

Article

Against the Harm Argument for Censorship: On the Abuse of Psychology and the Dismissal of Rights

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Abstract: Several recent arguments trying to justify further free speech restrictions by appealing to harms that are allegedly serious enough to warrant such restrictions regularly fail to provide sufficient empirical evidence and normative argument. The two recent arguments critically examined here confirm this picture. Ann E. Cudd tries to make all kinds of clearly protected free speech responsible for “trauma.” However, she misrepresents the psychological studies she relies on and her account legitimizes anti-speech violence on a massive scale, which renders it morally absurd. Melina Constantine Bell tries to combine John Stuart Mill and psychological studies to argue that sexist and racial jokes and slurs produce severe harm and should therefore be restricted. Yet the studies are flimsy and the picture of Mill unrecognizable. I will, then, address, as a corrective to the one-sidedness of those who warn against the alleged harms of free speech, the harms imposed by *compelled* speech, using the topical example of compelling people to use female pronouns for males who claim to be women. I show that this practice is abusive and wrongful. I conclude with a reminder about the nature of liberal democracy. Its *raison d’être* is not protection from harm *per se* but the safeguarding of freedom. There are no convincing reasons to further restrict or, especially, to compel speech, but every reason to defend free speech.

Keywords: Melina Constantine Bell; Ann E. Cudd; free speech; harm; preferred pronouns; rights

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1. Introduction

Arguments that try to justify free speech restrictions that go beyond the restrictions already recognized by even very permissive and libertarian accounts of free speech as well

as by First Amendment law usually proceed by conjuring up all kinds of “harms” that speech considered to be protected might nonetheless produce. Thus, these harms are deemed so serious as to justify speech restrictions. Normative argument for the claim that they are sufficiently serious is seldom, if ever, produced; and the fact that free speech theory denies that serious harm is sufficient for justifying restrictions is almost always ignored.¹ Moreover, credible evidence for the alleged serious harms is always lacking. Finally, while those arguments pose as viewpoint-neutral, their one-sidedness in assessing harms is conspicuous and appears to be designed for the very purpose of facilitating viewpoint-based censorship. The same one-sidedness is also evident in the fact that authors providing such arguments worry almost exclusively about the harms produced by free speech, but consistently ignore certain harms of suppressing or compelling speech.

The two recent arguments for further speech restriction critically examined here confirm this picture. Ann E. Cudd tries to make various kinds of clearly protected free speech responsible for “trauma.” However, she misrepresents the psychological studies she relies on and her account legitimizes anti-speech violence on a massive scale, which renders it morally absurd. Melina Constantine Bell tries to combine John Stuart Mill and psychological studies to argue that sexist and racial jokes and slurs produce severe harm and should therefore be restricted. Yet the studies are flimsy and the picture of Mill unrecognizable. I will address, as a much-needed corrective to the one-sidedness of those who warn about the alleged harms of free speech, the harms imposed by *compelled* speech, using the topical example of compelling people to use female pronouns for males who claim to be women. I show that this practice is abusive and wrongful. I conclude with a reminder about the nature of liberal democracy. Its *raison d’être* is not protection from harm *per se* but the safeguarding of freedom. There are no convincing reasons to further restrict or even compel speech, but every reason to defend free speech.

2. Cudd on “Trauma” and “Neuroscience”

2.1. Misrepresenting Psychological Studies

A critique of free speech that applies double standards and must do without empirical evidence has recently been offered by Ann E. Cudd. While this author and academic officer² does *invoke* empirical evidence, the studies she relies on clearly fail to back up the conclusions she draws.

Cudd knows that even speech that “cause[s] harm” is often “still protected by First Amendment doctrine.”³ Yes indeed. Even more, the free speech principle enshrined in the First Amendment protects not only many instances of harmful speech, but even speech that *causes harmful rights-violations*. In the famous *Brandenburg v. Ohio* case, the Supreme Court unanimously upheld what is now known as the Brandenburg rule, or test—namely “that speech constitutes constitutionally punishable incitement only if the speaker intentionally incites imminent violent or otherwise illegal conduct that is likely to

¹ By free speech theory I mean the corpus of philosophical and legal scholarship arguing for free speech protections roughly in line with the First Amendment to the US Constitution.

² At least at the time of writing her article; see Ann E. Cudd, “Harassment, Bias, and the Evolving Politics of Free Speech on Campus,” *Journal of Social Philosophy* 50(4) (2019), pp. 425–46, at 427.

³ *Ibid.*

occur immediately.”⁴ Thirteen years later the Court deemed threats of violence of the following sort constitutionally protected free speech: “If we catch any of you going in any of them racist stores, we’re gonna break your damn neck.”⁵ This statement was directed at African Americans patronizing white merchants, and violent acts did occur in the aftermath, but were not deemed to have resulted immediately enough to render the utterance an unprotected incitement.⁶ Thus, First Amendment law is *very* robust, and conjuring up “harms” or even rights-violations caused by certain forms of free speech is insufficient to make a case for their restriction.

This poses a problem for Cudd’s argumentative goals. After all, she admits that “most U.S. universities . . . are held to strict interpretations of the First Amendment that proscribe most restrictions on speech, particularly outside the classroom.” But she thinks there is a way out. After this admission, she continues:

Yet, expressions that create a hostile environment oppose inclusion because those who are victims of this hostility are made to feel that they do not belong in the university and claim that it poses a threat to their safety and well-being. Speech act theory helps us to see how speech can do harmful things through an utterance’s conventional illocutionary force. Trauma can be triggered by experiences that shatter our assumptions that the world is benevolent and meaningful, and that the self is worthy. Toxic and oppressive speech are harmful forms of speech because they shatter these assumptions about the world and the self.⁷

The wholesale application of hostile-environment laws, originally created for the workplace, to campuses in general is legally a bold move to begin with. Moreover, arguments that attempt to widen the scope of legally unprotected speech by an appeal to speech act theory have been subjected to severe criticism.⁸ The critics hold that these arguments have misconstrued speech act theory as well as free speech theory and the First Amendment, make empirically unwarranted claims, and, relatedly, proceed in an entirely arbitrary manner if it comes to selecting which speech is to be restricted and which is not. Cudd ignores this criticism and does not add anything to this debate.

I shall therefore focus on her trauma claim, which offers us an unwitting but telling self-caricature of the currently popular “free speech is very harmful and should therefore be restricted” argument. Cudd claims that the distinction “between mere words that are experienced as offensive or hurtful and physical harm or the (credible) threat of physical harm” can be undermined by “the neuroscience of trauma.”⁹ In effect, she suggests that certain forms of speech can cause brain damage.

⁴ Nadine Strossen, *Hate: Why We Should Resist It with Free Speech, Not Censorship* (Oxford: Oxford University Press, 2018), p. 62.

⁵ The National Association for the Advancement of Colored People (NAACP) field organizer Charles Evers, quoted from *ibid.*, p. 63.

⁶ *Ibid.*

⁷ Cudd, “Harassment, Bias, and the Evolving Politics of Free Speech on Campus,” p. 444.

⁸ Daniel Jacobson, “Freedom of Speech Acts? A Response to Langton,” *Philosophy and Public Affairs* 24(1) (1995), pp. 64–79; *idem.*, “Speech and Action: Replies to Hornsby and Langton,” *Legal Theory* 7 (2001), pp. 179–201; James Weinstein, *Hate Speech, Pornography, and the Radical Attack on Free Speech Doctrine* (Boulder, CO: Westview Press, 1999); Charles W. Collier, “Hate Speech and the Mind-Body Problem: A Critique of Postmodern Censorship Theory,” *Legal Theory* 7 (2001), pp. 203–34; Andrew Koppelman, “Maitra, Ishani, and McGowan, Mary Kate, eds. *Speech and Harm: Controversies over Free Speech*” (book review), *Ethics* 123(4) (2013), pp. 768–71; Uwe Steinhoff, “Really Just Words: Against McGowan’s Arguments for Further Speech Regulation,” *Philosophia* 50 (2022), pp. 1455–77.

⁹ Cudd, “Harassment, Bias, and the Evolving Politics of Free Speech on Campus,” p. 435.

Let us follow Cudd's trail through the "psychological literature." This literature, she tells us, "is replete with studies in humans linking traumatic psychological events to symptoms of post-traumatic stress disorder (PTSD) and other mental disorders," which "suggests . . . physiological damage to the brain." This is also confirmed by "studies on rats" exposed to "stress" as well as by "magnetic resonance imaging (MRI) studies of humans with PTSD." Cudd further states that "trauma is often thought to be triggered mainly by fear of death of oneself or a loved one, which can be brought on by experiencing a threat but also by learning about the death of or violence against others." Yet she then assures the reader that "psychologists have also posited that . . . trauma can also be triggered by other psychological mechanisms," in particular "by experiences that shatter three key assumptions humans make about the world: 'that the world is benevolent, that the world is meaningful, and that the self is worthy.'"¹⁰

For the claims I just quoted, Cudd provides references to empirical studies. However, after informing us that the shattered assumptions paradigm "explains the effectiveness of domestic terrorism," she *then* declares: "The theory also explains how even speech that is nonthreatening can cause harm by shattering one of these core assumptions for persons." Her examples are "subordinating hate speech" and "other forms of speech . . . call[ing] into question the moral value of individuals from marginalized or degraded groups," vulgar slurs, "speech that references events or characteristic crimes" reminding "minorities or women of their vulnerability" (that would include many university lectures), and even the discussion of "a historical photo of a lynching or of flags bearing swastikas."¹¹

For *these* claims Cudd provides no reference whatsoever. This is unsurprising if one compares the studies she refers to with the claims she purports to base on them. For example, she fails to mention that the first study explicitly states in its conclusion that stress may also induce *beneficial* effects, which "involve preserving homeostasis of cells/species, which leads to continued survival."¹² That she fails to mention this is understandable, for it sounds like Nietzsche's "What doesn't kill me makes me stronger," or like the claim of the free-speech defenders Greg Lukianoff and Jonathan Haidt that some stress might be good for students' resilience, while coddling them is not.¹³ In other words, we have an argument *for* free speech here, not against it.

As regards the stressed rats: they were stressed by repeated subcutaneous injections of vehicle oil or by being restrained in decapicone bags for three hours daily for one week.¹⁴ The human MRI scans to which Cudd refers, in turn, were conducted on people with PTSD who had suffered such traumas as "assault, rape, childhood

¹⁰ Ibid., p. 436.

¹¹ Ibid., pp. 436–37. Note Cudd's concern about groups. Would "individualistic" statements like "You are ugly" also count as hate speech? If not, why not? Maybe the idea is that verbal attacks on a person's "identity" (understood as membership in some group) are particularly harmful, but that would require some empirical evidence.

¹² Habib Yaribeygi, Yunes Panahi, Hedayat Sahraei, Thomas P. Johnston, and Amirhossein Sahebkar, "The Impact of Stress on Body Function: A Review." *EXCLI Journal* 16 (2017), pp. 1057–72, at 1066.

¹³ Lukianoff and Haidt, *The Coddling of the American Mind: How Good Intentions and Bad Ideas are Setting Up a Generation for Failure* (New York: Penguin Books, 2018), esp. ch. 1.

¹⁴ Sundari Chetty, Aaron R. Friedman, Kereshmeh Taravosh-Lahn, et al., "Stress and Glucocorticoids Promote Oligodendrogenesis in the Adult Hippocampus," *Molecular Psychiatry* 19 (2014), pp. 1275–83, at 1276.

maltreatment, terrorist attack, and combat-related stress.”¹⁵ The “stress” experienced by someone being exposed to the “trauma” of a vulgar slur or a photo of a lynching is clearly trivial in comparison with the actual stress and trauma suffered by the rodents and human beings featured in these two studies.¹⁶

Finally, the book chapter on shattered assumptions to which Cudd refers focuses “on influential theories of reactions to *the most damaging* traumas—those that are human-caused and involve interpersonal violence and violation.” The chapter suggests “that *such* traumas shatter” the “three basic assumptions” Cudd mentions.¹⁷ Nowhere does it come even close to suggesting that lesser harms or stress factors can have the same effect. Indeed, the psychological literature, unlike recent enemies of free speech, is not really in the business of mislabeling all kinds of purported stress as “trauma.” Accordingly, when Cudd claims that the shattered assumptions theory “explains how even speech that is nonthreatening can cause harm by shattering one of these core assumptions for persons,”¹⁸ she completely misrepresents the theory. Nor, as we just saw, are her far-reaching claims supported by the other studies she cites—quite the contrary. In short, her trauma argument against free speech misrepresents the empirical studies it appeals to and lacks any evidence and empirical foundation whatsoever.

2.2. Legitimizing Anti-Speech Violence

Cudd’s problem lies not only in her attempt to restrict speech on the basis of a hypothesis for which she has no evidence, but also in her double standards. She is throwing stones from the glass house. She states that it is “possible to see these forms of speech [that she incriminates, see above] as either licensing harmful, discriminatory inferences, or as themselves causing harm to vulnerable persons.”¹⁹ First, as already pointed out, under First Amendment law, “licensing harmful inferences” or “causing harm” is insufficient to justify speech restrictions. Second, many things are “possible.” *Cudd’s own* speech—that is, her article—licenses the *immediate infliction* (not only the causing) of *actual* (not only imagined) *trauma* on people.

Cudd in effect claims that a certain kind of slur, or things said, or pictures shown in a lecture *inflict severe physical harm to the point of brain damage*. Thus, she implies that such acts are *literally acts of violence*. Now, imagine by way of analogy a lecturer coming in with a protective metal helmet on her head, and in her hands is a little device with a red button. You are in the lecture hall and know that if she presses the button some people in the class will suffer brain damage, or that at least there is a high risk that they will. (The device happens to be a combined audiorecorder-cum-neurodisrupter: while it plays the prerecorded lecture, it also emits dangerous rays.) The lecturer is about to

¹⁵ Konstantinos Bromis, Maria Calem, Antje A. T. S. Reinders, et al., “Meta-Analysis of 89 Structural MRI Studies in Posttraumatic Stress Disorder and Comparison with Major Depressive Disorder,” *American Journal of Psychiatry* 175(10) (2018), pp. 989–98, at 989.

¹⁶ In fact, the idea that the rodent experiments Cudd refers to can be used to explain PTSD in human beings (even if we are talking about *really* stressed human beings) faces severe problems, which Cudd ignores. See Bibiana Török, Eszter Sipos, Nela Pivac, and Dóra Zelena, “Modelling posttraumatic stress disorders in animals,” *Progress in Neuro-Psychopharmacology and Biological Psychiatry* 90 (2019), pp. 117–33.

¹⁷ Anne P. DePrince and Jennifer J. Freyd, “The Harm of Trauma: Pathological Fear, Shattered Assumptions, or Betrayal?” in Jeffrey Kauffman (ed.), *Loss of the Assumptive World: A Theory of Traumatic Loss* (New York: Brunner-Routledge, 2002), pp. 71–82, at 73, my emphases.

¹⁸ Cudd, “Harassment, Bias, and the Evolving Politics of Free Speech on Campus,” p. 436.

¹⁹ *Ibid.*, p. 438.

press the button. If the only way you can prevent her from doing so is to shoot her in the head, you are morally and legally justified in doing so. You have a straightforward self- and other-defense justification. In U.S. jurisdictions (as well as in other Western jurisdictions), deadly force is justified in defense against unlawful deadly force (the term includes force likely to inflict severe bodily injury—brain damage would certainly qualify). Moreover, Nazis, too, have a right to defend themselves against the unlawful infliction of brain damage. If the threat of damage would come in the form of remarks in a lecture that *denies* Nazis equal moral status, or in the form of slurs, or of photographs of Nazi crimes that modern-day Nazis claim their ideological ancestors have never committed, then a Nazi, too, may defend himself with lethal violence.

Cudd thus faces a dilemma. If she tries to avoid the implication just noted, she will have to deny that inflicting brain damage (or other severe physical or neurological harm) by speech acts like slurs or lectures is unlawful (presumably because such speech is protected by the First Amendment and thus lawful). But then, of course, her case for restriction collapses. If, on the other hand, she insists on the unlawfulness of such acts as well as on her claims about the severe damage such unlawful speech inflicts, she deserves the dubious honor of having licensed “defensive” campus violence on a massive scale.²⁰ Thus, before worrying about the harmfulness of other people’s lectures, she should perhaps first worry about the harmfulness of her own article—however many “assumptions” of hers this might “shatter.”²¹

Moreover, given that Cudd completely misrepresents the psychological literature she relies on, she is not a reliable guide to the psychological harms allegedly produced by speech. In fact, her approach is not so much empirically informed as it is simply dogmatic. This is also demonstrated by her following statement:

Administrators must recognize that minority students and women pay a higher price for free speech than Whites and men, and they need to make explicit statements about that. It is important for minority members to hear an acknowledgment of that fact, and for majority members to understand that they have unearned privileges, and that minority members are providing valuable lessons for them.²²

Actually, administrators like Cudd need to recognize that not all students and staff will buy into the dogmas of Critical Race Theory and certain forms of feminism. They must learn that students and staff have a right to contradict these theories, and that their merits can only be established by open debate, not by quasi-religious administrative revelation.

²⁰ This is not hypothetical. The violence used to keep Milo Yiannopoulos from speaking at Berkeley was justified as “self-defense” by at least one commentator, as reported by Heather Mac Donald, *The Diversity Delusion: How Race and Gender Pandering Corrupt the University and Undermine Our Culture* (New York: St. Martin’s Griffin, 2018), pp. 21–22. If that doesn’t worry Cudd, it should.

²¹ I would like to illustrate this point a bit further in the light of recent notorious events, namely the massive harassment of gender-critical feminists like Kathleen Stock, and the threat of actual violence against them. Cudd sees fit to talk about the harms or the “violence” (here she uses quotation marks although she has, as we saw, no basis for doing so given her theory) of “transphobic” speech (Cudd, “Harassment, Bias, and the Evolving Politics of Free Speech on Campus,” p. 432; the latter scare quotes are mine, not hers). In my experience, most who use the term “transphobic” mean by this to refer to any view that conflicts with the claim: “Transwomen are women.” Those who claim that “transphobic speech” is *literal violence* thereby implicitly claim that the prevention of such speech by violence against gender-critical feminists is justified self- or other-defense. *This* is something the academic officer Cudd should worry about, in contrast to the “stress” levels of students who are caused to doubt “that the world is benevolent, that the world is meaningful, and that the self is worthy.”

²² *Ibid.*, p. 443.

They must recognize that valuable lessons cannot only be provided by minorities, but also by majorities. They must recognize that White men are actually not the majority on many US campuses, and that administrators might at times facilitate *de facto* majorities on those campuses in the silencing of people who disagree with them (or aren't deemed "oppressed" enough to be allowed to speak). They must further realize that blanket claims about "unearned privileges" unsupported by empirical evidence and philosophical argument are wholly unconvincing. In fact, shouldn't Cudd worry that such blanket reproaches conveyed by her speech might shatter the assumptions the targeted groups have about the benevolence of the world and the worthiness of their selves? If Cudd is right that such shattering causes severe physical damage, then the targeted groups have, as already explained, a right to violently defend themselves against such speech. Fortunately for Cudd, she isn't right. The counter-speech provided here has shown that and is therefore a sufficient response.

3. Bell on the "Harms" of Sexist Jokes and Racial Slurs: Flimsy Studies and an Unrecognizable John Stuart Mill

Another author intent on restricting speech due to its "harmfulness" is Melina Constantine Bell. There are sections of the article to be discussed here where Bell claims that racial or sexist slurs harm only minorities, or harm them more. She provides no evidence for this claim. There is also a section entitled "Systemic oppression and epistemic injustice." This section repeats well-worn claims made by Critical Race Theory and by certain feminist theories that posit a "White patriarchy." It neither provides any evidence to support its claims, nor engages with objections, nor, therefore, advances the debate. I will not deal with these sections.

However, there is also a section that promises to identify the "tangible, concrete harms" that certain forms of speech normally deemed to be protected inflict on "historically marginalized social groups" (independent of whether or not such harms can also befall majorities). The "harms" she refers to "involve 'experience [that] is severe, prolonged, or constantly repeated' such that 'the mental suffering it causes may become ... incapacitating, and therefore harmful'" (mere taking offense does not count for her).²³ In order to identify such harms, she relies, like Cudd, on psychological studies. Two such studies concern the effects of sexist humor. Bell summarizes the results as follows:

Sexist humor . . . can tangibly and directly harm women by eliciting depression, eating disorders, disruption of focused attention, appearance anxiety, and body shame. . . . In one study, a group of female participants exposed to sexist comedy skits expressed a greater state of self-objectification compared to women exposed to neutral comedy skits, while male participants' ratings of self-objectification did not differ based on which skits they viewed. Other experiments found that women engaged in more body surveillance, . . . [which] can disrupt focused attention, usurping attentional resources and reducing performance on other cognitive tasks. In other research, women performed worse on math tests while wearing swimsuits, relative to a comparison group wearing sweaters. . . . One study . . . found that prior

²³ Melina Constantine Bell, "John Stuart Mill's Harm Principle and Free Speech: Expanding the Notion of Harm," *Utilitas* 33 (2021), pp. 162–79, at 169. Bell quotes here Joel Feinberg, *The Moral Limits of the Criminal Law, Volume I: Harm to Others* (Oxford: Oxford University Press, 1984), pp. 45–46 (the square brackets are hers).

experimental “exposure to sexist jokes led to greater tolerance of the supervisor’s sexist behavior [in a vignette on workplace interaction] in comparison to exposure to neutral jokes or comparable non-humorous sexist statements.” Additionally, after watching sexist comedy skits, sexist men demonstrated significantly greater willingness to cut funding for a women’s organization, compared to other types of organizations.²⁴

First, cutting funding is not even a harm in Bell’s own sense. Moreover, given that Bell purports to work within a Millian framework, it should be noted that utility might be increased by cutting funding for one organization and giving it to another. Money is a scarce resource. Second, it would have been preferable if the studies had been less biased in their methodology. There were no control groups composed of *men* against whom sexist humor was directed or of *men* who had to perform math tasks while wearing swimsuits. In short, the studies do not show that sexist humor or wearing swimsuits affects women more than men. Third, it would have been worthwhile to find out, for instance, whether a group of female participants exposed to the movies *Erin Brockovich* or *Pretty Woman*, where Julia Roberts constantly shows off her perfect figure in provocative outfits, also “expressed a greater state of self-objectification” compared to women watching, let’s say, a documentary on screw manufacture. If so, would that, in Bell’s opinion, constitute an argument for prohibiting such movies—or the women’s magazine *Cosmopolitan*, for that matter?

In that context, Bell also interprets one of the studies as showing that “sexist jokes imply that it is acceptable to make demeaning statements about women aloud, reinforcing notions that it is culturally acceptable to regard women as unequal,” and that therefore “women who hear these jokes might internalize their messages and self-objectify rather than rejecting or criticizing the jokes.”²⁵ Maybe. But it is safe to assume that the same is true, and likely to an even greater extent, for statements about the inferiority of women that are made with religious authority, for example in a sermon. If so, would Bell consider this as a reason to restrict religious speech? And how compatible is that going to be with Mill’s liberalism—or with liberalism, period?

But putting these questions aside—what harm did the studies actually demonstrate? One study answers this as follows: “Our study contributes to this literature by demonstrating that sexist humor can trigger a transitory state of self-objectification in women, which has been shown to have far-reaching and detrimental consequences for women in daily life.”²⁶ *Transitory!* But how “far-reaching and detrimental” can the consequences of this transitory state be? Sure, it can lead to *transitory* “disruption of focused attention, appearance anxiety, and body shame,” as Bell states—but calling this “far-reaching” appears to be an exaggeration precisely in light of the transiency involved. Moreover, there is no reason to assume that such a transient state leads to the depressions and eating disorders that Bell is talking about. The studies have certainly not shown this. In fact, one study explicitly admits: “No research to date has directly

²⁴ Bell, “John Stuart Mill’s Harm Principle and Free Speech,” pp. 169–70. She quotes from Julie A. Woodzicka and Thomas E. Ford, “A Framework for Thinking about the (not-so-funny) Effects of Sexist Humor,” *Europe’s Journal of Psychology* 3 (2010), pp. 174–95, at 182. The other study she refers to here is Thomas E. Ford, Julie A. Woodzicka, Whitney E. Petit, Kyle Richardson, and Shaun K. Lappi, “Sexist humor as a trigger of state self-objectification in women,” *Humor* 28(2) (2015), pp. 253–69.

²⁵ Bell, “John Stuart Mill’s Harm Principle and Free Speech,” p. 169.

²⁶ Ford et al., “Sexist humor as a trigger of state self-objectification in women,” p. 266.

examined long-term emotional consequences of exposure to sexist humor at work.”²⁷ In other words: there’s no evidence.

The same holds for the alleged effects on men’s willingness to “tolerate” sexist behavior. First of all, the “tolerance” refers to the test subjects’ assessment of a supervisor’s sexist behavior *in a story* on workplace interaction. However, it is quite conceivable that after having heard a joke about beating up bosses, test subjects will (perhaps still being in a jocular mode) show more “tolerance” toward a fictitious villain beating up his boss in a *story* about violent office interaction. Whether having heard such a joke will make a difference when they witness a colleague beating up their boss in real life is an entirely different matter. In other words, whether the experimental reaction under consideration is indicative of the reaction in real life would require further argument and evidence—which is missing. Second, tolerance of “sexist” behavior can at best cause or constitute harm if the sexist behavior itself is harmful. It does not automatically become harmful by calling it (not even by being) “sexist.” Here, too, further evidence would be required. Finally, the study actually derives the allegedly “increased *tolerance* for sexist behavior” from decreased ratings of the *offensiveness* of a supervisor’s sexist behavior.²⁸ But this is a non sequitur as far as the behavior of the allegedly “tolerant” men is concerned. Men and women alike will probably find murder at the workplace more offensive than battery, but that hardly implies that they won’t object to both. Moreover, the alleged effect was only seen in men who were already “high in hostile sexism” to begin with,²⁹ and for those men sexist humor does not appear to make a *lasting* difference: “Even among men high in hostile sexism, exposure to sexist humor did not affect the evaluative content of men’s stereotypes about women relative to comparable non-humorous disparagement or neutral humor. Thus, to date, there is no evidence that exposure to sexist humor uniquely affects stable, internal knowledge structures, such as stereotypes and attitudes toward women.”³⁰

In short, none of the studies Bell refers to show that sexist jokes are more “harmful” than a mother telling her daughter to lay off the cookies and check out the Roberts diet. If the latter kind of speech isn’t harmful enough to warrant restriction, neither is the former.³¹

Bell also claims that “African Americans might be tangibly harmed by racist speech.”³² To back up this claim, she refers to a single study that she characterizes as an “overview”³³ and interprets as concluding that “racial discrimination itself can cause direct physical harm in the form of tangible adverse health outcomes.”³⁴ Actually, the study admits that “findings linking reports of racism alone to physical health—particularly among

²⁷ Woodzicka and Thomas E. Ford, “A Framework for Thinking about the (not-so-funny) Effects of Sexist Humor,” pp. 185–86.

²⁸ Ibid., p. 182.

²⁹ Ibid.

³⁰ Ibid., p. 183. Moreover, there is a general problem when it comes to the replication of priming studies, so one should perhaps think twice before drawing far-reaching conclusions from them. See Ed Yong, “Nobel Laureate Challenges Psychologists to Clean Up Their Act,” *Nature* (2012), [link to this article](#).

³¹ In fact, some level of appearance anxiety and body shame might have *beneficial* effects (as the mother clearly knows), namely perhaps to induce a diet and more visits to the gym with the concomitant desirable effects on health and sexual attractiveness and stamina.

³² Bell, “John Stuart Mill’s Harm Principle and Free Speech,” p. 170.

³³ Ibid.

³⁴ Ibid., p. 171.

African Americans—have been mixed.”³⁵ More importantly, our issue here is *speech*, and Bell concedes that the examples of the study do not refer to speech but rather to “discrimination in housing, policing, and medical care.” Yet she assures the reader that “it would be surprising if racist jokes and insults, which fall within this broad definition of discrimination, failed to affect African Americans in similar ways, especially given the demonstrated connection between sexist humor and harm to women.”³⁶ Actually, in the light of the *dissimilarities* between these two sets of phenomena, this would not be surprising *at all*, especially given, as we saw, that the studies Bell referred to failed to demonstrate a connection between sexist humor and harm to women, let alone *net harm* to human beings in general (something Millians should be concerned about).³⁷

Talking about Mill: using him of all people to argue for further speech restrictions is a rather bold move, but not a successful one. Bell states that “the main public purpose of free speech protections, for Mill, is to safeguard a public space for opinions to be shared, for debate to take place, and for rational and reasonable people to both argue for and amend their positions. Bigoted insults do not deserve protection under this rationale because they cannot reasonably be understood as opinions tendered for consideration and they are not answerable.”³⁸ But why not? After all, Bell herself explicitly states that bigoted insults express an *idea*, namely: “*You do not deserve my respect or regard; you are not my social or moral equal.*”³⁹ If Anne Frank had conveyed this message to Heinrich Himmler, she would most certainly have been *right*. Moreover, given that many current-day political theorists incorrectly believe in moral equality,⁴⁰ denying moral equality, even by way of a slur, might stimulate debate and help people to amend their positions. Prohibiting the expression of such ideas of moral inequality, even, for that matter, of race-based inequality, would amount to precisely the viewpoint-based censorship that Bell distances herself from officially⁴¹ and that Mill rejects.

Perhaps Bell thinks the same ideas could be expressed without slurs. But, first, in arguments and debates (let alone in novels or poetry, which can also express ideas) form and content cannot so easily be separated.⁴² Second, it is not so clear what is so especially bad about slurs. Bell thinks the insult “N_____ whore!” cannot be “answered.” Yet in many contexts it clearly can; what is less clear, however, is why one should think that calling someone a “prostitute of color” would be better. To be sure, Bell thinks that “bigoted insults are a form of cultural propaganda that ordinarily bypasses rational processing. Hearing an unsubstantiated statement repeated tinges it with familiarity, making hearers

³⁵ Tené T. Lewis and Miriam E. Van Dyke, “Discrimination and the Health of African Americans: The Potential Importance of Intersectionalities,” *Current Directions in Psychological Science* 27(3) (2018), pp. 176–82, at 176.

³⁶ Bell, “John Stuart Mill’s Harm Principle and Free Speech,” p. 171.

³⁷ It should perhaps also be noted that the whole attempt of avoiding net harm by restricting speech along the lines proposed by Bell (and Cudd, for that matter) seems to presuppose a sociological, psychological, and political infallibility of the censor that Mill deemed to be impossible. See also David Lewis, “Mill and Milquetoast,” *Australasian Journal of Philosophy* 67(2) (1989), pp. 152–71.

³⁸ Bell, “John Stuart Mill’s Harm Principle and Free Speech,” p. 174.

³⁹ *Ibid.*, italics in the original.

⁴⁰ For the incorrectness of this idea, see Uwe Steinhoff, “Against Equal Respect and Concern, Equal Rights, and Egalitarian Impartiality”, in Uwe Steinhoff (ed.), *Do All Persons Have Equal Moral Worth? On ‘Basic Equality’ and Equal Respect and Concern* (Oxford: Oxford University Press, 2014), pp. 142–72.

⁴¹ Bell, “John Stuart Mill’s Harm Principle and Free Speech,” p. 174.

⁴² Collier, “Hate Speech and the Mind-Body Problem,” pp. 223–34. Note also that in *Matal v. Tam* the Supreme Court endorsed the “right to . . . present argument for particular positions in particular ways” and clarifies that “giving offense is a viewpoint.” See [link to this article](#).

more likely to believe it whether or not it is true.”⁴³ That is not uniquely true of “bigoted slurs,” though, but also of the claims made by anti-racist activists about the supposed racism of people who may or may not in fact be racist. Does Bell want to restrict those too?

Moreover, Bell greatly underestimates the benefits of free speech for “the oppressed” and overrates the importance that “bypassing of rational processing” has for Mill. She states:

Mill recognizes that writing a newspaper opinion that corn merchants are starvers of the poor is an importantly different matter from shouting the same opinion to an angry mob gathered at the merchant’s business or home . . . [E]xperimental evidence suggests that expressing views such as “women only have value as wives or sexual partners” is significantly less likely to cause harm to women than expressions of comparable views using humor, *which bypasses rational consideration, as does an incendiary statement to an angry mob*. . . . So . . . the manner of expressing . . . opinions could be shaped to optimize their potential contributions to rational discussion while minimizing their likelihood to harm socially vulnerable, disadvantaged, or oppressed people, whether the foreseeable harm is imminent or festering, caused simply or by aggregation of contributory causes.⁴⁴

First, how is that going to be achieved? By having political discourse be moderated by a Victorian chaperone (“Oh yes, my dear, I know that you think that members of that group are degenerate fascist scum—but could you say that rather less stridently”)? Second, the suggestion sounds as though harm to people who are not “vulnerable, disadvantaged, or oppressed” does not count, which is rather biased. Moreover, even accepting the special status of such groups, it would appear that someone is going to have to decide *a priori* who they are, for if you allow for a controversial debate about this question, then they would still meanwhile be legitimate targets of slurs. After all, granting some but not other groups immunity during the debate would be to beg the question. And it would certainly be a mistake to have this question decided (or begged) by enemies of free speech, for they do not appear to be particularly prone to register all the evidence or to allow others access to it.

Bell is no exception. She says that the view (at least if expressed by a “white man”) that “men are naturally better at mathematics, . . . or the view that African-American poverty is a consequence of poor work ethic,” articulate “bigoted stereotypes.”⁴⁵ One would assume that a view can only be “bigoted” if it is unsubstantiated. She provides no evidence that these views are, which indicates that it is not the white man, but perhaps she who expresses bigoted stereotypes, in this case of the leftist variety.⁴⁶

⁴³ Bell, “John Stuart Mill’s Harm Principle and Free Speech,” p. 175.

⁴⁴ *Ibid.*, p. 170.

⁴⁵ *Ibid.*, p. 178.

⁴⁶ For some evidence, provided by a black scholar, that the white man may be correct, see Thomas Sowell, *Discrimination and Disparities, Revised and Enlarged Edition* (New York: Basic Books, 2019), pp. 101–5 and 166–70. As regards math: empirical evidence shows that for decades males have been, *on average*, better at math than women. These disparities seem to have become smaller or even to have disappeared in recent years. However, a notable difference in favor of men remains with regard to mathematical skills at the extremes of high performance. See Simon Baron-Cohen, *The Essential Difference: Men, Women and the Extreme Male Brain* (London: Penguin Books, 2004), esp. pp. 74–75; Susan Pinker, *The Sexual Paradox*, pp. 25–26; Mac Donald, *The Diversity Delusion*, pp. 198–99. There is also a difference in “tilt,” which gives women (but less so men) who are very good in math *also* the option to competitively do something *else* (and hence not math); Jonathan Waia, Jaret Hodges, and Matthew C. Makel, “Sex

Second, given Bell's professed concern for "the oppressed," she is remarkably negligent in appraising the benefits that free speech might have for them. She quickly dismisses the idea that "the civil rights movement depended on the freedom of activists to speak against the status quo," by stating that the First Amendment "never protected the free speech of enslaved persons."⁴⁷ Putting aside the fact that the term "civil rights movement" does not refer to slaves, Amendments 4, 5, 6, and 7 also failed to "protect"—that is, they were not applied to—enslaved persons; however, to suggest that enslaved persons would have been made *better* off by getting rid of requirements for search warrants and legal procedure altogether would appear to be quite a leap. After all, *abolitionists*, that is, those trying to free the slaves, did benefit from the First Amendment (as well as from the other Amendments just mentioned). Of course, sometimes they were sent to jail for their abolitionist speeches anyway, but the First Amendment surely made that more *difficult* and thus benefited slaves indirectly by making it *easier* to promote the idea that slavery should be abolished. Bell also quotes Delgado's and Stefancic's claim that the First Amendment "is far more valuable to the majority than to the minority, more useful for confining change than for propelling it."⁴⁸ That is irrelevant. After all, *suppression* of free speech might *also* be more useful for "the majority" than for "the minority." Obviously, therefore, the relevant question is whether, *comparatively*, *suppression* of free speech is more useful to those in power (whether they are a majority or not) than *free speech*. Common sense, logic, and history have provided a clear answer to this question.⁴⁹

Third, and coming back to Mill, he nowhere suggests that what bothers him about someone shouting inciting utterances to an angry mob is that it "bypasses rational processing." After all, Mill was not only opposed to manslaughter carried out in the highly emotional heat of the moment, but also against rationally calculated cold-blooded murder. Thus, what bothers him about uttering the opinion that corn-dealers are starvers of the poor in front of an angry mob, as opposed to expressing it in a newspaper article, is that the former utterance, in contradistinction to the latter, "*constitute[s]* ... a positive instigation of some mischievous act."⁵⁰ Of course, slurs *can* constitute such instigation under certain very special circumstances, but in most circumstances they simply won't. To put it metaphorically: there is a huge difference between lighting a match in the gunpowder room and lighting a match on a park bench on campus. Mill was very well aware of such differences and, accordingly, Bell's attempts to blur them unsurprisingly fail to provide a Millian case against free speech.

Differences in Ability Tilt in the Right Tail of Cognitive Abilities: A 35-Year Examination," *Intelligence* 67 (2018), pp. 76–83.

⁴⁷ Bell, "John Stuart Mill's Harm Principle and Free Speech," p. 177.

⁴⁸ *Ibid.* The quote is from Richard Delgado and Jean Stefancic, *Must We Defend Nazis? Hate Speech, Pornography, and the New First Amendment* (New York: New York University Press, 2018), p. 67.

⁴⁹ In case you are in doubt as to what this answer might be, you can get an excellent overview in Strossen, *Hate*, esp., ch. 7.

⁵⁰ John Stuart Mill, *On Liberty and Other Essays* (Oxford: Oxford University Press, 1998), p. 62, my emphasis.

4. A Blindspot of the New Enemies of Free Speech: The Harms of Suppressing and Compelling Speech

A conspicuous one-sidedness demonstrated by enemies of free speech is that while they constantly go on about the offense given or the harms produced by certain forms of free speech, they virtually never seriously consider the offensiveness and harmfulness of the *suppression* of free speech.⁵¹

To be sure, Bell does admit that “it might be just as important to the white students shouting insults that they are free to do so as it is to the African-American student to avoid those insults.” Yet she quickly assures the reader: “If these hypothetical persons’ interests are equally matched, however, the tie is easily broken by the other important dimension of free speech: the public interest in truth-seeking, equal concern for constituents, and aggregate human happiness. Public values line up squarely against permitting such an utterance in this context.”⁵² This reply is dismissive and entirely inaccurate.

First of all, “if these hypothetical persons’ interests are equally matched,” then the tie will necessarily be broken in favor of the majority insulting the minority,⁵³ for with Mill’s utilitarianism we are seeking the greatest happiness for the greatest number, aren’t we? Second, Bell is engaged in double counting here. In the Millian framework, “aggregate happiness” is not a separate point but already comprises *everything* of moral importance, including the upholding of happiness-producing values.⁵⁴ Third, we already saw that it is misguided (and rejected by the Supreme Court) to think that giving offense and thus using slurs cannot play a role in truth-seeking. Fourth, the state can demonstrate “equal concern for its constituents” by equally allowing its constituents free speech.⁵⁵ Fifth, there are also quite a number of values on the side of not suppressing free speech, not even hate speech. One is *honesty*; and in fact minorities benefit from knowing what exactly others think about them instead of having to engage in guesswork: it allows them to make more informed decisions. Other authors have argued that suppression of free speech undermines the *democratic legitimacy* of laws that could not be verbally attacked as viciously before their implementation as their opponents wanted (and the attack can of course also be indirect

⁵¹ See on this J. Angelo Corlett, “Offensiphobia,” *Journal of Ethics* 22(2) (2018), pp. 113–46; Jonathan Rausch, *The Constitution of Knowledge: A Defense of Truth* (Washington, DC: Brookings Institute Press, 2021). See also George Sher, “Taking Offense,” *Journal of Political Philosophy* 28(3) (2020), pp. 332–42. Sher’s point is not well taken by Jeremy Waldron; see his “Taking Offense: A Reply” in the same issue, pp. 343–52. He accuses Sher of “Whataboutery” (explicitly *ibid.*, p. 351, and implicitly *passim*). Actually, however, to reply (unlike Sher) to “Your speech offends and therefore should be suppressed” with “But your speech offends too” is indeed Whataboutism. Yet to reply (with Sher) “But suppression of speech offends too” is merely to point out the one-sidedness and thus inadequacy of the offensiveness-argument for restriction. Thus, when Waldron inappropriately accuses Sher of “derailing the original concern” (*ibid.*, p. 345), it might well be Whataboutism but nonetheless quite appropriate to reply: “Look who’s talking.”

⁵² Bell, “John Stuart Mill’s Harm Principle and Free Speech,” pp. 175–76.

⁵³ That is, when they are equally matched in one-to-one cases. However, the marginal value of not being insulted will diminish with the number of insulters. That value also diminishes for the insulter with the number of the insulted, but *ex hypothesi* the latter number is smaller. Moreover, suppression is *constant*, while conversely non-suppressed people will *not* constantly insult.

⁵⁴ Mill’s utilitarianism is about maximizing human happiness. “Upholding values” is only important insofar as it diminishes or produces happiness, that is, it is only important insofar as it is a negative or positive part of the aggregate human happiness.

⁵⁵ For a refutation of the “free speech violates equality” topos, see also Weinstein, *Hate Speech, Pornography, and the Radical Attack on Free Speech Doctrine*, ch. 5.

via a verbal attack on the law's supposed beneficiaries).⁵⁶ *Self-expression* and *autonomy* are further important values, in particular in a liberal society, and speakers' self-expression and autonomy would obviously be suppressed right along with their speech.⁵⁷ Thus, Bell (and others) have not only failed to demonstrate that the harms they expansively connect with free speech are actually there; they have also failed to demonstrate that those harms are greater than the harms produced by the suppression of free speech.

Another blind spot of enemies of free speech when it comes to harms and offense concerns *compelled* speech. "Woke" academia and its followers in the wider culture are not only unduly relaxed about suppressing speech but also about *compelling* it. The harms and the offense *that* might inflict are never even mentioned.

Consider the scene in George Orwell's novel *1984*, where the henchman O'Brien forces Winston under the threat of torture (and using torture) to say—even to *think*—that two plus two is five. Obviously, the threat of torture and the actual use of torture here is a particularly grave wrong-making feature of O'Brien's forcing Winston to say that two plus two is five. But it is not the *only* wrong-making feature. Imagine O'Brien were a famous and powerful male movie producer who tells the aspiring actress who unsuspectingly came to his hotel suite that he will ruin her career unless she says that two plus two is five. "But it isn't." "Yes, it is, and I want you to say it, or you can forget your Hollywood dreams. *Say it!*" Intimidated, she does say it. This man is a swine. He abuses his power and violates the actress's freedom of conscience and her freedom of speech by forcing her to say something that she knows to be wrong (it would still be swinish if she didn't *know* it but only *believed* it to be wrong). The situation doesn't improve if the abuse of power stems from a run-of-the-mill employer, from a university administration, from newspapers and journals, or a powerful media platform (think *Twitter*) threatening to throw anybody off who doesn't say "Two plus two is five" when addressing people who idiotically have the statement "Two plus two is five" on their profiles.

Yet, allegedly, the wrongfulness miraculously disappears—*poof!*—if what the male film producer, the employer, or the media platform demand under threat of these sanctions is this: that people refer to *male* persons who *declare* themselves to be women with the *female* pronouns "she" or "her." (Suppression is also involved, of course: sanctions ensue if one correctly calls the "transidentifying" male a man or uses his birth name in the case where he changed it to a female name). But the wrongfulness *doesn't* disappear: it stays right there.⁵⁸ In English language, confirmed by dictionaries, the term "woman" designates adult human females. Males aren't females. Accordingly, males identifying

⁵⁶ Ronald Dworkin, "Foreword," in Ivan Hare and James Weinstein, *Extreme Speech and Democracy* (Oxford: Oxford University Press, 2009), pp. v–ix. James Weinstein, "Hate Speech Bans, Democracy and Political Legitimacy," *Constitutional Commentary* 32 (2017), pp. 527–83.

⁵⁷ See for example C. Edwin Baker, *Human Liberty and Freedom of Speech* (New York: Oxford University Press, 1989); idem, "Autonomy and Hate Speech," in Hare and Weinstein (see previous note), pp. 139–57.

⁵⁸ I have come across the objection that the two cases are not analogical because it is a necessary truth that two plus two is four while, so the objection goes, there can be a "rational argument" on both sides on whether a "biological male" who wants to be considered a woman can "reasonably request" to be referred to with female pronouns. However, first, that women are adult human females is also a necessary and analytical truth, as dictionaries confirm. Of course, one could decide to *redefine* the term "woman" (and thereby talk about something else), but you could do the same with the meaning of the term "two." Second, both Winston and the woman in my example speak English—not some idiosyncratic party or transgender language. But it is of course still authoritarian and wrongful to force others to adopt an idiosyncratic language use to feel better about oneself; or to make them say something that in their, the speakers' language, is wrong. Third, we are not talking about "requests," but about coercion. Fourth, if you really

as a woman aren't women, period.⁵⁹ Thus, for powerful actors to force people to refer to men claiming to be women with female pronouns is to force them to deny truth and the reality right in front of their eyes; it is a rights-violating abuse of power. It also produces offense and stress and potentially harm for those who are subjected to this abuse of power. Moreover, if this film producer is a special type of "transidentifying" male, namely what psychologists and sexologists researching gender dysphoria and transsexualism have called an *autogynephile* (a man "aroused by the idea of being a woman"⁶⁰), then the actress's referring to him with female pronouns might well sexually arouse him (and explain his motivation for his wrongful action in the first place).⁶¹ His acts would then also amount to *sexual harassment*. Moreover, if we lower our standards as to what counts as "violence" in the same way as many enemies of free speech do (and certainly transgender ideologues who constantly claim that "misgendering is violence"⁶²), then, by the same standards, his act would be *sexual assault*. In addition, internet platforms enforcing a policy requiring the use of female pronouns to refer to males if those males "prefer" this would not only aid and abet sexual harassment (as they currently do), but indeed sexual assault committed by a tiny majority against a vast majority (talk about "aggregate happiness"). This sacrificing of the rights and interests of a vast majority for the satisfaction of a tiny trans minority amounts to trans supremacism. Apparently, sometimes oppression is quite all right.

think there is a disanalogy here—then consider O'Brien forcing Winston to "admit" that he, O'Brien, is a woman, and ponder on whether that diminishes the wrongfulness of O'Brien's act.

⁵⁹ Females are defined with reference to their biological role in reproduction (which is a far cry from *reducing* them or men to that role). See Alex Byrne, "Is Sex Binary? The Answer Offered in a Recent New York Times Opinion Piece is More Confusing Than Enlightening," [link to this article](#), accessed April 27, 2021; idem, "Are Women Adult Human Females?" *Philosophical Studies* 177 (2020), pp. 3783–803. Maggie Heartsilver (pseudonym), "Deflating Byrne's 'Are Women Adult Human Females?'" *Journal of Controversial Ideas* 1(1) (2021), [link to this article](#), however, tries to refute Byrne's arguments and claims that "female" and "woman" are "social categories," that is, categories *defined* by social characteristics. As far as the English language is concerned, this is simply wrong and nothing in her article shows otherwise. For further support of the biological definition of "woman," see Kathleen Stock, *Material Girls: Why Reality Matters for Feminism* (London: Fleet, 2021), esp. ch. 5. See also Uwe Steinhoff, "Das Bundesverfassungsgericht und die geschlechtliche Identität: Auf den Leim gegangen," *Cicero* (October 29, 2020), [link to this article](#); "Kulturkampf ums Geschlecht: Die Transgender-Ideologie ist totalitär und frauenfeindlich," *Cicero* (May 30, 2021), [link to this article](#); "The Transgender Craze and the Babble about 'Self-Identifying as a Woman,'" [link to this article](#). Incidentally, many transsexual or transidentifying men are perfectly aware of the fact that they are not women and do *not* claim to have the right to be treated as such. The problem is transgender ideologues, whether they are trans themselves or not.

⁶⁰ Ray Blanchard, "The Concept of Autogynephilia and the Typology of Male Gender Dysphoria," *The Journal of Nervous and Mental Disease* 177(10), pp. 616–23, at 616. See also Anne A. Lawrence, *Men Trapped in Men's Bodies: Narratives of Autogynephilic Transsexualism* (New York: Springer, 2013), as well as J. Michael Bailey, *The Man Who Would Be Queen: The Science of Gender-Bending and Transsexualism* (Washington, DC: Joseph Henry Press, 2003), esp. chs. 8 and 9. Transgender ideologues hate mention of autogynephelia. After publication of his book, Bailey became the target of a smear campaign. For a succinct overview over the phenomenon of autogynephilia as well as transgender ideologues' reaction to it, see Helen Joyce, *Trans: When Ideology Meets Reality* (London: Oneworld, 2021), ch. 2.

⁶¹ For evidence for this possibility (expressed by autogynephiles themselves), see Lawrence, *Men Trapped in Men's Bodies*, pp. 106–10.

⁶² You can google this phrase—there will be a lot of hits.

5. Concluding Thoughts: Free Speech, Rights, and Liberal Democracy

While enemies of free speech like to constantly take themselves to be detecting all kinds of “offense” given or “harms” produced by free speech, the blurred vision if not blindness regarding the harms and rights-violations involved in suppression of speech and compelled speech is conspicuous. The diagnosis: thoughtlessness or hypocrisy, probably a combination of both. The cure: free speech. It is the medium in which moral integrity and thoughtfulness thrive best.

It is also the tool through which we preserve freedom, the value at the heart of a liberal democracy. In such a system people are, for good reasons, protected against severe *rights-violations* but *not* against being offended or even against being harmed, even severely harmed. In particular, they are not—certain limits notwithstanding—protected against being harmed (by going out of business or losing a job) through the achievements of competitors (*market economy*, an element of *liberalism*); they are not protected against being severely harmed by laws passed (*democracy*); and they are not protected against being harmed by free speech (another element of *liberalism*). Indeed, while it is possible to give people *equal freedoms*, *equal rights* to engage in potentially harmful acts (like opening a restaurant that will ruin the competition or making a joke leading to transitory self-objectification), it is not possible to *equally protect them from harms*. Yes, you can equally protect them from slurs and insults, but the very act of suppressing slurs and insults *is* to harm (that is, set back the interests of) those who would rather receive insults than be kept from uttering them, and it harms *them* for the benefit of *others*. There is no equality here. Moreover, modern liberal democracies have not only done better than other regimes in securing the freedom of their citizens, but *also* in protecting them from the very severe harms regularly suffered in failed states or left- or right-wing authoritarian regimes. Free speech, however, is indispensable for sustaining liberal democracies. Therefore, anyone who is really concerned about avoiding overall net harms had better protect free speech. That those concerned about liberty should do so goes without saying.⁶³

⁶³ I thank three anonymous reviewers and the editors of the *Journal of Controversial Ideas* for helpful comments.