

# Free Speech and Email Lists

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I didn't really want to write this, but circumstances have forced my hand. I guess I had something to do with the circumstances, so I can't complain too much.

We have ourselves a meta-issue — an issue about issues arising in life; an issue about choosing between issues, about which issues are worthy, about which are appropriate in certain circumstances. We have a student email list in the mathematics department and issues have arisen, as to what it is for and how it can be used. Is it a “free speech zone” (whatever that is)? More specifically, are there certain issues that should or should not be raised on the list?

I should make it clear that I do not think this is an interesting question, especially compared to some of the actual issues that provoked this discussion. But since it has become controversial, and since I have been one of the people posting to the list, I guess I should make my point of view clear. Since people for whom I have respect are worried about it, I will take the time to state my approach — even though it is boring to a lot of people, and perhaps unimportant to say.

## 1 The importance of the issue.

It is *essentially insignificant*, a non-issue. There are so many problems and issues in the world, this one does not compare. It is somewhat extraordinary. People have posted to an email list about issues they care about. Those issues are important, at least to the people posting on them. Whether those issues should or should not be discussed is at best a second-order issue; at worst it does not merit our attention. For now we will take the most generous approach: we will pay attention.

## 2 The meaning of free speech.

If we are consistent about it, then when we say we are in favour of free speech, we mean that we accept the free speech of those we disagree with. We are always happy to hear the speech of those we *agree* with. When we say we are in favour

of free speech, then, we are saying that we are happy to hear annoying speech, speech we disagree with, speech which makes us angry, speech which we would rather not hear. The free speech of those with whom we agree is a free speech which Hitler and Goebbels would have embraced enthusiastically.

Here in the US, nobody is against free speech. At times the issue has been cast as whether one is for or against free speech. Again, this is a non-issue. Everybody is in favour of free speech. But we need to realise that our commitment to free speech involves annoyance and friction from those we disagree with. I don't think anybody here is against free speech per se; this is again a non-issue. It is all trite.

### 3 Free speech in law and practice.

The US has some of the best free speech laws in the world. Relatively speaking, of course, and taking into account various human rights abuses and some disappointing treatment of dissidents at times. So, in law, by rights, we may say our mind with a great deal of freedom. However, there are some types of speech which are proscribed by law. For instance, inciting violence is covered by criminal law. Sexual discrimination, which includes discriminatory or offensive speech, is covered by other laws. In some places, racial vilification is outlawed. And there are many other exceptions. So free speech rights are not absolute; they are sometimes balanced against competing considerations.

In practice, however, we do not just say what is on our mind; speech is not always free, in the sense of being spontaneous or unfiltered. Certain topics offend certain people; certain topics are taboo; certain topics just never come up in conversation, and it feels strange or wrong to raise them. Examples may include sexually explicit or offensive speech, hateful speech, violent speech, and so on. It sometimes seems that political speech per se is frowned upon — to the extent this occurs, it is a sign of living in an undemocratic society; it is certainly exacerbated by whatever atomising, consumerist, materialistic, self-absorbed aspects exist in our culture. In general, though, the topics which may be offensive or taboo may also be the ones which are proscribed by law. But clearly, the questions of what is *legal*, and what is *socially acceptable* in practice, though related, are different.

This distinction is often irrelevant; but it is relevant to us. In the recent context of the mathematics department, there has been speech for which its social acceptability has been contested, but it is also covered by law, and there are relevant authorities to go to. (Of course, I am thinking of sexual discrimination and harassment office here.) Someone can go to the authorities and report the speech. This cuts the whole debate about whether or not it is acceptable and appropriate — the long arm of the law comes in and shuts down the whole debate. It may well have been a legitimate discussion — but now, those who were arguing against the position the authorities have taken feel oppressed, feel that they have been cheated. It was a fair argument; and now the force of official bureaucracy has squashed them. Nevertheless, one can still argue about

whether going to the authorities was the right thing to do; and the discussion can still continue — only now it is a debate *both* about the social acceptability of certain speech, and *also* a debate about whether the law is fair and should have been resorted to. If one was arguing on the same side as the authorities, one is vindicated, one claims victory; a rather easy victory, perhaps, but sanctioned by the full supposed justice of the state, with all its legitimating power, all its ideology and mythology. For the losers, however, there is not only humiliation: they feel oppressed by the force of the state; they have lost the argument both in merit and in force.

## 4 Email lists.

What is an email list? The one relevant to us operates very simply. Anybody who knows the list's address can send messages to it, and then they are received by a large number of people. It is a technological conduit allowing instant access to a lot of people. If you like, it is something unique to recent times: like a megaphone, but not necessarily limited in geography, and not lost if unheard the first time — rather the message will sit in your inbox until you do something about it. And — again for our purposes — there is no mechanism for legal regulation, or even bureaucratic regulation: no censors, no moderators, no specific laws or rules about what can and can't be said. Such rules can be agreed upon by the users, of course — not rules with the force of law, but as a sort of voluntary, non-legally binding code of conduct — and that is the major point at issue here.

For those who feel strongly about some issue, then, the email list presents a useful tool for spreading information. If we are inflamed with passion for some cause we feel is just, and we want to — or rather, feel we must — expound unto others our ideas from the rooftops, it is the perfect technology. Our free speech then has an outlet. In fact it is the perfect channel for free speech: our voice will be heard, loudly, clearly, by many. The megaphone analogy is sloppy but apt: it is roughly equivalent to broadcasting a speech to our colleagues, but not as physically intrusive, not as socially audacious, less emotionally intensive, and more accurately conveyed. It may be annoying for the recipients, particularly those who would disagree. Those in opposition may have been irked by the same views expressed by any means, including in person. It may also be annoying in another sense — because of the factors specific to email: it not only annoys us with its opinions, but it also clogs our inboxes, and maintaining an orderly flow of email is essential to carrying on our daily work.

From the point of view of the inflamed, passionate email sender, the rules on the use of the email list are not quite the heart of the matter. They are relevant, very relevant; but they miss the heart of the consideration of the potential sender. The rules specify the level of stigma, the level of disapprobation and turpitude, or even illegality, they will encounter as a result of sending the email. If the email stretches the rules for use of the list — or worse, breaks them — or worse again, is illegal — then there are higher costs to pay for sending it.

Those costs may come in the way of friction from colleagues, to disapproval and arguments in public. But those who want to send the message about the issue they care about are prepared to annoy their colleagues; they are prepared for friction; they are prepared to become a little unpopular. Voluntary, non-binding rules, customary rules, will not necessarily bind them in circumstances that they passionately feel are exceptional. Even if there are binding, legal rules, in extreme circumstances they may be prepared to break them and face the consequences.

So we see: for a person with a strong desire to send a message on a topic they care deeply about, there is an evaluation to make. They must weigh up the benefits they feel will flow from spreading their message, against the costs they may suffer as a result. The benefits depend on the issue but may include informing colleagues, moving colleagues to some action, persuading them of some argument, bringing to them some point of view, and so on. The costs may include, as we have mentioned, personal friction, alienation, isolation, ostracism, personal enmities, and so on, right through to actual illegality and criminal punishment. The considerations that are involved in sending mass emails about politics, sex, religion or whatever, are considerations that are passionate and often meta-rule considerations: the question is not only what the rules should be, but whether or not a rule of conduct should be followed.

## 5 Appropriate rules.

We have discussed how rules operate, but not the question of what appropriate rules are. We have discussed the meta-rule considerations, but not the rules themselves. One can argue either way on this; reasonable minds may differ. Against a “free speech zone”, one may argue that the list is set up in a department; that its purpose is department-based; that it should be used minimally for topics not directly related to the department; and not for controversial topics. This is a reasonable argument, though it may not stand up as a counterargument against the email sender who is passionate about their issue. Those who are apolitical, and those who will usually disagree with political emails, will perhaps tend to this point of view.

On the other hand, there are plenty of good reasons for a “free speech zone”, albeit one that operates in a certain social context and therefore requires a certain modicum of diplomacy and tact — like all social interactions. For one thing, the department is a relatively small community, and all the members see each other often in person, in a social context, as well as in a professional or academic one — mathematics is a large part of our lives! We may well regard things we say in emails as more refined, more precise, more detailed, more permanent versions of things we might say in person. For another, rather than seeing the email list as ‘owned’ by the department, being subordinate to immediate department-related issues, we may see it without any ownership and merely as a communications portal. It is a conduit by which we can contact a lot of people we know quickly and efficiently. If we have a message which we

strongly would like all those people to hear — people we know — we do not see any reason to stop ourselves short. Why not do it? These are people we know, and we would like them all to hear something. It's not specific to the department, but it is important to us.

On this view, anything that people might say in a conversation to a general member of the department, without any offence being caused, would be legitimate in an email — whether it is tactful is another question, and an extremely subjective one. So sexually offensive comments are immediately out, for instance; some people might make private comments in the company of those of the same gender, but the same comments would be offensive to a member of the opposite sex. Of course one must also consider email-specific issues — for instance, they don't want to clutter inboxes — but the general point is clear. Political issues which you could legitimately raise in conversation and about which you feel strongly, fine. If you do it all the time, however, that would be like berating people in person about your views all the time — you may not win many friends or persuade many people with such a strategy. Religious issues are perhaps more private, but if we have something to say, which we might say in person, fine. Sexual issues — again, if it's not offensive, if one feels strongly about sexual discrimination law or regulations, or the behaviour of others, or wants to make comments about living in a patriarchal society, fine. There are surely many borderline cases and situations, and it can be argued over about what is offensive, and such discussion is certainly legitimate — remembering, that this is a public argument open to all to hear. If questions arise over legality, it can be taken to the authorities; and then everyone can argue over whether this should have been done — all the previous comments apply. This is what free speech is. The email list, in fact, operates to facilitate free speech amongst a substantial community of people in a way that random or occasional face to face conduct cannot. If it is such a potentially beneficial aid to free speech, then perhaps we ought to embrace it, rather than cast it as a limited, specific, circumscribed messaging list for departmental events and issues. It is certainly not that way by its technological nature per se.

And this brings us to a more basic point. The point is that we should enjoy and appreciate the free flow of facts and ideas. This is what academic life is all about; it is what many other things in life are about also. We should always be open to new ideas, even the ones we disagree with. There is a general presumption in favour of the communication of ideas. All other things being equal, an idea being conveyed is better than silence. And in the end, you do not have to read an email in the same way that you have to listen to a person who is talking to you. In general, if a person feels strongly about something, there is usually a reason for it, and we should hear them out. From this point of view, to cast an email that brings a fact, event or idea to you as illegitimate seems small-minded. If we believe in a truly democratic society, then we should accept the harassment of speech and ideas from others, particularly our colleagues when they care about an issue — and whether in person or via any other medium, including the innocuous and non-intrusive medium of email.