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Thinking Beyond 'Free Speech' in Responding to Online Harassment

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Abstract: Online harassment is a significant problem, and an important movement has emerged in response. However, this activism usually refers back to free speech discourse. I argue that an intersectional approach requires us to explore a more radical rethinking of the political traditions we draw on when responding to online harassment.

Online harassment is a significant problem: it's starting to feel like every day I see a new person go offline permanently or temporarily, or take arduous steps to protect themselves that make it harder for them to do their work. An important movement has emerged in response, as activists push social media platforms to develop better policies around harassment, remove features that facilitate it, and give users more ways to protect themselves. Activists within this movement, as well as academics writing about online harassment, have tended to ground their discussions of the problem with reference to free speech discourse. However, this language, with its grounding in the Western liberal tradition, comes with considerable limitations. I argue here that an intersectional approach requires us to explore a much more radical rethinking of the political traditions in which we ground responses to online harassment.

In previous work, I've referred to activists' blog and Twitter posts, and other online material (Croeser, 2015: 9-10). In this research, I've been more hesitant to do so. This is because while often such material is public, in the sense of being available online with no constraints of access, it may also not be shared with a broad, or academic, audience in mind. Annette Markham and Elizabeth Buchanan argue in their report on ethical Internet research that the aggregation of data, even public data, can make information available more widely than expected (2012, 6; see also Harry, 2014). I am aware that for many people, visibility leads to more harassment (Dryden, 2014). Additionally, important critiques have been raised about the ways in which marginalised peoples' analyses have been appropriated, often without attribution or remuneration, by more-privileged researchers (Chief Elk, 2014; Kim and Kim, 2014; Bailey, 2015). I've attempted to use only sources which seem intended for a broad audience (such as books and magazine articles) while avoiding 'public' material that seems intended to be more

ephemeral, or for discussion within a more limited circle. At the same time, I have tried to ensure that activists working in this area have been appropriately credited, whether or not they have written in academic spaces. On a related note, I frequently refer here to 'activists'. In doing so, I hope to both recognise their expertise, which often comes from a deep lived experience tied to thoughtful theorisation, and to encompass many academics, whose writing (like mine) seems intended as a form of activism.

I must also recognise that this work focuses primarily on English-language writing and activism from the US, Europe, and Australia, and might as such omit important strands of anti-harassment activism in other languages and locations. I refer to the Western liberal political model, assuming that most readers live in a state that, like Australia, is characterised by representative democracy, a nominal division between politics and the market (and, in practice, a far messier relationship between the two), and a history of violent colonisation. There are also other states where this political tradition has been imposed through colonisation, and where the concept of 'free speech' is frequently invoked, even while there are significant differences in the political system.

Free speech and responses to online harassment

I recently gave a talk at a conference arguing that we need to develop political imaginaries that look beyond 'free speech'. Most of the audience responses seemed confused, at best, with a few comments veering towards outrage. Perhaps I didn't understand what free speech actually means? Perhaps I didn't understand the importance of free speech? Perhaps I didn't understand the need to protect disagreeable speech? It was striking to me just how unimaginable it seemed, to most of the audience, to shift away from seeing politics through a liberal lens: one in which the state is the main threat to political freedoms, and which particular ideals – including free speech and the centrality of the individual – are taken for granted. This is particularly visible when it comes to the discussions around online harassment.

In part, this can be understood as a response to the repeated claims that responses to online harassment are attacks on free speech. These claims can be traced back to an individualist libertarianism that continues to shape many parts of the Internet in which the 'belief that all speech, no matter how vile or offensive, is not only protected, but an essential part of what makes the Internet what it is' (Shepherd et al., 2014: 4). Citron notes that,

Perpetrators of cyber civil rights abuses commonly hide behind powerful free speech norms that both online and offline communities revere … destructive online mobs invoke free speech values even as they work to suppress the speech of women and people of color (2008: 67).

There are many examples of this, including the derailing of discussions around the impact of rape jokes at a popular gaming conference through references to attacks on free speech (Salter & Blodgett, 2012: 410), and the reference to liberal ideals of the truth-finding value of antagonistic speech in free and open source software communities (Nafus 2012: 675). Responses to online harassment take place within an environment in which they are frequently accused of 'hating free speech', an almost unpardonable political sin in many communities.

Linked to claims that protections against online harassment are attacks on free speech, there is a frequent push to configure 'free speech' expansively. The Geek Feminism Wiki ('free speech', 2016) notes that 'It is not uncommon for geeks to make reference to an unquestioned and without scope "right to free speech"' which goes well beyond US protections. The Wiki also notes that even criticism is frequently positioned as censorship. Similarly, moderation (such as rejecting comments or banning commenters who are abusive) is often positioned as a threat to online freedoms (Shaw, 2013). A wide range of measures used in the attempt to foster 'safer spaces', in which oppressions such as sexism and racism are minimised, are labelled attacks on free speech.

The impact of this is seen in the continual reassurance, from those addressing online harassment, that they value free speech and have no wish to undermine it. An Electronic Freedom Frontier post about online harassment, for example, assures us that, 'We can and should stand up against harassment. Doing so is not censorship—it's being part of the fight for an inclusive and speech-supporting Internet' (Kayyali and O'Brien, 2015). A statement about harassment from Twitter general counsel Vijaya Gadde on online harassment is titled, 'Here's how we're trying to stop abuse while preserving free speech' (2015). Jeong (2015) not only positions addressing online harassment as consonant with free speech ideals, but also implies that doing so will help rehabilitate free speech advocacy. She writes, 'there is a pervasive feeling that harassment must be rooted out and solved. Anonymity and freedom of speech have become bad words, the catchphrases of an old guard that refuses to open its eyes to a crisis for the Internet'. A concerted effort is under way to argue that managing online harassment will strengthen, rather than undermine, free speech.

Attempts to address online harassment, in addition to emphasising their support of free speech, also frequently involve reminders that most understandings of free speech refer to freedom from government oppression. For example, Little (2010: 221) draws a line between public space and the privacy of her blog, which 'is not a governmental agency. I don't owe anyone admission into my living room, let alone these stray dogs who just want to pee in the corners and drive away all of my other guests'. Similarly, Shaw cites the distinctions that Australian feminist bloggers draw between censorship and the moderation of their own private spaces. One blogger, tigtog, explains,

> Choosing not to allow someone else's comment on one's own space is not censoring them (they are always free to say it on their own blog), it's simply not publishing them. A commitment to the principle of free speech does not mean forgoing one's right (and responsibility) to shape the content on your own web publication' (cited in Shaw 2013).

These arguments reiterate support for free speech by reaffirming the concept's liberal roots in the division between the public space of politics, and private spaces which should remain largely beyond the reach of the state.

Many of those responding to online harassment accept this division when applied to smaller online communities, but question whether it should apply to larger platforms. This is, again, an appeal to liberal ideals: an invocation of the division between the privacy and intimacy of the home, and the political nature of the public square. Sarah Jeong (2015) writes,

> For small and intimate communities, the question of balancing speech and user safety is relatively null. But large-scale platforms are different. Although they are technically private property and not subject to First Amendment speech protections even when their users and servers are based in the US, they are beginning to resemble public squares of discussion and debate, the main staging grounds of the kind of speech that connects people to other people and forms the foundation of democracy.

Given the reach and impact of platforms like Twitter and Facebook, many anti-harassment activists argue that it is unreasonable that these be exempted from the protections afforded to other public spaces.

For these activists, a modified vision of freedom of speech – and of what constitutes an attack on it – can be used to understand the impact of online harassment. Online harassment (and its frequent shift into offline threats) raises the cost of communicating on the Internet, and this cost is disproportionately borne by women, people of colour, trans and non-binary people, queer people, and other marginalised groups (Citron, 2008; Crockett, 2014; Duggan et al., 2014: 39; Hunt, 2016; Marwick & Miller, 2014: 16). Women of colour have raised important critiques of the ways in which white feminists contribute to this problem, creating toxic cultures that often support harassment (Kaba & Smith, 2014; Collected authors, 2014; Cross, 2015). For many of those targeted by harassers, the Internet becomes a stream of garbage (to draw on Jeong's analogy) that they must wade through in order to gain any of the benefits of being online.

Many targets of harassment end up temporarily or permanently going offline, and their offline activities may also be severely curtailed. Kathy Sierra, after years of harassment that included death threats and threats to her family, chose to leave Twitter. Anita Sarkeesian cancelled a public speaking engagement after receiving death threats that referenced the Montreal Massacre, and being told that guns could not be banned from the event (Robertson, 2014). When people targeted by harassment choose to stay online, to continue to appear at public events, or to share details of their lives, they must often pay an additional cost in anxiety and other mental health issues, time (to filter out or otherwise deal with harassers), money (which is frequently required to add layers of physical protection or privacy), and other resources. Existing laws in most countries provide few protections, even for those experiencing significant abuse online, which may shift to their offline lives (Marwick & Miller, 2014). All of this takes space and energy away from their work, their activism, their theorising, and the many other ways in which they might contribute to the public sphere so valorised in free speech discourse. These should also be seen in the broader context of a history in which 'free speech', including offline, has never been truly free and inclusive of marginalised groups.

Similarly, even those who are not targeted for harassment experience the 'chilling' of speech: they might avoid writing about particular topics, engaging in spaces seen as risky, or linking their online and offline identities, after seeing the costs borne by others. A member of the Peng! Collective talked about being inspired to action after repeatedly hearing women, trans activists, and journalists saying they were put off trying to create change online because of the harassment they were likely to receive (Bartlett 2015). Chess and Shaw (2015) demonstrate the ways in which writing about

gaming can become a daunting prospect for feminist scholars. At the 2015 Association of Internet Researchers Conference, some hashtags (#BlackLivesMatter and #Gamergate) had to be avoided because of the flood of harassment their use at previous conferences had attracted. Even writing the draft of this paper, I've felt considerable nervousness about the thought of sharing it online. You don't need to be directly targeted for harassment to feel its effects.

Online harassment can therefore be framed as a form of silencing, an attack on free speech which disproportionately affects marginalised groups. Twitter's 2015 statement on online harassment makes this connection:

> Freedom of expression means little as our underlying philosophy if we continue to allow voices to be silenced because they are afraid to speak up. We need to do a better job combating abuse without chilling or silencing speech (Gadde, 2015).

This understanding of harassment as a silencing of speech didn't emerge out of nowhere. It was the result of a concerted effort by activists to highlight the harm caused by online harassment (which also often involves threats of violence), and to convince Twitter and other platforms that a (rhetorical or actual) commitment to free speech should not entail 'neutrality' on online harassment.

In contrast to the current situation, in which many people are silenced by online harassment, activists offer a modified vision of free speech. Herring et al. (2002: 374) suggest that this is a more communitarian view, which, 'recognizes that less empowered persons might require buffering so that their rights to speech are preserved, and for the good of the community as a whole'. Free speech remains central, in this activism, to how we think about participation in, and management of, online spaces, although activists have argued for a new understanding of free speech to account for silencing by actors other than the state.

It is unsurprising that responses to online harassment have been so firmly contained within the framework of free speech. As I noted above, both the libertarian history of the Internet and the tendency of harassers to claim free speech is under attack prompt activists to position their work as in line with free speech ideals. In addition, many activists working on online harassment have been involved in, or continue to participate in, the digital liberties movement, which also tends to privilege liberal and libertarian ideals (Croeser, 2012; Croeser 2015). More broadly, English-language activism around online harassment takes place within societies in which liberal

political ideals remain hegemonic, and little space is given to alternatives in the educational system, the mainstream media, or political institutions.

The limits of 'free speech'

There are compelling reasons to draw on free speech discourse in responding to online harassment: it is broadly accepted as important, and fits well with dominant political ideals. However, we also need to understand the problems that come with its entanglement in the liberal democratic political model. What is frequently missing is a critique of whether the liberal democratic model has, in fact, been successful enough that we should be focusing on how to transfer and extend it online. Tsing (2011) argues that while concepts like human rights and free speech may have power, they also come packaged with their own histories, carrying 'the inequalities of global geopolitics even as they promote rhetorics of equality. Those who adopt and adapt them do not escape the colonial heritage, even as they explore its possibilities'.

One of the most striking analogies used in describing online harassment can be found in Jeong's The Internet of Garbage. Jeong uses the metaphor of the frontier, building on a long tradition in digital liberties activism, including the naming of the Electronic Frontier Foundation. Jeong writes that the Internet, 'looks like an eternal frontier, a never-ending expanse with room for an infinite amount of data, information, and gathering places.' Taking steps against online harassment 'is about giving the harassed space on the Internet, and keeping the electronic frontier open to them'. This metaphor elides the history of frontiers in settler societies, and of the US frontier in particular. Rather than a wide open and empty space of freedom, the US frontier was shaped by the violent displacement of Indigenous peoples, and by genocide. As an ideal, it leaves a lot to be desired. Jeong's book is a valuable and thoughtful contribution to our understandings of online harassment: as such the use of this metaphor is a demonstration of the ubiquity and reach of liberal ideals' colonial foundations.

Another common metaphor used by those engaged in anti-harassment work is the notion that truth can best be found through a 'marketplace of ideas'. In this model, we come to truth through rigorous testing, the availability of a broad range of ideas from which we can pick and choose the best – and we need to ensure that women and other marginalised groups can participate equally (Citron, 2008: 103; Jeong, 2015). Again, however, this seems like a strange model to hold up as a cherished ideal. The market (as it exists in liberal democratic states) is inherently unequal, and inherently exclusionary.

The disruptive and harmful behaviour associated with online harassment is not an aberration from the Western liberal political tradition: it's a direct extension of it. Whitney Phillips' (2015) work on trolling (which overlaps with online harassment) highlights this. She argues that, 'Not only does the act of trolling replicate gendered notions of dominance and success—most conspicuously expressed through the "adversary method," Western philosophy's dominant rhetorical paradigm—it also exhibits a profound sense of entitlement, one spurred by expansionist and colonialist ideologies.' The deep structural misogyny embedded in Western culture that Banet-Weiser and Miltner argue underpins online harassment (2016: 171) is similarly embedded in the political tradition that free speech is so inextricably tied to.

Looking at free speech in practice in the West is hardly reassuring. There are certainly meaningful opportunities for dissenting voices to speak, and social movements have won important victories for previously-restricted speech by drawing on free speech discourse. But free speech is a system which is based on, and reinforces, significant economic inequality, as well as a multitude of other exclusions, and is far from 'free'. Astra Taylor's (2014) The People's Platform tracks a profound unease with the claim that free speech, in a capitalist political system, can provide us with the vibrant range of ideas and political participation we seek. In Australia access to a wide range of political ideas and diverse engagement in political debate is, arguably, significantly undermined by media centralisation and huge cuts to public broadcasting services. Free speech discourse provides us with very little help in understanding the role of economic inequality in limiting which perspectives are amplified, and which are listened to.

Critiques of the ways in which economic and political inequality are constructed and reinforced are too numerous to fully explore here, but there are some general points worth outlining. Liberal politics enshrines a public/private divide that contributes to women's political exclusion and to domestic violence, and is intensified for women of colour under neoliberalism (Mukherjee, 2015). It's built on violent colonisation, racism, and genocide (Smith 2011). It requires, ultimately, that the power of the state be used to protect private property (even when this directly or indirectly kills people). It's inextricably tied to capitalism, a vastly unequal economic system which has brought our world to the brink of unavoidable and catastrophic change. As protesters frequently chant: 'the system wasn't broken, it was built this way'. Free speech cannot be disentangled from liberal politics – it only makes sense within a political system in which the state is seen both as the people's will arrived at through democratic deliberation, and one where the state's power must be limited. We need to rethink our

political system, which also implies rethinking the ways in which we prioritise free speech.

The common answer to these problems is to say that while political liberalism has its flaws, every other possible system is worse. However, accepting a system that is fundamentally unequal, violent, and ecologically destructive, even at its best, seems like a low bar to set ourselves. Other political and economic models of varying degrees of success have existed, and continue to exist, intertwined with or at the edges of neoliberalism. We can, and should, be working to imagine other possibilities.

This is not to say that all free speech advocacy should be abandoned (even in the unlikely event that everyone working in the area reads this paper and finds it incredibly convincing). Many of us continue to live in societies dominated by state power, and founded on or heavily influenced by liberal democratic ideals. We cannot afford to ignore the coercive power of state censorship, particularly as, like online harassment, it often targets those who are already marginalised. Free speech discourse draws on a powerful appeal to the state to live up to its own ideals, and is grounded in legal frameworks that, in the US and other liberal democracies, already recognise and protect the concept. It therefore remains both urgent and strategically useful to continue work to protect 'free speech'. Happily, considerable resources are already dedicated to this effort: the Electronic Frontier Foundation, the most well-known organisation campaigning for 'your rights online', usually with a strong emphasis on free speech, reported receiving US$13.4M in public support in 2014 (EFF, 2015). For those of us working at the margins, however, we should consider a dual strategy: supporting the work of more mainstream activists who work to limit the power of state censorship, while also dreaming beyond the current system.

Looking for alternatives

In looking for alternatives to free speech discourse (and the larger package of liberal democratic assumptions within which it is embedded), it is useful to begin by unpacking what free speech is meant to achieve. Firstly, free speech protections have a value in and of themselves, in preserving personal autonomy from a repressive state. Secondly, free speech is seen as integral to democratic participation and deliberation. Thirdly, free speech is, as mentioned above, meant to aid in truth-seeking, as the expression of unpopular and even incorrect ideas can lead us to discover new truths or reconfirm old ones.

The liberal democratic political model has failed, in important ways, to achieve these goals. Personal autonomy remains deeply constrained by economic inequality, and women, trans people, people of colour, Indigenous people, and other marginalised groups find their personal expression and physical autonomy is frequently under threat. Democratic participation in the formal political system is, in many Western countries, limited to voting for one of two major parties with overlapping policies, or for a minor party with limited ability to achieve change. Those speaking difficult and uncomfortable truths frequently find themselves shouus (Dunbar-Ortiz 2012: 11). We can learn from the practices of those around us, even when these are not explicitly configured as political: Mujeres Creando, an anarcha-feminist group, have said that they are anarchists, 'by our grandmothers, and that's a beautiful school of anarchism' (Paredes, 2011). By exploring these scattered, hidden, and marginalised practices, we can find a multitude of different frameworks for achieving the same goals that 'free speech' offers us, and might expect that some of them will be more successful than the approaches we currently privilege. At the same time, learning about these practices must take place within a framework where we remain aware of power structures. It is not enough to appropriate decontextualised aspects of other cultures without acknowledging members of marginalised groups as experts, and supporting their choices about how and when to share their knowledge.

There are already hints of other possibilities emerging in many of the practices used to manage online (and offline) harassment. Much of the discussion around safe spaces simultaneously reinforces free speech discourse (by implicitly accepting its applicability to the public sphere) and imagines alternatives (in the practices built within 'private' spaces). These practices can, at times, offer a very different vision of speech and freedom than that embodied in liberal politics (Toupin, 2014). We can draw on, and extend, these efforts by connecting them more explicitly to alternative political models.

This paper, sadly, falls short of the kind of radical reimagining that we need. It is limited, in many ways, by the fact that I have only taken a few small steps beyond the limitations of my formal education and towards finding political alternatives. However, I hope that it can prompt others to make further efforts towards rethinking our responses to online harassment. We may, at times, find it tactically useful to draw on the material and ideological resources that surround appeals to free speech. But there are other frameworks that might allow us to ensure the safety of marginalised groups in our spaces while also supporting individual autonomy, truth-seeking, and political deliberation. We can experiment with these in the spaces that we edge out of the

control of liberal politics, and work to expand them out so that they help us imagine
something better and more beautiful than the system we have now.

Acknowledgements

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‹ CONTENT MODERATION　　‹ FEMINISM　　‹ FREE SPEECH　　‹ INTERSECTIONALITY
‹ ONLINE HARASSMENT　　‹ PEER REVIEWED

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3 THOUGHTS ON "THINKING BEYOND 'FREE SPEECH' IN RESPONDING TO ONLINE HARASSMENT"

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