely Charles Taylor's. It was Taylor's view that in addition to negative liberty, most if not all people do in fact operate with concepts of liberty we normally would consider positive. This because it is normal human behavior to perform 'strong evaluations' concerning the relative inherent value of different kinds of goods. Some goods were inherently better than others, and to be aware of and adhere to them was to adhere to our goods authentically. Nevertheless, I then criticized him for his inability to overcome what he termed 'soft relativism'. Arguing that what he termed 'strong intuitions', moral intuitions that are the product of strong evaluation, had to pertain to what I called 'external moral sources', I argued that his account of reasoning failed to properly render our moral sources external, reasoning being after all was said and done an internal activity.

In an attempt to identify such an external moral source which centrally involved speech, I then turned K. E. Løgstrup. I argued that my reading of his account of fundamental trust allowed us to identify other people precisely as an external moral source. Unlike Taylor's account reasoning, fundamental trust was built on the notion of the other person's fundamental unknowability and otherness. Furthermore, our devotion to this source, I argued, should be expressed as what I termed 'care'.

I then argued that this care was a prerequisite to freedom. I did this, first, by distinguishing between two possible uses of the term, coining the term ‘care-for’. I then showed that to exercise care-for was necessary in order that we might receive other people’s validation. Validation, I also said was necessary in order that we might reason our way towards moral intuitions, narratives and ultimately a sense of self. In light of this, it was my contention that because other people had to be seen as the targets of our care-for, the notion that other people should be cared-for had to be seen as what I termed a ‘basic moral intuition’, an intuition we could not but possess and thus had to be amongst our most authentically held. My goal having been to salvage strong evaluation as picking out an external moral source, I then concluded that I had succeeded in picking out other people, in virtue of their fundamental unknowability, as properly external moral sources.

Finally, I have argued that conceiving of free speech as positive liberty as care-for, first, enables us to identify hate speech as a problem in a different way than free speech as negative liberty might. Furthermore, it locates this problem at the basic level of the person rather than as a political function beholden to the workings of our political arrangements. This rendered it vulnerable to the possibility of majority dictatorship.

In this regard free speech as care-for has an advantage. Because, as I explained in chapter 1, hate speech functions so as to dehumanize its victims. To dehumanize, I have argued, is among other things to bereave one’s victims of their ability to speak to us. Thus, it attacks its victims at, precisely their most basic functioning as people. But by explaining care-for and liberty, too, as phenomena existing precisely at this basic level, it can attack hate speech before it enters into politics. Thus, it does not fall victim to the possibility that it might be obligated to consider majority dictatorships permeated by hate speech as the best solution, all things considered. To hate speak, on this view, is already to be unfree.

In short, I would say that faced with the phenomenon of hate speech, free speech as negative liberty faces the absurd consequence of having to consider potentially living in a society permeated by hate speech the best thing, all things considered. Free speech as care-for could not abide such a society because it considers someone who hate speaks unfree to begin with. Consequently, I would say that in at least this regard free speech as care-for, a positive form of free speech, is superior to the negative conception.



I believe my argument, as I have set it out in the course of this thesis, to be internally consistent. Moreover, I believe I have now proven my account superior in one respect to the negative one. I believe this satisfies at least two widely accepted epistemic standards – namely the demand for internal consistency, and abduction or appeal to the best explanation. Consequently, it is my opinion that we should hold positive free speech as care-for to be a viable take on free speech

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