

FREEDOM OF SPEECH AND COGNITIVE VICES. KANT'S AND CURRENT KANTIAN PERSPECTIVES

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ABSTRACT

Whereas liberal philosophers, from Mill to Rawls, traditionally make a plea for a very extensive freedom of opinion and of the press, invoking the no harm principle, in the last two decades, such liberal philosophers as Onora O'Neill and Jürgen Habermas, rightly worrying about the rise of antidemocratic and illiberal tendencies in the social media and on the increasing diffusion of fake news, advocate not only a self-limitation of the press, but also for substantial restrictions on the freedom of the press. Yet, their references to Kant and Mill entail a deep misunderstanding of their argument in favor of the freedom of opinion. This article attempts to demonstrate that, instead of sheltering public debates from wrong contents, one should promote the capacity of judgement of all individual participants against cognitive vices, which requires individuals to be exposed not only to true contents, but also to wrong and noxious contents.

Keywords: Kant; Mill, Freedom of opinion; Freedom.

In the current philosophical discussion on freedom of speech, the justification of a very extensive freedom of speech considered as a human right recognized by Article 19 of the *Universal Declaration of Human Rights* (1948) comes from two opposing traditional approaches: the liberal and utilitarian tradition initiated by Mill's *On Liberty* (1859) and the deontological tradition initiated by Kant's *An answer to the question: What is enlightenment?* (1784)

In the following, I would like to demonstrate that despite their otherwise opposed ethical theories, Kant and Mill share key positions in the debate about the foundation of the human right of free speech. In so doing, I will address how, despite their common general position, contemporary philosophers belonging to the Kantian tradition are radically divided (some following Kant's stance on the human right of free speech, others deeply opposed to Kant's view); an opposition is not superficial, but depends on

deeply diverging views on the relationship between anthropology and rationality in Kant.

The founding father of current Kantian practical philosophy, Rawls, adopted Kant's position on the human right to free speech as a shared and obvious moral intuition of well-ordered societies: "There are [in *A Theory of Justice*] firm constitutional protections for certain liberties, particularly freedom of speech and assembly and liberty to form political associations." (Rawls 1971, 222f.); "Here as before I proceed [...] from what the history of constitutional doctrine shows to be some of the fixed points [...]. Among these fixed points are the following: [...] there are no prior restraints on freedom of the press, except for special cases [...]." (Rawls 1993, 342) Rawls (i) expressly takes over Mill's argument in favor of free speech as an indispensable presupposition of rationality, (ii) considers free speech as a condition for any other fundamental liberties and (iii) argues, for the same reason, for active public support of free speech:

We may take for granted that a democratic regime presupposes freedom of speech and assembly, and liberty of thought and conscience. These institutions are not only required by the first principle of justice but, as Mill argued, they are necessary if political affairs are to be conducted in a rational fashion. While rationality is not guaranteed by these arrangements, in their absence the more reasonable course seems sure to be rejected in favor of politics sought by special interests. If the political forum is to be free and open to all, and in continuous session, everyone should be able to make use of it. All citizens should have the means to be informed about political issues. [...] government monies [...] must be provided on a regular basis to encourage free public discussion. (RAWLS, 1971, 225)

Let us observe that the development of the Internet and social media does not necessarily lead Kantian philosophers to revising their position. Henry Richardson even sees in their development a significant contribution to deliberative democracy:

[...] what becomes immediately apparent is the tremendous variety of deliberative fora in a modern democracy. Citizens can air their views and arguments at town meetings and public hearings, at coffee shops, on radio call-in shows and the Internet, in association newsletters and pamphlets, and so on. This diversity of

fora represents one of the ways of diffusing and mitigating the impact of the fact that individuals do vary in their persuasive abilities. Society should protect freedom of association and expression so that such a variety of fora can flourish. If it does, then there is a reasonable hope that each citizen who cares will find a forum in which he or she can be persuasive. Undoubtedly, there is more that modern states can and ought to do to promote a parallel variety in the ways in which they directly receive input from citizens. (RICHARDSON, 2003, 91f.)

In this regard, it is surprising that Onora O’Neill, with explicit references to Kantian deontological ethics, and recently, Habermas, with implicit references to it, consider their diametrically opposing views on these developments as being “unsurprising”, giving as a reason for their opposite views the very same concept of deliberative democracy advocated by Richardson and Rawls. Wu observes:

It is obvious that changes in communications technologies will present new challenges for the First Amendment. For nearly twenty years now, scholars have been debating how the rise of the popular internet might unsettle what the First Amendment takes for granted. [...] In fact, some might say that celebrants of open and unfettered channels of internet expression (myself included) are being hoisted on their own petard, as those very channels are today used as ammunition against disfavored speakers. As such, the emerging methods of speech control present a particularly difficult set of challenges for those who share the commitment to free speech so powerfully in the founding—and increasingly obsolete generation of First Amendment jurisprudence. (WU, 2019, 291)

Yet, O’Neill does not only oppose the recent development of the media – and, first of all, of social medias – to deliberative democracy. She also claims that traditional media better served deliberative democracy, because it “disciplined communication”, which implies restrictions on free speech. In so doing, O’Neill opposes Kant’s and Rawls’ position on free speech, since their position is not dependent on specific circumstances, but, instead, a matter of principle. O’Neill writes:

The familiar intermediaries that disciplined communication in the pre-digital era – editors, printers, publishers, translators, librarians and many others – were tasked with ensuring that communication met certain ethical and epistemic standards. The new intermediaries – including online service providers, social media companies, data brokers, advertising agencies, influencers and some of their powerful customers – between them control and organise the provision, marketing and use of a large range of digital content, yet may not face comparable requirements. (O'NEILL, 2002, 108)

One may be doubtful of O'Neill's assessment, if one remembers movies such as Orson Welles' *Citizen Kane* (1941) and novels such as Heinrich Böll's *The Lost Honor of Katharina Blum* (1974), and if one thinks of media moguls such as Rupert Murdoch. Now, O'Neill also has more systematic and philosophical reasons against an unrestricted freedom of speech. What are these reasons?

First, let us put aside some very specific limitations to free speech that are uncontroversial, such as the criminal prosecution of shouting "Fire!" in a crowded theater when there is no fire. O'Neill distinguishes three kinds of arguments in favor of "conceptions of free speeches, and specifically of press freedom": "*arguments from truth-seeking, arguments from individual freedom of expression and arguments from democracy*" (O'NEILL, 2004, 3). However, she rejects two of them:

(i) Arguments from individual freedom of expression: "Freedom of the press, and more generally of the media, is freedom for 'other-regarding' institutional action: it cannot be justified or derived from claims for individual freedom of expression." (O'NEILL, 2004, 4)

(ii) Arguments from democracy; partly because of their reliance on individual freedom of expression: "But arguments from democracy do not support a conception of free press freedom modeled on individual freedom of expression. Democracy requires not merely that the media be free to express views, but that they actually and accurately inform citizens. [...] They must aim to make what they publish intelligible and assessable to their audiences." (O'NEILL, 2004, 7)

The second rejection relates to the intrinsic link established by such traditional defenses of the right to free speech as the one formulated by Article 19 of the *Universal Declaration of Human Rights* (1948). Article 19 first refers to the speaker's side and to her freedom of speech, before mentioning the audience's side of free communication: "Everyone has the

right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." This aspect, to which I will return, is significant if one first considers another, more essential, aspect. The communication of information, its accuracy, its intelligibility and its accessibility, to which O'Neill refers, are part of truth-seeking, i.e., her position rests upon an argument from truth-seeking. Now, O'Neill reproaches Mill without providing such arguments from truth-seeking: "Even if Mill could show that freedom of the press is 'inseparable' from freedom of opinion and sentiment, he would need further arguments to show that either supports the discovery of truth." (O'NEILL, 2004, 4)

Before assessing the accurateness of Mill's argument in favor of free speech, let us first observe ambiguities in and questions arising from O'Neill's assertions:

(i) Does O'Neill consider accurate, intelligible and assessable information as a condition for the enjoyment of freedom of the press? Her answer is ambiguous: "Like Mill we want the press to be free to seek truth [...]" (O'NEILL, 2002, 93).

Yet, (ii) the condition for freedom of the press seems to be, in O'Neill's view, that the press provides accurate, intelligible and assessable information: "We also will need to develop a more robust public culture, in which publishing misinformation and disinformation, and writing in ways that others cannot hope to check, are limited and penalized. Yet, can we do so and keep a free press?" (O'NEILL, 2002, 92), "*A free press can be and should be an accountable press.*" (O'NEILL, 2002, 93)

Nonetheless, (iii) O'Neill seems to be aware of the history of censorship and of the vindication of free press, strongly connected to the vindication of deliberative democracy and rationality: "Yet, it is hard to see *how* we might best revise views that model freedom of the press on individual freedom of expression." (O'NEILL, 2004, 7)

As I mentioned above, O'Neill emphasizes an historical reason for her skepticism against the liberal position on the freedom of the press: a new environment. In fact, she views the main obstacle to truth-seeking as no longer being a state's restrictions on freedom of opinion and of the press, but (i) the restriction on freedom of opinion and the misuse of press freedom by the current media themselves (ii) originating from relations of power. O'Neill means both current traditional medias, because of the concentration and the constraints exerted by market power that they are experiencing, and new medias, including social medias, because of the "digital divide". (O'NEILL, 2004, 6) O'Neill recognizes that, whereas the concentration of traditional medias restricts and constrains individual freedom of expression,

“electronic technologies increase opportunities for self-expression.” (O’NEILL, 2004, 6) Thus, her point is really indifferent to self-expression and related only to truth-seeking.

O’Neill assumes that truth-seeking is also Mill’s concern, and that his argument in favor of free speech remains one of truth-seeking. She summarizes Mill’s connection between free-speech and truth-seeking in the following three points, which she then intends to refute:

- (i) Free speech guarantees the discovery of truth (cf. O’NEILL, 2004, 3)
- (ii) Free speech guarantees for truth to prevail, i.e., to be accepted (*ibid.*)
- (iii) Free speech guarantees a public debate methodically searching for truth.

[Mill] thinks freedom of expression will support the discovery of truth because he assumes that freely expressed opinions will always be exposed to discussion and scrutiny, and so to correction. [...] each will hear and respond to other’s expressions of opinion, and false views will be corrected. (O’NEILL, 2004, 5)

O’Neill raises three main objections against Mill’s argument as presented above:

- (i) In public debate with free speech, there exists a cascade of obstacles to methodical truth-seeking:

Speech acts that express opinions may fail to communicate. Some may be unintelligible; some may fail to reach an audience; some may reach only audiences who do not bother to read or listen; some may be read or heard but attract no response; some may not present or disclose enough for readers to judge and assess their content or their truth. (O’NEILL, 2004, 5)

- (ii) Truth is not necessarily the purpose of a free press. (cf. O’NEILL, 2004, 4)

- (iii) Free speech, and particularly, social networks, lead to an overwhelming proliferation of false assertions and empty speeches:

Unconstrained individual freedom of self-expression often promotes and disseminates false claims – sometimes with great success. When hundreds of flowers are allowed to bloom, weeds often crowd out valuable plants, and local monocultures persist. Where universal freedom of expression

is entrenched, a babble of mutually inattentive voices can crowd out true claims, and powerfully promoted false claims can become received views. (O'NEILL, 2004, 4)

Unfortunately, O'Neill does not really distinguish "false claims" from "babble". Yet, they are two very different things with regard to truth and truth-seeking. "False claims" may be lies, prejudiced assertions or biased assertions. All these claims are opposed to the search for truth. Indeed, they all claim to be true, although they are false, whether knowingly or not. In contrast, "babble" is "inattentive", that is, indifferent to truth claims and the logical binarity of truth values (true/false). I will go back to this major distinction later.

I find of paramount importance another problem in O'Neill's argument. O'Neill's short reconstruction of Mill's view is wrong. This would be of limited significance, if only the history of philosophy were at stake. Yet, this wrong reconstruction leads O'Neill to miss Mill's strong argument from rational political deliberation for extensive free speech, which is also Kant's argument.

Here are some of O'Neill wrong assertions about Mill's argument:

(i) Unlike O'Neill's short reconstruction of Mill's view, Mill's argument is indifferent to whether contents expressed by free speeches are true. In fact, Mill first considers "two hypotheses": the hypothesis that a speech for the protection of which he argues is true and the hypothesis that it is false, and later, a third hypothesis, that is, the "commoner case [...] when the conflicting doctrines, instead of being one true and the other false, share the truth between them."

(ii) Mill denies the possibility of ever achieving "the" full truth, i.e., assertions rightly claiming to express only the truth and the whole truth: "Even progress, which ought to superadd, for the most part only substitutes, one partial and incomplete truth for another; improvement consisting chiefly in this, that the new fragment of truth is more wanted, more adapted to the needs of the time, than that which it displaces." In this quotation, "progress" and "improvement" clearly do not mean increasing the sum of the accepted true assertions, but mere substitution of "one partial and incomplete truth for another".

(iii) Mill does not value mere unqualified truth, but "living truth", which he opposes to any "dead dogma" independently of whether a dogma is true or false.

Admittedly, Mill's argument still refers to truth, yet not (and this is the decisive point), directly. It does so, namely, through relying primarily on rejecting the following two cognitive claims that refer to truth: (i) infallibility, that is, the claim to be certain that contents are true contents,

whereby infallibility may be attributed to either oneself or to any individual or collective agent, that is (ii) a reliance on an authority, that is, reliance on another individual or collective person's claim of infallibility, whether the authority is trusted or grounded on a relationship of power or not. Mill explains that "[...] the opinion which it is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging." What Mill rejects is the claim to have reached truth, not truth-seeking. But truth-seeking is not Mill's point.

The core of Mill's argument lies in the capacity of judgment, independently of the truth-value (true/false) of single judgments: "Judgment is given to men that they may use it. Because it may be used erroneously, are men to be told that they ought not to use it at all?" Now, what is judgment from a logical point of view? On the one hand, it is connecting concepts into propositions, that is, into sentences that have truth-value. But, on the other hand, the *capacity* of judgment is (i) not limited to formulating judgments. Instead, (ii) it also pertains to grounding the truth value of one's judgments, that is, to inferring, drawing them from premises, i.e., from reasons, and (iii) to checking judgments and their foundation, leading to either accept their foundation as logically valid or to reject it as logically invalid, and, on this basis, to either accept judgments as true or reject them as false.

With regard to the capacity of judgment, Mill emphasizes the following two points:

(i) Formulating judgments is formulating propositions, that is, sentences that have truth-value. This entails the capacity to define concepts so that one can attribute a truth-value (true/false) to them, which, in turn, is the presupposition for checking the logical validity of inferences. Now, there is no clear and distinct semantic content – and thus no conceptual content – originating independently of their intersubjective use: "The fact, however, is, that not only the grounds of the opinion are forgotten in the absence of discussion, but too often the meaning of the opinion itself."

(ii) Assessing judgments is assessing their truth claim and their logical validity, which presupposes the knowledge of their grounds:

The greatest orator, save one, of antiquity, has left it on record that he always studied his adversary's case with as great, if not still greater, intensity than even his own. What Cicero practised as the means of forensic success requires to be imitated by all who study any subject in order to arrive at the truth. He who knows only his own side of the case, knows

little of that. His reasons may be good, and no one may have been able to refute them. (MILL, 1956, 44)

For the purpose of critique, one must hear the grounds of who needs to ground the proposition that is to be checked, i.e., of the author of the proposition.

Now, this is also Kant's view:

The logical egoist considers it unnecessary also to test his judgement by the understanding of others; as if he had no need at all for this touchstone (*criterium veritatis externum*). But it is so certain that we cannot dispense with this means of assuring ourselves of the truth of our judgement that this may be the most important reason why learned people cry out so urgently for freedom of the press. (KANT, Anth, AA 7:128)

These are conditions of rationality or opposed to irrationality. Last but not least, the capacity of judgment pertains to self-scrutiny, because, according to Mill, "suppress[ing] facts or arguments, [misstating] the elements of the case, or [misrepresenting] the opposite opinion [...] is so continually done in perfect good faith [...]". For this purpose, one needs the capacity to put oneself at the place of the others.

In a way similar to Mill, O'Neill fears "cognitive disasters" (O'NEILL, 2015, 146) of the kind described by Kant, who she quotes:

[I]f reason will not subject itself to the laws it gives itself, it has to bow under the yoke of laws given by another; for without a law, nothing – not even nonsense – can play its game for long. Thus the unavoidable consequence of *declared* lawlessness in thinking (of a liberation from the limitations of reasons) is that the freedom to think will ultimately be forfeited and – because it is not misfortune but arrogance which is to blame for it – will be *trifled away* in the proper sense of the word. (KANT, WDO, AA, 8: 145; O'NEILL, 2015, 146)

Yet, this does not imply that O'Neill's position is similar to Mill's and Kant's goal of the development of the capacity of judgment. In fact, her position is very different, as I would like to shortly explain.

O'Neill requires the communication of information, its accuracy, its intelligibility and its assessability as being part of truth-seeking. She considers two kinds of measure for the pursuit of this goal. The first measure concerns the transparency of the medias, of their sources, of the pluralism of positions, which O'Neill expressly opposes to free expression,

making it a principle restricting freedom of speech: “Obligation of transparency are the antithesis of rights of self-expression. Nobody can have both.” (O’NEILL, 2004, 7) Yet, according to her, transparency is not sufficient for “adequate communication”, and for adequate “judgment”,

[S]ince transparency is only a matter of making material available, of disclosure and dissemination, it may not secure good – or even adequate – communication with wider audiences. Transparency leaves many audiences unable to see the wood for the trees, unable to understand or to judge its accuracy, and ill-equipped to take an active and constructive part in democratic debate. (O’NEILL, 2004, 15)

Thus, transparency has to be complemented by a *second* kind of measure, which are “obligations to aim for accurate, intelligible and assessable communication with relevant audiences.” (O’NEILL, 2004, 26) O’Neill expressly opposes this to free expression, advocating restrictions on freedom of speech: “The contrasting ideals of freedom of expression (for the media) and duties of transparency (for other institutions) both ignore the real demands of communication. In unrestricted forms, both damage rather than support democracy.” (O’NEILL, 2004, 16)

O’Neill’s measures have major implications:

(i) Both kinds of measure pertain to restrictions on the contents of communication, i.e., they restrict it to what the audience is currently able to make a judgment about. They do not amount to developing the capacity of judgment into new abilities of judgment.

(ii) For their implementation, these measures need, apart from the general audience, a further audience that is able to understand more than the general audience can, to select the contents on which the general audience is currently able to make an adequate judgment and to discard the contents on which the general audience is currently unable to make an adequate judgment, e.g., “deceiving” contents.

Thus, these two kinds of measures (i) transfer significant parts of the general audience’s task of judgment to an authority that the general audience has to consider as if it were infallible, and (ii) they freeze the development of the capacity of judgment at the level of their current ability to make judgments. Thus, O’Neill and Mill have opposing views both (i) on the extent of the right of free speech and (ii) on the justification for free speech.

Now, is O’Neill’s view on both points a Kantian view?

Let us first observe that O'Neill's quotation from Kant's *What does it mean to orient oneself in thinking?* (1786) belongs to the broader context of Kant's view on the "freedom to think". It refers to the third and highest of its three dimensions, which Kant describes as follows:

The freedom of thought is opposed **first** of all to *civil compulsion*. Of course, it is said that the freedom to *speak* or to *write* could be taken from us by a superior power, but the freedom to *think* cannot. Yet how much and how correctly would we *think* if we did not think as it were in community with others to whom we *communicate* our thoughts, and who communicate theirs with us! [...]

Second, freedom to think is also taken in a sense in which it is opposed to *compulsion over conscience*; even without having external power some citizens set themselves up as having the custody of others in religious affairs, and instead of arguing they know how to ban any examination of reason [...], through prescribed formulas of belief accompanied by the anxious fear of the *dangers of one's own investigation*.

Third, freedom in thinking signifies the subjection of reason to no laws except those which it gives itself; and its opposite is the maximum of a lawless use of reason [...]. (KANT, WDO, AA8: 144)

The two first dimensions are respectively opposed by Kant to (i) censorship and restrictions on free speech ("civil compulsion") and (ii) authority and infallibility. The third dimension requires not only laws of thought, but also that these laws are given to the person by herself, that is, "self-legislation", i.e., autonomy. The latter is incompatible with the reliance on an external audience instead of one's own capacity of judgment. Whereas the opposition to the first dimension of the freedom of thought occurs by external means alone (censorship, restrictions on freedom of speech, etc.), i.e., by external coercion ("civil compulsion") alone, the opposition to the two other dimensions of the freedom of thought (authority and infallibility; either lawlessness or external laws) can only occur in an internal way, i.e., through the will of each person in the audience. Yet, O'Neill addresses her requirements not to the audience, but to the speaker, mentioning both personal self-restrictions on free-speech and collective or institutional restrictions (e.g., sanctions):

The received wisdom on press freedom assumes that freedom and rights can be free-standing. In fact, there are no rights without counterpart obligations. Respecting obligations is as vital for communication as for other activities. Yet deceivers

[...] communicate in ways that others cannot share and follow, test and check, and thereby damage others' communication and action. [...] Obligations not to deceive are more closely connected to Kant's rather than Mill's conception of autonomy. (O'NEILL, 2002, 96)

Now, while rights and correlative duties are legal concepts, autonomy is a moral concept. Yet, in both cases, O'Neill's restrictions proceed in an external way, restricting the audience's access to cognitive contents.

Admittedly, Kant and O'Neill share the same concern: the purpose to make humanity emerge from what Kant calls its "minority", which he defines in the following way: "*Minority* is inability to make use of one's own understanding without direction from another." (KANT, WA, AA, 8:35) Yet, whereas O'Neill's focus is on sheltering the general audience from pernicious external influences, Kant focuses on the internal causes of this minority. In turn, these internal causes make it easy for pernicious influences to prevail. This minority is a "self-incurred minority" (KANT, WA, AA, 8:35), of which Kant identifies two causes: (i) cognitive laziness and (ii) cognitive cowardice (cf. KANT, WA, AA 8: 35).

(i) Concerning laziness, Kant explains: "It is so comfortable to be a minor! If I have a book that understands for me, a spiritual advisor who has a conscience for me, a doctor who decides upon a regimen for me, and so forth, I need not trouble myself at all. I need not think [...]." (KANT, WA, AA 8: 35) Laziness constitutes a vicious circle that involves both the general audience and the censors, whereby neither exerts nor develops their capacity of judgment:

What should be noted here is that the public, which was previously put under this yoke by the guardians, may subsequently itself compel them to remain under it, if the public is suitably stirred up by some of its guardians who are themselves incapable of any enlightenment; so harmful is it to implant prejudices, because they finally take their revenge on the very people who, or whose predecessors, were their authors. (KANT, WA, AA 8: 36)

(ii) Cowardice is the avoidance of confronting the predominant opinion, which Kant calls "paradox" in reference to the Greek etymology, and the avoidance of the resulting "semblance of egoism [...]. It is not boldness to run the risk that [what] one says might be untrue, but rather that only a few people might accept it." (KANT, Anth, AA 7: 129) Yet, defending a minority or dissenting position is not in itself a cognitively

virtuous behavior. The defense of a minority position or of a dissenting position may even originate from the cognitive vice of egoism, that, in turn, possibly originates from a moral vice, e.g., cognitive “vanity”, which Kant calls “*logical obstinacy*” (KANT, Anth, AA 7: 129). Yet, Kant’s argument for free speech does not refer to virtue, but only exerting and developing one’s capacity.

Thus, one has to consider free speech from the point of view of the tension between both as constitutive of social cooperation and initiates and drives the development of specifically human talents, especially of their reason or capacity of judgment: that is, the tension between the “inclination to become socialized” (KANT, IaG, AA, 8: 20) and the “propensity to individualize” (KANT, IaG, AA, 8: 21). For satisfying the “propensity to individualize”, one may strive both for (i) distinction from society, including the inclination to cognitive vain obstinacy, and (ii) for recognition by society, which opens the space for cognitive laziness and cognitive cowardice. For initiating and driving the development of human talents, and the capacity for judgment, not virtue, which cannot have developed yet, these vices are needed under the condition of freedom of thought and expression for the following reason:

[T]here are only a few who have succeeded, by their own cultivation of their spirit, in extracting themselves from minority and yet walking confidently.

But that a public should enlighten itself is more possible; indeed this is almost inevitable, if only it is left its freedom. For there will always be a few independent thinkers, even among the established guardians of the great masses, who, after having themselves cast off the yoke of minority, will disseminate the spirit of a rational valuing of one’s worth and of the calling of each individual to think for himself. (KANT, WA, AA 8: 36)

In the course of this process, O’Neill, despite my Kantian critique of her position, seems right in considering the current stage as particularly dangerous. In order to understand this danger in a Kantian way, one has to analyze the distinction mentioned above between “false assertions” and “empty babble”. Whereas O’Neill merely mentions “false assertions” and “empty babble”, and actually addresses only “false assertions”, Quassim Cassam, in *Vices of the Mind*, analyzes the cognitive vices underlying these two kinds of speech, and, in my view, he does so in a Kantian way. His analysis provides an explanation for why these vices are very different with regard to the level of development of the capacity of judgment. Cassam

characterizes in the following way two different epistemic vices: (i) “moral malevolence”, i.e., lying, and “epistemic insouciance” or “bullshitting”.

(i) *Lying* does not consist in opposing the truth value of a specific assertion: “When an honest man speaks, he says only what he believes to be true, and for the liar, it is correspondingly indispensable that he considers his statements to be false.” (CASSAM, 2019, 80) For instance, the tobacco industry lying about the dangers of smoking “[...] was not opposed to knowledge as such and [all] it did was to prevent many cigarette smokers from acquiring or retaining one specific variety of knowledge [...].” (CASSAM, 2019, 90) In the same vein, O’Neill addresses the frequent malevolence of certain tabloid newspapers and news channels.

(ii) “Epistemic insouciance”, or “bullshitting” is radically different, because it is missing all dimensions of the capacity of judgment. Firstly, the epistemically insouciant person does not attempt to formulate real judgments nor to refer to truth-value at all: “The bullshitter doesn’t reject the authority of truth; he pays no attention to it at all.” (CASSAM, 2019, 80) Secondly, the epistemically insouciant person does not attempt to ground her judgments, nor provide any justification for them: she manifests “[...] a tendency to view such questions as much less complex than they really are. Epistemic insouciance [...] means viewing the need to find evidence in support of one’s views as a mere inconvenience, as something that is not to be taken too seriously.” (CASSAM, 2019, 79) Thirdly, the epistemically insouciant person does not attempt to critically check judgments: “There is contempt for the truth, contempt for experts, and, in the case of politicians, contempt for the public.” (CASSAM, 2019, 85) This clear epistemic laziness should not be confused with either hate or contempt. Instead, showing contempt for the truth is rather a consequence of laziness. Cassam explains: “In the case of some politicians one might think that the problem is not that they have contempt for the facts or evidence but that they are too lazy to seek genuine evidential support for their views. [...] such politicians are slackers [...].” (CASSAM, 2019, 85; reference to Boris Johnson in a footnote)

Now, Cassam rightly considers that “because the bullshitter doesn’t care about [truth] [...] ‘bullshit is a greater enemy of the truth than lies are’ (2005: 61).” (CASSAM, 2019, 80) One may opt for optimism about the availability of remedies, as Cass R. Sustein does:

Mob psychology and groupthink are pervasive, and they are captured in the amplification of errors, hidden profiles, bad cascades, and group polarization. Unfortunately, the Internet makes these easier every day. Healthy aggregation of

information is certainly possible. Fortunately, the Internet makes it easier every day. (SUSTEIN, 2006,224)

Instead, one may also opt for skepticism or even pessimism. Because of this, the increasingly worrying expressions of epistemic insouciance lead a greater part of the cultivated public to demand restrictions on the freedom of speech in order to stop this evolution. The goal may be praiseworthy, but the restriction of freedom of speech is, for the reasons that I presented in Mill's and Kant's perspective, not only not the appropriate means, but it is also counterproductive. In the analysis of epistemic insouciance and in the resulting "post-truth politics" (CASSAM, 2019, 78), which corresponds to cognitive laziness and cowardice as analyzed by Kant, there is nothing that would lead Kant to modify his argument in favor of a very extensive freedom of speech. Nor is there any reason to restrict it for reasons pertaining to deliberative democracy (in today's Kantianism) or (in Kant's perspective) to deliberative republicanism. Indeed, Kant asserts: "For it shines as an example to such a government that in freedom there is not the least cause for anxiety about public concord and the unity of the commonwealth. People gradually work their way out of barbarism of their own accord if only one does not intentionally contrive to keep them in it." (KANT, WA, AA 8: 41)

Notas

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