Outline of a critical sociology of free speech in everyday life: Beyond liberal approaches

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Abstract
Critical sociologists have been conspicuous by their absence in theoretical debates about free speech in everyday life. The aim of this article is to address this missing gap in critical sociology by making some tentative suggestions about how such a theory might advance. Drawing mainly from the ideas of Pierre Bourdieu and Judith Butler, the article suggests that free speech occurs when coalitions come together in venues to discuss the possession and dispossession of certain resources; resources that coalitional members enjoy or are denied from enjoying in social fields. If a coalition engages in dialogue and other types of expression that pushes for an equal distribution of different resources so as to make lives more liveable, then the coalition will most likely also be constructing subversive 'heretical discourse'. Furthermore, the coalition will also most likely be challenging dominant and hegemonic symbolic constructions of 'linguistic competence' in a social field. The article develops these points by analysing two prominent liberal schools of thought on free speech: the marketplace of ideas school and the deliberative school. The article argues that these liberal schools cannot satisfactorily account for power relations and complexity of identity formation in relation to free speech.

Keywords
critical sociology, free speech, Judith Butler, liberal theory, Pierre Bourdieu

Introduction

While critical sociologists have contributed to theoretical debates on ethics, justice and human rights and their application to everyday life (for example, see McCarthy, 2017; Nash, 2015; Woodiwiss, 1998), there has been little by way of a critical sociological contribution towards developing a theory of free speech. For example, the wide-ranging

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Wiley Blackwell Companion to Political Sociology (Amenta et al., 2016) only has a passing mention to free speech, while the extensive *Oxford Handbook of Freedom of Speech* (Stone & Schauer, 2021) explores a number of free speech issues mainly from within liberal and conventional legal perspectives. Yet, critical sociology has much to offer to the task of sketching out, theoretically, the relationship between free speech and everyday life. Indeed, a critical sociological perspective develops a number of conceptual terms – 'alienation', 'hegemony', 'oppression', 'patriarchy', 'power', 'structure' – frequently touched upon in free speech studies, but which, nevertheless, often remain theoretically underdeveloped in them.

The aim in this article is to address this gap and begin to make some tentative suggestions about what a critical sociology theory of free speech in everyday life might start to look like. In particular, the article develops an alternative theory by critically engaging with liberal theoretical approaches to free speech. Liberal theorists tend to agree that society is formed through sovereign individuals who make consumer-like autonomous choices and preferences that further the interests of individual freedom, human progress, technological progress and individual reason. Yet, while liberalism extols the virtues of individual choice and plurality, it also conjoins individuals to further these ideals through different and fragmented communities (Beiner, 1992, pp. 20–33; see also Ramsay, 1997). By focusing respectively upon the liberal marketplace of ideas and deliberative schools of thought to free speech, the article shows that an alternative critical sociological approach can instead start to rethink free speech in terms of 'the social' – in terms of interrelated but unique social fields that are bound together, or refractions of, historically specific systems of domination and dispossession (cf. Calhoun, 1995; Turner, 2006).

The article is divided into three main sections. The first section sets out what is arguably the most well-known school of free speech, which is the marketplace of ideas, or absolutist, approach. This school suggests that a person's opinion is their own individual property that they freely throw into a discursive marketplace in order to engage in a free trade in ideas to discover 'truth'. State regulation of speech should therefore be kept to a minimum to ensure the best ideas win through in a debate. The article argues that this liberal school's take on free speech is found wanting, not least because it underplays structured social divisions in society.

The second main section develops an alternative critical sociology of free speech by drawing on the ideas of Pierre Bourdieu and Judith Butler.[1] The section argues that free speech should be explored in conjunction with a notion of dispossession from ownership and control over a number of resources. Structurally-inscribed into the very ontology of capitalism as a system, dispossession is also refracted into specific social fields. As Bourdieu notes, each social field is defined, in part, through relations and degrees of dispossession for many, and possession for others, of types of economic, social and symbolic resources (Bourdieu, 1984, 1991; Butler, 2015). How people speak about these relations is itself mediated through forms of 'linguistic symbolic competence'. Linguistic competence refers to the productive ability of some to socially and symbolically possess what is thought to be the discursive 'legitimacy' to speak 'competently' about hegemonic issues and themes in a social field (Bourdieu, 1991).

Often, as will be explained below, linguistic competence is filtered through an 'inclusive' discourse in the sense that a hegemonic power will encourage some voices to

contribute towards a particular debate. At the same time, those who are represented as lacking, or dispossessed, of linguistic competence are those more likely to socially and symbolically endure what can be termed as 'productive censorship' in how they might contribute to particular debates in a social field. Or, in Butler's terms, avenues for these opinions and voices to be expressed are closed off – or 'foreclosed' – within such debates (Butler, 2004, p. 36; see also Jessop & Sum, 2016, p. 107; Sayer, 2009, p. 770). Bourdieu and Butler are also clear, however, that people have the potential to form counter-hegemonic coalitions and create dialogue in a social field about how specific forms of dispossession have an adverse impact on the realisation of self-creativity, self-worth, and what these people consider to be liveable lives in a social field and beyond (Bourdieu, 2000, p. 184; Butler, 2000, p. 178; 2004, pp. 3–4).

This is a consequentialist and ethical theory of free speech insofar that ideas and practices of free speech are judged as worthy to the extent they contribute towards debates about how we might overcome dispossession and establish more equal, inclusive and liveable social conditions beyond hegemonic norms (cf. Butler, 2004, pp. 3–4; 2015, p. 149; on free speech and consequentialism, see Haworth, 1998, ch. 4 and 5). Free speech as a moment of critique is thus meaningful when it carries emancipatory consequences at different social levels in and against dispossession.

The third main section develops and extends the arguments made by placing them in dialogue with an alternative and more progressive liberal position, which is the deliberative school of free speech. Deliberative theorists are critical of the marketplace school, believing that it too easily ignores social inequalities and its definition is too broad. Deliberative theorists believe that free speech should only be protected if it furthers inclusive, liberal, democratic ideals. However, and through the critical perspective outlined, the article highlights problems with the deliberative school, not least its views on systems, social identities and resources. In conclusion, the article argues that the two liberal theories of free speech explored in fact share a number of theoretical similarities, which, in turn, reinforces the idea that a critical sociology can provide an innovative way to think about free speech.[2] We begin the discussion with the marketplace of ideas school.

The marketplace of ideas school of free speech

The 'marketplace of ideas' is arguably the most well-known approach to free speech. The phrase – free trade in ideas – was first publicly articulated in 1919 in the US by the Supreme Court judge Justice Oliver Wendell Holmes Jr., when he claimed during a free speech prosecution case:

> [T]he ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out . . . While that experiment is part of our system, I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country. (*Abrams* v. *United States*, 1919)

Simply stated, this approach, which also goes under the moniker of an 'absolutist' theory of free speech, suggests that a person's opinion is their individual property which they freely throw into a discursive marketplace and so engage in a free trade in ideas in which 'truth' can then be discovered. Through the discursive marketplace, even what are considered to be flawed views might in fact contain a grain of truth. Defenders argue that this type of free speech also caters for people's individual expressive self-fulfilment and sense of autonomy because it encourages people to voice their opinions and, in so doing, publicly convey elements of their subjectivity to others (see also John Stuart Mill's defence of absolutism in Mill, 1998; although see also Cate's, 2010 comparison between Holmes and Mill on free speech). Some absolutists thus happily mix a conservative libertarianism (the individual liberty to speak freely) with a civil libertarianism (the social advantages of free speech, such as discovering truth through plural democratic processes) (see Gerber, 2004).

Restrictions on free speech therefore need to be limited. Indeed, some absolutists go as far as to argue that censorship of hate speech can cause more harm than good because it might lead to a situation where those on the receiving end of hate speech will be deprived of the chance to produce 'counter-speech' to hatemongers and publicly confront them (Strossen, 2018, pp. 158–161; see also Durodie, 2015). Other absolutists go further and insist that offence is, anyway, and in most free speech cases, a 'purely subjective act of taking offence' (Ash, 2016, p. 91). For Ash, the 'problem' here is that everyone these days claims they are 'offended' by something: 'the Offended Muslim, there is the Offended Woman, the Offended Hindu, the Offended Homosexual, the Offended Person of Colour, the Offended (fill in nationality, creed or ethnicity to taste) – and, let us not forget, the Offended Liberal' (Ash, 2016, p. 90). Ash's advice to people who are 'offended' is the following: 'Although what I see written or depicted is grossly offensive, I hold it beneath my dignity to take offence. It is those who abuse me who are demeaning themselves' (Ash, 2016, p. 91).

There are, naturally, a number of problems with this account of free speech. Free speech, as C. Edwin Baker observes, is always greatly influenced, 'if not determined', by people's 'different locations in an historically specific socioeconomic structure' alongside their position in other social structures and social identities (Baker, 1982, p. 14). Such structures not only mediate discursive relations between people, they also reproduce historical relations of inequalities and oppression between historically proscribed social identities such as 'white' and 'black' identities. A fictious marketplace will tend to bracket out these structures in its idealistic account of free speech (see also Mondal, 2014, p. 23). Indeed, a marketplace approach finds it difficult to comprehend that societies are in fact complexly structured with different groups and socio-political forces competing and struggling to make their viewpoints count as *the* 'hegemonic truth' (cf. Ingber, 1984; see also below). This is not to deny that some absolutists recognise free speech doctrine alters its form depending on which political party is in power. Gerber (2004), for instance, argues in the case of America that basic absolutist ideals bound up in the First Amendment have been associated with different political and state agendas during distinct socio-historical moments in time. But Gerber appears to want to have his cake here and eat it. He defends absolutism and a commitment of individual liberty from government interference while, at the same time, recognising

that free speech is mediated through different government agendas. Problematically, then, Gerber both acknowledges that governments regulate free speech with specific agendas, yet he fails to fully develop critical categories to analyse this point.

Absolutist arguments in favour of hate speech also display a rather naïve attitude about how societies function. Take the absolutist idea that even racists should be given full free speech rights. Those who advocate this position often ignore the simple fact that groups who articulate this form of hate speech do not actually wish to engage in acts of free speech, as such. Racists in America have burnt crosses in neighbourhoods not to elicit debate and discussion around the politics of ethnicity, but to terrorise black families and often to try to drive them out from certain communities (Bell, 2004; see also Leaker, 2020; Roberts, 2023c; Titley, 2020). Evidence further suggests that racist speech causes those on the receiving end of it – members of the Muslim community, for example – to feel more fearful of receiving further racist abuse when venturing into other public spaces (Anwan & Zempi, 2016). Correspondingly, the absolutist belief that hate speech can simply be tackled through counter-speech often unfairly places the burden of counter-speech onto the shoulders of historically disadvantaged groups who are experiencing hate speech in the first place (Nielsen, 2004). In all of these instances, hate speech is a factor in making many lives unliveable. A more realistic way forward, therefore, is through political action by, among other things, forming counter-hegemonic coalitions in and against both hate speech and wider structures of racism and hate (see Lazaridis & Veikou, 2017).

Naturally, a number of theoretical alternatives have been put forward to that of the marketplace account of free speech. Bourdieu (2000, p. 107) notes two in particular. First, some critics argue that a theory should take account of how free speech claims are formed in the confines of local interpretive communities and contexts wherein some types of speech are rendered permissible by those in power, while other types are rendered impermissible (see Fish, 1994, 2019 for a typical representation of this theory). Second, others, notably deliberative theorists (see below), argue it is possible to construct a normative theory of free speech that acts as a regulatory guide for 'good' free speech across local contexts.

But the criticisms made of the absolutist school alert us to a number of alternative free speech themes that avoid the temptation to simply map out either a context-dependent approach to free speech or a normative context-invariable approach. These alternative themes include historical social structures, historically-specific social fields, resources of capital evident in these social fields, habits which mediate social identities, state hegemonic projects and counter-hegemonic speech among coalitions of groups to gain resources to enjoy liveable lives. The next section therefore draws upon, explains and develops these theoretical ideas in order to set out an alternative critical sociology of free speech in everyday life.

A critical sociological theory of free speech in everyday life

Bourdieu remarks that we are all 'the product of history' (Bourdieu, 1992, p. 136) in the sense of being products of historical structures (see also Thompson, 1978, pp. 98–106). Sociologists should therefore aim to explore 'a form of structural history . . . which finds

in each successive state of the structure under examination both the product of previous struggles to maintain or transform this structure, and the principle, via the contradictions, the tensions, and relations of force which constitute it, of subsequent transformations' (Bourdieu, 1992, p. 91; see also Bourdieu, 2000, pp. 106–108).

Following Marx (1988), Bourdieu argues that the structures of capitalism are founded on a basic although historically-specific form of class dispossession. This revolves around labour's two-fold nature in capitalism: first, labour objectively is intrinsically exploited in capitalism because labour is dispossessed from owning or controlling the means of production; second, exploitation is 'hidden' from ordinary people insofar that capitalism grants individuals certain 'freedoms' in the workplace to use their initiatives to gain small bonuses and concessions from management even if the minority who own and control these resources nevertheless still extract creative powers from the many (Bourdieu, 2000, pp. 2002–2005; see also Bakan, 2008; Burawoy, 2019; Macpherson, 1973). Bourdieu claims these basic structures are reproduced and refracted into concrete fields. Take the legal field. Under capitalism, law obtains the form as being 'the norms of norms' because it embodies a 'transcendental authority' of seemingly impersonal, neutral and universal legally-binding rules. Law gains this identity because it is attached to the separation of the state from civil society, which is unique to capitalism, so that law seeks to reconcile inherent conflicts and struggles in capitalist societies *and* reproduce different metafields of power that sustain dispossession (Bourdieu, 1987, pp. 815–821).

Historical structures and fields adopt distinctive forms during different socio-historical conjunctures (on conjunctures, see Grossberg, 2019; Hall, 1990). The dominant conjuncture we live in today is of course a financialised neoliberal one. During these conjunctures, competing factions within and related to the state (state departments, financial capitalists, industrial capitalists, civil society groups and trade unions, for example) and their selective allies (certain media outlets, for example) will address and indeed employ social crises and social problems in society to convince populations that only they can then 'solve' these 'problems' through their own respective hegemonic project (Bourdieu, 1984, p. 120; Bourdieu & Wacquant, 1992, pp. 105–106; Butler, 2009, pp. 70–74; see also Jessop, 2022, p. 157). Classically, for instance, the hegemonic project of financialised neoliberalism initially gained relative support in society by constructing welfare state intervention as a 'problem' that could be 'solved' through the marketisation of welfare provision (Bourdieu, 1998; see also Whitfield, 2001). More broadly, the state acts as a metafield of power in society insofar that a specific faction that takes control of the state can then organise hegemony across other social fields – the art social field, the educational social field, the health service social field, the housing field, the sports social field, and so on.

For Bourdieu, a social field is defined by relations, social positions and struggles over access to certain economic, social and symbolic resources, or capital, which are specific to the field itself. Individuals are therefore placed in networks of social positions within a field depending on the different amounts of capital they possess or do not possess (Bourdieu & Wacquant, 1992, p. 97). Importantly, Bourdieu insists that each social field is structured through degrees of competency – people learning the appropriate 'rules' of acting *and* speaking in spaces in a particular field. Somebody who is thought to be 'competent' to talk about strategically important issues in a social field is frequently also deemed to be culturally 'legitimate' to produce sentences that will be 'listened to' and

'recognised as acceptable' in the field (Bourdieu, 1991, p. 55; see also Topper, 2011). In turn, others in the same field might internalise a sense of dialogic dispossession insofar that they feel 'incompetent' to speak with authority about the same issue.

Dialogic dispossession, or 'incompetent' speech, is a type of censorship. But it can develop into a distinctive type of censorship compared to others. Consider 'self-censorship'. This refers to a process in which a person fears their views will antagonise a visible source of power – for example, a group of managers governing a workplace where one is an employee – and so the person will self-censor their views (see Lackey, 2018; Reinelt, 2006). Sometimes, the remedy to self-censorship is to enact explicit laws to protect a person's speech in different fields, such as the workplace field (see Barry, 2007, p. 265). This of course is fine as far as it goes. Bourdieu, though, argues that exclusion and dispossession also operates through a type of *inclusion* in which censorship in fact *produces* speech. Ordinary people can be actively encouraged to take part in debates and be encouraged to produce opinions about an issue at hand in a field. Issues of debate will thus be assumed to represent 'common sense' and a 'set of shared self-evidences', but these will already have been mediated through a hegemonic agenda that elicits debate in the first place (see Bourdieu, 2000, pp. 174–175; see McNay, 2014, p. 83). Inclusion of a strategically-selective range of voices and opinions here will therefore already be founded upon a style of exclusion (Jessop, 2022). From the outset, counter-hegemonic discourses are thus rendered as being 'incompetent' and 'unspeakable' by dominant powers in a field (Butler, 1997, p. 135; 1998, pp. 247–248).

Productive censorship therefore rests upon the idea that certain words, themes and discourses associated with a hegemonic agenda are symbolically considered to be worthier of public discussion than other (often counter-hegemonic) agendas (Butler, 2020, pp. 63–64, 136; see also Butler, 1997, p. 135; 1998, pp. 247–248; 2004, p. 32; 2022, p. 93). The university social field, for example, produces inclusive discourse for academic staff. Protecting and promoting ethnic and gender diversity among academic staff in a globally diverse world is a typical illustration. Yet, the hegemonic metafield of neoliberalism that pervades the UK higher education sphere and other European countries already reproduces and sustains the privilege of an elite of dominant universities alongside a managerialism that promotes the 'competence' of an ideal research academic who has access to and gains possession of high-level resources (e.g. research networks, 'correct' language styles, research grants and an entrepreneurial outlook). This is the privileged site of the white male academic (Ferri, 2022). Evidence suggests that some academics think they do not live up to these ideals, they become stressed because of unstainable workloads, duties and tasks, feel like they are 'failing' to remain academically competitive, and yet do not collectively voice their discontent (see Griffin, 2022). Such circumstances often engender a type of symbolic violence because a range of critical voices are marginalised in discussions about a hegemonic agenda. Some, for example, might feel they cannot speak 'legitimately' on a hegemonic theme – for example, speaking out about the standardisation and stratification in the neoliberal university – because they consider themselves as not being symbolically 'competent' enough to do so (McNay, 2022; see also Sayer, 2005; Tyler, 2013 on 'shame' and symbolic violence).

While this type of symbolic discursive censorship is thus 'exerted only with the *collaboration* of those who undergo it because they help to *construct* it as such'

(Bourdieu, 2000, pp. 170–171, emphasis added), the power relations it masks in fields are only effective '*to varying degrees*' (Bourdieu & Wacquant, 1992, pp. 142–143, emphasis added). Bourdieu claims that each person internalises a set of dispositions throughout their life – a 'habitus' – that then orientate how they will respond to certain situations. Far from creating predetermined responses, however, the habitus merely generates anticipations and probabilities of actions, but the actual direction of any action is naturally 'continuously defined and redefined' through an 'infinite capacity for generating products – thoughts, perceptions, expressions and actions – whose limits are set by the historically and socially situated conditions of its production' (Bourdieu, 1992, p. 55). Habitus is thereby an embodied history which, at the same time, becomes second nature for a person *and* enables them to act 'spontaneously'. Individuals thus enjoy their own 'style', combination and variations of identities, and 'singularity of their social trajectories' (Bourdieu, 1992, p. 60).

These social trajectories will likewise be shaped through the social field that one enters. Some fields, and social spaces within those fields, will not correspond to anticipations embodied in one's habitus. Indeed, there is often a mismatch between anticipations of action and the actual opportunities and resources available in a field to proceed along a line of action. Under these circumstances, one's dispositions 'function out of phase' with the field and 'practices are objectively . . . adjusted to conditions that no longer obtain' (Bourdieu, 1992, p. 62). At this point, according to Bourdieu, opportunities present themselves for a 'heretical subversion' of the 'adherence to the world of common sense' in a social field. 'Publicly proclaiming a break' with the taken-for-granted order in a field, a new common sense can be created with previously 'repressed practices', which can then struggle to gain 'legitimacy' through 'public expression and collection recognition' (Bourdieu, 1991, p. 129).

Butler makes similar observations on identity-formation. As is well-known, Butler draws attention to how speech moves beyond its original contextual intentions and can be reiterated into a new and novel meaning in another context. In *Excitable Speech*, Butler notes that words and speech are always in some sense 'out of our control'. There is an 'interval' between the speech act itself and how it will be performed in another time and space (Butler, 1997). The word 'queer' was once a derogatory utterance directed at the gay and lesbian community, but through time, becomes reappropriated as 'counterhegemonic' speech by gay, lesbian and transgender campaigners. Dominant 'speakable' meanings can thus be open to challenge by the 'unspeakable' (Butler, 2000, p. 178; see also Butler, 1993, 1997). As discursive challenges to dominant meanings in words start to mount, new alliances of different identities can be forged into coalitions in and against power relations.

> What appear within such an enumerative framework as separable categories are, rather, the conditions of articulation *for* each other: How is race lived in the modality of sexuality? How is gender lived in the modality of race? . . . and where and how is 'homosexuality' at once the imputed sexuality of the colonized, and the incipient sign of Western imperialism? (Butler, 1993, p. 117)

For Bourdieu, then, as it is for Butler, there is a 'polysemy' in language-use in a social field, ensuring that 'words most commonly used to express tastes often receive different,

sometimes opposite, meanings from one social class to another' (Bourdieu, 1991, p. 40). Of course, polysemy is sometimes used by dominant groups to further their interests, such as when jurists and judges exploit the ambiguities of legal formulas to further specific ideological agendas (Bourdieu, 1987, p. 827). Still, language carries with it a certain 'indeterminacy and vagueness' because the normal and everyday use of language is accomplished across time – through history – and through a certain level of contingency within social fields. 'This element of risk, of uncertainty, is what provides a basis for the plurality of world views [and] a . . . plurality of points of view' (Bourdieu, 1991, pp. 234–235).

Two further points can be made. First, the polysemy in language can also lead to a symbolic struggle among the dominant class to gain 'social influence' around a particular agenda (Bourdieu, 1987, p. 827). Second, the inherent uncertainty of the social meaning of utterances can be an impetus for bringing different people together in a social field to start to discuss a particular issue around being dispossessed of specific resources within the field in question (Bourdieu, 1991, p. 130). Ordinary people debate and discuss these issues through a number of familiar 'venues' – an office, the pub, a park, in which people gather to discuss the 'right or entitlement to a liveable life when no such prior authorization exists' (Butler, 2004, p. 224). In a venue, people thus begin to form an 'instituted group' because they 'discover within themselves common properties that lie beyond the diversity of particular situations' (Bourdieu, 1991, p. 130). New ethical bonds and coalitional politics are forged through these informal free speech venues (Butler, 2005, p. 20). At a local level, they slowly produce a counter-hegemonic moment of speech in a field towards hegemonic power relations. In a small way, then, these everyday free speech venues are a microcosm of what potentially grow into larger free speech assemblies, such as those witnessed during the Occupy Movement, which bring different coalitions together to demand 'equality' in the distribution of society's resources (Butler, 2015, pp. 52–58) and struggle for a world which becomes 'liveable for those who have not yet been valued as living beings' (Butler, 2015, p. 183).

Generally, this viewpoint thus agrees that free speech can be differentiated from freedom of expression (see Haworth, 2015, pp. 24–30). Free speech, in the sense used here, is limited to those types of discussion among individuals that pose public questions such as: 'What resources must we have in order to bring into the human community those humans who have not been considered part of the recognizably human?' (Butler, 2004, p. 225). As Butler further observes, this type of discussion does not have to be purely verbal, but can also be expressive. Dancing, standing in silence, sitting in a road, paintings, and other performative acts can become modes of free speech (Butler, 2015, pp. 52–58). But not every act of freedom of expression will necessarily seek to start a public discussion about how the possession or dispossession of resources makes lives liveable.

The critical sociology of free speech described is also a consequentialist one insofar that free speech is valued because it contributes towards a more equal and liveable society for all. A coalitional politics is at its strongest and most compelling when it not only campaigns for equal cultural and political resources, but canvasses for equal socio-economic resources as well to ensure real equal rights and real freedom are available for every person to enable them to enjoy liveable lives and to develop one's own unique creative powers in relationship to others (Butler, 2022, p. 94; see also Macpherson, 1973;

Silier, 2005). Conflicts and struggles thereby 'offer the possibility of a real freedom with respect to the determinations' that they reveal in and against capitalist domination (Bourdieu, 2000, p. 121; see also Makovits, 2005). While similar, liberals in the deliberative tradition have tended to argue that only capitalist market societies can facilitate these equal resources (Macpherson, 1977, pp. 1–2). We therefore now move on to discuss further the deliberative theory of free speech.

The liberal deliberative school of free speech

Deliberative thinkers explicitly reject the marketplace metaphor, preferring instead to highlight free speech as part of a wider democratic process of political discussion and political debate (Fiss, 1996a, 1996b; Sunstein, 1993). Deliberative theorists argue that people should be treated with equal concern and respect by others in the discussion. Each participant should give respectful consideration to the opinions of others, and the reasons for holding these opinions, with whom they are deliberating. By so doing, there is a better chance of reaching either an agreement or compromise about an issue at hand (Ackerly, 2006; Bohman, 1997; Chambers, 2003). Many within this liberal tradition thus offer up a *positive* account for free speech insofar they go beyond individualist-rights based accounts to argue that free speech requires structural protection to ensure it remains a public good and facilitates democratic debate among citizens (Kenyon, 2021a, pp. 52–53). Deliberative theorists in particular acknowledge that state intervention is required where necessary to protect a specific type of speech, which is 'public speech'. This type of speech aims to protect not so much individual rights of self-expression as found in the marketplace approach, but to enhance and protect popular sovereignty and to enrich public debate (Fiss, 1996a, pp. 22–23; 1996b, p. 40; see also Sunstein, 1993, p. 37).

There have been numerous criticisms made about the deliberative approach to democracy and free speech (for a concise summary, see Parvin, 2015). Given the limits of space, we will highlight three interrelated criticisms that can be made from the perspective of the critical sociological account outlined above. The first criticism focuses on how deliberative thinkers are attuned to the importance of taking seriously the relationship between free speech and systems. For Dryzek (2010, pp. 11–12), deliberative systems can be defined through a number of 'items', such as the availability of 'public space' to hold free-ranging and wide-ranging communication along with 'empowered space' to encourage deliberation among institutions like trade unions and NGOs. These forms of deliberation will ideally feed into other deliberative forums, such as those found in a constitutional court or a policy-making council in a state. 'Meta-deliberation' throughout the polity can therefore be promoted that, at the same time, recognises the worth of non-state institutions in supporting free speech (Mansbridge et al., 2012, p. 10).

From the critical position outlined, one difficulty with this position is that deliberative theorists begin their analysis by setting out a number of general items about ideal deliberative democracies, which are then fed back into distinctive conjunctural formations. Deliberative theorists make this move because they believe it enables them to understand more clearly the discursive deficits and potentials in these conjunctures. Dryzek (2017) notes, for instance, that while the 2008 global financial crisis did open up deliberative publics through which people questioned neoliberal hegemony, these publics were soon

surpassed by a new neoliberal discourse centred around the necessity for austerity. For Dryzek, however, a deliberative systems approach can be employed 'to join the conversation' about how to 'democratize the terms in which political economy is now legitimated' through neoliberalism (Dryzek, 2017, p. 627; see also Dryzek, 2006, pp. 102–108). The position adopted in this article starts its analysis from the other way round. That is to say, it stresses that we need to understand, first, the characteristics, power relations and properties of the historical system of capitalism, and, second, how these are refracted into conjunctures that give rise to discursive constraints and opportunities (Bourdieu, 1991, p. 128).

One historically unique characteristic of neoliberalism, in this respect, is not so much that it has excluded people, as Dryzek and other deliberative theorists argue, but that it already emboldens a variety of individuals and groups in communities to voice their concerns about issues. Inclusion, though, is mediated through varieties of productive censorship unique to neoliberalism's own socio-historical and socio-ideological hegemonic project. Some of the most well-known deliberative forums in communities today operate in urban development schemes. Research suggests, however, that while various urban development schemes embody co-production, empowerment and discursive participation from local residents in the design process of the new development in question, there can still nevertheless remain a centralised control system mediated by professionals, digital technology owned and controlled by corporate capital, already decided upon community ideals by those administering local deliberative forums, gifts from charitable and paternalistic trusts – all of which are 'mediated in turn by state regulation and monetary markets', which then naturally impact on the amount of 'resources' available for these communities (Thompson & Lorne, 2023, p. 1936). Real dialogic dissensus from ordinary community voices towards these 'soft neoliberal' ideals is, in turn, discouraged by those who manage local redevelopment schemes (see also Davies, 2021; Gerometta et al., 2005; Warren et al., 2021). Thus, the hegemonic project of neoliberalism will not be open equally for all to simply 'join in the conversation' exactly because its inclusive 'partnership' narrative serves to censor voices and issues deemed less 'worthy' next to the marketisation of communities (Hirsch, 2003, pp. 243–244).

Second, deliberative and other progressive liberals often proclaim that free speech is a required right in democracies in order to enable cultural diversity to flourish. Lack of cultural diversity can lead to a growth in cultural oppression in which the cultural heritage and identity of certain groups are attacked or maligned in some way. Free speech thus needs to ensure that diverse and multiple voices have public outlets in society in which cultural groups are treated with equal concern and respect and its members regarded as morally autonomous citizens (Bonotti & Seglow, 2022, p. 520; Dryzek & Tanasoca, 2021, p. 33; Kenyon, 2021b, p. 235; Levin, 2010, pp. 65–79). Deveaux (2018), for example, insists that any deliberative forum must allow for 'minority interests' to talk about their 'oppression' if they wish to do so. But Deveaux (2018, pp. 161–163) also argues that participants in a formal deliberative forum should at a minimum strive towards reaching a compromise on issues being discussed. Naturally, compromise can be a reasonable outcome to dialogue between different parties about an issue at hand. From a critical sociological perspective, compromise nevertheless still reproduces two potential and interrelated problems.

In the first instance, compromise is premised on recognising the identity of the other involved in deliberation. 'Compromise', and its near deliberative cousin 'consensus', therefore suggest that some sort of 'unity' should be the precondition and outcome of dialogue. Yet, this deliberative narrative underplays the coalitional nature of identity-formation and its hybrid quality. As Butler notes, what sort of identities need to be recognised in the deliberative encounter? So, in a deliberative encounter between a person who identifies as being a Muslim and a person who identifies as being gay, what should be officially recognised: religion for the Muslim identity and homosexuality for the gay identity? And are the identities between both assumed to be in conflict with one another from the outset? In reality, ordinary people gain changing identities by interacting within a number of social fields and their accompanying capitals. Identities are thus formed through complex and subtle sociological factors, which are often missed in liberal normative frameworks.

> To say that there are rules against homosexuality within Islam is not yet to say how people live in relation to such rules or taboos, or how such rules and taboos vary in their intensity or centrality, depending on the specific religious contexts and practices at issue. Especially of interest would be an analysis of how sexual practices explicitly tabooed take place in relation to the taboo, or in relative indifference to it. (Butler, 2009, pp. 143–144)

In the second instance, liberal notions like 'compromise' are often shaped by a picture of society being formed through separate homogeneous communities. To give one illustration, Deveaux suggests that voices from 'socially marginalized persons and cultural and racial minorities' should be included in deliberative forums (Deveaux, 2018, p. 162). Even so, the very category, 'socially marginalised', conjures up a normative image of an anonymous and homogeneous 'minority' living in communities that suffer perceived injuries at some distance from the 'normal majority'. For Deveaux, though, 'minority' voices can be heard to a far greater extent if liberal democratic mechanisms take more seriously the views from different 'situated knowledges' arising in marginalised communities (Deveaux, 2018, pp. 162–163). But this viewpoint relies on the binary opposition between 'majority–minority' that then reinstates the liberal penchant for favouring relatively isolated but homogeneous communities coming together to forge a common good with other communities around a public issue. What we have here, then, is essentially a society viewed as being fragmented – as being comprised by 'minority' communities – rather than as being part of 'the social' whole rooted in the historically-mediated socio-economic, socio-political and socio-cultural grounding of dispossession and oppression (Butler & Athanasiou, 2013, p. 87; see also Butler, 2004, p. 106; 2009, p. 143).

Third, deliberative approaches rightly highlight that 'minority' groups in society lack certain resources required to participate in deliberative encounters. Under these conditions of 'discursive injustice', Whitten argues that arrangements and procedures should be established, such as 'full and equal access to a set of basic civil rights and liberties'. But notice that what progressive liberals in the deliberative tradition focus on are provisions to ensure all enjoy an *equality of opportunity* to *access* resources, 'to engage in the collaborative effort of norm contestation, critique, and ongoing development', should they so wish (Whitten, 2023, p. 872; see also Bonotti & Seglow, 2021, p. 140; Deveaux,

2018, p. 163). There is problem with this deliberative prescription. It is based ultimately on granting *individuals* more *choices* to be involved in deliberations. Basic liberal ideals are still kept in place, albeit with a greater emphasis on *formal* equality of resources. Issues about whether some will gain certain resources might very well be discussed, but it will still not comprehensively tackle structural imperatives to the means of life (see also Macpherson, 1973, p. 101). So, one can enjoy an equality of opportunity to gain access to these resources, yet hegemonic structures of dispossession are still left in place.

The university field is once again a case in point. University managers will both champion equality of opportunity *and* internalise competitive neoliberal agendas, metrics and market pressures and pass these onto staff. Tangible affects include monitoring and surveillance of academic staff by management to ensure that each individual staff member is conforming to 'quality' research metrics, while intangible affects include cultural and symbolic social divisions among academic staff gained by some being seen as successfully achieving high levels of 'legitimate' and 'worthy' research capital at the expense of others. Such programmes will then often move academic voices in a particular ideological direction congruent with external (neoliberal) agendas (Martin, 2016). These divisions also sometimes serve to reproduce existing social divisions in universities along the lines of gender and race, especially since historically marginalised academics are frequently over-represented in precarious university jobs (Blell et al., 2022).

Conclusion

This article has tried to start a debate about some, but certainly not all, of the theoretical concerns that might animate a critical sociology of free speech in everyday life. This task is important, I believe, if for no other reason than the fact that these discussions have normally been left to other theoretical frameworks and disciplines. Liberal theories are especially prominent in these debates. Most mainstream liberal approaches are, however, found wanting from a critical sociological account because they normally view the state in neutral terms and they approach free speech from the standpoint of the liberal sovereign subject. Indeed, and for all of their differences, the absolutist approach and deliberative approach share much in common. The absolutist scholar Eric Heinze argues that free speech is the most important human right because 'only a protected sphere of public discourse legitimates . . . [a state] as a democracy' (Heinze, 2022, pp. 84–85). Compare this statement to the progressive liberal Andrew Kenyon, who claims that a 'plural public speech' is the most basic requirement 'for a constitutional democracy to be substantially legitimate in terms of its communicative freedom' (Kenyon, 2021b, p. 234). Both liberal schools can therefore each plausibly make a case for 'proactive policies' to be built into society and organisations that will promote marginalised and pluralist values and voices (Heinze, 2022, p. 118; Kenyon, 2021b, pp. 234–236).

For Butler and Bourdieu, however, these liberal arguments often treat the state as being first and foremost a neutral mechanism that can be captured to foster discursive equality among the 'agency of a rights-bearing person, one who is socially capable of exercising fundamental rights and liberties' (Butler, 1997, pp. 84–85). This liberal standpoint also often conceptualises those who work within the state as operating through a 'neutrality' of 'expertise' and through an 'ethics' of 'public service'

(Bourdieu, 1996, p. 383). That is to say, liberal thinkers tend to conceive the state as a non-aligned entity that can simply act along liberal lines. This article has criticised this perspective.

But the article has also argued that classes and groups can use resources in a social field to strategically challenge existing 'competent' modes of representation and speech through the expressive evaluative and symbolic 'legitimacy' of their own identities (Bourdieu, 1989, p. 20; see also Bourdieu & Wacquant, 1992; Jessop, 2016). In fact, hegemony and counter-hegemony can 'co-exist in a permanent state of tension' (Halliday, 2019, p. 872) in social fields. So, while universities, for example, 'nudge' academic voices in certain neoliberal directions, there is still space for academics to voice utterances against dictates in higher education, such as employing neoliberal audit cultures and targets to foster debate about social inequalities in universities and about who is excluded from fully participating in academic life (see Nash, 2019). Similarly, some studies suggest that 'shame' can be a trigger to join wider protest movements when such movements emerge (Över, 2022). A critical sociological theory of free speech better captures these social mediations of free speech than those found in liberal schools of thought.

Notes

1. Interestingly, Butler accuses Bourdieu of presenting an overly 'deterministic' theory of social fields and their rituals (Butler, 1997, p. 147). As the article indicates, this criticism of Bourdieu does not stand up to scrutiny. Bourdieu and Butler in fact share a number of compatible theoretical ideas (see also Nentwich et al., 2015).
2. I should add at this point that the article is principally concerned with theoretical issues about free speech. I have elsewhere analysed and explored concrete free speech cases and issues both from the past (see Roberts, 2023a, 2023b) and in the present (Roberts, 2014).

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