



Free Speech Might Hurt Your Feelings

What, exactly, is America's free speech problem, and what can we do about it?

Nicholas Grossman

March 27, 2022

The New York Times threw down a gauntlet with an editorial titled “America Has a Free Speech Problem.” Here, in the first paragraph, is how the *Times* defines the problem:

Americans are losing hold of a fundamental right as citizens of a free country: the right to speak their minds and voice their opinions in public without fear of being shamed or shunned.

That’s a bad standard. As centuries of philosophy, theology, and law tell us, you have a right not to be jailed for expression, you don’t have a right to not be shamed or shunned. Those are social reactions; choices of speech and association, not punishment by the state. Shaming and shunning can be reasonable—in response to racial slurs, Holocaust denial, and advocacy of pedophilia, for example—or unreasonable, though people disagree on where to draw the lines. Fearing a negative social reaction is an emotion, and might not be rational. A situation in which no one fears being shamed or shunned for public expression is impossible, and trying to achieve it would undermine the value of free speech by requiring a lot more self-censorship.

Later in the editorial, the *Times* states the problem more reasonably, like this:

The old lesson of “think before you speak” has given way to the new lesson of “speak at your peril.” You can’t consider yourself a supporter of free speech and be policing and punishing speech more than protecting it. Free speech demands a greater willingness to engage with ideas we dislike and greater self-restraint in the face of words that challenge and even unsettle us.

That’s a better standard, but too vague. I agree that, in general, people should engage with ideas that challenge them and shouldn’t seek to punish speech. That sounds like a good rule of thumb for college campuses and the voluntarily political parts of social media. But I’m not convinced “speak at your peril” is a new lesson—ask a Muslim American, or various LGBT people—nor that calling for people to self-censor expressions like “that’s homophobic, you should be ashamed” (or harsher versions) is the way to support free speech.

This vaguery is a problem for only part of the *Times*’ argument, on left-wing cancel culture. The editors define the right-wing threat to speech concretely—“censoriousness as a bulwark against

a rapidly changing society, with laws that would ban books, stifle teachers and discourage open discussion in classrooms”—and back it up with evidence. They identify 13 bills passed in 11 states, and another 106 under consideration, in “a vast effort to restrict discussions of race, sex, American history and other topics that conservatives say are divisive.”

The *Times* argues that these new laws misguidedly aim to coddle feelings, outlawing content that could, in language Tennessee adopted in 2021, make students “feel discomfort, guilt, anguish or another form of psychological distress.” Some of the laws encourage parents to sue schools for raising forbidden topics, thereby undermining “the free speech rights of students to discuss things like sexuality, established by earlier Supreme Court rulings.” (That uses “rights” correctly, in reference to First Amendment case law.)

By contrast, the editors’ discussion of the left-wing threat is non-specific:

Many progressives have become intolerant of those who disagree with them or express other opinions and taken on a kind of self-righteousness and censoriousness... [Most people] know they shouldn’t utter racist things, but they don’t understand what they can say about race or can say to a person of a different race from theirs. Attacking people in the workplace, on campus, on social media and elsewhere who express unpopular views from a place of good faith is the practice of a closed society.

Attacking people how? For which views? And how impactful is it?

“However you define cancel culture, Americans know it exists and feel its burden,” writes the *Times*, in a you-know-what-I-mean-type comment that’s common to this line of argument. And I do, at least in the abstract—after all, that’s what this article’s about—but not in the details.

When identifying a national problem, presumably in pursuit of national solutions, the details matter a lot.

What’s the Problem?

The *Times* editorial was welcomed by writers who have been raising alarms about left-wing threats to speech. Thomas Chatterton Williams shared it on Twitter, writing “Interesting, I feel like there was a letter making this exact same point two years ago. Wasn’t it published in [LRI]@Harpers or something?”

No, there wasn’t. The July 2020 Harper’s open letter Williams shepherded says “We uphold the value of robust and even caustic counter-speech from all quarters.” The *Times* editorial calls out “harsh criticism” six times, and made it the focus of survey questions.

So, does a culture of free speech welcome or shun harsh criticism?

Perhaps it’s like the paradox of tolerance, where it’s wrong to shut people up unless they’re trying to shut people up. That’s a good argument for opposing the heckler’s veto (ie shouting down speakers), but not for telling people who genuinely think something is bigoted that they need to self-censor instead of denounce.

Mocking the claim that people have a right not to be harshly criticized, *Atlantic* writer Adam Serwer dismissed the *Times*' editorial as an example of "Free speech is when I express my opinion. Censorship is when you tell me that opinion sucks."

Bulwark writer Cathy Young corrected him with this:

No it's the part where I organize a mob to get you fired and/or make you unemployable, shut down your business, browbeat your publisher into canceling your book, etc.

Similarly, *Reason* editor Liz Wolfe emphasized that the main concern is job loss:

Screw the fancy n professional media people who, in 2022, can't figure out what the problem is. Willful ignorance. Heads in the sand. They look around at people getting fired from their jobs for bad tweets & old costumes & say "what firing?"

If someone gets fired for some mild expression, I think that's wrong. But I'm not convinced it's so pervasive that we should be treating it as a national problem, nor that there are more unjust firings today than in the past.

Either way, the *Times* editorial isn't about job loss. The words "job," "work," "employment," and "firing" don't appear. The only mention is this:

On college campuses and in many workplaces, speech that others find harmful or offensive can result not only in online shaming but also in the loss of livelihood.

It can, yes. But how frequently? And for what speech? Were the people who found the speech harmful or offensive being unreasonable, or did they react to something most agree is over the line?

The *Times* editorial does not offer any examples. As far as I'm aware, the number is quite small, a tiny fraction of the thousands of workers who lose their job every month. For example, this database of "Canceled People" lists 159 cases in the United States, mostly from 2018 through 2021. That's less than 40 per year, in a country with over 258 million adults and thousands of murders. One of the listed cancellations is Donald Trump, for getting kicked off Twitter.

123 of the U.S. cases involve firing, suspension, demotion, resignation, or harm to a business. Of those, many are not an average person targeted by a social media mob for mild expression, but people in public-facing jobs, such as actress Gina Carano, who Disney fired after multiple incidents that, at minimum, fell in a gray area. Even if all 123 cases are unjust (which is debatable), and the database recorded only a fifth of the incidents (unlikely, given the effort to find and publicize them), it'd still be pretty rare.

So the *Times*, like most who raise concerns about cancel culture, have something more expansive in mind than non-famous individuals getting fired for speech that few people outside of crusading activists find offensive. They're talking about a national culture, a pervasive fear of open expression, a crisis of free speech.

Examining the Evidence

The *Times* cites a variety of evidence, including a survey they conducted for this editorial. In multiple instances, the editors present it misleadingly, or project conclusions onto the data that are not supported.

Here are three of the editorial’s main empirical claims, and what I found when I looked into them:

Claim 1: “In a new national poll commissioned by Times Opinion and Siena College, only 34 percent of Americans said they believed that all Americans enjoyed freedom of speech completely.”

Naming four freedoms, the question asks respondents “what extent you think all Americans now enjoy that freedom, completely, somewhat, not very much, or not at all.” For Freedom of Speech, 34 percent answered “completely,” as the editorial says. But another 42 percent answered “somewhat.” Only 15 percent said “not very much,” and 9 percent “not at all.”

Isn’t “somewhat” the objectively correct answer? There are well-established exceptions to free speech, such as incitement, defamation, and harassment. “Somewhat” captures a large range, but it’s juxtaposed against the more negative “not very much,” and if we combine it with “completely,” 76 percent have a positive impression. The 9 percent who say “not at all” aren’t describing reality—look at mass arrests of protestors in Russia—and that’s a lot fewer than the 34 percent who incorrectly say Americans have complete freedom of speech. This data doesn’t support the *Times*’ claim that there’s a “crisis of confidence.”

Another question in the survey, one the *Times* editorial decided not to mention, gets more specific: “How free do you feel you are to express your view point on a daily basis without fear of retaliation, censorship, or punishment with each of the following?”

I combined the answers into this chart:

How free are you to express your viewpoint on a daily basis without fear of retaliation, cancelation, or punishment with each of the following?				
	Completely	Somewhat	Not Very	Not At All
Family	72%	19%	4%	4%
Friends in person	70%	22%	3%	5%
Friends online	42%	28%	8%	11%
People at work*	29%	32%	10%	14%
Commercial (doctors, merchants, etc.)	36%	36%	12%	14%
Social (religious worship, clubs, etc.)	40%	39%	9%	8%
Acquaintances and chance encounters	31%	41%	13%	13%

*Don’t know/didn’t answer not included. For people at work, an additional 15% don’t work.

The number who say they’re “not very” or “not at all” free to express their views without fear peaks at 26 percent for commercial interactions (eg buying something in a store) and chance encounters. 24 percent say they’re afraid to express their views at work. It’s only 8 percent with

family and friends in person. That grows to 17 percent in broader social environments and 19 percent with friends online.

Is that bad? Speaking freely around friends and family, holding back a little online or in social environments that include some people you don't know well, and holding back a little more in the workplace or at the store, but still feeling comfortable sharing most viewpoints, strikes me as normal.

Claim 2: "The poll found that 84 percent of adults said it is a 'very serious' or 'somewhat serious' problem that some Americans do not speak freely in everyday situations because of fear of retaliation or harsh criticism."

Here's the wording of the question: "How much of a problem do you think it is that some Americans do not exercise their freedom of speech in everyday situations due to fear of retaliation or harsh criticism?"

The survey tells respondents that some Americans fear to exercise their freedom of speech, and then asks if that's bad. An overwhelming majority say yes.

The *Times* interprets this as evidence of a free speech crisis, but it arguably shows the opposite. 84 percent of Americans care about a culture of free speech and object if it's violated (a statement of values). But the question does not say how frequently they think it's violated (an assessment of the problem). Compare these figures to the chart above, where at most 26 percent feel uncomfortable expressing themselves, and the 84 percent in this survey are more likely showing support for free speech than claiming it's in crisis.

Claim 3: This poll and other recent surveys from the Pew Research Center and the Knight Foundation reveal a crisis of confidence around one of America's most basic values.

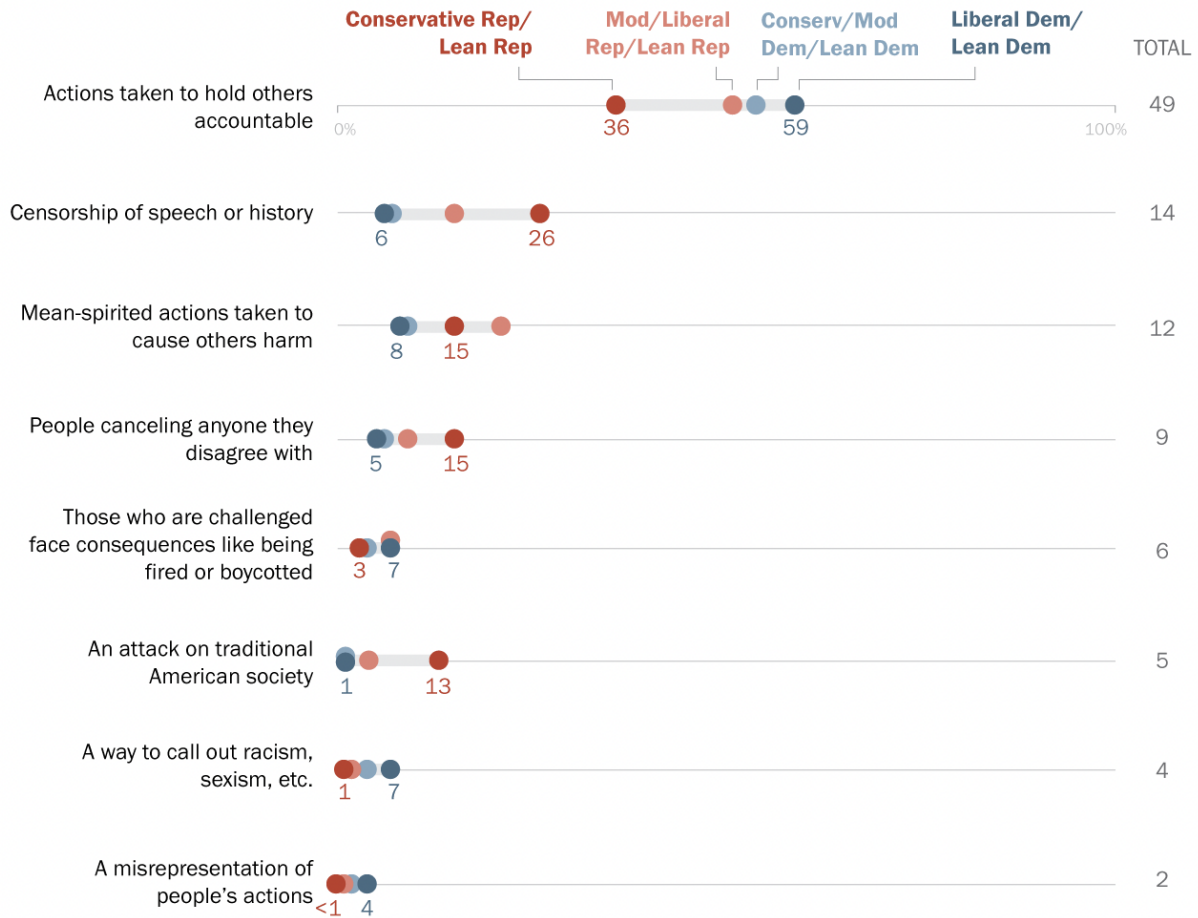
I looked into both of those surveys too, and their data does not show a crisis of confidence.

The Pew survey found that 44 percent of Americans had heard about cancel culture "a fair amount" or "a great deal," compared to 56 percent who've heard "not too much" or "not at all." Then *Pew* asked the 44 percent who had heard at least a fair amount about cancel culture what they think it is. Respondents could give multiple answers.

The most popular answer, by far, was "actions taken to hold others accountable," with 49 percent. Nothing else cracked 15 percent.

But I wouldn't read this as evidence cancel culture is popular. It doesn't say accountable for what, nor held accountable how, and some may define cancel culture that way while still thinking it's bad.

Among the 44% of U.S. adults who have heard at least a fair amount about “cancel culture,” % who mention each of the following when asked to describe, in their own words, what they think cancel culture means



Note: Verbatim responses have been coded into categories. The 18% who did not give an answer and the 8% who gave other responses are not shown; including these groups, figures may add up to more than 100% because multiple responses were allowed.

Source: Survey of U.S. adults conducted Sept. 8-13, 2020.

“Americans and ‘Cancel Culture’: Where Some See Calls for Accountability, Others See Censorship, Punishment”

PEW RESEARCH CENTER

Of the negative descriptions, 12 percent said cancel culture is “mean-spirited actions taken to cause others harm” and 9 percent said “people canceling anyone they disagree with.” Regarding job loss, just 6 percent said cancel culture means “those who are challenged face consequences like being fired or boycotted.” And that’s among the 44 percent minority who had heard at least a fair amount about cancel culture. It’s 2.6 percent of the total population.

The *Knight Foundation* survey doesn’t ask about cancel culture. But it does find that 91 percent of Americans think freedom of speech is “extremely” or “very” important.

Here’s the one *Knight* question that gets at what the *Times* editorial is talking about: “How easy or difficult is it for the following people to use their free speech rights without consequence in

America today?” Respondents rated various groups on a scale of 1 (very difficult) to 7 (very easy).

Most scores fall between 4.1 and 5.2, which is consistent with the *Times*’ finding that a plurality of Americans are “somewhat” comfortable expressing themselves. The only subgroup higher than a 5.2 was wealthy people, who got a 6.0. (Same as it ever was.)

In *Knight*’s data, Republicans think liberals have it easier while Democrats think conservatives do. White people think it’s about equal for all races, while Blacks, Hispanics, and Asians each think Whites have it easiest and their race has it hardest. That’s interesting, but with most scores above the 3.5 midpoint, it does not show a crisis of confidence.

What’s the Threat?

While a lot of the data does not show free speech in crisis, two questions in the *Times* survey arguably do. The first asks, “Over the past year, have you held your tongue because you were concerned about retaliation or harsh criticism?” 55 percent said yes.

Why isn’t it 100 percent, doesn’t everyone self-censor? Presumably, most respondents distinguish tact that makes society function from tongue-holding to avoid retaliation or harsh criticism. In that context, 55 percent is high.

But it doesn’t say what people held back, nor whose reaction they feared.

The study looked into the subset who said yes, and the picture is more complicated. Asked how often they’ve held their tongue, just 59 percent say “very often” or “sometimes,” while 42 percent say “not very often” or “rarely or never.”

57 percent say they were concerned about “retaliation”—which, it should be noted, is illegal at work—and 65 percent were concerned about “harsh criticism.” On harsh criticism, women are 8 points more concerned than men, Blacks 8 points more than Whites, low income 11 point more than high income, and 18–34 year olds at least 18 points higher than any other age group. A lot of this tongue-holding is navigating traditional social hierarchies, not cowering from left-wing attacks.

Still, while it’s not 55 percent, a significant number likely fit with the “cancel culture” story, fearing to share opinions on political or cultural issues.

But there’s no reason to assume this is all about progressives. Some presumably is, but the question doesn’t ask. In addition to well-meaning people afraid to accidentally say the wrong thing about race, those holding their tongue probably include liberals in Trump country, LGBT people with religious families, Bernie Sanders supporters who work in finance, etc.

The second question that arguably shows a free speech problem asks how feelings have changed over the last ten years, which tests the *Times*’ claim that Americans have lost something. The editorial presents it like this:

The Times Opinion/Siena College poll found that 46 percent of respondents said they felt less free to talk about politics compared to a decade ago. Thirty percent said they felt the same. Only 21 percent of people reported feeling freer, even though in the past decade there was a vast expansion of voices in the public square through social media.

The question itself doesn't mention social media—if the *Times* had primed respondents with “there was a vast expansion of voices,” they'd probably get different answers—and politics isn't the only thing they asked about. On “gender identity,” the most popular answer was “more free,” with 37 percent, compared to 30 percent saying “as free,” and 29 percent “less free.” On “race relations,” it's 28 percent more free, 35 as free, and 35 less free (though 42 percent of Blacks said more free, as did 34 percent of Latinos, compared to 23 percent of Whites).

At least some of the people who are afraid to talk about politics aren't thinking of changing norms around gender and race. And on both of those, a plurality of the historically disadvantaged minority says things have improved.

Nevertheless, the underlying data shows that, compared to liberals, more conservatives and moderates say they're less free to express their views. For conservatives, the gap with liberals is 19 points on politics, 30 on race, and 35 on gender. For moderates, it's 9 on politics, 13 on race, and 13 on gender. That data is consistent with rising fear of cancellation by the left-wing identity politics speech police.

The Sum of Some Fears

The *Times* survey is one of many that finds people are afraid. What we don't know is how much that fear is (1) warranted by the threat, and (2) bad on the merits.

The *Times* data shows many conservatives feel less free to express themselves on gender and race relative to ten years ago. I wholeheartedly agree with the *Times* editorial that many of the people who feel burdened by cancel culture are not “bigots” trying to “peddle hate speech.”

But, you know, some are.

As for the large number who aren't, the editors write, in what I think is the best version of the *Times*' argument:

People should be able to put forward viewpoints, ask questions and make mistakes and take unpopular but good-faith positions on issues that society is still working through—all without fearing cancellation.

In part, this sidesteps the debate. Which positions are in good faith, and what do we do with those we think aren't? Which issues are society still working through, and which should be considered settled, where the marketplace of ideas produced a winner? I'd put transwomen athletes in the first category and legal racial equality in the second, but many are harder to place. And part of the argument is about how an issue crosses from “still working through” to “settled.”

Still, I agree that people should be able to express their opinions, ask questions, and make mistakes in good faith. That's key to a healthy discourse.

But I'm going to push on the last part, "without fearing cancellation." The *Times*' argument—the main anti-cancel culture argument—assumes average Americans *should* live in fear of serious damage to their life for saying the wrong thing, even for an honest mistake.

They probably shouldn't. Fear of cancellation is widespread, but cancellation is not, especially of non-famous people for mild things. Despite multiple efforts to find evidentiary support, the data keeps showing that it's real but relatively small, especially if we don't include verbal criticism of public figures.

In that case, a significant portion of the fear is unwarranted. It doesn't derive from a realistic assessment of the risk, but from an inaccurate impression created by media. (How many of those conservatives who are too afraid to speak got that idea from Fox News blaring "cancel culture" warnings almost daily?)

In this way, today's cancel culture fear is like fear of terrorism after 9/11. As political scientists John Mueller and Mark G. Stewart show, Americans are more likely to die from drowning in the bathtub or getting struck by lightning, but a lot more afraid of getting killed in a terrorist attack. By overstating the likelihood of that real threat, the United States overreached in its efforts to address it.

Assessing the Problem and Finding Solutions

Consider the latest cancellation getting attention. Writer Lauren Hough's essay collection was up for a Lambda award—which honors LGBT literature—but, as the *New York Times* reported this week, Lambda pulled the nomination "following a social media dust-up in which Hough had defended, at times heatedly, a forthcoming novel by the author Sandra Newman, a friend of hers, from criticism that it was transphobic."

Prominent cancel culture critics highlighted the case, sharing the article on Twitter and claiming vindication.

New York Magazine writer Jonathan Chait: "The phenomenon that isn't happening seems to have happened again."

Commentary editor Abe Greenwald: "Remember. THERE'S NO SUCH THING AS CANCEL CULTURE."

Substack writer Glenn Greenwald: "right after hordes of liberals... claimed in reply to the NYT Editorial that this never happens."

Foundation of Individual Rights in Education CEO Greg Lukianoff: "To quote [Cato Institute Fellow Walter Olson], 'That thing that never happens is happening again!'"

They're right about that. People who say this never happens are wrong. But for those of us who reject the false binary of "no such thing as cancel culture" or "crisis of free speech," the Hough case doesn't show that everyone should live in fear of cancellation.

Hough got cancelled for comments about trans identity, one of those “issues that society is still working through.” And for argument’s sake, let’s assume reasonable people would agree that the book Hough defended isn’t bigoted against trans people, and everything Hough did falls under the *Times* standard of expressing an “unpopular [at least in some circles] but good-faith position.”

Even so, Hough is a published author, not an average American. Not being considered for a literary award isn’t getting fired. She made a series of comments on Twitter, not an offhand comment in an office, and has a sharp-elbowed history on these topics (as cancel culture critics such as former Levi Strauss executive Jennifer Sey and podcasters Jesse Singal and Katie Herzog noted with some schadenfreude).

Arguably this shows that LGBT literary awards have a problem, or maybe even that publishing does. It does not show that America has a problem, especially not one that puts any random person at risk. That takes a controversy in a small, particular elite space and projects it onto everyone’s.

A lot of cancel culture discourse does.

Overhyping the problem—most egregiously by Fox and other grievance-mongering right-wing media, but also by well-meaning critics, now including *The New York Times*—generates excessive fear, contributing to self-censorship and fueling the push for speech-suppressing laws.

The way to address the right-wing threat to speech is straightforward: Criticize bad laws, sue if they violate rights, and vote against politicians who use their office to chill or silence expression.

The way to address the left-wing threat isn’t. Grow a thicker skin? Be less of a jerk?

For the rare cases of mobs getting people fired for innocuous expressions, the solution is for employers and administrators (and book award committees) to say “no.” The activists will probably move on in a few days anyway. But for much of what critics mean by “cancel culture,” the solution appears to be pressuring people they disagree with to stop expressing strong opinions on issues society is still working through.

As someone who values a culture of free speech, I can’t do that.