

III. ZE STUDIÓW NAD DOKTRYNĄ WOLNOŚCI SŁOWA

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Spinoza on Free Speech

I. Was Spinoza the father of liberalism? Baruch Spinoza (1632-1677) was arguably the first modern liberalist. His *Theologico-Political Treatise* (henceforward, “TPT”, followed by chapter number), which contains among other things a principled defense of free speech, was published anonymously in 1677, twelve years before John Locke’s charter of liberalism, *Two Treatises on Government* (1689), but it has been unduly, although understandably, neglected. It is also true that Thomas Hobbes and René Descartes had a huge influence on Spinoza, but neither of them can be called a liberalist, let alone a defender of free speech. In this article, I will try to show that Spinoza’s argument for free speech is, despite its interpretative difficulties, an important milestone in the development of the doctrine of free speech.

II. Against Descartes / The value of free speech. Descartes used his method of doubt to discover the truth and to attain absolute certainty. In this pursuit he found it essential to avoid error. His solution in the Fourth Meditation was that we can avoid error if we give our assent only to things that we comprehend clearly and distinctly. In this way, it is possible to attain the sort of certainty that is characteristic of mathematics – even outside the realm of mathematics. In short, Descartes’s fundamental idea was that error is an epistemological sin; we fall into error in the same way as we fall into sin, viz., through the wrong use of our will. This is how he sums up his view:

“Whence ... come my errors? They come from the sole fact that since the will is much wider in its range and compass than the understanding, I do not restrain

it within the ... bounds [of understanding], but extend it also to things which I do not understand: and as the will is of itself indifferent to these, it easily falls into error and sin, and chooses the evil for the good, or the false for the true.” (4th Med.)

Spinoza did not believe any of this story. Toward the end of the second book of his *Ethics*, he made two points against Descartes. (1) He argued that error is not due to our misuse of our will but simply to the poor quality of our ideas. According to him, the will is not to blame when we err; the “culprit” is simply the fact that do not “see” things clearly enough. No amount of epistemological asceticism or torture of the will can clarify an unclear idea. Only new and better ideas can do that. (2) We do not choose our beliefs (i.e., the ideas that we accept); rather our beliefs choose us. Beliefs just are not something that we *do*; they are something that *happens* to us.

In criticizing thus Descartes’s views, Spinoza also says in passing something that is of central importance to his doctrine of free speech:

“This doctrine [that we are not free to choose our beliefs at will] raises social life, in as much as it teaches us to hate no man, neither to despise, to deride, to envy, or to be angry with any. Further, as it tells us that each should be content with his own, and helpful to his neighbor, not from any womanish pity, favor, or superstition, but solely by the guidance of reason, according as the time and occasion demand[.]” (*Ethics* book II, prop. 49, Scholium.)

He seems to think that once we realize that a person’s beliefs (and valuations!) are not an expression of his inherent wickedness but the necessary result of his upbringing (and other external factors that made him the person he is), our attitude toward him changes. Our erstwhile hatred turns into pity when we realize that he is a victim of circumstances and not a free source of unfathomable evil. But now the obvious question is: can we cure him by changing his beliefs and valuations? A Spinozist answer would be that we cannot change anybody’s beliefs directly and at will – and least of all, our own beliefs. Yet there is an indirect way of bringing it about that a person’s beliefs change. It is to bring in new evidence and let it slowly change the belief-system and value-system of our jihadist, neo-Nazi, or white supremacist.

The best but admittedly slow medicine against such biased worldviews is the free flow of information. A wise government therefore supports the creation of a marketplace of ideas where only the fittest of ideas will, *in the end*, survive. Consequently, all efforts at limiting free speech will bring about bad effects socially, by eroding culture and science, and individually, by preventing people from developing their own potentialities:

“[S]uch freedom [of speech] is absolutely necessary for progress in science and the liberal arts: for no man follows such pursuits to advantage unless his judgment be entirely free and unhampered” (TPT20).

This was, in a nutshell, Spinoza’s view of the value of free speech. Now it is time to turn to the second big question, viz., that concerning the limits of free speech.

III. Against Hobbes / The limits of free speech. To draw the limits of free speech, Spinoza needs the concept of social contract. He borrows it from Hobbes but not uncritically. Hobbes’s story in his *Leviathan* (henceforward “L”, with chapter number) is familiar: in the past people used to live in a state of nature in which they constantly fought each other. Therefore, their life was “solitary, poor, nasty, brutish and short” (L13). To rid themselves of that condition, they surrendered their natural rights to a sovereign who gave them, in exchange, peace and security. The price was high: from that moment on, the citizens owed an absolute duty of obedience to the sovereign who would not tolerate dissent:

“[B]ecause the major part hath by consenting voices declared a Sovereigne; he that dissented must now consent with the rest ... or else justly be destroyed by the rest. ... And whether ... whether his consent be asked, or not, he must either submit to their decrees, or be left in the condition of warre he was in before; wherein he might without injustice be destroyed by any man whatsoever.” (L18.3)

The social contract, through which the citizens exchanged their natural liberty for the security guaranteed by the sovereign, binds absolutely. And so do all the other contracts of the citizens among themselves, and also with outsiders. The idea of the absolute bindingness of contracts has never been expressed as forcibly as by Hobbes:

“Covenants entered into by fear, in the condition of mere nature, are obligatory. For example, if I covenant to pay a ransom ... to an enemy, I am bound by it. For it is a contract, wherein one receiveth the benefit of life; the other is to receive money ... for it, and consequently, where no other law (as in the condition of mere nature) forbiddeth the performance, the covenant is valid. ... And even in Commonwealths, if I be forced to redeem myself from a thief by promising him money, I am bound to pay it, till the civil law discharge me.” (L14)

At this point, Spinoza disagrees strongly. For him, contracts are valid only as long as they are (or, perhaps more accurately, are *thought* to be) useful: “[A] compact is only made valid by its utility, without which it becomes null

and void” (TPT16). Especially, contracts made with a robber under threat do not bind his offer:

“Suppose that a robber forces me to promise that I will give him my goods at his will and pleasure. It is plain ... that if I can free myself from this robber by stratagem, by assenting to his demands, I have the natural right to do so, and to pretend to accept his conditions” (TPT16).

Contracts, then, have for Spinoza no such inherent “sanctity” as they had for Hobbes (and later for Kant). From the context it is obvious that Spinoza meant his doctrine of unbendingness of contracts to apply also to the social contract:

“It is ... foolish to ask a man to keep his faith with us forever, unless we also endeavor that the violation of the compact we enter into shall involve for the violator more harm than good. This consideration should have very great weight in forming a state.” (TPT16)

The essence of Spinoza’s “utilitarian” doctrine of contracts in TPT16 is that the bindingness of contracts depends on their mutual utility. Utility is the foundation of contracts, nor some superstitious “sanctity”; and if the foundation is taken away, so is the contract itself is destroyed: “[F]undamentum si tollatur, pactum ex sese tollitur” (TPT16).

Surprisingly, only some tens of pages later, in TPT20, Spinoza seems to have totally forgotten his radical view of the bindingness of contracts. For there he draws the limits of free speech by using the notion of the absolutely binding social contract. His view of the limits of free speech in TPT20 can be summarized as follows:

- (1) In general, people’s freedom should be limited as little as possible.
- (2) People’s freedom of speech should be limited even less than their freedom of action.
- (3) Some types of speech cannot, however, be tolerated, e.g., hate speech, slander, and libel.
- (4) Even some *beliefs* are forbidden, because they are “seditious”, i.e., they undermine the social contract.

The seditious beliefs in (4) are ones that “annul the covenant whereby everybody has surrendered his right to act just as he thinks fit” (TPT20). Spinoza tries (quite unconvincingly) to explain why he wants to forbid these beliefs or opinions:

“we can ... easily determine what opinions would be seditious. Evidently those which by their very nature nullify the compact by which the right of free ac-

tion was ceded. For instance, a man who holds that the supreme power has no rights over him, or that promises ought not to be kept, or that everyone should live as he pleases, or other doctrines of this nature in direct opposition to the above-mentioned contract, is seditious, not so much from his actual opinions and judgment, as from the deeds which they involve; for he who maintains such theories abrogates the contract which tacitly, or openly, he made with his rulers.” (TPT20)

The explanation is poor, because he does not tell us *how* belief can “involve” an action or how an action can be “implicit” in a belief. The converse would be easy to understand: a belief is “involved” in an action, because it can be used to explain the action: the odd act of drinking a glass of vinegar becomes understandable when we learn that the agent *believed* that it was wine and *wanted* to drink some wine. But what is the action “involved” in the belief that people ought to have unrestricted freedom of speech? Is it speaking in favor of free speech, building barricades, stoning the police, killing the minister of the interior, or what?

One of these prohibited beliefs is the belief that “promises ought not to be kept” (TPT20). Because contracts are a subset of promises, it is hard to avoid the conclusion that the radical Spinoza of TPT16 is one of these dangerous “agitators and rebels” whose thoughts the reactionary Spinoza of TPT20 wants to curb! How can Spinoza have made such an astonishing blunder? Can the flagrant contradiction be explained away?

Before examining three possible escapes, there is one thing that might be of interest. Spinoza did not use the concept of social contract at all in his last work, the unfinished *Political Treatise* (PT). Had he lived longer and finished the book, he might have been able to draw the limits of free speech without using the concept of social contract at all.

IV. Three ways out? The first alternative is that Spinoza did not notice the contradiction between TPT16 and TPT20. I find it impossible to believe that the author of *Ethics*, which contains one of the most intricate systems of Western metaphysics presented *more geometrico*, did not notice such a glaring contradiction in his *Treatise* which he wrote in parallel with the *Ethics*.

The second possibility is that the weird statements in TPT20 about seditious beliefs are Spinoza’s life-insurance policy. He lived in a time of political unrest, and his own life and liberty were in danger. His biographers testify that he was left alone with his dangerous ideas, because nobody dared to defend those ideas, let alone Spinoza’s right to express them. Even the great Leibniz, who had met Spinoza and discussed metaphysical problems with him, joined the choir of those who condemned the book for its blasphemous doctrines, although he could have remained silent. (For details, see Nadler 2011.) There-

fore, it is not inconceivable that Spinoza added some politically correct passages into his book in order to be able to quote them if he ever were accused of holding dangerous ideas.

The third possibility is that, despite appearances, there is no inconsistency. Whereas TPT16 *describes* how things *are* in this world where contracts do not bind absolutely, TPT20 *prescribes* how things *ought to be* – or how things are in the ideal world where all contracts are kept. However, this proposal lacks all credibility because it does not explain why Spinoza should start speaking about punishments to free-thinkers in the context of a description of an ideal world. If there are no crimes, why speak of punishments?

None of these three ways of salvaging Spinoza's theory looks promising. Perhaps a combination of the second and third alternatives could fill the bill. There are several passages in his works where he, in an almost Hegelian vein, contrasts the rational and the irrational person's way of acting and thinking. For him, freedom is not mere absence of external obstacles, as it was for Hobbes. Rather, freedom means seeing the necessity of (some of) the artificial "obstacles" that must be erected if people are to live together peacefully:

"[A]s the true object of legislation is only perceived by a few..., legislators, with a view to exacting general obedience, have wisely put forward another object [than the ultimate one, "to live more safely or conveniently"]: they promise to the observers of the law that which the masses chiefly desire, and threaten its violators with that which they chiefly fear: thus endeavoring to restrain the masses ... like a horse with a curb ... [H]ence those who obey the law are said to live under it and to be under compulsion." (TPT4)

A little later he summarizes this idea as follows: "[H]e who acts rightly from the true knowledge and love of right, acts with freedom and constancy, whereas he who acts from fear of evil, is under the constraint of evil, and acts in bondage under external control" (TPT4). This is the political version of the ethical doctrine of Spinoza's *Ethics* that Rousseau and Hegel later developed into the doctrine of "positive freedom", the *bête noire* of many present-day Anglophone liberalists.

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SPINOZA O WOLNOŚCI SŁOWA

Streszczenie

Szukając historycznych źródeł europejskiej oraz powszechnej idei wolności słowa nie można zapomnieć o Spinozie. Wyraził on swoje rewolucyjne i liberalne pomysły dwanaście lat przed *Drugim Traktacie o Rządzie* Locke'a, który jest często uważany za statut założycielski nowoczesnego liberalizmu. Poglądy Spinozy na temat wolności słowa są oparte na metafizyce i psychologii. W swojej *Etyce* odrzucił on woluntarystyczną teorię błędu Kartezjusza, którą można podsumować jako *errare est peccare*. Bycie w błędzie nie jest dla Spinozy karalnym grzechem, ponieważ popełnienie błędu nie jest czymś co "robimy", ale jest to coś co nam się "przydarza". Twierdzi on, że ta doktryna ma dobre społeczne konsekwencje. Oznacza to, że lepiej jest kiedy pozwalamy fałszywym pomysłom umrzeć na rynku pomysłów, niż dokonywać egzekucji na tych, którzy je posiadają. Niemniej jednak, wyznaczając niezbędne granice wolności słowa, w swoim *Tractatus theologico-politicus* Spinoza używa konceptu umowy społecznej: wszystko co przekreśla pierwotną umowę społeczną powinno być zakazane. Jednakże jest wyraźna sprzeczność w jego książce: w 16 rozdziale mówi, że umowy obowiązują tylko tak długo jak są użyteczne, podczas gdy w 20 rozdziale jest powiedziane, że umowy obowiązują bezwzględnie, a łamanie ich jest czynem karalnym. Obecność tej ultrakonserwatywnej doktryny w tym liberalnym traktacie, poza tym jednym przypadkiem, może być wyjaśnione jako osobista polisa ubezpieczeniowa na życie Spinozy, mimo że mogą być inne sposoby wyjaśnienia tej sprzeczności.

L'AVIS DE SPINOZA SUR LA LIBERTÉ D'EXPRESSION

Résumé

En recherchant des origines historiques de l'idée européenne (et universelle) de la liberté d'expression, il ne faut pas oublier Spinoza. Il a exprimé ses idées libérales révolutionnaires douze ans avant la parution de l'ouvrage de Locke *Second Traité du gouvernement civil* qui est souvent considéré comme la charte fondatrice du libéralisme moderne. La vision de Spinoza de la liberté d'expression est fondée sur sa métaphysique et sa psychologie. Dans son *Éthique* (vers la fin du livre 2), il rejette

la théorie de Descartes de l'erreur comme faute de la volonté que l'on peut résumer comme suit: *errare est peccare*. D'après Spinoza, être dans l'erreur n'est pas un péché punissable, parce que tomber dans l'erreur n'est pas quelque chose que nous faisons mais c'est quelque chose qui nous arrive.

Il dit que cette doctrine a de bonnes conséquences sociales, ce qui signifie qu'il vaut mieux laisser mourir les idées fausses sur le marché des idées qu'exécuter leurs détenteurs. Néanmoins, en dessinant les limites nécessaires à la liberté d'expression (p.ex. pour interdire la diffamation et la haine) dans son *Tractatus theologico-politicus*, Spinoza présente la conception du contrat social: tout ce qui provoque l'annulation du contrat social original doit être proscrit. Cependant, il y a une contradiction évidente dans son livre: au chapitre 16, il dit que les contrats ne sont contraignants que s'ils sont utiles, alors qu'au chapitre 20, il dit que les contrats sont absolument contraignants et que leur rupture est un acte punissable. La présence de cette doctrine simpliste dans un traité d'ailleurs libéral pourrait être expliquée comme une sorte de police d'assurance-vie personnelle de Spinoza, bien qu'on puisse donner d'autres explications de cette contradiction.