

Will the attack on cyberbullying threaten freedom of expression?

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Mark Mercer

Department of Philosophy

Saint Mary's University

Halifax, NS B3H 3C3

(902) 420-5825

mark.mercer@smu.ca

I'm as opposed to bullying as the next person. So why am I not pleased to know that our province recently created a task force on cyberbullying?

Mainly because I fear that the task force will recommend measures restricting freedom of expression.

Freedom of expression is important for at least four fundamental reasons. First, our beliefs and emotions are at the heart of who we are, and being able to present who we are to others is central to living a life that is our own. Second, respect for others as equal persons requires us not to interfere with them in their endeavours to present themselves to us and others. Third, identifying and dealing with interpersonal and social problems requires us to be candid and direct. Fourth, no political system is fair unless each citizen may try to affect policy by making her opinions on whatever she cares about known to her fellow citizens and to her leaders.

If expression is properly to be restricted, then, it must be because something very important is at stake. Even that's not enough. It must also be true that the restrictions envisioned will actually serve what is at stake, and that only these restrictions will serve it. Finally, it must also be true that the restrictions won't create worse problems.

Restrictions on libel, threats of violence, perjury, and a very few other categories of expression pass these stringent tests, though even in these cases we need constantly to be vigilant that the laws are applied narrowly.

Sadly, the restrictions on expression found in the criminal code, in sections 318, 319, and 320, the Hate Propaganda laws, do not pass these tests. Neither do the restrictions on hate speech found in section 13 of the Canadian Human Rights Act and in corresponding sections of provincial acts.

Though these restrictions were introduced to serve the noble cause of protecting and helping people who belong to historically oppressed or marginalized groups, no evidence exists that they work. On the other hand, that they serve to chill discussion and to reduce candour is quite clear. Finally, if the task is to improve the social standing of people of various groups, our energies would be much better spent improving access to jobs, housing, education, health care, recreation, policing, and the rest.

Canadians, though, do not in general much mind living under these laws. I think to a great extent this is to be explained by our gentle, kind nature and our deference to authority. We Canadians certainly don't like meanness. We don't even like that people suffer hurt feelings, even when meanness had nothing to do with it. If we think that the mean among us are well controlled by laws and regulations, or even if the easily hurt are protected and soothed, then we

accept the laws and regulations, even if we please ourselves to continue to declare that it's a free country.

Now it does take a strenuous person to favour a climate of freedom of expression. He realizes that his values and ideals, his self-image, can come under attack. Hearing people express disdain for one's ideals is unpleasant. As well, he recognizes that his neighbours might have to put up with worse. And yet he is happy to let people say what they want, for he gets to know himself and his values better that way. When he affirms his identity, he makes it truly his.

I said above the one of the effects of restrictions on expression was a chilly climate. A climate is chilly, though, when we wish to be candid but fear the bad consequences of our candour and don't trust that others are candid. A further effect is that we cease even to wish to be candid. We no longer have living strenuously as an ideal.

That, then, is why I am worried about the task force on cyberbullying. I fear that the task force will suggest rules governing who may communicate with whom and how they may communicate. Those who enforce the rules will read them widely. Expression and communication will suffer, as will respect for others and candour. Would-be victims will rely on the rules as a crutch, and thereby fail to mature into self-confident, autonomous adults.

If I read the mood of the times correctly, that what the task force recommends will deny children and teens freedom of expression won't much matter to parents or the public, for bullying, after all, is a serious problem. Better to take ineffective and repressive action than no action at all.

On the other hand, if the task force identifies ways to increase the toughness and resiliency of would-be victims, so that the bully's arrows fail to penetrate, then the task force will have achieved something wonderful. If it identifies ways to show the bully how terrific it is to live in respect of the autonomy of others, then, again, wonderful.

So why should I fear repressive measures rather than anticipate educative, liberating ones?

Well, are the members of the task force firmly committed to freedom of expression? Have any of them taken a stand against section 13 of the Canadian Human Rights Act? Have they suggested that section 7 (1) of the Nova Scotia Human Rights Act be re-written so that it does not pose a threat to the expression of opinion or emotion?

If I could trust that its members were dedicated civil libertarians, I would welcome a provincial task force on cyberbullying. I wouldn't be afraid and I would expect much good to come of it.