

The Labelling and Censorship of speech and its Effects on Debate and Society

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Abstract

Freedom of Speech is hailed as a fundamental human right by article 19 of the declaration of human rights of the United Nations. Despite this, a practice gaining common ground is the labelling of speech that would otherwise fall under freedom of speech. The process of labelling speech involves making a generalizing claim about an expression with the ambition of censoring or delegitimizing it, potentially to protect others from "emotional harm" or critique. The effects of labelling speech in this manner results in a restriction in the sharing of ideas and the stigmatization of opinions and debate. This in turn results in the restriction of ideas that can be shared and removes the focus on evidence and discourse, which form essential parts of academic freedom due to the importance of discussion and debates within a well functioning western community. In this paper, we argue the danger of labelling speech, the restrictions on speech that arise due to this, and the impact of labelling speech on political debate. We take into account the consequences of the removal of these labels, which in turn may violate the right to not be offended, and counter argue that it is not productive to maintain these views due to the tendency to stigmatize and repeal certain evidence in the name of feelings and opinions.

Background

The declaration of human rights of the United Nations contains internationally agreed upon "inalienable" rights that every human should be entitled to despite their living conditions, nationality, beliefs, or other discriminating factors. Article 19 of this declaration governs the right to freedom of opinion and expression, more commonly known under the banner of the right to "freedom of speech," and claims that all people have "the right to freedom of opinion and expression (Universal Declaration of Human Rights, 8)" and that these opinions and expressions include "ideas [spread] through any media and regardless of frontiers. (Universal Declaration of Human Rights, 8)" Freedom of speech therefore also protects claims and expressions which violate the morals or status quo within a society. This naturally leads to censorship being defined as an act in which the

right to freedom of speech is stifled.

Within recent years, more and more calls have arisen within multiple societies (that implement freedom of speech as a core principle to their national laws) to stifle the freedom of speech of others through the utilization of labels. The process of labelling speech involves making a generalizing claim about an expression with the ambition of censoring or delegitimizing it. This stifling arises with a goal to protect the feelings and opinions of those who do not wish to hear them, such as "marginalized" groups in society, including asylum seekers and women (United Nations Human Rights Council). The belief that labelling speech can protect the feelings of others arises through a sense of "false pathos and applied partiality, (Shackel, 316)" resulting in a subjective application of labels on a non-uniform basis. These increased calls to censorship through labelling have sparked a discussion in these nations on the merits of adapting the right to freedom of speech to consider the feelings of others, the so called "right to freedom of critique and emotional harm." These exemptions are argued for in many forms, including a variant argued by Eric Posner in which the claim is made that freedom of speech itself is "vaguely defined (Posner)" and of itself a reflection of the "moral views (Posner)" of a society.

If the right to freedom of speech is altered to take such emotional considerations into account, it will lead to increased censorship to account for the new limitations. This censorship would not be based on the merits of the speech that was exerted, but merely on emotional factors and a lack of evidence-based argumentation that stems from the weight associated with these labels. The dangers of this additional censorship will manifest within multiple areas of society, but specifically within the field of political and societal discussion. This will result in an aim to discredit speech not on merit or argumentation, but on labels and emotionally ambivalent factors. These labels and factors contribute to a dangerous precedent that will form a discussion and debating culture which encourages singularity of thought and stifles evidence-based discussion and expression in favor of false labels. A false label could be the labelling of a person as being a "pedophile," "racist," or any other term without evidence of it being correct. This in turn sets a dangerous precedent for the improvement of society and the expression of differing opinions in essential societal fields.

Danger in Speech Labelling

Freedom of Speech ironically comes with limits which differ per society, with the goal of conforming to a set of rules that adhere to fundamental values of that society, such as restrictions on calls to violence. In his work "Is there a right to freedom of speech?" Larry Alexander argues that "all [freedom of speech] laws preclude certain courses of conduct and experiences (Alexander, 101)," referencing the requirement to understand the moral restrictions imposed upon freedom of speech laws to protect the right to life of others. It is therefore essential to

distinguish two types of speech: that which is protected by freedom of speech's intentions, and speech which is deemed to be in violation based on moral reasons. However, due to the justification of this speech being placed upon a level of morality, societies may differ from what is protected under freedom of speech.

As a result of these societal differences the classification labels differ per society. Let us maintain the definition of a label to be a societal categorization upon an expression or part of speech with a goal of censoring or delegitimizing the categorized speech. Numerous societies utilize labels to define the restrictions of freedom of speech. One such nation is The Netherlands, which has a clause protecting citizens rights from speech interference from the government, but also allows restrictions based on discrimination of age, race, or creed (Koninkrijk der Nederlanden, Art 1:GW). These labels from the level of the government must be legally found to be valid, but these labels could create a basis for civilians or non-governmental entities to cease a debate through invocation of a socially unacceptable label for speech. If a participant in a discussion is accused of having spread or created literature which conflicts with the moral guidelines of a discussion, people will be unwilling to validate the claims made and will be willing to disregard the claims or evidence in favor of their moral subjectivity, leading the labels to become a type of societal moral arbiter. The people caught as being labelled with an unacceptable quantifier will lose the right to respond to the slanderous accusations being made against them, as people will be unwilling to reconsider the motion presented due to the labels attached upon it, harming the person's platform and opportunity to be heard. It should be considered that the right to freedom of speech does not guarantee the right to a platform or the right to be heard, but libellous or slanderous claims do not fall under the right to freedom of speech, in turn justifying a right to correction of those claims on a legal basis. Although freedom of speech does not guarantee the right to a platform or to be heard, it does not grant people the right to malignantly label the work of others either, since labels not based on factual evidence can legally be regarded as slander or libel, of which the ruling by the Supreme Court of the United States is an example (*Masson v. New Yorker Magazine, Inc.*).

The result of this is that the claims or people caught within this malignant scrutiny will have a label applied to them even in an irrelevant situation, effectively eliminating them from a debate or discussion, which in turn leads to the stigmatization of ideas and beliefs upon ungrounded claims and thus turns from a non-platform to a libellous or slanderous claim. This would be a danger to a functioning democracy, whose essence relies on a discussion with all parties and beliefs to compromise and find an ideal solution.

Labelling in Politics and Debate

John Stuart Mill, an important thinker in the political line of liberalism and one of the first politicians to call for universal suffrage within the British parliament,

argued that a government must defend the right to freedom of speech, as "no society in which these liberties are not, on the whole, respected is free. (John Stuart Mill)" The aim of politics and debate within society is to hear all the angles to a possible issue, and then discuss and compromise until a solution is found that provides the greatest benefit to a society. An open and unrestricted debate, stemming from the knowledge that the ability to utter ideas will be protected under freedom of speech, is therefore essential for a democracy. Topics that can be debated about could be economic affairs (which have an effect on groups based on income) or international affairs (which involve diplomacy and the exchange of ideas), but also topics such as immigration and crime rates, which involve generalizations of groups based on aggregated factors and data. In these two areas, this commonly results in aggregation over aspects such as religion, race, or ideology. There are numerous examples in which censorship has arisen within this type of speech, where despite data showing correctness or the intent being pure, the speech is censored in the form of legal punishment, social isolation, or uncontested libellous and slanderous claims.

An example of these labels being utilized to incorrectly libel someone is that of the British politician John Enoch Powell. He gave the infamous "rivers of blood" speech in 1968 (Powell, 18), in which he quoted an excerpt from Virgil's *Aeneid*, which made a reference to "the river Tiber foaming with much blood. (Virgil, 77)" The speech itself considered the impact that immigration would have upon British society, in specific those who entered the United Kingdom dependent on an immigrant (spouse or children). The speech aimed to be critical of policy suggestions for up to 50,000 new dependents to enter the United Kingdom, claiming it would bankrupt the developing welfare state within the United Kingdom. The speech was also a warning to regulate the incoming stream of immigrants, due to the clear tensions existing "with the history and existence of the [United] States itself (Powell, 18)," in which he referred to the passing and debate of the universal voting laws at the time in the United States. The press and other politicians twisted the speech as to suggest that Powell had utilized the phrase "River of Blood," and insinuated that it were a call to violence and was racist towards immigrants. According to an analysis by Ian McLean, these insinuations (racism and threats) resulted in the removal of Powell from the shadow cabinet (McLean). The context in which Powell's words were used ("Wars, grim wars I see, and the Tiber foaming with streams of blood") creates an entirely different context, namely that the river of blood is a result of an ongoing conflict, and not a call to violence. The results of the labelling and attempted censoring of Powell's speech resulted in negative consequences for him, despite the intention (warning of instability due to rapid immigration) being pure and aiming to improve regulations within the United Kingdom. Powell's dismissal came as a result of libelous labels of racism being placed upon his speech, despite the fact that his speech was not racist, but a warning that a welfare state needs to ensure that immigrants can pay enough taxes relative to the financial pressure added upon the welfare state. He was given no opportunity, neither by his own party or the other side, to explain his intent or defend

himself from incorrect claims being made against him (McLean).

Another, more extreme, example of the consequences of labelling speech in a political and societal context is the murder of Dutch politician Pim Fortuyn. Fortuyn was a Dutch professor and politician who rose to prominence within *Leefbaar Rotterdam*, a party in the municipal elections of Rotterdam, following a campaign focused on reducing crime in the city, of which immigrants were considered to be a key contributor (Tops, 22-23). He would be removed from the municipal party after calling Islam "a backward culture" due to its behavior towards homosexuals (Volkskrant, 9 Feb 2002), of which he was one himself, and would form his own party with an identical message. In this new party, Fortuyn ran on a platform which included policies that would provide amnesty to illegal immigrants in The Netherlands while also increasing entry requirements for all new immigrants as to assimilate them into the Dutch culture. Political opponents and the press labelled many of his claims as "racist," with multiple press outlets calling him equivalent to the new "Haider, Le Pen, or Janmaat (all people who were considered as undesirable political extremes in Europe in the past)." These publications have been removed from the websites and public archives of these outlets. Many of these accusations against Fortuyn did not consider or discuss his ideas, but merely utilized the label to attack his persona, including politicians such as Thom de Graaf (from the center-left and socially "accepted" D66 party) openly making insinuations that Fortuyn's actions to the removal of an anti-discrimination segment of the Dutch Constitution would cause the same as what happened to Anne Frank during the second world war (de Graaf, 2:08 - 3:11), likening Fortuyn to a Nazi. The most common label was that he was anti-Muslim, due to his claims that Islam is a backward culture (Volkskrant, 9 Feb 2002). However, he previously stated he considered Islam to be a danger but also stated that he "opposes discrimination against [Islam] of any kind or sort. (Wansink et al.)" The latter clarification of his intent was never broadcast in public media or by other politicians, who instead used his initial claim to form labels of "racist" and "anti-Muslim" when debating with him, shutting him out of an opportunity to discuss or clarify his ideas. These labels were a false claim as aforementioned, resulting in another case of libel, and shut him out of many discussions. This perception of him as a danger for Muslims would lead to his assassination on the 6th of May, 2004. The perpetrator, an animal rights activist named Volkert van der Graaf, would later state during his trial that he committed the assassination due to Fortuyn's "danger to the weaker within Dutch society. (ECLI:NL:GHAMS:2003:AI0123)" The labels placed on his persona, along with a lack of actual debate about the suggestions of Fortuyn, would lead to his assassination. As a consequence, the Netherlands lost a man who, according to the opinion polls at the time, gave his chances of being a part of the subsequent cabinet at close to certain, coming in as the second party in the country (Rijksuniversiteit Groningen). Although Fortuyn, too, did not have an entitlement to a platform, he did have the right to defend himself, especially when being compared to groups such as the Nazi's and racists for misconstrued quotes and claims.

Consequences of Unlabeled Freedom of Speech

If labels are removed from political and societal discussions, then the effects of this will depend on the original intent of the labels. The definition of a speech label as utilized in this paper refers to "the process of labelling speech involves making a generalizing claim about an expression with the ambition of censoring or delegitimizing it." Thus, the consequence of removing these labels will result in unlimited freedom of speech to the extent of calls to violence, and thus the consequences will be interpreted as being equivalent to the consequences of unlimited freedom of speech.

The consequences of uncensored and "unlimited" freedom of speech will result in issues which arise within society due to the speech that can be expressed under its existence. One of the main arguments utilized when calling for restrictions upon freedom of speech not already bound by law is the "right to be unoffended." David Archard, in an article in the journal of applied philosophy, defined arguments as "putative wrongfulness [...] causing indirect harm (Archard, 1)," and continues to argue that the existence of those arguments should not be protected under freedom of speech. As outlined in the previous section, debates within a political or societal context may cause certain groups or individuals to be singled out for observation and assessment. This is part of a healthy process, but will be a consequence of unrestricted freedom of speech.

Uncensored freedom of speech refers to the idea of no censorship beyond the bounds of calls to violence. This means that discrimination based on groups in debates would be acceptable, a topic which would result in resistance. The recent push by academic institutions to punish non-inclusive writing, such as when utilizing gendered pronouns, or a recent report by the free-speech organization FIRE shows that many campuses favor censoring speech to not offend or be inclusive to others (FIRE, April 2017). Although the amount of educational institutes favoring these policies in the United States has decreased by almost 44 percent (FIRE, April 2017), the schools which do have these restrictive policies tend to double down on them, handing out punishments to detractors (FIRE, April 2017). Unlimited and uncensored freedom of speech would result in the "feelings" of those in favor of restrictions being "harmed" and their right to ignore speech to be infringed upon, but the ability to critique and discuss topics in an open manner without the need to hold back facts and evidence far outweighs "feelings" due to the importance of freedom of ideas and expression within (academic) debates. It is essential that any topic can be discussed in any manner, and when factual evidence suffers and makes way for feelings and opinion, the outcome suffers.

Another critique of unrestricted freedom of speech is the idea that discrimination will rapidly increase due to its existence. This logical fallacy believes that humans are willing to discriminate without these restrictions in place, but many western nations have a split between speech-discrimination and actual

discriminatory laws. In The Netherlands, the freedom of speech within press and institutions is given, among other laws, by article seven of the constitution according to accounts of jurisprudence (Koninkrijk der Nederlanden, Art 7:GW). The law which dictates actual discrimination in the area of occupation, equal opportunity access, and other such regulations are governed under the aforementioned primary article (Koninkrijk der Nederlanden, Art 1:GW). This also nullifies this critique, since freedom of speech does not equate to freedom to discriminate on equal grounds.

Conclusion

According to article 19 of the declaration of human rights by the United Nations, everybody has the right to freedom of opinion and expression, more commonly known as freedom of speech. Within recent years, more and more calls for restricting this right have arisen, to protect the feelings and opinions of those who do not wish to hear them, through the form of labels. If the requested restrictions through labelling are implemented it will naturally lead to increased censorship, with the danger that it will manifest itself in the fields of, among others, political and societal discussions and debate.

The right to freedom of speech differs per society due to differing social standards and thus each society has different categories for the labelling of speech. This categorization of speech can be used by individuals or non-governmental institutions to cease debate by invocation of a socially-unacceptable label. People who are 'labelled' will lose the right to respond as people will be unwilling to listen, because of the labels the speech and subject are associated with. This leads to asymmetric scrutiny, in which labels can be placed on everything concerning this individual, which in turn will damage this person in debate or discussion and even within other discussions. This leads to stigmatizing of an idea based on unfounded claims.

The past shows the danger of these labels being used, as with John Enoch Powell and Pim Fortuyn, two politicians of which the first lost his job and the second his life. Although the right to freedom of speech also allows others to non-platform or ignore those they do not agree with, it should be noted that placing incorrect, libellous, or slanderous labels upon another individual is not protected by the act of non-platforming or disengaging when held at a judicial level. The ability to respond to false labels and claims should be met with the ability to respond to protect the process of discourse and the freedom of speech of all parties involved without the requirement for judicial interference.

Unrestricted freedom of speech, the idea of no censorship beyond the bounds of calls to violence, could result in the feelings of people being harmed. Nevertheless, being able to use all facts and evidence in a discussion or debate far outweighs this consequence, due to its importance within discussions and de-

bates. Another possible consequence is that discrimination will increase due to the unrestricted freedom of speech. This critique does not take into account that nations make a difference between speech-discrimination and actual discriminatory laws. This refutes the critique as freedom of speech does not equate to freedom to discriminate on (equal) grounds. Restricting of the freedom of speech does not have any strong foundation but will lead to a weaker debating culture, weaken improvement within society, and the loss of freedom for a society.

The labelling of speech results in an increased ability for the aforementioned censorship to occur. The labels discussed placed subjects outside of their intended scope, and maligned them through the use of libel or slander. Therefore, the utilization of labels to delegitimize an argument or person sets a negative precedent for debates and discussions, as the ability to discuss any topic openly far outweighs the implications of allowing these labels to guide the worth of an argument.

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