

THEORY

# The Conditions for Journalism Freedom and the Invisible Threat to Free Speech

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**Abstract.** *Political communication is strictly distinguished from social and individual activities that are interest-laden and thus lack the autonomy to be political. The latter belongs solely to political societies that are democratic. Indeed, there must be a strict restriction of the use of political to a public domain in which every member of society participates in public debates and decisions. Participation in debate and decision-making requires the gemini of communication: understanding and accessibility which require a public domain of public expression. The politics of technocratic journalism is the invisible threat to the right to freedom of speech.*

**Keywords:** *communication, democracy, freedom, journalism, media, political, technocratic.*

## Introduction

Equality and human autonomy cornerstones of political democracy suggest that the publicly appointed officials are bound by the democratic ethos to maintain such a public domain and thus are called on to

communicate the public issues; any communication that is designed for effect, for rhetorical obfuscation, is interest-laden and hence designed to advance the motives of an individual or a group and not the concerns of the public. In various ways, such a communication, and those who in their expertise help in its design, add to the legitimating crisis that leads finally to public cynicism.

Political journalism, as part and parcel of the originating and maintaining the political society, is designed to serve the public by providing information that is of public concern. This is not to say that gossip columns of social interest are to be excluded from the mass media. Rather, the primary task is information – despite the tendency of the public officials and their experts to obfuscate and mislead. One could in fact argue that political journalism and communication are, the primary instruments of continuing the origination and maintenance of political (i.e. democratic) society.

## **Democratic Principles**

In the Western tradition, there are posited two fundamental conceptions of the basis for democracy. The first is the classical Greek conception of human equality, based on a shared human nature, and the second rests on the conceptions stemming from various modern views. The latter are subsumed under the title of political enlightenment. Although this title hides a diverse set of conceptions, there are some basic principles that are shared by them all. First, there is a rejection of the human nature; second, there is a postulation of the human subject who is fundamentally free both with respect to the natural environment and all social and ethical norms.

Because I am from the United States, I will address democracy on the modern conceptions of democratic principles. This essay focuses on freedoms, autonomy, and equality of the citizens of a democratic political community and its ethos. The ethos implies a primacy of *communication* over power and domination. In turn, the primacy of com-

munication interconnects the various segments of the public, such as government, the citizens, and the mass media.

The principles of democracy, in which free people are the final arbitrator, the free press keeps the public informed, rest on the difference between relationships that comprise a political community and other types of human relationships. This demands a careful scrutiny of the founding of a political community, which is the only one entitled to be called democratic. Only democracies deserve to be called political.

Most types of human relationships rest on numerous common interests. Such interests may become part of a democratic society. Yet there is a difference between such interests and the founding of a democratic community. The founding and the existence of such a community are tied together inextricably. Although there are purposes that may comprise our common aims, the democratic community is its own purpose with an assumed duty by each citizen to maintain it. The reason for human relationships in a democratic community is this very relationship that is identical to its own purpose.

Autonomy must be strictly distinguished from freedom of choice. The choice is seen as a power capable of selecting among options. Yet in the final analysis, the choice is determined by an underlying motive. In this sense, its base is irrational. The freedom of autonomy is analogous to logic wherein the structures are not the results of forces, but of rational and free postulations; equality of all persons stems from autonomy. If the rules, logics, rational discourses are not derivable from natural states of affairs, there is no criterion by which one could render a decision concerning the superiority or inferiority of one postulate over another. In this sense, they are equal. Autonomous freedom as rational in the above sense results in the equality of persons who are in a position to posit the rules by which they would govern their lives and deal with the environment.

Each individual is an equal “law giver” to oneself and to the environment. If there are common rules, they will not be discovered but posited and decided on in a public (i.e. political) debate. Third, the mo-

dern concept of environment as material, coupled with the view that the human is capable of remaking the environment in accordance with his or her designs, leads to an increasing technologization of the social life and to an all pervasive technocratization of politics, to political technocracy and bureaucracy.

It is essential for the understanding of the principles of democratic political society and political activities that there can be no other sources of rules apart from those originating with the public covenant. One misunderstanding must be avoided: the autonomy of each individual, as the unconditional source of law, does not imply unrestricted activities. It states that the freely posited rules are not the causes that dominate human life but are rationally analyzable systems that can be modified and even rejected. Autonomous freedom means a life under freely posited, debated, and rationally achieved rules.

Such an achievement is a matter of mutual public debate and consensus. Indeed, this is the basic sense of the political: a public domain where all members of a community participate in the establishment and maintenance both of this domain and the rules. This is another way of saying that the political is identical with a continuous activity of maintaining, of originating the public domain as its own purpose. This is another way of saying that the political is identical with a continuous activity of maintaining, of originating the public domain as its own purpose. This domain is *the most basic political institution* on which all other political institutions – including the establishment of specific constitutions – rest. Without this institution, without each member of society being able to enter the public domain as an autonomous source of rules, the basic meaning of the political disappears.

One of the more important assertions is the universality of law. The universality is a guarantee of rationality or the absence of contradictions in a given law, i.e. every proposed and approved law must be accepted by all, including the one who proposed it. If one proposes a law against stealing, then he or she too must freely subject him or herself to the law. If a person decides to make an exception to him or herself, then

he or she contradicts him or herself because in this case the law ceases to be universal.

Any public claim to the universality of a law must exclude such contradictions. But in this sense, there is assumed the freedom and equality of persons as the ground of law. The universality of posited laws implies a more basic principle: if one proclaims that he or she has the autonomy to be the source of laws, then he or she must universalize this claim to include all members of a political community - all are equal sources of law. Without this procedure, one would face a reverse contradiction: no one is the source of laws, but I am the source of such laws.

Strictly speaking, politics has one major task: an open domain in which every member of the community participates in deciding public questions. Of course, such a position also implies that all community members are equally duty-bound to participate in all public affairs. The term *duty* should not be read morally. The concern is with an ethos, a way of being political and of constantly keeping the public arena open for public participation. It is known that the Athenians of ancient Greece regarded those who failed to participate in the public affairs not as “nonpolitical” but as “incapable of being”. Therein lays *the goal of a free journalism*. As we conceive it, communication politics is the keeping of the public arena open for public participation and the right to know.

The net result of the distinction between the political and the public-private is the conception that human autonomy requires political community where the individual's freedom is guaranteed by a free establishment of laws and a free acceptance of such laws. Public and free establishment of laws is, simultaneously, an establishment of a political community as its own purpose (i.e. the presence of the freedom of each individual to participate in the establishment of laws and the maintenance of the right of any individual to be an autonomous source of laws).

This framework allows the discussion of all other purposes. One may establish other institutions, such as legislative, administrative, and judicial, yet they too have the task of guaranteeing that in the final ana-

lysis the autonomous being remains the final arbiter or all public rules. There is a hidden condition of this guarantee: in the public arena, all social and economic differences become disregarded, and everyone enters the public domain as an equal.

In a political community, a person acts from respect for the law. The composition of such a respect means: first, that a person respects freedom and is not subject to causes and impulses; second, respect for law draws its nourishment from requirement to maintain the autonomy of everyone and thus to maintain the public arena. In this arena, laws are not given as if they were natural necessities, but depend on public participation in their continuous preservation. Third, their continuity means that freedom is not merely one of the social factors, but a condition that is equally established and maintained actively. Fourth, the maintenance of political freedom and the public sphere require a legitimate force capable of preserving the public arena against private interests and individuals who reject the freely obtained laws. Such persons have rejected their own autonomy and become subject to impulses and causes, to irrational forces. This should not be taken as if it were a moral question; rather, it reveals the ground of what is a political community and the necessity of its preservation if the human is to remain autonomous.

Rather, political community has its own ethos with respect to rights and duties in the public domain. The ethos requires a free, rational public debate and agreement on laws, issuing from mutually autonomous persons and their understanding of the necessity of maintaining the rights of all. This ethos allows for tolerance and the view that laws are not eternal. On public agreement, they can be altered or rejected. Because the posited laws are practical, they must meet the previously mentioned conditions of public approval and universality.

## **Political Communication**

In principle, the institution of the representative government is not democratic unless certain conditions are met. First, any person ap-

pointed by the public is bound legally to accomplish what the public requests. All other activities claiming to be for the sake of the public are illegal. This stems from the conception that the sole source of legality is the public and the decisions to which it binds its own members and the public officials. The public official is not to “lead” but to serve. Second, election is a dialogical process. Persons running for public office offer their proposals on public questions; such proposals become a covenant in case the official becomes appointed. That is, because the public agreed with the proposals and thus appointed a candidate to a public office, the public official is duty-bound by that very covenant to carry out the proposals. Any failure to do so is equivalent to the breaking of a binding and communicated agreement. Such officials must be dismissed from the office immediately and perhaps should be prosecuted for criminal activities. Third, a candidate for office should not only offer his or her proposals but, due to public discussions, should modify his or her proposals based on public input.

An ideological dogma is one person’s proposal, and it should reflect the possible modifications once they are exposed to public discussion. In a political society, the duty of the candidate is not to expound on “future hope” and “grand visions”, or even “my dream of better life”, but in the first instance to communicate his or her public concerns and the concerns of his or her constituency and to offer either practical or legal solutions to such concerns. This means that political communication, if it follows the structure of autonomous public and its free domain, is responsible for the statements made. Private interests, motivated by causes and irrational drives, hide, if not abolish, rational, logical, and the free discussion of public issues.

Such a discussion needs not be simplistic or without controversies. However, one principle is important: political communication consists of a triadic structure. There is the subject matter of concern that is addressed by a speaker and the public or an opponent of the speaker. What is to be avoided is the surface view, often paraded as “objective”, as is the case with the contemporary journalistic dogma. It is assumed

that if two opposing opinions are presented, then the public has an understanding of an “issue”. Yet a serious dialogue requires a thorough exposition of the subject matter of the arguments prior to its obfuscation by the so-called “different viewpoints”.

A simple exposition of viewpoints does not constitute information; the subject matter of the viewpoints is fundamental. In turn, the public participation in the public arena requires that it too should be cognizant of the subject matter of discussion and not be a simple sum of yet “other views” to be taken into account. Full rationality requires no less. It would be nonsensical to debate public policy on nuclear energy without first explaining what such energy is, what it does, what are its effects, and how it functions. It would be argued persuasively that the duty of the public, and above all a candidate for office who claims to possess an ability to serve the public, not only is to be well-versed in the subject matters that are of concern to the public, but also to be able to present the subject matter to the public.

## **Journalism**

Mass media, as transmitters of such knowledge, are among the most fundamental public “institutions” of democracy. Indeed, one could plausibly contend that they are coextensive with the continuous origination and maintenance of the autonomous source of all laws and legitimation. The uniformed citizen is hardly in position to grasp public issues and to form an rational judgment. Moreover, the very information is a condition for public dialogue, debate, and adjudication. Democracy, as an incessant self-maintenance, includes in its core the necessity for open information, present and available to everyone, not simply for the sake of extraneous purposes, but for its own sake as part of the ethos of democratic activity.

To speak in terms of the democratic principles explicated so far, mass media and journalism are political communication to the extent that they are geared toward information and thus the public. In this sense, there is no such thing as apolitical reporting. This is to say, in po-



litical society journalism is principally political communication – prior to questions of ideology or other agenda.

The public must be informed, and the ethos of journalism in democracy requires the reporting of all “entrances” in order to activate the participation of the public in public issues. Crucial to the concept of co-extension between democracy as its own purpose and journalistic mass media is the principle that whenever journalists appeal to the right of free access to and a publication of information, they are in a process of origination and maintenance of the autonomous public domain. Such a demand is not natural or social but political.

In democracy, political journalism is, above all, duty-bound to inform the public about obfuscating theatrics, and what ignorances, in-decisions, equivocations they are hiding. In turn, journalistic political communication, within the ethos of democracy, must articulate and expose what is or is not relevant for the public, what is private and particularly of no public concern, and what is essential in the proposals of current or prospective public figures. If such a public figure offers a technical solution to some public concern, the task of journalistic communication is not merely to repeat what such a figure has stated, but to raise questions whether the statement is an accurate and adequate comprehension of a given subject matter relevant to public concerns.

### **How Can a Journalist Promote Democratization?**

In the communication literature, *dialogue* is typically concerned with the notion of speaking “with” rather than speaking “to” or “at”. Presumably, speaking “with” signifies a concern for the other, whether that other be an audience, a respondent, or a conversational partner. From the perspective of journalistic methodology, dialogue is expressive of the hermeneutic principle of interpretive understanding configure in the part–whole relationship, and it additionally signifies a particular point of view on the social.

In light of the hermeneutic principle, journalists necessarily speak from the pre-interpreted, pre-reflective, pre-theoretical ground of

the life world. In other words, the taken-for-granted fund of meaning which constitutes everyday social and cultural experience is the condition for the possibility of knowledge about the experience. Journalistic knowledge, then, is necessarily reflexive – it is dependent on a pre-understanding or interpretation as its condition of existence. This circumstance is not, however, the be-all and end-all of debates regarding the relationship between the journalist and the social world.

The “speaking from” reflects the foundational experience that makes journalism possible. It does not reflect the founding activity by which a journalist creates a different social world. Intervention and transformation are unavoidable components of journalistic activities; thus, it is critical that the interests of journalists be aligned with those of the communities they investigate and report to. In keeping with this critical mandate, journalism is a social action enterprise and must acknowledge the possibility that *accountable enactments of journalistic investigation can enable social action for a positive change in and through the political domain.*

## **Journalism and Free Speech**

While language and dialogue begin to acquire a closer relationship to scientific disciplines, it is not to be forgotten that one of the bases for this conjunction is the easiness with which – at least in principle – democracy is accepted as one of its structural moments. Democracy appears problematic only when there are threats to its existence. This can be also said of language and diverse human interests (poly-logue). One should not overlook the possibility of impoverishment of language. The predominance of television, social media, advertisements, slogans, comics, the intrusion of jargons of various scientific disciplines, the prominence of functional imperatives of digital “culture” threaten linguistic competence. In this context, one should attend to both linguistic and dialogical competence in order to avoid their fragmentation and endangering of dialogical freedom. Genuine freedom demands to be expressed in the recognition of others as free and with equal rights. In

face of diverse human interests, a major part of poly-logic freedom is the commitment to respect others in their diversity. Concrete norms of activity are neither results of monological nor social subjection of the individual under self-imposed norms. They are a consequence of power or singular decision. They result from context – bound processes of poly-logue. Thus, the task of a juridical state is the institutional enhancement of discursive freedom; in turn, it is a need to protect a rich and flexible language accessible to the public and not the province of “experts”.

While accessible language is taken for granted, the question of the individual’s limitations in context is raised. A given poly-logical praxis accessible to all and limited only by its linguistic norms, can we also say that such norms are adequate for the norms of our conduct with one another? Do we not expect that others would restrict their unfettered discursive freedom by additional norms of activity? What sorts of norms should restrict our freedom without one norm favoring one person and being counter to another person? These questions point to an issue requiring resolution. An establishment of a community life requires a limitation of the freedom of action without, at the same time, surrendering freedom. This conjunction is possible if the limitations are expected from each person. The concept of expectation insures that the limitations extend over everyone’s mutual claims to freedom. What would this mean in terms of mutual claims? The primary condition is that any limitation must have a universal character expressed in a rule whose acceptance is universally expected.

The establishment of a common life cannot be a socio-technical task that would impose an order by a direct influence on the individual’s behavior. This would assume that precise means are available to affect the desired results. A genuine order of common life is only possible if the limitations on freedom stem equally from freely established rules. Only in this sense can such rules be regarded as worthy of respect. The norms that are not imposed by power but are freely established and followed are the conditions for a universal limitation of freedom. Such a

limitation is especially important with respect to poly-logical practice and its rules. It is uncontested that different socio-political contexts offer very different norms for the limitation of freedom. Does this lead to the brink of total relativism? To the extent that each community is in a position to establish its own regulations and norms freely, such norms stem from and are self-limitations of freedom. In turn, the participation in the establishment of such norms constitutes an individual as a member with rights of a given community. In this sense, there can be various communities and their norms of free self-limiting of autonomy. Any member who opposes or breaks the self-limitation ceases to be a person and excludes himself from the community. In this sense, there is no recourse to some preconceived dogmatic “natural rights”.

All rights, including the definition of personhood, are political – publically constituted in an arena of free discursive argumentation. This is not a positing of universal norms that would lay claim on some type of unconditionality. The norms that are universal are not structures but a process of public decision to establish norms capable of becoming restrictions of a given socio-political setting. However, this would mean that one is equally committed to recognize others in the public domain as possessors of claims in terms of the established norms. If I participate in the establishment of the norms, then others can, and indeed must, make claims on my restrictions to freedom. I am bound to the norms just as much as they are. In this sense, we all ought to respect our mutuality and be responsible to the very norms that we have established and to each other as persons with the rights that these norms posit. Social systems that are premised on any type of power relationships – whether their legitimation stems from theological, metaphysical, or militaristic designs – are not in any way normative. In such systems there are no persons who could claim responsibility for norms. All edicts are premised on necessity. In brief, there is no public-political domain where persons can comprise the basis of norms and be in turn legislated by such norms as persons. It is a self-founding and founding of a self-principle. Therefore, the normative implies not only equality among persons, but

also their dignity. Treating others and being treated by them under the threat or actual use of compulsion – whether physical, psychological, socio-economic – is equivalent to robbing the others and oneself of dignity. Thus, only a free dialogue is ethical, and the restriction of dialogue must be a free self-restriction of persons in terms of norms that they themselves establish and maintain. In brief, a free poly-logical community is both a normative principle and a rule of praxis.

## Conclusion

Journalism has a duty. The duty is to maintain the public and the public dialogue. The only way that journalism can maintain its duty is to become reflexive, in the sense of maintaining, public language, questioning and demanding translation from private discourse of the financialism, biologisms, to a publically accessible language. In short, journalism must be a critical journalism or it is not journalism at all.

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