

ACADEMIC FREEDOM, OPINIONS AND ACTS: THE VOLTAIRE-MILL PERSPECTIVE APPLIED TO CURRENT CANADIAN CASES

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There are things that some people say and do that are despicable to most other people. In a free rather than totalitarian society, there is a fundamental distinction that is summarized in the popular "sticks and stones" adage, expressed more eloquently by Voltaire when he said that although the opinions of some people disgusted him, he would "defend to the death" their right to hold those opinions. Similarly, John Stuart Mill, in his classic paper "On Liberty" defended the distinction between controversial opinions that elicit intellectual and hence emotional discomfort in many people, and acts that either threaten to or actually do cause harm. It is a distinction which should be especially clear in institutes of higher education (IHE), whose very *raison d'être* is to discuss opinions that are often uncomfortable. Discomfort is ignored in higher education because of the larger purpose – enquiry and the pursuit of truth through the examination of conflicting ideas.

Nevertheless, in IHE, where the academic community consists of faculty and students whose power relations with each other are asymmetrical, it is necessary to distinguish further between issue-directed and person-directed opinions. Specifically, I suggest four stages, namely issue-directed opinion, person-directed opinion, threatening acts, and physically violent acts. Only the first stage – issue-directed opinion – should be fully protected. The other three stages should be subject to increasing degrees of censure. Let me illustrate with a hypothetical but topical example.

Consider the following opinion formulated in issue-directed terms: "Heterosexual couples tend to provide better family environments than homosexual couples." A person-directed formulation of the same opinion might be: "A homosexual like you cannot expect to provide a proper family atmosphere in which to bring up a child." Examples of threatening acts related to the same topic would include shouting down someone, and thereby preventing that person from stating a contrary opinion, or threatening someone with physical harm. Finally, there are physically injurious acts, such as conspiring to beat up homosexuals or actually doing so.

Issue-directed opinions can be severely uncomfortable for many people, but this was so for Galileo's opinion as formulated in his heliocentric hypothesis, and Darwin's opinion as stated in his theory of evolution – which is still uncomfortable

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for, and even offensive to some creationists. Accordingly, issue-directed opinions are protected fully by the principle of academic freedom. They should be argued repeatedly and with conviction by those who hold them, no matter how uncomfortable they may be for even the majority of people. In this connection, Mill's essay "On Liberty" was especially eloquent, and I follow the April 1994 issue of SAFS (Society for Academic Freedom and Scholarship) *Newsletter* in quoting from that essay:

If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.

What Mill asserted for society in general must be applied even more vigorously in academic settings. Administrators in IHE must ensure that issue-directed opinion is actively protected. They must not only ensure that there is no administrative harassment of individuals who assert those opinions, but they must also actively prosecute individuals who attempt to suppress the assertion of those opinions by disruptive acts.

Recently, administrations in Canadian IHE have failed to protect academic freedom with regard to issue-directed opinions, as evidenced by the following partial list of examples. In 1989, Jean Cannizzo's anthropology class at the University of Toronto was disrupted by Black activist groups who disapproved of her issue-directed opinions in designing an exhibit called "Out of Africa". Although there were some expressions of support for Cannizzo, the University's administration failed to actively defend her academic freedom by not prosecuting the so-called "anti-racist" activists. Cannizzo withdrew from academia and, later, Canada. Similarly, in 1993, Dr. Harold Lief's public lecture on the "false memory syndrome," sponsored by the Department of Psychiatry at McGill University, was disrupted by feminist activists. The administration of that eminent university made no attempt either to reschedule the lecture or to ensure that the particular issue-directed opinion was given a hearing.

Finally, there is the case of a mathematics professor, Matin Yaqzan, at the University of New Brunswick (UNB). In 1993, he published an opinion piece in a student paper, dealing with the topic of date rape. The piece, which essentially espoused a conservative Muslim position on the subject, was issue-oriented in the sense that it did not attack individuals. But it was offensive to many, and, in particular, to a group on campus which opined that Yaqzan's published opinion constituted an "attack" on women, and hence that Yaqzan himself was unfit to continue teaching mathematics. In this case, the UNB administration not only failed to passively defend Yaqzan's academic freedom, but actually actively attacked it by immediately suspending him from teaching – thereby slandering his academic reputation – and only afterwards starting an "inquiry".

In the case of person-directed opinions, an important consideration in an academic context is whether the power relationship of the context is symmetrical or asymmetrical. Symmetrical power-relationship contexts are those in which the opinion proposer has no evaluative academic power over the audience. In such contexts, person-directed opinions are open to the degree of censure to which any *ad hominem* argument is vulnerable; that is, such arguments are weak just because they are *ad hominem*, and people who habitually make these arguments may be judged by others to be poor in the art of rational argument. However, people who make such arguments in a symmetrical context should not be prosecuted, whether they are students or faculty. In these symmetrical contexts, the principle of academic freedom protects those who put forward such *ad hominem*, person-directed opinions. In other words, the opinions themselves may be censured, but there must be no censoring to any degree of those who utter those opinions. No such protection for person-directed opinions is available from academic freedom in asymmetrical power-relation contexts. The most common instance of asymmetrical contexts is the classroom, with faculty as the opinion proposers and students as the audience. However, an asymmetrical context may also exist outside the classroom in less formal places, such as a pub, where proposers have formal evaluative academic power over audience members, be the latter students or relatively vulnerable, non-tenured faculty. Person-directed opinions are not protected in asymmetrical situations like classroom teaching, because they constitute an academically improper threat against the person at whom the opinion is directed. The threat, implicit or explicit, is that the evaluation of the student by the faculty member will be negatively affected by considerations that should be irrelevant to the assessment process. Faculty members who state their opinions in such a person-directed form are censurable on academic grounds. Moreover, they should also point out to students who argue with each other in these person-directed terms, that such arguments are *ad hominem*.

The distinction between issue-directed and person-directed opinions is ignored if comfort is the criterion by which an opinion is to be allowed or suppressed. To continue with my hypothetical example, it is likely that some homosexuals are made more uncomfortable by a well argued and strongly supported issue-directed formulation of the family environment position than by an insulting but poorly supported person-directed formulation, because the latter can be dismissed as being *ad hominem* and insubstantial. However, in-class (or, more precisely, asymmetrical) academic freedom protects only the issue-directed formulation and not the person-directed one.

It is a quantum leap to the next stage – threatening acts. Current Canadian examples of these are the above-mentioned acts by the “anti-racist” groups against Cannizzo and the feminist groups against Lief. Implicit tolerance of such acts by the respective university administrators seriously undermines the central mission

of IHE. An even more spectacular example is the case of Professor Fabrikant, the multiple murderer at Concordia. A recent report on this case suggested, according to some press accounts, that Canadian university administrators have erred in allowing "academic freedom" to be too far "extended" to protect faculty who behave like Fabrikant. However, the Concordia administration's dereliction lay not in any "extension" of academic freedom, but in its failure to distinguish between opinions and acts, and in its failure to punish Fabrikant for threatening acts that he committed well before physically injurious acts – his dastardly murders.

Current Canadian academic administrators have a difficult task, and often have to deal with immediate crises. However, in the long run it will not help if they do not distinguish between opinions and acts, and are intolerant of offensive opinions rather than bearing down on offensive acts.