The Connected City of Ideas

Robert Mark Simpson

Forthcoming in *Daedalus: Journal of the American Academy of Arts and Sciences*

Abstract. We should drop the marketplace of ideas as our go-to metaphor in free speech discourse, and take up a new metaphor based on the idea of a connected city. Cities are more liveable when they have integrated mix of transport options that provide their occupants with a variety of locomotive affordances. Similarly, societies are more liveable when they have a mix of communication platforms that provide a variety of communicative affordances. Whereas the marketplace metaphor invites us to primarily worry about authoritarian control over the content that circulates through our communication networks, the connected city metaphor invites us to worry, more so, about the homogenization of the tools and formats through which we communicate. I argue that the latter worry demands greater attention under emerging technological conditions.

What is the purpose of a moral metaphor? Think of the boss who says "our company is a family." Or think of someone lobbying for corporate tax cuts, who says a strong business sector is "a rising tide that lifts all boats." These metaphors seem to be issuing moral appeals, of a sort. But how are they meant to work exactly?

Here's a rough proposal. The point of a moral metaphor is to highlight an aspect of a thing, and tell us that this aspect matters in how we deal with the thing, or that it matters more than we usually suppose. Moral metaphors provide *perspectives*, in Elisabeth Camp's sense of the word. They organize our thinking "by imposing a complex structure of relative prominence… so that some features stick out in our minds," and by imposing "evaluative attitudes and emotional valences

on [a thing's] constituent features."[1] The rising tide metaphor tells us that the aggregate benefits of a buoyant economy matter more than how evenly they trickle down. The family metaphor tells us that commerce isn't the only aspect of corporate life to be valued. Relationships matter too. The way we imagine the world, as Mary Midgeley says, determines "what we select for our attention among the welter of facts that constantly flood in upon us."[2] Moral metaphors are devices for imaginative reflection that highlight morally underappreciated aspects of things.[3]

If we want to judge the aptness of a moral metaphor we have to ask "does it make sense to shine a moral spotlight on that part of the stage?" Consider the corporate family metaphor. It highlights the way that companies give us relationships, not just commerce. Its aptness depends on whether this part of corporate life is in fact underappreciated. Maybe we judge that it is. Or maybe we think it isn't, and that highlighting it is mainly about guilting workers into doing unpaid overtime.

ଔ

I am talking about how moral metaphors work because I think we need to update the metaphors we use around free speech. Everyone can see that our communication tools and practices are evolving fast, with a mix of welcome and unwelcome results. But there is an aspect of this evolution that is seriously underappreciated. Our communication tools and practices are increasingly subject to standardizing and homogenizing pressures. We are being corralled into a narrower range of devices and methods for talking to each other. We need to actively strategize about

---

[1] Elisabeth Camp, "Two Varieties of Literary Imagination: Metaphor, Fiction, and Thought Experiments", *Midwest Studies in Philosophy* 33 (1) (2009): 107-30, p. 111.

[2] Mary Midgeley, *The Myths We Live By* (Abingdon: Routledge, 2004), p. 3.

[3] In his seminal work on the meaning of metaphors Donald Davidson argues that metaphorical statements are (normally) straightforwardly untrue. He doesn't deny that metaphors convey truths about the entities they refer to. His point is about meaning, narrowly construed. "Peter is an imp" can convey, truly, that "Peter is like an imp, in that he is mischievous." But for Davidson, "Peter is an imp" doesn't *mean* "Peter is mischievous like an imp". It means the false thing that it literally says: that Peter *is* an imp. The communicative utility of a metaphorical statement isn't due to its literal meaning, i.e. its semantics, but to how it's used, i.e. its pragmatics. For Davidson, we can't explain why metaphors convey what semantically adjacent non-metaphorical statements don't, unless we interpret their communicative power in pragmatic terms; see "What Metaphors Mean", *Critical Inquiry* 5 (1) (1978): 31-47. Since I'm saying that metaphors *tell us* things, it may sound like I hold the view Davidson is criticizing. But in fact I'm uncommitted about whether the communicative power of metaphor is explicable in semantic terms. All I'm saying is that metaphors are highlighting devices. Both Davidson and his opponents can agree on that. Admittedly, Davidson does wants to say (i) that metaphors convey things subtly and ambiguously, (ii) in a way that's liable to be oversimplified on a semantic analysis. But Davidson exaggerates his point with respect to (i). Yes, *some* metaphors are subtle, and resist straightforward decoding. Still, even if it's right that metaphorical statements convey what they do pragmatically, rather than semantically, some metaphors – including the free speech metaphors that I'm analyzing – can be propositionally paraphrased with relative ease, and without losing any of the subtleties that their usage conveys.

how to deal with the threat that this homogenization poses to our abilities as creative, reflective, thinking beings. But first we need to recognize it *as* a threat.

The dominant moral metaphor in free speech discourse, namely, the marketplace of ideas, inadvertently desensitizes us to this threat. This metaphor invites us to worry, primarily, about authorities controlling the ideological content of public communication. At the same time it analogically portrays homogenization in our methods of communication as something benign or even good. We need another metaphor that frames this homogenization as something to worry about.

Cities are more liveable when they are connected – when they have an integrated mix of trains, cars, buses, cycle paths, walking paths, etc., which provide a diverse array of locomotive affordances. Similarly, societies are more liveable if they enable us to use a variety of idea-transmission media with diverse communicative affordances, e.g. with respect to expressive formats (text, voice, other), stylistic options, breadths of audience, and tempos of exchange. We should be able to freely exchange ideas and information, subject to reasonable caveats. But we shouldn't be content with this measure of freedom. We should also be free to exchange ideas using a heterogeneous repertoire of media and methods, suited to various communicative purposes. We should have a connected city of ideas.

John Stuart Mill's writing inspired the marketplace of ideas metaphor. But the metaphor has become a dead dogma of the kind that Mill saw as inhibiting our mental vitality.[4] If we want to carry the free speech tradition's underlying ideals into the future, and refashion liberal society, we need interpretive lenses that have a deeper focal point than the marketplace metaphor gives us. We need lenses that orient our gaze toward problems which Mill, in the 19th century, and the lawmakers who implemented his ideals in the 20th century, couldn't yet envision.

The marketplace metaphor has established rivals. Alexander Meiklejohn used the image of a town hall meeting to illustrate the normative appeal and pragmatic

[4] The phrase *marketplace of ideas* doesn't appear in Mill's *On Liberty*, and the metaphor arguably misrepresents the core content of Mill's arguments there, insofar as (i) Mill is opposed, above all, to forces of social conformity, and (ii) markets can enable these very forces, by enabling wealthy people's unequal spending power to disproportionately influence society; see Jill Gordon, "John Stuart Mill and the 'Marketplace of Ideas'," *Social Theory and Practice* 23 (2) (1997): 235-49, pp. 239-43. Mill's work partly inspired the metaphor's inception and uptake, nonetheless. Taken at face value, the gist of Mill's argument for free speech in *On Liberty* is that free speech promotes truth. And when Oliver Wendell Holmes gave his famous dissent in *Abrams v. United States*, 250 U.S. 616 (1919), saying – "the best test of truth is the power of the thought to get itself accepted in the competition of the market" – he established a resilient associative link, at least in Anglophone societies, between market-based speech metaphors and Millian free speech justifications.

implications of a democratic conception of free speech.[5] Robert Goodin and Robert Sparrow have riffed on marketplace lingo, inviting us think of free speech culture as a garden of ideas.[6] Seana Shiffrin's 'thinker-based' theory of free speech has, at its heart, a striking simile, likening censorship to solitary confinement.[7]

By pitting my connected city metaphor against the marketplace of ideas I am not insisting that the latter is the best of the currently-available options. I am targeting the marketplace metaphor mainly because it is so influential. At the same time I disagree with those critics who regard it as a totally hollow or disingenuous piece of rhetoric.[8] I believe it has some enduring merit as a highlighting device.

In order to appreciate this we have to decode the metaphor, by asking why markets *per se* are presumed valuable. Liberals believe the marketplace of ideas should be prized, and that protecting it is part of the point of free speech. But why not just say "censorship is bad"? If the metaphor offers any added value it's in highlighting how the benefits of not having censorship resemble the benefits of using free markets to organize certain activities. But where does the resemblance lie?

The key convictions behind a pro-market ethos, for present purposes, are (i) that preference-satisfaction is good, or a reasonable proxy for the good, (ii) that people are decent at knowing their own preferences, and (iii) that people do better, in acting to satisfy their preferences, than third parties. Except in special circumstances, then, we should avoid things like centrally-planned economies or protectionist limits on trade. These are bad because they interfere – ineptly, or based on insufficient information – with the satisfaction of our preferences, which are better satisfiable if we are left to conduct voluntary, mutually-beneficial exchange. Or so the theory says.[9] In essence: markets are good because they distribute stuff

---

[5] Alexander Meiklejohn, *Free Speech and its Relation to Self-Government* (New York: Harper & Brothers, 1948); see especially "Chapter 1: The Rulers and the Ruled".

[6] Robert Sparrow and Robert E. Goodin, "The Competition of Ideas: Market or Garden?", *Critical Review of International Social and Political Philosophy* 4 (2) (2001): 45-58.

[7] Seana Valentine Shiffrin, "Chapter 3: A Thinker-Based Approach to Freedom of Speech" in *Speech Matters: On Lying, Morality, and the Law* (Princeton: Princeton University Press, 2014).

[8] E.g. Stanley Ingber, "The Marketplace of Ideas: A Legitimizing Myth," *Duke Law Journal* 1984 (1) (1984): 1-91; Jason Stanley, *How Fascism Works: The Politics of Us and Them* (New York: Random House, 2018), pp. 66ff.

[9] Probably the most influential presentation of this kind of argument for the benefits of markets comes from Friedrich Hayek, see e.g. *The Road to Serfdom* (Abingdon: Routledge, 1944), and "The Use of Knowledge in Society," *American Economic Review* 35 (1945): 519-30.

in a way that efficiently satisfies people's preferences, and crucially for our purposes, they take the work of stuff-distribution out of the authorities' incapable hands.[10]

Analogously, free speech principles take the work of information- and opinion-distribution out of the authorities' incapable hands. Authorities are liable to think they know better, than the folk themselves know, which ideas and opinions (as with: which products) it will be good for the folk to receive. When we say that free speech principles give us a marketplace of ideas, we are highlighting how these principles limit the ability of authorities to use censorship to impose paternalistic controls upon public discourse, much like markets *per se* stand in the way of authorities' centralized, bureaucratic, and ultimately counterproductive controls on product-allocation. The critical resemblance is in how free speech and consumer markets both spare us the troubles of having incompetent authorities deciding, on our behalves, what things, produced by others, we may access or consume.[11]

ଔ

One objection to this metaphor's usage is to point out that the marketplace of ideas is rigged. The market doesn't necessarily give people ideas and information they want. Often, instead, it gives people the ideas that ideologues and media corporations want them to have. What exists in most liberal societies is more like an *oligopoly* of ideas.[12] The notion that we have a free market in ideas is basically a bit

[10] Naturally there are other evaluative arguments we might consider in addition to an efficiency-based defence of markets. We may think other factors count in favor of markets (e.g. fostering diplomacy, institutionalizing an ethos of respect for property rights), or that other factors count against them (e.g. the inequality they create and legitimize, which may be opposed either on intrinsic grounds, or in terms of how it leads to its own inefficiencies in preference-satisfaction). I'm not saying that the efficiency / decentralization justification is the best reason (or a decisive reason) to adopt a pro-market stance. I just think it's the most illuminating justification to focus on, in thinking about how the marketplace metaphor can be translated, via the identification of positive analogical resemblances, into a putative justification free speech.

[11] Sarah Sorial presents a similar interpretation of the marketplace metaphor, i.e. an interpretation centered on some notion of government authority's ineptitude or untrustworthiness; see "Free Speech, Autonomy, and the Marketplace of Ideas," *Journal of Value Inquiry* 44 (1) (2010): 167-83, pp. 173-75.

[12] I have used the phrase *oligopoly of ideas* in earlier co-authored work; see Sebastien Bishop and Robert Mark Simpson, "Disagreement and Free Speech" forthcoming in Maria Baghramian, Adam Carter, and Rach Cosker-Rowland (Eds), *The Routledge Handbook of Philosophy of Disagreement* (Abingdon: Routledge, 2024).

of libertarian mythology, distracting us from the oppressive power structures that are manifest in, and reified by, liberal society's communication systems.[13]

But even if we grant the key premises here, this doesn't problematize the marketplace metaphor's prescriptive use. Suppose we are in a society where free speech rules are limiting content-based censorship – just as our metaphor recommends – but where media oligopolies wield great influence over public discourse. In this context it would be spurious to suggest that public discourse is giving people the ideas they really want. If the marketplace metaphor is used as a way of conveying that suggestion, that's bad. But it doesn't nullify our worries about government control over ideas distribution, or make it illicit to highlight these worries using marketplace imagery. We might object to a fixation upon these worries that simultaneously overlooks non-government threats to the integrity of public discourse.[14] But the problem there, again, is with the metaphor's context-specific misuse, not with the validity of the moral concerns that it encapsulates.

Another objection points to a mismatch between what friends of the marketplace of ideas want it to deliver, versus what it is actually set up to deliver, even if it hasn't been transformed into an oligopoly. The English forefathers of free speech theory, Milton and Mill, seemed to believe that truths will outcompete falsehoods in an open contest.[15] Our metaphor is often deployed in defence of this notion.[16]

---

[13] For arguments along these lines see e.g. Herbert Marcuse, "Repressive Tolerance" in *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965); Ingber, "The Marketplace of Ideas" (note 8); Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (London: Vintage, 1994); Louis Michael Seidman, "Can Free Speech Be Progressive?", *Columbia Law Review* 118 (7) (2018): 2219-50; Anthony Leaker, *Against Free Speech* (London: Rowman & Littlefield, 2020).

[14] This kind of exasperation often shows up in debates around media freedom and freedom of the press, where *pro forma* libertarian concerns about government control over media are sometimes expressed in a way that seems indifferent to the way that private media monopolies can (and in some countries, do) degrade the quality of public discourse just as significantly as government censorship would. For discussion see Damien Storey and Robert Mark Simpson, "Should We Unbundle Free Speech and Press Freedom?" forthcoming in Carl Fox and Joe Saunders (Eds), *Routledge Handbook of Media Ethics* (Abingdon: Routledge, 2024).

[15] The key texts in this connection are Milton's *Areopagitica* (1644) and Mill's *On Liberty* (1859). It's true, with respect to the latter, that Mill appears to be saying at certain points that truths will generally defeat falsehoods given a free and open contest between them. All the same, there is a compelling case against this commonplace reading of the overall argument in *On Liberty*, according to which that claim (about truth outcompeting falsehood) is the pivotal premise of Mill's whole defence of free speech. On the alternative reading that I favor, the pivotal premise in Mill's overall argument is that clashes between truth and falsehood generate mental vitality, for participants and observers, and that this mental vitality is either necessary for, or highly conducive to, the attainment of the kind of higher-order pleasure which, under Mill's mature ethical theory, is the ultimate yardstick of all moral evaluations. For a defence of this general line of interpretation, see e.g. John Gray, *Mill on Liberty: A Defence*, 2nd Edition (Abingdon: Routledge, 1996); see also Robert Mark Simpson, "'Lost, Enfeebled, and Deprived of its Vital Effect': Mill's Exaggerated View of the Relation Between Conflict and Vitality," *Aristotelian Society Supplementary Volume* 95 (1) (2021): 97-114.

[16] See again my brief remarks on Justice Holmes's coining of the metaphor (note 4). For a recent attempt to defend the utility of the marketplace metaphor, as a way of adverting to the pursuit to truth-related

However, so this second objection says, in a marketplace of ideas people don't reliably 'buy' truths. People buy the ideas *they like*. And people don't reliably like truths better than falsehoods. What the invisible hand does, all going well, is efficiently allocate goods to people based on what they want. Market-based systems of interaction will not magically popularize truths, then, any more than they will magically guarantee the popularity of higher-quality consumer products.[17]

All that this objection shows, though, is that some champions of the marketplace of ideas misconstrue their metaphor's main lesson. Truth-based justifications for free speech are out of favor, nowadays, largely replaced with claims about free speech's role in realizing democracy.[18] We have little reason to think free speech reliably furthers our epistemic aims (e.g. truth, understanding), given what we know about the fragility of human rationality and credulity. It is still a mistake to believe that authorities know better, than the folk, what ideas it will be good for the folk to receive. But this isn't because people are in fact *great* at judging what is plausible or who is credible.[19] It's a mistake because authorities have the same weaknesses, on this front, along with additional weaknesses, which come with trying to advance the folk's informational interests using centralized bureaucratic processes, which all-too-easily end up pre- or mis-judging complex issues.[20]

---

goods, see Eugene Volokh, "In Defense of the Marketplace of Ideas / Search for Truth as a Theory of Free Speech Protection," *Virginia Law Review* 97 (3) (2011): 595-603.

[17] Alvin I. Goldman and James C. Cox, "Speech, Truth, and the Free Market for Ideas," Legal Theory 2 (1) (1996): 1-32. A related line of argument – one that puts more emphasis on the limitations of our rational capacities – is found in Robert Weissberg, "The Real Marketplace of Ideas," *Critical Review* 10 (1) (1996): 107-21. The passage leading up to this note is paraphrased from a public lecture and blog post I wrote a few years ago; Robert Mark Simpson, "Universities and Democratic Legitimacy," *Justice Everywhere*, 12th June 2019, justice-everywhere.org/democracy/universities-and-democratic-legitimacy-part-2/.

[18] The most influential 20th century text espousing a democratic theory of free speech is Meiklejohn's *Free Speech and its Relation to Self-Government* (1948) (note 5). More recent examples of democratic theories of free speech include Robert Post, "Racist Speech, Democracy, and the First Amendment," *William & Mary Law Review* 32 (2) (1991): 267-328; Ronald Dworkin, "Foreword" in Ivan Hare and James Weinstein (Eds), *Extreme Speech and Democracy* (Oxford: Oxford University Press, 2009); James Weinstein, "Participatory Democracy as the Central Value of American Free Speech Doctrine," *Virginia Law Review* 97 (3) (2011): 491-514; Eric Heinze, *Hate Speech and Democratic Citizenship* (Oxford: Oxford University Press, 2016).

[19] The fact that people aren't great at judging what is plausible, or who is credible, is the key starting point in contemporary defences of *epistemic paternalism*, i.e., roughly, the view that controlling people's access to information is sometimes justified, where this reliably results in a greater preponderance of true belief relative to false belief; see e.g. Kristoffer Ahlstrom-Vij, *Epistemic Paternalism: A Defence* (London: Palgrave-Macmillan, 2013). Similar thinking sometimes appears in discussions of free speech, e.g. Brian Leiter, "The Case Against Free Speech," *Sydney Law Review* 38 (2016): 407-39. Naturally, someone who understands the primary justification for free speech in non-alethic / non-epistemic terms, could agree that epistemic paternalism by governments will sometimes (or perhaps, often) have significant alethic / epistemic benefits, while nevertheless regarding such interventions as unjustifiable, e.g. on grounds of democratic illegitimacy.

[20] Without some caveats, this claim – that authorities trying to advance people's informational interests using centralized, bureaucratic processes, tends to result in the pre-/mis-judging of complex issues – seems likely to prove too much. *Prima facie*, this seems to entail that it's a mistake, from an epistemic point of view, to place any real trust in authorities in academic disciplines, or in public information agencies

Free speech isn't a royal road to truth. If it can be justified, it is with reference to other (e.g. democratic) ideals, and claims about how free speech principles help to realize them. The marketplace metaphor's utility is in supplementing these justifications by highlighting the perennial risk of government overreach. Complex distribution networks, where people with varied needs interact to try to fulfil their preferences, cannot be micromanaged by authorities – even decent authorities, much less inept or corrupt ones. Many factors bear on how we resist this overreach, in practice. But in principle, in complex networks, a decent strategy for satisfying preferences is to let people themselves decide what they want from whom, while limiting government's power to dictate how things go. The marketplace metaphor has been one of our ways of culturally encoding this lesson, over the last century, and reminding ourselves of its relevance to free speech policy.

ଔ

So what's the problem? What other aspect of free speech policy should we be emphasizing, and how does the marketplace metaphor get in the way of this?

Here is a thought experiment. Suppose you're in a world that has a well-functioning, universally-accessible communication network – call it *the System* – which is used by nearly everyone, and which has largely displaced the use of other communication tools, including other digital tools, as well as older options like telephone and mail. Use of the System isn't legally mandated. But it is ubiquitously used all the same because it is a low-cost option that many people find useful, and because its widespread usage creates network effects that discourage opting out. Moreover, suppose that the System is a free speech zone, with few or no ideological constraints on the content that it hosts. Some criminal and tortious expression, which falls outside the coverage of free speech, is restricted. But otherwise the System's users can say whatever they please and engage with whomever they please.

But suppose, also, crucially, that the System has a limited expressive palate, which to a non-trivial extent standardizes the style and format of people's speech.

We can toy with the set-up here depending on how realistic we want to make it. In a less fantastical version we might imagine the System being roughly similar to Facebook. It is a text-based tool via which you can write posts of varying lengths,

like meteorology bureaus. But there are sensible ways to caveat the claim so that it doesn't lead to this extreme and dubious conclusion, e.g. by distinguishing between authorities whose authorities is or isn't grounded in demonstrated methodological competence in a mature discipline of inquiry. For discussion see e.g. Brian Leiter, "Why Academic Freedom?" in Donald Downs and Chris Surprenant (Eds), *The Value and Limits of Academic Speech: Philosophical, Political, and Legal Perspectives* (Abingdon: Routledge, 2018); Robert Mark Simpson, "The Relation Between Academic Freedom and Free Speech," *Ethics* 130 (3) (2020): 287-319.

and decide whether to let others comment on them. But the System still dictates a number of parameters. Very long messages must be broken up into shorter ones. You can embed links but not footnotes. Fonts and other visual features are uniform. And readers can react to posts using a menu of preset emojis. These parameters may only have a mildly homogenizing effect on how the System's users communicate there. Nevertheless, the medium partly shapes people's messages.

If we wanted to make things more contrived we could imagine the System being far more restrictive, e.g. only allowing very short messages of 50 characters, or not giving users any say over who sees their posts. Granted, the stricter and less user-friendly we imagine the System being, the less realistic it will be to imagine it as a widely preferred platform. But within the range of ways that the System could be set up, while plausibly retaining its global popularity, we can imagine it building in a more or less stringently homogenizing suite of expressive capabilities. The medium may only shape people's messages subtly, but it may be more obtrusive.

The System is a free speech zone, by stipulation. So if you are primarily worried about ideological control over communication networks, you should be happy, in theory, being in a world where the System is the dominant discursive hub. Indeed, we could further stipulate that the System isn't just a free speech zone but that its governance makes its libertarian character counterfactually stable. The more modally robust the System is, in protecting speech, the happier you should be having it locked-in as a dominant discursive hub.[21] And if the way that it becomes dominant is that everyone freely opts into it, then what is there to worry about?

There is something blinkered in that perspective. If the System's limited expressive affordances – combined with its ubiquity – homogenizes the world's methods and styles of communication, then something valuable is imperilled if not already lost. We should be worried about the openness and variety of the communicative formats available to people for the same kinds of reasons that we worry about the openness and variety of the viewpoints people are allowed to convey. In both cases, variety and openness support people's ability to think deeply, and to think for themselves. Much like a homogenization in the content of the ideas that people can express, a homogenization in the style and format in which people can express ideas, is liable to inhibit people's ability to critically reflect upon the ideas that they are sharing and hearing.[22] Whether you care about free speech

---

[21] I'm using the term *modally robust* in the way that's common among contemporary analytic philosophers, to mean, roughly, "stable across other ways the world could be." Some state of affairs is modally robust to the extent that it obtains not only in the actual world, but also in a majority of 'nearby possible worlds.'

[22] If communicative homogenization is bad, on my account, because (by hypothesis) it inhibits people's ability to critically reflect upon the ideas they are engaging with, then what sort of overall justificatory theory of free speech am I committed to? What's in the background of my account is something similar to Seana Shiffrin's thinker-based theory of free speech (note 7). I would distinguish two levels of justification, addressing two different questions. Q1: what are the ideals, values, or aims – e.g. things like democracy, individual autonomy, truth, or an ethos of tolerance – that we should appeal to in trying to

for democratic reasons, or truth-seeking reasons, or because you place a high moral value on individual autonomy, this inhibition of people's critical faculties is bad news.

The marketplace metaphor tells us to worry about communication policies that are akin to price-fixing or five-year agricultural plans – to worry about authorities deciding what we receive, ideas-wise. Simultaneously, it invites a neutral or positive view of policies that expedite the exchange of ideas. Just like free trade pacts make it easier to exchange goods, ideologically open communication hubs lubricate the flow of ideas. Any big institution can be corrupted, of course. But as long as our central hubs are not commandeered by bad actors, we should be pleased to have them. When operating within the marketplace metaphor's normative horizons, we have no more reason to worry about the ubiquity and uniformity of the System, than to worry about free trade pacts or stable currency exchanges.[23]

I hope this brings the metaphor's principal drawbacks into focus. Even a gung-ho free market fanatic should recognize that the trade in ideas is importantly unlike a trade in goods and services. The platforms mediating our idea transactions more deeply condition the character and texture of – and thus, potentially, affect the quality of – what is being exchanged. Communicative life under the System makes it harder for us to transact in certain kinds of ideas, while also homogenizing, and thus depleting the richness and vitality of, the cognitive activities involved in those transactions.[24] The marketplace metaphor's spotlight keeps all of this in the shadows, and hence it dampens the anxieties that we should be feeling about the homogenizing forces that are bearing down on our communication networks.

---

attain explanatory coherence in our de-fence of various free speech policies? Q2: what is our conception of the human person – of people's fundamental nature and interests – by the lights of which we can understand why restriction of expressive acts, in particular, poses a distinctive threat to the ideals, values, or aims we identify in answering Q1? In my remarks above, about homogenization inhibiting our ability to critically reflect, I am indicating an answer to Q2, similar to Shiffrin's answer: humans are by nature thinking beings, and our key interests are linked to that aspect of our nature. With respect to Q1, although I have criticized truth-based defences of free speech, I otherwise want to leave my account open-ended, so that it remains compatible, in principle, with a plurality of answers; although for further discussion, see Robert Mark Simpson, "Defining Speech: Subtraction, Addition, and Division," *Canadian Journal of Law and Jurisprudence* 29 (2) (2016): 457-94; Robert Mark Simpson, "Intellectual Agency and Responsibility for Belief in Free Speech Theory," *Legal Theory* 19 (3) (2013): 701-28.

[23] Granted, the free speech / free markets analogy does suggest *a* reason to worry about homogenization-related problems. Freer global trade homogenizes the goods available across regions, e.g. giving us the same Starbucks cafes in every city. Thus it undermines one of the things (real variety in options) that in theory makes the consumer's freedom valuable. This would be the point to emphasize if you wanted to retain the marketplace metaphor while also highlighting the concerns about communicative homogenization that I'm pressing. But I believe the connected city metaphor is better-suited to highlighting these concerns.

[24] I'm not saying this is the only significant disanalogy between markets for consumer products and markets for ideas. It's just the disanalogy that is most pertinent for my purposes here. See Sparrow and Goodin, "The Competition of Ideas" (note 6), for detailed discussion of a number of other disanalogies.

These homogenizing forces, to which marketplace metaphor desensitizes us, are precisely what the connected city metaphor encourages us to worry about.

Think of it like this. Cars are useful. But it is hard living in a big city like Los Angeles where cars are the only decent way to get around. The car's privacy and manoeuvrability upsides have corresponding downsides, e.g. space inefficiency. Vast tracts of land have to be turned into roads and parking lots in order for the car's privacy and manoeuvrability benefits to be realized. And excessively asphalted places are tough to inhabit, to say nothing of how issues of dynamic demand and static supply make traffic jams near-inevitable. This doesn't mean that roads and cars have no place in a locomotively optimized city. People with mobility challenges can't always catch trains. No-one wants to ride a bike to the hospital to give birth. And roads accommodate buses, delivery vans, ambulances, and fire trucks, as well as cars. The problem with places like Los Angeles isn't just that they have loads of cars. It's that they lack (quality versions of) other transport options.

What is it that makes connected cities – cities with good trains, buses, roads, cycle lanes, and walking paths, which are all linked-up, so that we can move from one to another – more liveable? First, people have diverse locomotive needs, depending on their age, fitness, and sensory / mobility capacities. Second, people have diverse locomotive desires. Some people like walking and cycling, others don't. Third, locomotive needs and desires vary circumstantially, depending on the weather, or what we drank last night, whether it's a busy day, or whether we are moving tricky cargo, like a cake, a bassoon, or a toddler. Fourth, our locomotive needs can change if we are traveling solo, versus in smaller groups or larger groups.[25]

In light of all this diversity the connected city's mixture of locomotive affordances makes the incomprehensibly intricate collective choreography of urban transport

[25] The literature on connected cities and the ethics of transport is vast, and I don't pretend to be an expert in it, although for one example of an influential work on these themes, see Jane Holtz Kay, *Asphalt Nation: How the Automobile Took Over America and How We Can Take It Back* (Berkeley: University of California Press, 1997). Naturally, many criticisms of car-dependent transport networks focus on harms associated with cars' atmospheric pollution, both local (e.g. health issues linked to urban air quality), and global (i.e. in terms of cars' contributions to anthropogenic atmospheric heating). Note, however, that my quick account of the benefits of connected cities doesn't advert to these harms. In large cities the case for moving away from car-dependent transport systems is over-determined. The point is that this case would still hold even *if* future-generation cars were made extremely clean, in terms of CO_2 emissions, airborne particulate matter, etc.

more fluent at a group level and less frustrating for individuals. It also partly mitigates the drabness and dreariness of a landscape smothered in asphalt.[26]

When we communicate we share information and beliefs, while also trading in a range of subtler sociolinguistic currencies.[27] The conveyance of these things in speech isn't perfectly analogous to the conveyance of myself or my family around a city. But it is analogous enough for our purposes. The superficial layer is easy to grasp. Humans have diverse communicative needs and desires much like our diverse locomotive needs and desires. Just as some people can't easily catch trains and therefore need taxis, some people can't easily write long emails and therefore need to be able to leave voice messages. Just as some people like bikes but not buses, some people like texting but hate going back-and-forth on Twitter.

The analogy's deeper layers need more unpacking. Apart from pressing concerns about the need to limit our CO_2 emissions, it seems fine to think of transport options simply as a means to your ends. Other things being equal (time, cost, ease, etc.), you may be fairly indifferent about whether you travel to work on a bike or a train. It seems like a mistake, though, to approach modes of speech in this blasé frame of mind. Even if two expressive tools are on a par, vis-à-vis time, cost, ease, etc., if the expression that's involved matters to you then the choice of medium should matter too. An intimate conversation about a delicate issue might go very differently in person versus on a phone call. Or think about trying to convey a persuasive argument. Your prospects of nailing it can vary enormously depending on whether you produce an essay, a podcast, or a Tweetstorm, and on how your argument's specifics and nuances – combined with your own communicative abilities – lend themselves to your chosen medium's communicative affordances.

So the benefits of a connected city of ideas – a system in which we can readily utilize various communicative tools, with varied affordances – seem to run deeper than the benefits of a locomotively connected city. In a liberal society we want locations and ideas to be accessible to everyone interested in them. Diverse locomotive and communicative options support both kinds of access. Often, though, accessing locations is purely about logistics. Whereas with ideas, the means of access are less fungible. Some ideas might not be communicable – not as easily and fluently, or in all their specificity and subtlety – except through a particular medium: a documentary film, a satirical essay, a piece of long-form investigative journalism, a talk radio discussion, a meme on a WhatsApp group, or a slowly unfolding face-to-face conversation. Part of how a connected city of ideas works is by offering assorted communicative options to groups with diverse expressive

---

[26] Naturally, it depends on what we leave in place of the asphalt. In principle, we could replace a car-centric city with a connected city while still neglecting to make space for trees and flower beds. In that case, improvements in locomotive efficiency won't go hand-in-hand with aesthetic / botanical improvements.

[27] For a recent attempt to give an account of this subtler sociolinguistic stuff, see Ethan Nowak, "Sociolinguistic Variation, Slurs, and Speech Acts," forthcoming in *The Journal of Philosophy*.

predilections. But it also makes it easier for anyone's communicative aims to be pursued in media that are better-suited to their realization, style- and format-wise.

ଔ

So here is the argument boiled down. Communicative homogenization is something we should worry about from a free speech perspective. The connected city metaphor highlights this worry. The marketplace metaphor, which dominates free speech discourse, obscures it. So we should replace the latter with the former.

We can buttress the argument by working through three objections. First, why think the homogenization of communication methods has the negative effects I am claiming? Second, why think this homogenization is a genuine danger, either now or under emerging technological conditions? Third, why situate these anti-homogenization worries within the ambit of a free speech politics?

ଔ

Objection #1 is simply a flat-footed skeptical rejoinder. Why think that homogenization is such a bad thing? Why think that our communicative abilities *are* inhibited by the homogenization of our communication tools and practices? Yes, arguments or intimate chats are liable to go differently in different format. But this is just due to life's complexity and unpredictability. There is nothing about an essay, a podcast, a phone call, or an intimate face-to-face conversation, which dictates what kinds of ideas or other sociolinguistic stuff can be exchanged within it.

What can we say to this? I have mentioned *affordances* at a few points. I am using this term in the sense pioneered by the psychologist James Gibson in the 1960s, and taken-up in various research programs in the sciences, e.g. perceptual psychology, and the humanities, e.g. philosophy of action.[28] In its simplest form, the idea is that locations and objects make some opportunities for action more avail-

[28] Gibson begins developing this concept in the 1960s, but the most widely-cited account of it is in "The Theory of Affordances" in *The Ecological Approach to Visual Perception* (Boston: Houghton Mifflin, 1979). Another recent example of this concept being deployed in a theoretical discussion of free speech and online communication platforms, is Renée Diresta, "Algorithms, Affordances, and Agency" in Lee C. Bollinger and Geoffrey R. Stone (Eds), *Social Media, Freedom of Speech, and the Future of our Democracy* (New York: Oxford University Press, 2022).

able to agents than others – certain things that it is easier for agents to do or perceive. The deeper conceptual thesis in the background is that thought and action aren't products of free-floating minds, but of material beings interacting with environments. Agency emerges out of organism-environment interactions.[29]

Insofar as this is a sound portrayal of agency's underpinnings, it seems like an important starting point for critical thinking about the moral implications of changing technologies. Technological innovations relandscape the agential environment from which thoughts and actions interactively arise. As Shannon Vallor says, technologies "afford specific patterns of thought, behavior, and valuing," while opening up "new possibilities for human action, and foreclos[ing] or obscur[ing] others."[30] Acts of creating or adopting communicative devices are, then, we might say, meta-acts, which alter the choice architectures contained in an environment. We can differentiate technologies from mere tools in terms of how much they change our sense of which thoughts/actions are available to think/perform.[31]

This sort of view about affordances and technology undermines the idea that technologies are merely utensils that we use as we please. It helps us see why this idea is misleading, in the same way that "guns don't kill people, people kill people" is misleading. Tools and technologies elicit certain usages, not inexorably, but probabilistically. They are integral to the processes via which preferences form.

Trying to fully vindicate this picture would of course take us far afield. How plausible you find it, in general, or with respect to communicative media specifically, will probably depend on how it chimes with your own experience. Some people may have a livelier sense of how communicative media shape their thinking. Others, including people whose expressive abilities are well-suited to a variety of media, may not feel this way much at all. In any case to say that media provide affordances for thought that affect our critical and interpretative abilities isn't to say that we are all affected to the same extent or in the same way. Moreover, we can ultimately concede the skeptic's point that essays, phone calls, etc. do not dictate their contents. After all, *dictation* is an overloaded way of characterizing the type of interactive, probabilistic influence that an affordance exerts. At one point in his most famous work, the cultural critic Neil Postman – an author who is deeply invested in the affordances framework that I am endorsing – says

---

[29] For an elaboration of these claims about how agency emerges from organism-environment interactions, see e.g. Anna M. Borghi, "Affordances, Context and Sociality," *Synthese* 199 (5-6) (2018): 12,485-515.

[30] Shannon Vallor, *Technology and the Virtues: A Philosophical Guide to a Future Worth Wanting* (Oxford: Oxford University Press, 2016), p. 2. See also J. K. G. Hopster, C. Arora, C. Blunden, C. Eriksen, L. E. Frank, J. S. Hermann, M. B. O. T. Klenk, E. R. H. O'Neill, and S. Steinert, "Pistols, Pills, Pork and Ploughs: The Structure of Technomoral Revolutions," forthcoming in *Inquiry: an Interdisciplinary Journal of Philosophy* (2023).

[31] Neil Postman proposes a conceptual distinction along these lines, in *Technopoly: The Surrender of Culture to Technology* (New York: Knopf, 1992); see especially chapter 2.

> How we are obliged to conduct… conversations will have the strongest possible influence on what ideas we can conveniently express. And what ideas are convenient to express inevitably become the important content of a culture.[32]

Expressive media have a formidable influence by Postman's lights – indeed, "the strongest possible". But the upshot isn't to dictate exactly which ideas we can access. Rather, our media affect which ideas become communicatively convenient, and in turn, become ready reference points in our culture. Theorizing expressive affordances in a plausible way seems to require some caveat along these lines. A homogenized communicative milieu, style- and format-wise, probably won't make any communicative purposes totally unachievable. But whichever styles and formats predominate, they will make certain communicative aims easier to realise, and others harder, in a way that influences everyone's reflective capabilities.[33]

Patricia Lockwood's *No One is Talking About This* is one of the better (and funnier) English language novels to date about being on the internet. Its protagonist is interested in how online platforms – she calls them, collectively, *the portal* – are formatting her language and configuring her thinking. She wonders

> Why were we all writing like this now? Because a new kind of connection had to be made, and blink, synapse, little space between was the only way to make it. Or because, and this was more frightening, it was the way the portal wrote.[34]

I don't think Lockwood is misguided in these apprehensions. The advent of social media platforms has given us unfamiliar ways of writing and speaking, and thus, via some alchemy of form and content, novel thoughts. New communication tools have shepherded us towards new ways of accessing and traversing ideas. Were these mental routes totally unreachable, before? Maybe not. But accessible tracks into them have been cleared and trodden-in by many pairs of feet. When things go the other way, though – when communicative options are subtracted or standardized – the opposite occurs. We lose some of our cognitive affordances.

---

[32] Neil Postman, *Amusing Ourselves to Death: Public Discourse in the Age of Show Business* (New York, Methuen, 1985), p. 6. Consider also what Postman says at another point (p. 162): "to be unaware that a technology comes equipped with a programme for social change, to maintain that technology is neutral, to make the assumption that technology is always a friend to culture is, at this late hour, stupidity plain and simple." In these claims, Postman takes himself to be working out some of the key ideas underpinning Marshall McLuhan's famous aphoristic claim, that 'the medium is the message.'

[33] Something like this thesis is evident in Walter Benjamin's famous essay on "The Work of Art in the Age of Mechanical Reproduction" (1935), in particular, his observations about the advent of media in which artworks don't exist in one place, and aren't produced by the handiwork of a particular artist, and his claims about how such media more easily lend themselves to certain uses like political propaganda.

[34] Patricia Lockwood, *No One is Talking About This* (London: Bloomsbury Circus, 2021), p. 64.

Objection #2: But why believe this homogenization is a genuine danger? Don't the points I have just made belie the anxieties I am trying to provoke? New communication technologies provide *new* affordances for thinking and speaking. No-one is taking existing affordances away! Some devices, like fax machines, fall into disuse organically, taking their redundant expressive affordances (the redundancy of which is manifest in their organic demise) with them. Overall, though, our repertoire of communicative options, and the richness and diversity of the communicative affordances that they provide us with, needn't become depleted. Right?

When it comes to futurological claims we are all in the same speculative boat. This essay is appearing in a volume on the future of free speech, and I wanted to write it because I have hunches about the trajectory we are tracing, vis-à-vis free speech's future, that seem to be out-of-step with many other people's hunches. If you believe the possibilities I am fretting about are farfetched then you won't see much reason to embrace my proposed shake-up in our metaphors. But it is hard to turn futurological claims into anything more than guesstimates. The best I can do is to just state the factors that underlie my key hunch – that on our current trajectory, a significant homogenization in our communicative media is likely in our lifetimes.

(a) Monopolies

> Plausibly, we are seeing an historically unprecedented level of centralization and monopolization in the ownership and management structures of widely-used communication technologies, including devices and platforms whose operations are radically global in scope, in a way that also seems unprecedented.[35]

(b) Privatization

> Many countries have ailing public communication infrastructure, e.g. phone lines, broadcasting facilities, cable internet, and postal services. The pressures on maintaining public communication utilities may either lead to their collapse, or may enable cashed-up global tech corporations to acquire legacy communication infrastructures and incorporate them into cross-platform networks.[36]

---

[35] For discussion see e.g. Gregory Day and Abbey Stemler, "Infracompetitive Privacy," *Iowa Law Review* 105 (1) (2019): 61-106; Nicolas Petit, *Big Tech and the Digital Economy: The Moligopoly Scenario* (Oxford: Oxford University Press, 2020); Tim Wu, *The Curse of Bigness: How Corporate Giants Came to Rule the World* (London: Atlantic Books, 2020); Francis Fukuyama, Barak Richman, and Ashish Goel, "How to Save Democracy from Technology: Ending Big Tech's Information Monopoly," *Foreign Affairs* 100 (1) (2021): 98-110.

[36] For discussion see e.g. Johan From and Kjell A. Eliassen (Eds), *The Privatisation of European Telecommunications* (Abingdon: Taylor & Francis, 2017); Erik Sherman, "7 Reasons Why Privatizing The Postal System Is Ridiculous And Foolish," *Forbes*, 17th August 2020, www.forbes.com/sites/eriksherman/2020/08/17/7-

(c) Compulsion

In many countries it is hard to participate in public life without a smart phone. In some sub-enclaves social media is similarly *de facto* mandatory. Participation in public life may always force people to use particular communicative media. But the demandingness of these requirements, vis-à-vis the captivating potential of the technologies that they mandate, seems historically unprecedented.[37]

(d) Biointegration

The advent of commercially available biointegrated communication technologies, like Neuralink, is just around the corner. It seems possible that by virtue of their biointegrated nature, these technologies will create more resilient network effects, compared to existing technologies, that amplify the costs for those preferring to opt out, thus strengthening the *de facto* mandates noted in (c).[38]

(e) Stylistic Standardization

Already widely-used technologies like Grammarly stylistically standardize written expression in ways that are unprecedentedly speedy and unprecedentedly integrated with otherwise familiar expressive tools and affordances. The power, ubiquity, and integration of these technologies is steadily increasing.[39]

---

reasons-privatizing-postal-system-usps/?sh=6d58d8453034; Shane Greenstein, "The Basic Economics of Internet Infrastructure," *Journal of Economics Perspectives* 34 (2) (2020): 192-214; Edward A Smith, "Technology, Market Change and the Privatisation of Communications in Britain," *Journal of Management History* 28 (2) (2022): 215-35.

[37] For discussion see e.g. Jaron Lanier, *Ten Arguments for Deleting Your Social Media Accounts Right Now* (New York: Random House, 2018); Susie Alegre, *Freedom to Think: The Long Struggle to Liberate Our Minds* (London: Atlantic Books, 2022). Robert Mark Simpson, "The Ethics of Quitting Social Media" in Carissa Véliz (Ed.), *The Oxford Handbook of Digital Ethics* (Oxford: Oxford University Press, 2022).

[38] For discussion see e.g. Alexander N. Pisarchik, Vladimir A Maksimenko, and Alexander E. Hramov, "From Novel Technology to Novel Applications: Comment on "An Integrated Brain-Machine Interface Platform With Thousands of Channels" by Elon Musk and Neuralink," *Journal of Medical Internet Research* 21 (10) (2019); Eric Fourneret, "The Hybridization of the Human with Brain Implants: The Neuralink Project," *Cambridge Quarterly of Healthcare Ethics* 29 (4) (2020): 668-72; Mengwei Liu, Yujia Zhang, Tiger H. Tao, "Recent Progress in Bio-Integrated Intelligent Sensing System," *Advanced Intelligent Systems* 4 (6) (2022); Nita A. Farahany, *The Battle for Your Brain: Defending the Right to Think Freely in the Age of Neurotechnology* (New York: Macmillan, 2023).

[39] For discussion see e.g. Neil Levy, "Writing is Not That Easy: Grammarly as Affordance," *Practical Ethics*, 6th December 2021, blog.practicalethics.ox.ac.uk/2021/12/writing-is-not-that-easy-grammarly-as-affordance/; Ethan Nowak, "Sociolinguistic Variation, Speech Acts, and Discursive Injustice," forthcoming in *Philosophical Quarterly* (2023).

(f) Linguistic Standardization

> Many languages are dying, English is increasingly entrenched as a global *lingua franca*, and auto-translate tools are becoming more powerful. Plausibly, the combination of these factors will mean that a larger portion of global communication is conducted in standardized and expressively flattened languages.[40]

What does this all add up to, once all the relevant counter-forces are factored into our conjectures? Could we soon be living under a ubiquitous, homogenizing communication network, like *the System*? Not to the degree that I envisioned earlier, surely, but to a lesser degree? What I believe I can claim is that some homogenizing forces, potentiated by emerging technologies, are likely to have an impact on near-future communication systems. How these merge with other economic and political forces, and whether everything gets derailed by cataclysmic events, is a giant unknown. But I don't think the homogenization anxieties are baseless.

Of course so much depends on how the tools and practices we end up with interact with each other, and with other political and economic forces. As the supporters of new communication technologies like to point out, there were once great panics over novels and radio. The fact that a transformative suite of communicative media is becoming dominant isn't yet a reason to think that our communicative interests are in peril. Social systems are super-complex and the devil is in the details. Of course this is right. But it is complacent to use these observations as an excuse to keep ignoring worries about homogenization, as we have largely been doing. People who are more optimistic about our current technological trajectory need to explain either (i) why communicative homogenization isn't going to occur, or (ii) why it isn't such a bad thing. It isn't enough to just circle back to banal reminders about how society survived the printing press and wireless radio.

ଔ

Objection #3: even if that's right, why think that these anti-homogenization issues fall within the ambit of free speech theory? Free speech principles are principles of restraint, which limit the means governments may use – via legislation, or direct coercive and administrative acts – to interfere with the exercise of peo-

---

[40] For arguments about why language extinction should be seen not merely as a replacement of one linguistic tool with another, but rather, as something that depletes humanity's communicative resources, see recent work by Ethan Nowak, in particular, "Language Loss and Illocutionary Silencing," *Mind* 129 (515) (2020): 831-66; "Language Extinction" in Justin Khoo and Rachel Sterken (Eds), *The Routledge Handbook of Social and Political Philosophy of Language* (New York: Routledge, 2021).

ple's speech rights. They aren't principles that oblige governments (or other actors) to support speech or to otherwise try to realize the interests that speech rights purportedly serve. Even if communicative homogenization poses a real threat to human well-being, remedying this problem isn't on the agenda for free speech politics, except where anti-homogenization measures happen to coincide with constraining governments from impinging upon the exercise of people's speech rights.

This isn't an idiosyncratic view.[41] But I favor a more capacious conception of free speech, encompassing both duties of restraint and 'positive' duties to support our speech-related interests. This is actually an old-fashioned view, from Mill. In the 19th century liberal mind, free speech isn't just about constraining state power. It is about everyone working to achieve a culture of open discussion, free from conformist pressures of all kinds.[42] Even in American constitutional law, where the narrower, negative conception of free speech principles is widely accepted, there are good reasons to think that the efficacy of these principles depends upon them operating in a free-speech-supportive culture.[43] And insofar as that's true, it seems somewhat arbitrary to stipulatively situate positive speech-related duties outside of free speech's domain, in some bundle of adjacent, supplementary norms.

---

[41] As David Strauss says, "a good argument can be made that government action should be the main concern of any system of free expression," (i) because "the government ordinarily has a greater capacity to suppress speech than any private entity," (ii) because "government officials have an incentive to suppress the speech of their political opponents," and (iii) because "the power of the government can be used by a dominant majority against nonconforming expression"; David A. Strauss, "Social Media and First Amendment Fault Lines" in Lee C. Bollinger and Geoffrey R. Stone (Eds), *Social Media, Freedom of Speech, and the Future of our Democracy* (New York: Oxford University Press, 2022), p. 5.

[42] This point is at the heart of Mill's condemnation of the tyranny of the majority: "Like other tyrannies, the tyranny of the majority was at first… held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant… its means of tyrannising are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates: and if it issues wrong mandates… it practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them." John Stuart Mill, *On Liberty* (Ontario: Batoche, 2001), p. 9. [Originally published 1859]. For recent work on this kind of positive conception of free speech's scope and demands, see Andrew T. Kenyon and Andrew Scott (Eds), *Positive Free Speech: Rationales, Methods, and Implications* (London: Bloomsbury, 2021).

[43] I take this point – about the necessity of a positive free speech culture, as a precondition for realizing the moral purposes of liberal free speech principles – to be one of the main take-aways from Geoffrey R. Stone's work on the history of American free speech politics, e.g. *Perilous Times: Free Speech in Wartime: From the Sedition Act of 1798 to the War on Terrorism* (New York, W. W. Norton, 2005); "Free Speech in the Age of McCarthy: A Cautionary Tale," *California Law Review* 93 (5) (2005): 1,387-412.

Recent U.S. legal scholarship on free speech and tech policy lends supports to the more capacious conception. In his work on platform regulation Jack Balkin defends a *triangulated* model of free speech. Free speech isn't just about states not interfering with citizens. It is a three-way relation between states, citizens, and expressive platforms, where one of the state's duties is to create a regulatory environment that incentivizes platforms to support citizens' expressive interests. Balkin's overall argument, roughly, is that speech platforms are essential in realizing healthy public discourse, and that a dyadic, 'state v. citizen' notion of free speech obscures this, while encouraging us to disempower states from fulfilling their regulatory responsibilities in constructively incentivizing platforms. If we follow Balkin in replacing the dyadic framework with a triangulated framework, this *ipso facto* means including certain positive state duties, i.e. duties to regulate speech platforms, within the 'official' scope of free speech principles and policies.[44]

In a similar vein Evelyn Douek argues that the regulation of speech platforms should take a *systems approach*. It should embed upstream norms – promoting good speech, and algorithmically suppressing harmful speech – rather than norms which, in a downstream fashion, identify and remove harmful instances of speech, based on case-by-case appraisals of their harmfulness. Her argument, in essence, is that the latter approach is unfeasible with large platforms, given the scale of the regulatory task, and the need for relatively quick action, e.g. since speech's harmful potential often depends on how long it remains visible.[45] We could still stipulatively situate the norms for regulating platforms outside the scope of free speech. But this seems odd, given that, again, such norms are essential to realizing the discursive ideals that free speech theory has long revolved around. It seems natural, instead, to include these norms – norms that don't impose constraints on states, but rather, positive duties of constructive discourse organization – within the scope of free speech. And this means embracing the broader conception.

ଔ

It isn't stretching our normative categories beyond their proper bounds, then, to see a demand for anti-homogenization regulations, in government or the private sector, as part of a free speech politics. What might these regulations consist in? They may include things like (i) special anti-monopoly laws for tech companies,

---

[44] See in particular Jack M. Balkin, "Free Speech is a Triangle," *Columbia Law Review* 118 (7) (2018): 2011-55. The triangulated model that Balkin proposes there is also broadly defended in Balkin's other recent work in this area, e.g. "The Future of Free Expression in a Digital Age," *Pepperdine Law Review* 36 (2) (2009): 427-44, and "How to Regulate (and not Regulate) Social Media," *Journal of Free Speech Law* 1 (1) (2021): 71-96.

[45] Evelyn Douek, "Content Moderation as Systems Thinking," *Harvard Law Review* 136 (2) (2022): 526-607.

or (ii) regulations to make it harder for public communication utilities to be privatized, or (iii) laws protecting workers from being unnecessarily forced to use specific communication platforms. Of course it is a big task mapping out the goals of an anti-homogenization regulatory agenda, let alone its details.[46] What I'm doing here is stage-setting. I want us to see why this agenda warrants our attention, as free speech theorists, and crucially, to see how free speech metaphors can sensitize or desensitize us to the concerns driving it. We need different bits of imagery to enliven our perceptions. We have to shake off the interpretative languor that the marketplace metaphor, despite its legitimate uses, has instilled in us.

Even if you accept all of my arguments up to this point, though, you might think I haven't shown that communicative homogenization is a more serious worry than ideological control over the content of public discourse. And, you might argue, we should only redirect our attention towards the issues highlighted by the connected city metaphor, and away from the marketplace metaphor's implicit anti-authoritarian agenda, if we have seen that this comparative moral assessment holds.

But there can be other good reasons to adjust our focus. As I said in the opening, moral metaphors are imaginative devices for highlighting underappreciated aspects of things. Free speech theory's normative spotlight has long been illuminating anti-authoritarian concerns. I am not questioning those concerns themselves, so much as the quantity of attention we have been lavishing upon them. In any case, whatever priority ordering ought to obtain, among these concerns, my earlier point remains. The marketplace metaphor isn't only failing to highlight anti-homogenization worries. It is camouflaging them. The point of the connected city metaphor is to attune us to what ought to be an urgent concern in free speech theory, but one which our leading metaphor has encouraged us to tune out.[47]

---

[46] In the American Context among scholars writing about the current and emerging landscape for regulating tech companies, Balkin (note 44) is one author who draws attention to the type of anti-homogenization worries I have been pressing. As part of sketching out a road-map for social media regulation – or maybe more accurate to say: a wholesale institutional reform of social media and tech – Balkin highlights some homogenization-related concerns, saying "there need to be diverse and antagonistic sources of knowledge production and dissemination, which means there must be diverse and antagonistic curators and content regulators… this requirement means more than simply having lots of voices who disagree with each other. There must be also different institutions for knowledge production that are public-regarding and that have professional norms that guide how they produce, organize, and distribute knowledge." Jack M. Balkin, "To Reform Social Media, Reform Informational Capitalism" in Lee C. Bollinger and Geoffrey R. Stone (Eds), *Social Media, Freedom of Speech, and the Future of our Democracy* (New York: Oxford University Press, 2022), p. 241.

[47] For advice and feedback on this work, many thanks to Lee Bollinger, Noah Chafets, Jonathan Gingerich, Rich Healey, Polly Mitchell, Ethan Nowak, Francesca Perry, Daniel Rothschild, Geof Stone, and Rony Yuria.