



**Tom Stoppard**

## Playing the trump card

Free speech as inherent right or group consensus? How did the concept get into such a mess? Because liberalism persists in seeing a "right" as something to be claimed rather than accorded, says Tom Stoppard. If claim and counter-claim are presented as absolutes, the debate can have no resolution.

The idea that being human and having rights are equivalent — that rights are inherent — is unintelligible in a Darwinian world. It is easily and often overlooked that when Thomas Jefferson asserted that life, liberty, and the pursuit of happiness were inalienable human rights, he did so on the ground that they had been endowed by God, our Creator.

That is how Jefferson deemed "these truths to be self evident". Yet, we do not find that insistence on human rights is the preserve of believers. Still less do we find the right of free expression being derived from God's endowment. Is the right of free expression self-evident?

That I have the right to express myself freely at all times in all circumstances entails the idea that free speech is a "basic human right" possessed by each individual, and, as such, trumps the interests of the society or group, including my neighbour.

But there is something odd about this. The trumper is, after all, a member of the group. The interests of the group are the only game in town. That's why the group is a group. The trumper is trying to trump himself. He has produced from his sleeve a card which was never in the pack and which he insists wins the trick. So it might, if we believe the card was divinely bestowed, that there is a "superior" game going on. If, however, we don't believe that (and even those who believe in our divinity do not generally believe that God said, "Let there be free speech") then it follows that "rights" are a psycho-social phenomenon, and that there are no rights which are more human than others; no trumps.

This looks bad for the principle of free speech. It seems to have no foundation. It is not impossible to imagine a group — a society — deciding collectively that censorship is desirable. On what ground can we stand and declare the decision to be deplorable? We may say that it's deplorable because, for example, it would lead to that society becoming moribund, or for other pragmatic reasons. But it's hard to see how we can say that the members of the group are being denied their rights.

A "human right" is, by definition, timeless. It cannot adhere to some societies and not others, at some times and not at other times. But the whole parcel of liberties into which free expression fits has a history. To St Augustine, religious tolerance would have been an oxymoron. The concept of pluralism as

a virtue is a thousand years more modern than St Augustine. To say, therefore, that the right of free speech was always a human right which in unenlightened societies was suspended from the year dot until our enlightened times is surely beyond even our capacity for condescension.

Nevertheless, we are relatively enlightened, let's say, we Western liberals, and when we aver that free expression is, with or without exceptions, desirable, we mean more than that it is congenial to Western liberalism. To use an old-fashioned phrase, we mean that it is good in itself.

How can we support this idea, other than pragmatically?

Freedom of speech as a standalone "right" is a ghost, the flip side of inherent human rights being unintelligible: that is, you have no inherent right to limit my freedom of speech, therefore I have the right of freedom of speech.

Now things are looking even worse for the Western liberal shibboleth. Freedom of speech, far from being an absolute, a given, seems to have less to do with rights than with rules. But that's the good news. Now we can avoid the clash of absolutes, the endless, enervating, futile confrontation of irresistible forces and immovable objects.

How did the concept of free speech as an inherent human right get into such a mess? It did so because we persist in the notion of a "right" as something to be claimed rather than accorded. While claim and counter-claim are presented as absolutes, this is a debate that not only will have no resolution but cannot have a resolution.

"Is there ever a time and place for censorship?" On the one hand we have Voltaire: "I disagree with what you say but I will defend to the death your right to say it." On the other hand, we have hate speech. I will add something personal. I was proud to be British before I was British. I arrived in 1946 when I was eight, and that was that. Czechoslovakia, which I couldn't remember; Singapore, which I could barely remember; and India, which I enjoyed, fell away like so many ladders. It was a love affair, and I was not very much older when I first articulated to myself what it was that was the foundation of my Anglophilia. It was the Voltairean credo, enshrined in my adoptive country.

But note: the appeal of the Voltairean credo was precisely that it was voluntary, his choice. He was not conceding his antagonist's possession of an overriding right, he was choosing to accord that right. He was putting down a marker for the kind of society he favoured, for an ideal. The underlying question remains as before: does Voltaire's credo hold good at all times in all circumstances?

I have used my space to say why I think the "human right" of free speech is a non-starter. It is not an absolute to be claimed for any and every position. It will prevail when we accord it. The rules are ours to make, and to modify for different situations. The rules will be as good as we are; or as bad. "We need wit and courage to make our way while our way is making us. But that is our dignity as human beings." (Alexander Herzen in *The Coast of Utopia*)

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