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Protecting Academic Freedom

Dieter Schönecker makes five arguments for freedom of expression.

Ever since 2006, I've taught and researched practical philosophy at the University of Siegen in Germany. I have focused quite a bit on Immanuel Kant, whom I consider to be a *particularly* practical philosopher, but I deal with a wide range of topics in epistemology and applied ethics. Recently I organised a seminar series on freedom of speech, and set about inviting speakers. I wanted people from a range of theoretical and ideological positions, including some who had experienced controversy about the expression of their ideas. Therefore in March 2018 I informed the university administration that my invited speakers included Marc Jongen, cultural spokesman for the Alternative for Germany (AfD) in the German Parliament, and Thilo Sarrazin, a prominent member of the centre-left Social Democratic Party, who wrote a bestselling book attacking Germany's post-war immigration policies. In September, given the alleged right-wing backgrounds of Jongen and Sarrazin, the Dean prohibited me from using my financial resources to invite these speakers. Such resources are allotted to each professor on a yearly basis and commonly used for guest speakers and workshops. He later told me that it was only the use of faculty resources for expenses and *honoraria* that was prohibited. Shortly afterwards, however, I received a letter from the Dean *and* the Rector informing me that the use of *any* university resources was prohibited. This grew into a dispute that eventually became public, sparking a heated debate throughout Germany regarding freedom of speech for thinkers from conservative or right wing circles, such as Jongen and Sarrazin. On a personal level, a colleague felt entitled to issue me a 'final warning', and I was publically accused of an 'ego trip' by the Dean.

The whole controversy, in its occasionally absurd details, is not only philosophically interesting, but also helps us to cast an eye at what Kant called 'the crooked timber of humanity'. Out of the seminar's seven scheduled speakers – one later withdrew – three were not from the right of the political spectrum at all. Two of these count themselves as left-liberal, while I see myself as liberal. Despite this fairly even political balance, and although I'd also tried to invite a further fourteen individuals, none of whom, to put it cautiously, shares anything with the milieu of the right (Rainer Forst and Axel Honneth, for example), the University still reproached me publicly on repeated occasions for organizing a seminar that was 'one-sidedly oriented'. But even if I *had* only invited people from the spectrum of the right, this would still have been perfectly legitimate. Could anyone seriously claim that lecture series on, say, gender research or migration are always characterized by theoretical and political balance in terms of the list of invited speakers?

It was claimed again and again that my inclusion of Jongen and Sarrazin in the list of speakers meant that I myself had adopted a right-wing ideological position. Aside from any interest in damaging my reputation, this insistence is rooted in a failure to grasp that one can be strongly conservative in ethical outlook yet extremely liberal in terms of legal rights. For instance, one can regard the practice of assisted dying as morally wrong, but still support the case for its legalisation, as I do. It is a sign of philosophical ignorance if the enemies of freedom (as Karl Popper would call them) are unable to recognize this elementary distinction between ethics and rights, and thus falsely infer something like a populist conception of law from an ethically conservative position. I was also astonished to see how little attention was accorded in this connection to the arguments of Kant or John Stuart Mill about the need for rational debate. The will to power seemed more in evidence than the will to argument. It was even claimed that

the invitation of Jongen and Sarrazin contravened a legal requirement for political neutrality – although under German law it is only the University that is bound by this requirement rather than individual scholars or researchers. Certainly no questions are ever raised about ‘observing political neutrality’ in most seminars in sociology or the humanities.

Another complaint was that neither Jongen nor Sarrazin are academics, and hence should not be speaking at the University in the first place – although such status is by no means a necessary condition for being invited to speak at a university. If poets are invited to speak on the subject of contemporary verse, no one is seen mounting the barricades.



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Free Speech: Not Just A Theoretical Research Topic

My seminar was concerned with *the philosophy and practice of the freedom of expression*. In this connection, ‘freedom of expression’ is a generic concept that embraces all of the freedoms that are included in Article 5 of the German *Grundgesetz*, our ‘Basic Law’. Freedom of expression doesn’t merely imply the absence of censorship. This freedom can also be restricted by non-judicial or non-governmental sanctions, and by forms of social tyranny which affect the well-being of those who openly express their thoughts and opinions. This can include various means of intimidation, such as death threats – something that I have actually experienced myself. The objection that someone like Sarrazin can still express his opinions in any way he likes is made far too quickly. It is quite true that no one has a right to teach at a *specific* university, or to participate in any *particular* congress or conference; but it also seems clear to me that all those who are appropriately qualified, and who keep within the limits of the law, have a fundamental right to participate *somehow* in the world of science, learning, and education. Clearly too, this is sometimes denied to scholars and researchers who are held to be associated with the right. Someone like Jongen, who trained as an academic philosopher, no longer has the chance to succeed in the competitive context of the German university system. And anyone like myself, who invites such people to speak without actually sharing their views, will soon find themselves relegated to the side table as well.

The techniques of social tyranny are far more subtle than the cudgels or crowbars of direct censorship or proscription. In an academic climate such as the one I found myself in, where private conversations are illegally recorded, it becomes very hard to avoid censoring oneself in advance.

It is an intellectual catastrophe when contentious people like Ulrich Kutschera, Martin van Creveld, Jörg Baberowski or Rainer Wendt are no longer allowed to speak at a German university without the moral police from the *imperium paternale* [Kant's term for paternal government. Ed.] being sent out on patrol.

Legal & Moral Rights To Freedom of Speech

Freedom of thought and expression must also include academic freedom. Before setting out my arguments for academic freedom, I would like to ask a simple question: Do I have the right, legally speaking, to invite Jongen and Sarrazin on the basis of academic freedom? The answer is, of course I have this right, it is conferred by Germany's Basic Law – and indeed for good reason, for there are strong philosophical grounds for it, as we shall see. Academic freedom is a fundamental legal right that may only be legally restricted under very specific conditions, if at all.

You could object that my academic freedom was not being restricted in this case because I was still being allowed to hold my seminar. But if I am not permitted to draw on the usual resources for inviting speakers in the name of the University, and if, as the Dean instructed me, I am not even permitted to publicize the meetings in question via the usual email channels, then my academic freedom is in fact being significantly limited, even if being officially upheld at the same time.

However, the legal right to do something does not imply that it is sensible or justifiable to do it in a moral, political, or academic sense. So are there any good reasons beyond the issue of its legal permissibility which must allow Jongen and Sarrazin to be invited to speak in a university? I can see five such reasons, which we'll look at soon.

But first a point about consistency. If we allow left-wing individuals such as Sahra Wagenknecht or Jutta Ditfurth to speak at the University of Siegen, why not right-wing individuals as well? It is inconsistent. No one will deny that the humanities departments in our universities regularly invite academic speakers who not only come from the left of the political spectrum but also expressly promote left-wing positions in their talks. Many of my colleagues pursue a fairly radical political perspective precisely through their academic work on issues such as migration, racism, gender studies and social justice. Just so that I am not misunderstood here: I find this to be not only normal but also acceptable in the context of academic study and research. I regarded it therefore as a completely unacceptable attack on the freedom of academic thought when Hungarian President Victor Orbán recently used a governmental edict to remove Gender Studies from the list of permitted Masters degrees in Hungary. But also intolerable in the context of academic study and research is the one-sidedness and intellectual exaggeration which is promoted on the left.

The Golden Rule

On the basis of consistency it is possible to develop an initial argument, which I call *the argument from the Golden Rule*. The Golden Rule enjoins: 'Treat others as you yourself would wish to be treated in the same situation'. An enemy of free speech should therefore consider the following situation. Imagine that you wanted to invite someone to speak at your university – a person who some find morally or politically objectionable. Let's assume, for instance, that the person in question is a Marxist. But you stand on the ground of the Basic Law, as does the person you want to invite. Would you will that anyone should contest your right to invite that person? If not, you may not contest that right to other individuals who do not share your perspective, either.

We Can Always Be Wrong

My second argument reflects the fact that human beings are fallible; we can never be entirely sure that something we are quite convinced of actually is the case. So if we suppress a certain view, we can never completely exclude the possibility that we are suppressing a view that is correct. The claim that climate change is humanly produced is a good example. Anyone who questions this at a German university is almost treated as if they'd denied the Holocaust. Yet is it *impossible* that the claim is false? Moreover, a counter-position not only deserves to be heard in its own right, but is also something that, at least as a rule, proves most useful to us to consider, as this takes us further in our own thinking.

Now it is very often the case that views and opinions, or complex systems of views and opinions, are not simply true or false as a totality; they may be *partly true*; and we may also learn something from them.

Let us briefly consider Jongen and Sarrazin. Sarrazin has been sharply criticized for claims he made regarding the inheritability of intelligence, in his anti-immigration tome *Germany Abolishes Itself*. Yet Axel Meyer, a renowned evolutionary biologist, wrote that in Sarrazin's book "the current state of knowledge about the genetic basis of intelligence was presented in a way that was largely scientifically correct." (*Adams Apfel und Evas Erbe*, 2015, p.254). It is not a question here (at least not for me) of the truth of these claims, but simply a question of whether they have any apparent plausibility. What I find disturbing is that combination of ignorance and dogmatism that would prevent us from thinking about certain claims which according to well-informed people are at least not entirely or self-evidently false, and may even be quite correct. If we followed the approach of Sarrazin's critics, we wouldn't be able to invite Steven Pinker to give a talk on intelligence either.

Or let us consider the case of Marc Jongen. In 2017 he was invited to speak at the Hannah Arendt Center at Bard College, in upstate New York, and there was a huge protest against the invitation. In his talk he said: "It would be a very bad idea to build our society and our nations and states on the concept of race, of genetic affiliation." On the other hand, he continues, we should not deny that "a sufficiently strong consciousness of *we* for a functioning democracy can only be established amongst a people [that shares] the same values and thus will engage in a common project for the future." And let me just quote another observation, that it is "important to morality that *I* can only be a moral agent because *we* are moral agents... Detached from my community, I will be apt to lose my hold on all genuine criteria of judgement." In case you didn't notice, this last quotation is drawn not from Jongen but from the ethicist Alasdair MacIntyre. Would the enemies of freedom also try to prevent anyone from inviting that world-renowned philosopher to the University of Siegen merely because he regards a patriotism as a virtue?

But this argument from fallibility has further implications. We can still learn something by engaging with other views and opinions *even if they are completely false* (although it should be added, we can rarely know whether they *are* completely false). Consider Peter Singer. In his book *Practical Ethics* (1979), Singer argues for some positions which horrify many people, such as that there are particular conditions in which it would be permissible to kill handicapped new-born infants. There are good reasons for regarding this view as mistaken, and also as extremely dangerous from a moral and political perspective. Should we therefore prevent Singer from giving lectures (as has in fact already happened in Germany)? I do not think so. And this is precisely because an engagement with his theses – even if we *know* that they're false – provides an important touchstone for articulating our own positions, and thereby becoming more aware of the gaps, problems, and implications of our positions. Anyone who defends a theory must be prepared, and able, to defend it against possible objections.

Engagement, contestation, and doubt are important sources of progress, and so we may profit from thinking about views that we regard as false, and perhaps even as dangerous. If we turn the university into an echo chamber, we shall find all these sources drying up.

At the Court of Reason

My third argument is a strategic one. A university auditorium is not a marketplace where people cry up their wares, but a place for reasoned argument. I was not offering Jongen and Sarrazin an uncontested 'platform', but bringing them before the court of reason. Either their arguments really are as weak as

many claim them to be, in which case an academic audience will be able to expose them; or their arguments are not so poor after all, in which case it's worth giving them a hearing. Is it not permitted for an academic to debate with racists without being suspected of being a racist themselves? It is true that if Jongen and Sarrazin are racists, their presentations might encourage certain racist tendencies. That is possible. But it is at least equally plausible that more individuals than before will recognize how problematic or untenable their positions are. The 'consequentialist' approach, according to which actions must be judged in terms of their consequences (rather than, say, the intentions behind them), works on the strong assumption that we can actually know what will happen as a result of actions. Even if this is sometimes possible, it is certainly not the case here. And even if it were true that my seminar might encourage racism, I would not thereby be responsible for the actions of any third party. Breweries are not responsible for the fact that certain people commit crimes under the influence of drink, and nor do we see that fact as a good reason to introduce prohibition.

The objection that there was no need to invite Jongen and Sarrazin to speak at the University in the first place since one could simply read their books, is, if not completely false, certainly overdrawn. It is false in the sense that direct and personal communication with individuals may teach us much more, or at least something different, than we can learn from the study of their texts. Even if that turns out not to be the case, the objection proves too much, since if it were upheld there would then be no need for talks or lectures at all! At any rate, I must say that my personal encounter with both speakers has only strengthened the impression that I'd already received from reading their texts that they are not racists, let alone Nazis.

Weakening the Defences

The core of my fourth argument is that restricting freedom of thought and expression in any case where this restriction only *might* be justifiable tends to reduce the limits of tolerance to ideas, which narrows the space of freedom even further.

A central reason for this weakening of freedom is the imprecise and inflationary use of terms such as 'racism', 'nationalism', 'sexism', 'essentialism', 'homophobia', 'contempt for humanity', and so on. Thus one colleague, as he put it to me, takes Sarrazin to be a racist with whom he would not wish to appear in the same series of lectures. That is his perfect right. But what does racism mean here? In my view it is absurd to claim that someone is a racist just because they say there are such things as genetically distinguishable ethnic groups ('races'); and even more absurd to claim that someone is a racist because they challenge, as Sarrazin does, the idea that all human beings possess an unlimited right to migrate to every country in the world. It seems to me that someone is a racist if they believe *not only* that there are biologically distinguishable human populations *but also* that these distinctions imply differences in value, perhaps going so far as to endorse the appalling idea that certain populations are intrinsically superior to others and so are entitled to rule over them. I cannot see that Sarrazin is a racist in this sense.

In Dubio Pro Libertate

This brings me to my fifth and final argument, which can be described as a meta-argument. Let us assume that the enemies of freedom found all my previous arguments unconvincing. And let us suppose that these enemies of freedom were not actually enemies of freedom: that they are simply lovers of freedom who want to protect it from its true – that is, its anti-democratic, racist and nationalistic – opponents. They would therefore respect my academic freedom of thought and expression too. Shouldn't they be able to entertain some doubt about their own critical position in order to see whether there might be something to be said for my arguments? And shouldn't they at least allow me the right to be mistaken? Isn't freedom such a *preeminent* good that it should be restricted only in the most extreme predicaments? And is the predicament I presented really so great, and the doubt or uncertainty over the permissibility of restricting me so minor? I would argue that what holds for the right of the accused in a criminal trial holds for freedom of expression too: *in dubio pro libertate*. If in doubt, allow freedom.

Anyone who treats freedom of thought and expression as a kind of ‘fair weather’ principle, only to be promoted for the kind of thought and expression we like, has not understood what this freedom means. And to put it bluntly, it has certainly not been understood by the Faculty Council, the Senate, and the University Council at Siegen, all of which endorsed the restrictions approved by the university administration. Nor has it been understood by most of the committee members of the German Society for Philosophy, who proved unable to show solidarity with me in this matter. In the summer of 2018, Claudia Roth, the Vice President of the German Parliament, delivered a speech which specifically defended freedom of thought and expression. Yet when I later asked her for the full text of her speech she refused, saying “We do not support any proceedings which offer a platform to racist positions or those of the extreme right.”

It is one thing to attack the *right* to academic freedom (which attack is not legitimate), and another to criticize the specific *exercise* of this right (which criticism may of course be entirely legitimate). But anyone who attempts not only to criticise but to systematically restrict the academic freedom of another colleague – for example by calling on the Rector of Siegen to ‘dis-invite’ my two speakers – deserves to be called an enemy of freedom. The friends of freedom must defend themselves. For, as Kant pointedly observed, anyone who turns himself into a worm cannot later complain if he gets trampled on.

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