

INTRODUCTION

We cannot develop or flourish in isolation. Our mutual interdependence is not merely material but also, importantly, mental. The exchange of thoughts, beliefs, emotions, perceptions, and ideas with others is essential to each person's ability to function well as a thinker and as a moral agent. Sincere communication with others is, likewise, crucial to our ability to live together and to pursue our joint moral aims. Because we cannot peer into one another's minds, we depend upon others to convey their mental contents with precision and rich content through sincere communication. Sincere communication permits us, then, to share knowledge and hypotheses and to share needs, emotions, intentions, convictions, ambitions, desires, fantasies, disappointments, and judgments. Thereby, we are enabled to form and execute complex cooperative plans, to understand one another, to appreciate and negotiate around our differences, and to gauge, somewhat, the extent of our mutual ineffability. These achievements are important components of fulfilling the full range of our moral duties and ends, which involve mutual recognition, helping and respecting others, and responding to others as individuals—activities that often involve assessments of what others think, believe, and will.

Protecting this channel of mutual access must, therefore, be a substantial moral priority. My contention is that keener attention to the moral significance of communication would illuminate both the justificatory foundations of the prohibition against lying and the moral and legal prohibition against curtailing freedom of speech. Both prohibitions serve as moral protections of the reliability of communication and thereby preserve the conditions for moral agency, moral connection, and moral progress.

By probing the connections between discursive communication and moral agency, I hope to unify a variety of issues about communicative ethics and to motivate the outlines of a principled, nonconsequentialist approach to these issues—in particular to issues about lying, promissory fidelity, and freedom of speech. The approach I develop here complicates the case for making consequence-based exceptions to communicative duties in exigent circumstances created by bad agents. I argue that a non-

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consequentialist case for sincerity and promissory fidelity has strong application outside of ideal theory, even in circumstances where immoral agents refuse to behave reciprocally and where insincerity and promissory infidelity are entertained because they would serve substantial moral purposes.

My aim is to provide a richer set of resources for deontological approaches to communicative duties and freedoms, by elaborating on the values communicative duties are structured to serve and by illustrating the connections between our communicative capacities and the cooperative project of developing and exercising our moral agency. Fleshing out these resources should clarify why making exceptions to communicative duties in exigent circumstances is not a simple ethical matter, and why yielding to consequences is in tension with the values these duties protect.

In short form, my claims revolve around the following ideas: Moral agency is a cooperative matter that depends on reliable channels of communication (among, of course, other things) for its development and realization. Every person matters, even those who go astray. In particular, every person's moral agency matters, even when they behave criminally. To preserve meaningful opportunities for the proper realization of our moral agency, we must protect the freedom to communicate. We must also protect the reliability and trustworthiness of communication as a window into one another's minds. The duties of sincerity and promissory fidelity play a large role in that scheme of protection. To abridge freedom of speech or to carve exceptions to these duties is, to a significant extent, to isolate thinkers from one another. This isolation is in tension with the cooperative and collaborative project of fostering everyone's moral agency. The arguments for restricting the scope of communicative duties and rights often seem insufficiently sensitive to the general role of communication in enabling moral agency, securing our moral ends, and facilitating moral connection and moral rehabilitation, even with, and perhaps especially with, wrongdoers. Being able to forge moral progress together without resorting to violence depends upon enabling and protecting somewhat fragile lines of communicative trust.

My more detailed plan to elaborate on these ideas is as follows. First, I will address some issues about our individual duties of sincerity and promissory fidelity. I will defend a qualified absolutism about lying that distinguishes the wrong of the lie from the wrong involved in deception (when it is wrong). My account emphasizes the role the stricture on lying plays in maintaining reliable channels of communication between moral

agents. Then, I will investigate whether, how, and why it should matter that one's interlocutor is a moral criminal, the infamous Murderer at the Door.

The second chapter turns to the question of whether promises made under duress have moral force. Extending themes from the first chapter about the importance of maintaining reliable channels of communication and trust, I consider whether and why it should matter that one's promisee is a moral criminal, the proverbial highway robber. I will defend the surprising conclusion that some promises made under duress may indeed have moral force. Both chapters connect sincerity and promissory fidelity by individuals in nonideal circumstances with the social conditions that enable moral progress.

From there, I turn my attention to law and social institutions. In the second part of the book, I address the foundational connection between the grounds for the moral prohibition on lying and the moral and political protection of freedom of speech. Connecting the foundations of the duty of sincerity with the foundations of freedom of speech yields implications for free speech doctrine and for our legal treatment of lies. Making this connection also has critical implications for exceptionalist arguments advanced on behalf of institutions like the police, public employers, and universities, for institutional exemptions from the prohibition on lies and from free speech requirements.

Specifically, in the third chapter, I contend that the connection between discursive communication and moral agency also provides the foundations for what I call a "thinker-based theory" of freedom of speech. This theory defends freedom of speech for both political and personal speech by locating the foundation of freedom of speech in the needs of the individual thinker. I then turn to explore how a unified approach to sincerity and freedom of speech bears on the philosophical issues associated with the legal regulation of lies. This discussion spans two chapters. Chapter Four argues that, despite the common wisdom, legal regulation of lying poses no intrinsic threat to freedom of speech, although various regulations may, in context, pose a contingent threat by enabling governmental abuse. Chapter Five argues that although legal regulation of some autobiographical lies may not offend freedom, it may offend equality. I argue that our moral equality rests on a conception of each of us as imperfect moral agents that counsels for legal accommodation of the moral failure that (merely) autobiographical lies represent.

In the final chapter, I turn to the ethics of misrepresentations that are offered within institutional roles for institutional purposes. It is some-

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times suggested that institutional values and roles provide special authorization both for controlled forms of misrepresentation to advance significant social purposes and for constraints on freedom of speech. I argue to the contrary, focusing on misrepresentations by academic researchers in the pursuit of truth and hierarchical justifications for speech restrictions. Because the university operates as a substantial epistemic resource, the success of which depends both on its credibility and intellectual independence, universities and their members have special obligations not to engage in misrepresentation and, at the same time, to protect a wide scope of academic freedom.

Two final notes about style: This volume began its life as three lectures, which appear, in somewhat revised form, as Chapters One, Two, and Six. Although the lectures addressed interconnected themes, each was meant to stand alone. To fill in the arguments about freedom of speech that appear in Chapter Six and to address the legal theoretical questions that grow out of Chapter One, I added the chapters about freedom of speech and the legal treatment of lies. Although the chapters build on one another and there are some cross-references between them, I have tried to retain their rough independence from one another so that readers may dip into subsequent chapters without having read the preceding ones.

Second, I write to an audience interested in theoretical and practical issues concerning morality, politics, and law. At times in the text, I advert to legal doctrines or to philosophical or legal literature that may be more familiar to specialists in those fields. Given my own background and expertise, my discussion of legal doctrine concentrates on U.S. law and often on the framework of free speech protection embodied in the First Amendment, our constitutional provision dedicated to the strong protection of free speech. I have attempted to make these references accessible to those outside the discipline in question but, in any case, I try quickly to return to more general and approachable themes.