

Two Concepts of Freedom (of Speech)¹

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CONTEMPORARY CONFUSIONS

Of the many challenges facing democracy in America today, few perplex the public mind like the freedom of speech. Until recently, however, few freedoms seemed more obvious and *ours*. Let all else descend into the maelstrom of partisanship and polarization—Republicans and Democrats could at least agree to adjudicate their differences through the free (if not always fair) exchange of insults, as well as ideas. Yet ongoing controversies at American universities suggest that now free speech, too, is a partisan issue. While conservative students and their supporters invite controversial speakers to campus and assert their rights to offend their peers, self-identified liberals have engaged in increasingly disruptive, even violent, efforts to shut them down.²

For those who remember the original campus Free Speech Movement of the 1960s, this spectacular shift from Left to Right is a source of some confusion and chagrin.³ Many civil libertarians have suggested that what kids these days *really* need is a remedial civics lesson. Surely the absolutism of the First Amendment's second clause—"Congress shall make no law abridging the freedom of speech"—is unambiguous enough?

While the appeal of a retreat to the ostensibly neutral ground of the First Amendment is obvious, it is also entirely inadequate. As "the kids" are quick to point out, the cases we care about are very often those in which the Constitution does not apply. Social media mobs calling for individuals to be condemned, censured, or fired are themselves comprised of individuals exercising their constitutional rights to speak freely. Moreover, private entities like Facebook or Twitter—or colleges like Yale or Middlebury—have the right to regulate and even exclude

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2 Beinart, "Violent Attack."

3 Cox, "Berkeley Gave Birth."

members on the basis of their speech as they see fit. Pleading the First Amendment in such cases is not a knock-down argument: it is a non sequitur.⁴

Here, one might be tempted to invoke that patron saint of secular liberalism, John Stuart Mill, who warned in *On Liberty* (1859) that the greatest threat to the “freedom of thought and discussion” in democracies was not the state, but the “social tyranny” of one’s fellow citizens.⁵ Still, *neither* side of the current controversy would disagree. Indeed, many on the Left supportive of “no platforming”—that is, of denying any person or group holding objectionable views a public platform—insist that they are not *anti*-free speech at all. Rather, they—like Mill himself—are worried about the harms posed by hateful or “assaultive” speech to vulnerable groups and individuals, as well as the deleterious effects a hostile environment might have on *their* speech.⁶ On this view, denying hateful or historically privileged voices a platform is necessary to make the *equal* right to free speech effective, so that the most marginalized and precarious members of society can finally speak up—and be heard.

In making their case, these students and their supporters are putting into practice the theories developed by feminist philosophers and critical race theorists in the 1990s. These were inspired, in turn, by the theory of speech acts pioneered by J. L. Austin, the father of ordinary language philosophy. In *How to Do Things with Words* (1962), Austin argued that in addition to the “locutionary,” or semantic meaning of an utterance, and the “illocutionary,” or socially valid intentions of the speaker, one must also consider its “perlocutionary” force—that is, the action it performs in the world, intended or not.⁷ For feminists like Catharine MacKinnon, an exemplary instance of the perlocutionary effects of “doing things with words” was the sexism perpetuated by pornography. “Words and images,” she argued, “are how people are placed in hierarchies, how social stratification is made to seem inevitable and right, [and] how feelings of inferiority and superiority are engendered.”⁸

Other scholars have since extended this analysis to hate speech. They argue that racist statements, for example, serve to rank others as

4 See Post, “First Amendment Right.” Of course, the situation is different at public universities, which are covered by the First Amendment.

5 Mill, “On Liberty,” 8. Here, Mill was following closely Alexis de Tocqueville’s observation in the first volume of *Democracy in America* (1835): “I know of no country in which there is so little independence of mind and real freedom of discussion as in America” (I. 7).

6 See Waldron, *Harm in Hate Speech*; and Waldron, “Brave Spaces.” For the idea of “assaultive” speech, see Matsuda, *Words that Wound*.

7 Austin, *Things with Words*.

8 MacKinnon, *Only Words*, 31.

inferior, thus “fixing facts” about their relative position in the social hierarchy and legitimizing unequal treatment.⁹ This unequal treatment also has epistemic consequences, creating a society wherein some individuals are more equal than others in their ability to speak and be listened to.¹⁰ Thus, as Rae Langton and others argue, if the perlocutionary force of racist and sexist speech not only degrades and demeans, but *silences* others, surely one is justified in silencing such “silencing” speech—and in the name of free speech itself.¹¹

Here, one might be tempted to respond by paraphrasing Isaiah Berlin in “Two Concepts of Liberty” (1958): “Liberty is liberty, not equality or fairness . . . if I lose my freedom [of speech] in order to lessen inequality, an absolute loss of liberty occurs.”¹² But that would be too quick. Because, for all of our talk about free speech today, it is very rarely clear what we are talking *about*. Is it the right of every person, regardless of place, race, or creed, to have an equal voice or say in public debate? Or is it the license to offend claimed by the unpopular—self-styled prophets and pornographers alike? Does it belong only to words, or to deeds as well? If the latter, is it (as MacKinnon and others suggest) because speech *acts*—or because some subset of verbal and non-verbal actions constitute external expressions of the intellect, thus qualifying as the sacrosanct things we call *ideas*?¹³

In America, these questions have been debated mainly by constitutional lawyers, not philosophers. But the current conflicts on campus and beyond suggest that something deeper is at stake than the legal adjudication of competing claims to the same individual right. For as Berlin himself might have recognized, and as I will argue in this essay, underlying our contemporary controversies over free speech is a more fundamental conflict between *two* very different concepts of the freedom of speech, both as old as democracy itself: what the Greeks called *isegoria*, on the one hand, and *parrhesia*, on the other. While both are translated routinely as “freedom of speech” today, their meanings were and are importantly distinct. In ancient Athens, *isegoria* described the equal right of citizens to participate in public debate in the democratic assembly; *parrhesia*, the license to say what one pleased, how and when one pleased, and to whom.¹⁴

9 Maitra and McGowan, “Introduction and Overview”; and Waldron, *Harm in Hate Speech*.

10 The touchstone here is Fricker, *Epistemic Injustice*.

11 See Langton, “Hate Speech”; and Langton, “Beyond Belief.”

12 Isaiah Berlin, “Two Concepts.”

13 Chemerinsky and Gillman, *Free Speech*, 13.

14 For good overviews of the distinction, see Momigliano, “Freedom of Speech”; Saxonhouse, *Free Speech and Democracy*; and the collected essays in Sluiter and Rosen, *Free Speech in Classical Antiquity*.

These ancient ideas came to shape our modern understanding of what we call “freedom of speech” in fascinating and forgotten ways. In what follows, I shall outline the origins of these two concepts in the theory and practice of Athenian democracy before returning to the challenges facing American democracy today. Recognizing that there are *two* very different concepts of free speech in play, and that these are very often in tension if not outright conflict, can help explain the frustrating shape of contemporary debates—and why it often feels as though modern Americans are talking past each other when we talk about the things that matter most.

ANCIENT HISTORY

Famously, the First Amendment as we know and love it today was not the product of the Founding. Rather, it is the creation of a series of influential Supreme Court decisions in the 20th century, and the justices and jurists behind them. While Oliver Wendell Holmes’s debt to Mill in his dissent in *Abrams vs. The United States* (1919)—and its influential defense of “free trade in ideas [as] the best test of truth”—is well known, the extent to which he, Louis Brandeis, and Alexander Meiklejohn drew on ancient Athens in their jurisprudence is less so.¹⁵ For Brandeis especially, his fascination with Athens informed the conviction that freedom of speech was the sine qua non of democracy itself. (Brandeis was evidently in the habit of recommending Alfred Zimmern’s *The Greek Commonwealth* to family and friends).¹⁶

Still, despite their self-conscious emulation of the ancient Athenians, neither Mill nor his American inheritors seem to have noticed that there were two very different concepts in play.¹⁷ Of the two, *isegoria* is the older. The term dates back to the fifth century BCE, although modern historians disagree as to when the democratic practice of permitting any citizen who wished to address the democratic assembly actually began.¹⁸ Despite its common English translation as “freedom of speech,” the Greek literally means something more like “equal speech in public.” The verb *agoreuein*, from which it derives, shares a root with the word *agora* or marketplace—that is, a public

15 Werhan, “Classical Athenian Ancestry.”

16 See Strum, *Louis D. Brandeis*. Brandeis was also known to paraphrase Euripides and Pericles’s Funeral Oration in his opinions. For Meiklejohn, see Saxonhouse, *Free Speech and Democracy*, 310.

17 For Mill and Athenian democracy, see Urbinati, *Mill on Democracy*.

18 Lewis, “*Isegoria* at Athens.”

place where people, including philosophers like Socrates, would gather together and talk.¹⁹

In the democracy of Athens, this idea of addressing an informal gathering in the agora carried over into the more formal setting of the *ekklesia* or assembly. The herald would ask, “Who will address the assemblymen?” and the volunteer would ascend the *bema*, or speaker’s platform. In theory, *isegoria* meant that any Athenian citizen in good standing had the right to participate in debate and try to persuade his fellow citizens. In practice, the number of participants was fairly small, limited to the practiced rhetoricians and elder statesmen seated near the front. Disqualifying offenses included prostitution and taking bribes.²⁰

Athens was not the only democracy in the ancient world.²¹ Still, from the beginning the Athenian principle of *isegoria* was seen as something special. The historian Herodotus even described the form of government at Athens itself not as *demokratia*, but *isegoria*.²² According to the fourth-century orator and patriot Demosthenes, the Athenian constitution was based on speeches (*politeia en logois*), its citizens having chosen *isegoria* as a way of life.²³ For its critics, this was a bug, as well as a feature. One, the so-called “Old Oligarch,” complained that even slaves and foreigners enjoyed *isegoria* at Athens, which meant that one could not freely beat them as one might elsewhere.²⁴

Critics like the Old Oligarch may have been exaggerating for comic effect, but they also had a point. As its etymology suggests, *isegoria* was fundamentally about equality, not freedom. As such, it would become the hallmark of democracy in Athens, which distinguished itself from the other Greek *poleis* or city-states not by excluding slaves and women from citizenship (as did every society in the history of humankind until very recently), but rather by *including* the poor. Even the *thetes*—working Athenians who could not afford armor and so rowed in the fleet—were counted as political equals with an equal voice in the *ekklesia*. Athens even took positive steps to render this equality of public speech effective by introducing pay for the poorest citizens to attend the assembly and serve as jurors in the courts.²⁵

19 See “*Isogoria*.”

20 Lewis, “*Isegoria* at Athens,” 134. Demosthenes noted that “the majority of assemblymen [*ekklesiastai*] do not avail yourselves of your right to speak.” Demosthenes, “Against Androtion,” 22.30.

21 Cartledge, *Democracy*.

22 Herodotus, *History*, v.78.

23 Demosthenes, “On False Embassy,” 19.184.

24 Pseudo-Xenophon, “Constitution of Athenians.”

25 Cartledge, *Democracy*, 87.

While *isegoria* was essentially political, its competitor, *parrhesia*, was more expansive. Here again, the common English translation “freedom of speech” is deceptive. The Greek means something more like “all saying” (*pan + rthesis*) and comes closer to the idea of speaking freely or frankly, as in the French *franc-parler*.²⁶ *Parrhesia* thus implied openness, honesty, and the courage to tell the truth, even if it meant causing offense.²⁷ The practitioner of *parrhesia* (the *parrhesiastes*) was, quite literally, a “say-it-all.”

Like *isegoria*, *parrhesia* was seen as characteristically Athenian by its critics and defenders alike. For Euripedes, the *parrhesia* enjoyed by citizens at Athens marked the key distinction between the life of a citizen and that of a slave.²⁸ But when Plato noted that there was more *parrhesia* in Athens than anywhere else in Greece, it was not a compliment.²⁹ In *The Republic*, when Socrates describes democracy as “a city full of freedom [*eleutheria*] and *parrhesia*,” it is so anarchic that even animals wander aimlessly in the streets.³⁰ In his *Areopagiticus*—which later inspired John Milton’s famous defense of a free(-ish) press, *Areopagitica* (1644)—Isocrates lamented that his fellow Athenians “looked upon insolence as democracy, lawlessness as liberty, *parrhesia* as equality [*isonomia*] and license to do what they pleased as happiness.”³¹ Still others were more optimistic about *parrhesia*’s political benefits. Demosthenes and other orators stressed the duty of those exercising *isegoria* in the assembly to speak their minds, too, in persuading their fellow citizens.³²

Unlike *isegoria*, however, *parrhesia* was equally at home outside of the *ekklesia*, in more and less informal settings. In the theater, playwrights like Aristophanes offended all and sundry by skewering their fellow citizens, including Socrates, by name.³³ But the paradigmatic *parrhesiastai* in the ancient world were the philosophers, self-styled “lovers of wisdom” like Socrates who would accost their fellow citizens in the *agora* and tell them whatever hard truths they least liked to hear. Most notorious of these was Diogenes the Cynic, known among other things for living in a barrel, masturbating in public, and telling Alexander the Great to get out of his light—all, so he said, to reveal the truth to his fellow Greeks about the arbitrariness of their customs.

26 See “Παρησία”; and “Parrhesia, n.”

27 Balot, *Courage in Democratic Polis*, ch. 3.

28 E.g., Euripides, *Hippolytus*, 420–23; and Euripides, *Suppliant Women*, 437.

29 Plato, *Gorgias*, 461e.

30 Plato, *Republic*, 557b.

31 Isocrates, “Areopagiticus,” 7.20.

32 Werhan, *Classical Athenian Ancestry*, 318.

33 Aristophanes, “The Clouds.”

The danger intrinsic to *parrhesia* in its offensiveness to the powers-that-be—be they monarchs like Alexander or the democratic majority—fascinated Michel Foucault, who shortly before his death in the early 1980s made it the subject of a series of lectures given at Berkeley, home of the original campus Free Speech Movement.³⁴ Foucault argued that the practice of *parrhesia* necessarily entailed inequality through an asymmetry of power, hence a “contract” between the audience (whether one or many), who pledged to tolerate the offense, and the speaker, who agreed to tell them the truth and risk the consequences.³⁵

Whereas *isegoria* was fundamentally about equality, then *parrhesia* was about liberty—but liberty in the sense of *license*, not as a right but an unstable privilege that the weak enjoyed at the pleasure of the powerful. In Athens, that usually meant the majority of one’s fellow citizens, who were known to shout down or even drag speakers they disliked (including Plato’s brother, Glaucon) off the *bema*.³⁶ For the ancient origins of the modern “no platforming” movement, look no further! And just as today, the consequences for speakers who offended popular sensibilities could be violent—or deadly, as the trial and death of Plato’s friend and teacher, Socrates, attests.

The idea that Socrates was the original martyr for free speech has long been a liberal commonplace. Mill insisted in *On Liberty* that “Mankind can hardly be too often reminded, that there was once a man named Socrates, between whom and the legal authorities and public opinion of his time, there took place a memorable collision.”³⁷ As we have seen, however, Socrates’s star pupil, Plato, had nothing good to say about either *isegoria* or *parrhesia* in his works. The lack of success that Plato’s loved ones enjoyed with both practices during his lifetime may explain why. The father of Western philosophy no doubt noticed that, despite their differences, *neither* concept relied upon that most famous and distinctively Greek understanding of speech as *logos*—that is, as reason or logical argument. As such, no less an authority than Plato’s friend and student Aristotle would identify *logos* as the capacity that made human beings “political” animals in the first place.³⁸ Yet neither *isegoria* nor *parrhesia* identified the reasoned speech and argument of *logos* as particularly deserving of equal liberty or license. Which seems to have been Plato’s point. How was it that a

34 Entitled “Discourse and Truth: The Problematization of Parrhesia,” these lectures were later edited and published as Foucault, *Fearless Speech*.

35 Foucault, *Fearless Speech*, 32–33.

36 Xenophon, *Memorabilia*, III, 6.1. Readers will also remember Glaucon as Socrates’s chief interlocutor in *The Republic*.

37 Mill, “On Liberty,” 27. See also Saxonhouse, *Free Speech and Democracy*, 326.

38 Aristotle, *Politics*, 1253a.

democratic city that prided itself on free speech, in all of its forms, voted to put to death the one Athenian ruled by *logos* for speaking it?³⁹

EARLY MODERN LEGACIES

What became of these two, characteristically Athenian, concepts once the democratic institutions that gave rise to them disappeared? Unsurprisingly perhaps, *parrhesia* survived the demise of democracy in Athens more easily than did *isegoria*. As Greek democratic institutions were crushed first by the Macedonian Empire, then the Roman, *parrhesia* persisted as a rhetorical trope of *licentia* or licentious speech.⁴⁰ A thousand years after the fall of Rome, Renaissance humanists would revive *parrhesia* as the distinctive virtue of the counselor speaking to a powerful prince in need of frank advice.⁴¹ While often couched in apologetics, *parrhesia* retained its capacity to shock. The hard truths presented by Machiavelli and Hobbes to their would-be sovereigns would inspire generations of “libertines” to come.

Still, there was another adaptation of the *parrhesiastic* tradition of speaking truth to power available to early modern Europeans. Almost 1,500 years earlier, the first Christians had taken a page from Diogenes the Cynic’s book in spreading the “good news” of the Gospel throughout the Greco-Roman world—news that understandably did not sound that great to the Roman authorities. Many Christians who styled themselves as “Protestants” after the Reformation thus believed that a return to the authentically *parrhesiastic* and offensive evangelism practiced by their forebears was necessary to restore the Church to the purity of “primitive” Christianity.⁴² Exasperated observers like the humanist Erasmus turned, in turn, to the ancient Athenians for inspiration—but not as models of free speech.

In his 1525 treatise, *Lingua* (or “The Tongue”), Erasmus bemoaned the epidemic of incivility caused by Martin Luther and his followers and praised the wisdom of Solon for restraining licentious tongues through laws banning insults and speaking ill of the dead. (The institution of *isegoria* goes unmentioned.⁴³) But the rising tide of Protestant *parrhesiastai* would not be stopped. The early Quakers, for example,

39 Plato’s *Gorgias* includes the following characteristically ironic comment from Socrates to Polus: “It would indeed be a hard fate for you, my excellent friend, if having come to Athens, where there is more freedom of speech [*parrhesia*] than anywhere in Greece, you should be the one person there who could not enjoy it” (461e).

40 See Colclough, *Freedom of Speech*, 27.

41 Paul, “Counsel and Command.”

42 Bejan, *Mere Civility*, ch. 1.

43 Bejan, *Mere Civility*, 43–44. See also Wallace, “Athenian Laws.”

were known to interrupt Anglican services by banging pots and pans and shout down the minister, as well as going naked in public “for a sign.”⁴⁴ A young William Penn cited the early Cynics, along with over 60 other ancient authorities, as inspiration.⁴⁵ (One imagines Diogenes blushing . . . with pride.)

Isegoria, too, had its early modern inheritors. Still, in the absence of democratic institutions like the Athenian *ekklesia*, it necessarily took a different form. The 1689 English Bill of Rights secured “the freedom of speech and debates in Parliament,” and so applied to members of Parliament only, and only when they were present in the chamber.⁴⁶ For the many who lacked access to formal political participation, the idea of *isegoria* as an equal right of public speech belonging to all citizens eventually migrated from the (concrete) public forum to the (virtual) public sphere of philosophic and political debate.⁴⁷

For early Enlightenment philosophers like Spinoza, it was the thought—not voice—that counted. Freedom of speech (*libertas dicendi*) was a necessary consequence of (and concession to) the freedom of thought and philosophy (*libertas philosophandi*), which meant primarily that wise and moderate rulers should grant citizens a limited freedom to teach and debate their conclusions.⁴⁸ Similarly, in “What is Enlightenment?” (1784), written five years before the French Revolution, Immanuel Kant insisted that the “freedom to make public use of one’s reason,” rather than free speech, was the fundamental and equal right of human beings and citizens.⁴⁹ Even in *On Liberty*, no less a liberal than Mill defended the individual “freedom of thought and discussion” in the collective pursuit of truth, not the freedom of speech as such.

Thus while the equal liberty (or individual right) of *isegoria* remained essential for these thinkers, their focus had shifted definitively away from actual speech—that is, the physical act of using words to address others and participate in debate—to the mental exercise of rational thought, facilitated by the exchange of ideas and arguments, very often in print. And so, over the course of two millennia, one sees that the Enlightenment finally achieved what Plato could only dream: the reconciliation of *isegoria* and *logos* once and for all. This

44 Bejan, *Mere Civility*, 70–71.

45 Penn, *No Cross*, 78–79.

46 “Act Declaring Rights.”

47 Habermas, *Structural Transformation*.

48 Spinoza, *Theological-Political Treatise*, ch. 20 (“Where it is shown that in a free state everyone is allowed to think what they wish and to say what they think”).

49 Kant, “What Is Enlightenment?,” 55. In German: “*Freiheit . . . von seiner Vernunft in allen Stücken öffentlichen Gebrauch zu machen.*”

logocentric ideal of free speech as an equal right to public reason and rational deliberation remains alive and well in Europe to this day. Perhaps European efforts to criminalize hate speech also owe a clear debt to Kant, who insisted that the freedom of (reasoned) speech in public should be “the most harmless [*unschädlichste*]” of all.⁵⁰

Of course, the same could never be said of *parrhesia*. Whether ancient or early modern, the practice of speaking truth to power proved threatening to speakers and listeners alike. It was the obvious harmfulness of their *parrhesia* to the body of Christ or *corpus Christianum*—and their neighbors’ religious sensibilities—that led so many evangelical Protestants to flee prosecution (or as they saw it, persecution) in Europe for the greater liberty—and license—of the New World. The Quaker leader George Fox articulated the *parrhesiastic* principle that would inform the practice of evangelical liberty in colonies like Pennsylvania and Rhode Island thereafter: “Let them speak their minds. . . . And let him be Jew, or Papist, or Turk, or Heathen, or Protestant, or what soever, or such as worship sun or moon or sticks and stones, let them have . . . free liberty to speak forth his mind and judgment.”⁵¹

One is tempted to trace American exceptionalism about free speech all the way back to the 17th and 18th centuries. While America got the evangelicals and libertines, Europe kept the philosophers.⁵²

FUTURE FREEDOM?

When today’s student protesters claim that they are silencing certain voices—via no-platforming, social pressure, or outright censorship—in the name of free speech itself, it may be tempting to dismiss them as confused, at best. Most civil libertarians have responded by continuing to preach to the converted about the First Amendment, only this time with an undercurrent of solidaristic despair about “kids these days” and their failure to understand the fundamentals of liberal democracy.

No wonder the “kids” are unpersuaded. While trigger warnings and safe spaces grab headlines, poll after poll suggests that there is a subtler, seismic shift in mores afoot.⁵³ To a generation raised on feminist readings of Austin and convinced that hateful speech is itself a form of violence or “silencing,” to plead the First Amendment is to beg the question and miss the point. What they care about is the *equal right*

50 Kant, “What Is Enlightenment?,” 55.

51 Quoted in Gilpin, *Millenarian Piety*, 55.

52 See Bejan, *Mere Civility*, 167–74.

53 Recent polls by Pew and Brookings show that a plurality of millennials believe that hateful or offensive speech should be limited. See Wike and Simmons, “Global Support”; and Villasenor, “Views among College Students.”

to speech, and equal access to a public forum in which the historically marginalized and excluded can be recognized and heard on equal footing with the privileged. This is a claim to *isegoria*, and once one recognizes it as such, much else becomes clear—including the competing appeals to *parrhesia* by conservatives, some of whom appear increasingly determined to reduce free speech to the license to offend.

Recognizing the ancient ideas at work in these modern arguments also puts those of us committed to America's peculiar *parrhesiastic* tradition in a better position to defend it. To challenge the modern proponents of *isegoria*—and to save *parrhesia* from its current supporters—one must go beyond the freedom of speech to that other, orienting principle of American democracy: equality. For the genius of the First Amendment lies in bringing *isegoria* and *parrhesia* together, by securing the *equal right* of citizens not simply to “exercise their reason” but to speak their minds. It does so not because all citizens are equally rational or good, or because all things that are sayable are worth saying. No, it does so because the alternative will always be to empower the powers-that-happen-to-be to grant that liberty as a *license* to some—and to deny it to others, in turn.

In contexts where the Constitution does not apply, like a private university or an online forum, this opposition to the insidious inequality of arbitrary power will be a matter of culture, not law.⁵⁴ Still, with all due respect to the constitutional lawyers, it is no less pressing and important for that. As the evangelical prophets and provocateurs who pioneered America's own *parrhesiastic* tradition knew well: when the rights of all become the privilege of a few, neither liberty nor equality can last.

REFERENCES

- “An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown (1689).” *Yale Avalon Project*, http://avalon.law.yale.edu/17th_century/england.asp.
- Aristophanes. “The Clouds.” In *Four Texts on Socrates*, edited by T. West and G. West. Ithaca: Cornell University Press, 1998.
- Austin, J. L. *How to Do Things with Words*. Oxford: Clarendon Press, 1962.
- Balot, Ryan. *Courage in the Democratic Polis*. Oxford: Oxford University Press, 2014.
- Beinart, Peter. “Violent Attack on Free Speech at Middlebury.” *Atlantic*, March 6, 2017, <https://www.theatlantic.com/politics/archive/2017/03/middlebury-free-speech-violence/518667/>.
- Bejan, Teresa M. *Mere Civility: Disagreement and the Limits of Toleration*. Cambridge, MA: Harvard University Press, 2017.
- . “The Two Clashing Meanings of ‘Free Speech.’” *Atlantic*, December 2, 2017, <https://www.theatlantic.com/politics/archive/2017/12/two-concepts-of-freedom-of-speech/546791/>.

⁵⁴ Pettit, *Just Freedom*.

- Berlin, Isaiah. "Two Concepts of Liberty." In *Four Essays on Liberty*. Oxford: Oxford University Press, 1969.
- Cartledge, Paul. *Democracy: A Life*. Oxford: Oxford University Press, 2016.
- Chemerinsky, Erwin, and Howard Gillman. *Free Speech on Campus*. New Haven: Yale University Press, 2017.
- Colclough, David. *Freedom of Speech in Early Stuart England*. Cambridge, MA: Cambridge University Press, 2005.
- Cox, John Woodrow. "Berkeley Gave Birth to the Free Speech Movement in the 1960s. Now, Conservatives Are Demanding It Include Them." *Washington Post*, April 20, 2017, <https://www.washingtonpost.com/news/retropolis/wp/2017/04/20/berkeley-gave-birth-to-the-free-speech-movement-in-the-1960s-now-conservatives-are-demanding-it-include-them/>.
- Demosthenes. "Against Androtion."
———. "On the False Embassy."
- Euripides. "*Hippolytus*." In *Euripides II*, edited by D. Kovacs. Cambridge, MA: Loeb Classical Library/Harvard University Press, 1995.
- . "*Suppliant Women*." In *Euripides VIII*, edited by D. Kovacs. Cambridge, MA: Loeb Classical Library/Harvard University Press, 2015.
- Foucault, Michel. *Fearless Speech*. Edited by J. Pearson. Cambridge, MA: MIT Press, 2001.
- Fricker, Miranda. *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford: Clarendon Press, 2007.
- Gilpin, W. Clark. *The Millenarian Piety of Roger Williams*. Chicago: University of Chicago Press, 1979.
- Habermas, Jürgen. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. Cambridge, MA: MIT Press, 1991.
- Herodotus. *The History*. Translated by D. Grene. Chicago: University of Chicago Press, 1987.
- "*Ἰωννῶπια*." *The Online Liddell-Scott-Jones Greek-English Lexicon*, <http://stephanus.tlg.uci.edu/ljsj/#eid=52418>.
- Isocrates. "Areopagiticus." In *Isocrates II*, translated by G. Norlin. Cambridge, MA: Loeb Classical Library/Harvard University Press, 1980.
- Kant, Immanuel. "What Is Enlightenment?" In *Kant: Political Writings*, edited by H. Reiss. Cambridge, UK: Cambridge University Press, 1991.
- Langton, Rae. "Beyond Belief: Pragmatics in Hate Speech and Pornography." In *Speech and Harm: Controversies over Free Speech*, edited by Ishani Maitra and Mary Kate McGowan, 72–93. Oxford: Oxford University Press, 2012.
- . "Hate Speech and the Epistemology of Justice." *Criminal Law and Philosophy* 10 (2016): 865–73.
- Lewis, J. D. "Isegoria at Athens: When Did It Begin?" *Historia: Zeitschrift Für Alte Geschichte* 20 (1971): 129–40.
- MacKinnon, Catharine. *Only Words*. Cambridge, MA: Harvard University Press, 1993.
- Maitra, Ishani, and Mary Kate McGowan. "Introduction and Overview." In *Speech and Harm: Controversies over Free Speech*, edited by Ishani Maitra and Mary Kate McGowan. Oxford: Oxford University Press, 2012.
- Matsuda, Mari J., ed. *Words that Wound: Critical Race Theory, Assaultive Speech, and the First Amendment*. Boulder, CO: Westview Press, 1993.
- Mill, John Stuart. "On Liberty." In *J. S. Mill: "On Liberty" and Other Writings*, edited by S. Collini. Cambridge, UK: Cambridge University Press, 1989.
- Momigliano, Arnaldo. "Freedom of Speech in Antiquity." In *Dictionary of the History of Ideas*, 5 vols., edited by P. Wiener, 2:252–63. New York: Charles Scribner's Sons, 1974.
- "*Παρθῆσια*." *The Online Liddell-Scott-Jones Greek-English Lexicon*, <http://stephanus.tlg.uci.edu/ljsj/#eid=82270>.
- "Parrhesia, n." *Oxford English Dictionary*, <http://ezproxy-prd.bodleian.ox.ac.uk:2355/view/Entry/138130>.

- Paul, Joanne. "Counsel and Command in Anglophone Political Thought, 1485–1651." PhD diss., Queen Mary University of London, 2013.
- Penn, William. *No Cross, No Crown: Or Several Sober Reasons against Hat-Honour, Titular-Respects, You to a Single Person . . . with Sixty Eight Testimonies of the Most Famous Persons, of Both Former and Latter Ages for Further Confirmation.* London, 1669.
- Pettit, Philip. *Just Freedom: A Moral Compass for a Complex World.* New York: Norton, 2014.
- Post, Robert. "There Is No First Amendment Right to Speak on a College Campus." *Vox*, December 31, 2017, <https://www.vox.com/the-big-idea/2017/10/25/16526442/first-amendment-college-campus-milo-spencer-protests/>.
- Pseudo-Xenophon ["The Old Oligarch"]. "The Constitution of the Athenians." In Xenophon, *Xenophon in Seven Volumes*, edited and translated by E. C. Marchant. Cambridge, MA: Harvard University Press, 1984.
- Saxonhouse, Arlene. *Free Speech and Democracy in Ancient Athens.* Cambridge, UK: Cambridge University Press, 2005.
- Sluiter, I., and R. Rosen, eds. *Free Speech in Classical Antiquity.* London: Brill, 2004.
- Spinoza, Baruch. *Theological-Political Treatise.* Edited by J. Israel. Translated by M. Silverthorne. Cambridge, MA: Cambridge University Press, 2007.
- Strum, Philippa. *Louis D. Brandeis: Justice for the People.* Cambridge, MA: Harvard University Press, 1984.
- Urbinati, Nadia. *Mill on Democracy: From the Athenian Polis to Representative Government.* Chicago: University of Chicago Press, 2002.
- Villasenor, John. "Views among College Students regarding the First Amendment: Results from a New Survey." *Brookings Institute*, <https://www.brookings.edu/blog/fixgov/2017/09/18/views-among-college-students-regarding-the-first-amendment-results-from-a-new-survey/>.
- Waldron, Jeremy. "Brave Spaces." *New York Review of Books*, <https://www.nybooks.com/articles/2018/06/28/brave-spaces-campus-free-speech/>.
- . *The Harm in Hate Speech.* Cambridge, MA: Harvard University Press, 2012.
- Wallace, Robert. "The Athenian Laws against Slander." In *Symposion 1993: Vorträge zur griechischen und hellenistischen Rech*, edited by G. Thür. Cologne and Vienna, 1994.
- Werhan, Keith. "The Classical Athenian Ancestry of American Freedom of Speech." *Supreme Court Review* 2008, no. 1 (2008): 293–347.
- Wike, Richard, and Katie Simmons. "Global Support for Principle of Free Expression, but Opposition to Some Forms of Speech." *Pew Research Center*, <http://assets.pewresearch.org/wp-content/uploads/sites/2/2015/11/Pew-Research-Center-Democracy-Report-FINAL-November-18-2015.pdf>.
- Xenophon. "Memorabilia, III." In *Xenophon IV*, edited by E.C. Marchant. Cambridge, MA: Loeb Classical Library/Harvard University Press, 2013.