

Dialectical Liberty: Finding Freedom Between State and Society

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Dialectical

Di·a·lec·ti·cal

Adjective

1. concerned with or acting through opposing forces

America is founded on a paradox. Our nation was created to safeguard the rights of the people, but the empowerment of any organization to safeguard freedom also gives that organization the ability to arbitrarily strip said freedom from individuals, threatening the very rights the organization was meant to protect. Our founding fathers offered us a solution: separation of powers, a mechanism to pit institutions against one another if any branch of government were to display dictatorial tendencies. Yet this solution only exists so long as we empower the weaker organization against the stronger, creating a balance where the rights of private citizens can exist without threat as these opposing organizations check one another. The founding fathers meant this solution to apply to government exclusively, but with the rise of mass media, another force has begun to increasingly influence the ability of Americans to speak— corporations. As such, we must strengthen the government to restrain this growing power over the United States, and incorporate market forces into the checks and balances that have prevented tyranny for centuries: a dialectical system.

There are precedents for the mutual regulation of market forces and government (in a pre-digital context). In 1798, under our second president, John Adams, Congress passed the Sedition Act. Its contents provided Federal authorities the power to prosecute any who published “false, scandalous, or malicious writing,” with penalties

ranging from incarceration to deportation (Sedition Act). The Sedition Act expired unceremoniously in 1801, after Thomas Jefferson's Democratic-Republican party unseated Adams' Federalists. Opposition had sprung up from both lower-level officials and private citizens, and a wave of popular discontent swept away the Federalists. This wave was funded and led by the wealthy Southern elite, and using their economic influence and political power, these individuals brought Jefferson into office, who simply allowed the Act to unceremoniously expire (Dow, 2009).

In 1892, a strike broke out in Homestead, Pennsylvania, regarding the payment of workers at a local Carnegie Steel plant. Without government intervention, the peaceful strike swiftly escalated as factory bosses barricaded the plant itself, union workers surrounded the town, and the Pinkertons were hired to protect incoming strikebreakers. The subsequent conflict resulted in at least 14 deaths and injuries in the dozens. In desperation, the plant manager called the Pennsylvania governor, who mobilized the National Guard and pacified the area (Adamczyk, 2022). This event, and various other outrages ranging from the Meatpacking Scandal of 1906 to the Haymarket Explosion created a long-term desire for public change. In response, the government began passing laws to protect workers' right to peaceful economic protest, claiming it as an aspect of free speech enshrined within the Constitution. All this was in opposition to corporate employer interests, who had every incentive to strangle strikes at the cost of their employees' rights (Act of March 23, 1932, 2020).

These two events that fundamentally affected the American psyche had one major commonality: the repression of free speech. The United States government suppressed the freedom of political criticism, and Carnegie Steel cracked down on the freedom of commercial expression (The First Amendment: Categories of Speech, 2019).

Yet, the root causes for both conflicts varied widely, with their eventual endings equally different. Where market forces helped bring down the Adams Administration, the government stepped in to maintain law and order in Homestead. As the relative powers of the state and private elites waxed and waned, neither could be trusted to protect the rights of U.S. citizens, but both could be trusted to protect their own interests in the face of the other's encroachment.

History shows us that there is no universal protection from tyranny— just a constant shifting balance between powers, which leave the average person enough breathing room to retain their privileges. This remains true today, even as the world continues to grapple with the advent of social media and populism expedited by technology. Yet, our modern situation is different from the days of Adams and Carnegie, with the balance between powers having shifted thanks to digital communication. The information flowing freely to all has slipped out of the grasp of national agencies and administrative bodies. Now, it is far more likely for market forces, as emblemized by popular social undercurrents such as cancel culture or the alt-right movement, to deeply affect digital speech. The nature of this transformation means that the influence of government policy on speech is waning relative to the waxing influence of market forces. In this brave new world of mass media and digital communication, the United States government is losing power over the day-to-day speech of the average American without the explicit ability to regulate the Internet. The National Telecommunications and Information Administration suggested further elaboration on existing pre-digital regulations to apply to the online sphere, but so far has not resulted in genuine policy change (FCC, 2020).

As a result, the repercussions on free speech are beginning to materialize. With private citizens able to regulate the voices of other citizens on a scale never before seen, market forces as dictated by public opinion are having a major impact on discourse as we know it. The “echo chamber” phenomenon entirely the nature of community speech as people naturally seek out and join others with the same ideals (Garimella, 2018). Though this is a long-observed aspect of human behavior, the digitization of this trend changes the situation. In the physical realm, a closed-off circle of ideas is impossible to maintain unknowingly, yet on social media it is entirely possible to stay within a community of similarly myopic fellows without quite realizing that they are not representative of the world as a whole (Cinelli, 2021). This creates an environment where speech is radicalized without the input of contradictory views and responsibility is diffused throughout a community to the detriment of all involved. Social media platforms allow this, as customers and users of their products are all the more likely to continue using platforms where their ideas are constantly supported regardless of their inherent validity.

However, unchecked algorithmic strategies to reinforce the existing beliefs of individuals have been proven to cause a decrease in the diversity of ideas, making it all the more difficult to accept and tolerate opposing ideas— a fundamental necessity for the citizens of a cohesive republic (Justwan, 2018). When it comes to maintaining our nation, the average person must be able to cooperate with their neighbors and peers regardless of political disagreements in order to maintain stability. Yet, the free market incentivizes the opposite behavior: one of intolerance, partisan communities, and limited discourse, as any corporation fundamentally wishes to satisfy its beneficiaries, regardless of the effect on society as a whole.

A more indirect way that market forces are changing free speech to be more disruptive to a healthy democracy is through cancel culture. Public outrage over what is perceived as ethically unacceptable comments or viewpoints has a similarly long history in society, from the Roman norm of political Apologia to McCarthy's Red Scare. What differentiates cancel culture from prior modes of reactions to controversy is its ability to gain traction with an immense number of barely-connected individuals in a short time. When social media platforms live and die based on public opinion, each of these forums is incentivized to take actions that bend to this outrage, in order to prevent a mass migration away to a competitor who regulates speech more to what appears to be the majority of peoples' liking.

This has extreme ramifications on the proliferation of academic, political, and social freedoms in expressing personal views or taking ideological risks. As Harper's Magazine's "A Letter on Justice and Open Debate" states: "Editors are fired for running controversial pieces; books are withdrawn for alleged inauthenticity; journalists are barred from writing on certain topics; professors are investigated for quoting works of literature in class; a researcher is fired for circulating a peer-reviewed academic study; and the heads of organizations are ousted for what are sometimes just clumsy mistakes" (Ackerman et. al, 2020). The lifeblood of a functioning democracy with enshrined rights and liberties is the ability to speak without constantly facing legal and social challenges, whether restrictions placed by one's community or government or due to social media's ability to exaggerate malice and incite emotion. Though cancel culture can bring about positive effects on our society, calling out abuse of power or embedded flaws, the negative repercussions have been felt by speakers from all areas of the political spectrum, whether left or right-leaning (largely depending on the physical and digital

communities in which they reside) (Norris, 2020). The widespread and frequently misguided anger felt through cancel culture is potent enough to seriously limit the scope of discourse ranging from politics to ethics, and without regulation, both damaging our society's long-term growth in the future and restricting our own freedoms in the present.

The question arises: why should the corporations already managing social media platforms not be allowed to self-regulate? After all, these platforms are essentially private property, opened to the public for company profit, as any physical real estate would be. Over and over, however, social media companies have shown themselves unable to self-police and to safeguard customer data— their private speech. The government has the prerogative to protect its citizens' ability to speak by regulating public spaces, digital or physical. The recent scandals regarding Elon Musk's takeover of Twitter, Facebook failing to protect its users' privacy in interpersonal speech, and Douyin/TikTok censoring the speech of U.S. citizens (in particular, anti-Chinese viewpoints) have made it overwhelmingly clear that the government needs to establish a precedent of being able to regulate social media speech in the same manner that non-digital speech is regulated (Criddle, 2020, Levin, 2023, Huddleston, 2022, Hern, 2019). By doing so, the mutual regulation of national and societal forces can continue in this new system of communication and bring the U.S. to an equilibrium where no group can exploit its power over the people.

This point brings up a more long-term concern, though— that by expanding government powers, America would only be overcorrecting and changing one set of arbitrary restrictions on free speech for another. This issue ties back to the fundamental nature of the conflict between market forces and government, which is an argument that

each generation will need to resolve based on its own values. It is almost certain that in the future, federal overreach will spark a backlash that results in restrictions on governmental authority. In our own time, however, it's clear that the government needs more concrete options to intervene in the digital sphere, since as of 2023, there are no active laws or regulatory bodies regulating social media in particular, only proposals that have not yet been implemented (DCD, 2019, FCC, 2020). Where we can see an example of a formal federalized intervention as opposed to the U.S.' policy of neglect is through the recent European Union Digital Services Act. In 2022, the EU gave its legislative body sweeping powers to enforce a fundamental tenet: what is illegal offline must be illegal online (Council of the EU, 2022). Under the new act, everything from algorithmic abuse to state propaganda will be subject to regulation, and this limited "step through the door" is critical to begin forming a balance between the national and corporate influences on digital speech.

Here in the United States, that step has not yet been, and so the question remains. *Quis custodiet ipsos custodes?* Who watches the watchmen, the company administrators that maintain the social media sites that only exist thanks to continued traffic? Echo chambers, cancel culture, and the various other abuses aided and abetted by corporations are the natural results of a sphere of communication controlled by self-interested private groups without legal checks. It is an option to trust these corporations to consider the societal and moral ramifications along with the consequences to their bottom lines— but fundamentally, we cannot expect nor rely on groups (governments and corporations alike) to behave against their own best interest. Good business and the hand of the free market dictates that controversy and disagreement can only grow the user count of a social media platform, so it should come

as no surprise that these behaviors, though damaging to society, are not only allowed but algorithmically propagated. It would be more sustainable to impose systematic regulations on these moderators in order to promote the common good. What a strengthening of the presently weak national authority over digital communication would cause is, essentially, the beginning of another back-and-forth between market forces and the government, which can ensure that neither the state nor influential individuals have the ability to unjustly dictate what ideas people are allowed to express.

Ultimately, there will never be any resolution between state and market influences when it comes to free speech. Both parties will always seek to expand their own influence and growth when possible, if only to better the world as they see it. But even with the best of intentions, when businesses begin to infringe on individual freedoms and political administrations begin to strangle the people, they must be checked. A true and far-ranging “victory” by one or the other would inevitably end in the disruption of the legal, social, and economic privileges we all hold dear, and so it is the unceasing, mutual regulation between the government and the market that prevents long-term erosion of private and public freedoms. It is not the government representing “the public good” nor groups representing market forces that can be trusted to maintain individual freedoms, but instead the conflict between the two. That is why the government must enact legislation to begin taking a more prominent role in social media— so it may reignite the conflict that keeps America free.

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