

Is speech addressed to body, or the mind?



by Lev Tsitrin

The attempt by Elon Musk, a self-declared “free speech absolutist” to purchase Twitter and “unlock” its free speech potential caused a major brouhaha in the media. *The New York Times* delivered a [monstrously-sized article](#) broken down into sub-chapters that scrutinized every aspect of the potential purchase – from the concerns of Twitter’s employees (oddly enough, focused not on their job prospects that may be impacted by resulting restructuring and potential firing of the screeners, but on the big question of “will Mr. Musk overhaul the service that many of Twitter’s employees have spent years thinking about, tweaking and refining with a painstaking level of care?”) to financing and regulatory hurdles.

The more interesting, free speech aspect was the focus of [NPR’s interview](#) with St. John’s University professor Kate Klonick. The notion of “legal speech” is problematic, she

explained, as it includes spam, pornography, and hate speech – all of which are protected under the First amendment. Filtering contents, and removing some of it is beneficial, she suggested.

Fair enough – but to my mind, the question that should be asked before deciding which kind of speech is legal or not, is “what is speech?” That question would then devolve, for instance, into “should pornography be considered speech”? After all, what is not speech cannot be part of the “free speech” category, according to most basic logic.

So where do we even start? Well, we humans are half-beast and half-angel (Benjamin Disraeli who unequivocally declared man to be an angel obviously overstated his case) – and like all animals, we need to satisfy bodily needs that are crucial to our survival, both as individuals, and as species. Yet unlike animals, we are rational creatures, capable of abstract ideas that are far removed from satisfying basic instincts. Insofar as speech is concerned, animals do have speech and they do communicate – but they only communicate their bodily desires. In fact, there is nothing else for them to communicate. Not so for humans

In fact, to be accepted as a fellow-human, one puts on social display one’s intellectual side, expressing to others the efforts of their mind, not the calls of nature. The functions demanded by nature that are done in public – like dining – are tamed to appear like a civilized affair, ritualized by the use of proper tableware, and accompanied by unrelated conversation. The necessary exercise of other bodily functions is discreet, and done out of the public eye.

So insofar as speech is concerned, the laws (that after all regulate what is socially acceptable, and cover rational activity rather than what is instinctive), should define “speech” as results of the mind’s intellectual activity. That what appeals to mere animal instincts should not be part of

the socially-binding legal structure of “speech.” The word “speech” should only be applicable to what socially binds us as rational creatures: education, workplace guidance, political discourse, science, and other subjects that are addressed to the mind. That what excites the animal, lower part of the body, should not be termed “speech” at all – and by virtue of not being considered “speech,” should be altogether outside of the “free speech” discourse.

Human society is not a herd of animals that is guided by instinct. A human who is subject to the law is a rational, thinking creature, a creature that communicates with others, expressing the thoughts via speech – so speech should be defined as expression of rational thoughts. Other stuff – pornography included – isn’t speech, and should not be part of “free speech” discourse.

If so, even under the “speech absolutism” regime of Elon Musk, Twitter should feel free to remove pornography. Not being part of “speech,” it simply does not belong on a “free speech” site.