

Beyond Tolerance: Karl Popper and J.S. Mill on White Nationalism and the “Unite the Right” Rally

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Nazism and Facism [sic] are thoroughly beaten, but I must admit that their defeat does not mean that barbarism and brutality have been defeated. On the contrary, it is no use closing our eyes to the fact that these hateful ideas achieved something like victory in defeat. I have to admit that Hitler succeeded in degrading the moral standards of our Western world, and that in the world of today there is more violence and brutal force than would have been tolerated even in the decade after the first World war. And we must face the possibility that our civilization may ultimately be destroyed by those new weapons which Hitlerism wished upon us. (Karl Popper, 1986)¹

I. Abstract

In the aftermath of the “Unite the Right” rally in Charlottesville, Virginia, as the world struggles to come to terms with a new rise in the visibility and popularity of white nationalism, discussions of how this revival should be addressed have been framed in questions of tolerance and freedom of expression. Some liberal opponents to white nationalism quickly pushed a simplified account of philosopher Karl Popper's paradox of tolerance in popular media, as an argument that intolerance itself—including white nationalist speeches and marches—should not be tolerated, lest it destroy liberal society. I contend that invoking Popper in this way mischaracterizes his own account of the limits of tolerance. Popper argues that all speech should remain protected with the exception of instigative speech, not racist speech. I will argue that Charlottesville demonstrates the moment where instigative speech requires that society's most pressing concern is no longer tolerance, having been overridden by the concern of security. On my reading, white nationalism necessarily involves, in addition to holding an intolerant and distasteful opinion, deliberately using provocative speech to instigate the forcible removal of those citizens who are not white, in order to establish an ethno-state. Appealing to John Stuart Mill's *On Liberty*, I will show that the tolerance of distasteful speech is essential to identifying where speech becomes instigation to commit harm, thereby preventing the kind of violence that occurred in Charlottesville. Finally, I take from Mill and Popper to suggest a viable moral schema for evaluating and reacting to future attempts to further the white nationalist agenda.

¹ Karl R. Popper, “Utopia and Violence,” *World Affairs*, Vol. 149, No. 1 (1986): 3. The editors note that this article is a reprint of an excerpt from Popper's *Conjectures and Refutations: The Growth of Scientific Knowledge* (1963).

II. Introduction – Popper's Paradox

On August 11^h 2017, hundreds of white nationalists marched into Charlottesville, Virginia, bearing torches and shouting Nazi slogans like “blood and soil,”² signaling the beginning of the “Unite the Right” rally, ostensibly organized to protest the planned removal of confederate monuments, but better understood by the public as a show of force by racist and white supremacist groups. The rally continued into its second day despite heightening tensions with the public and police, when Nazi sympathizer James Alex Fields murdered thirty-two year old Heather Heyer and reportedly injured nineteen other counter-protesters by ramming his car into a crowded street at high speed.³ What was originally styled as a peaceful assembly of pro-white groups to protect their cultural history and identity, the “Unite the Right” rally had by this time already escalated into violent skirmishes between white nationalists and their sympathizers, versus a loose coalition of liberal anti-racist and anti-fascist groups, until a state of emergency was eventually declared and authorities dispersed what had been deemed an unlawful gathering.⁴ In the aftermath, America and the world alike struggle to rationalize the observed resurgence of white nationalism in a society that has striven to define itself as open and tolerant. The Charlottesville mayor has said that recovering from the harm that was inflicted by the rally, both physical and psychological, will take years,⁵ and of course Heyer, tragically, will never be able to recover.

While the main organizer and the other major players of the rally—all prominent and publicly active white nationalists—blamed the violence on the missteps of the police, they nevertheless

2 Adam Epstein, “Blood and Soil: The meaning of the Nazi slogan chanted by white nationalists in Charlottesville,” *Quartz*, August 13, 2017, <https://qz.com/1052725>.

3 Steve Almasy, Kwegyirba Croffie and Madison Park, “Teacher, ex-classmate describe Charlottesville suspect as Nazi sympathizer,” *CNN*, August 15, 2017, <http://www.cnn.com/2017/08/12/us/charlottesville-car-crash-suspect-idd/index.html>.

4 Jason Hanna, Kaylee Hartung, Devon M. Sayers and Steve Almasy, “Virginia governor to white nationalists: 'Go home ... shame on you',” *CNN*, August 13, 2017, <http://www.cnn.com/2017/08/12/us/charlottesville-white-nationalists-rally/index.html>.

5 Declan Keogh, “Looking back on Unite The Right violence in Charlottesville,” *Now Toronto*, December 6, 2017, <https://nowtoronto.com/news/looking-back-on-unite-the-right-violence-charlottesville-/>.

preached an agenda that attracted an armed mob prepared for violence. In fact, the attendants were so thoroughly prepared that state governor Terry McAullife was quoted as saying their militias were better equipped than the police.⁶ McAullife has also suggested that citizens “ought to have a right, the local jurisdictions should say, ‘you can come and protest and I may not like what you're going to say, but you do not have the right to come here and threaten and put us in extreme danger by allowing firearms to be present.’”⁷ These comments highlight the current ambiguity regarding how we distinguish distasteful speech and demonstrations from imminent threats of violence. After all, it is difficult to say how exactly police and the people they serve should react when large groups of armed protesters occupy the streets, which raises the question of whether such rallies should be permitted in the first place. However, prohibiting public assemblies on the assertion that they are predicated on violence runs the risk of opening legal scapegoats for the censoring of legitimately non-violent protests, and as we will see, the right to express dissenting views is essential to a just and free society. When considering whether speech is instigative or simply distasteful, it is necessary to consider, as McAullife did in hindsight, how imminent the threat of violence is as a result of an act of speech. On one reading, the organizers merely expressed their views, as is their right, while on another reading, their speech acts constitute incitement to cause imminent harm. I will argue that the “Unite the Right” rally presented, from its inception, an imminent threat of violence to the general public.

The rally has been framed—to the delight of its organizers, presumably—largely as an issue of freedom of expression, and civic tolerance toward distasteful views, despite the violence that emerged. This view of a feud between two morally equivalent groups of protesters, each containing a minority of violent disruptors, was given traction by the U.S. President, and criticized by at least one U.S. senator

6 Natasha Bertrand, “Here's what we know about the 'pro-white' organizer of 'Unite the Right,' who was chased out of his own press conference,” *Business Insider*, August 14, 2017, <http://www.businessinsider.com/who-is-jason-kessler-unite-the-right-charlottesville-2017-8>.

7 John Early, “Governor's Task Force Issues Final Report on Unite the Right Rally,” *NBC 29*, December 6, 2017, <http://www.nbc29.com/story/37009773/governors-task-forces-final-report-12-06-2017>.

who described the events instead as domestic terrorism.⁸ While charges of terrorism may go a step too far, one could also argue that the left's response has been wanting in intellectual and moral rigour. My first objective then is to analyze one popular response of liberal commentators—Karl Popper's paradox of tolerance—in the aftermath of Charlottesville, point out its weaknesses, and provide a stronger philosophical foundation from which to confront the disturbing trend of increasing visibility for white nationalism around the world. If white nationalism is to be soundly and finally rejected, its opponents must be armed with clear moral arguments against it.

Popper's paradox of tolerance earned significant popularity in the days following the rally, as liberal opponents to white nationalism sought to assert limits to intolerant speech,⁹ while white nationalists responded that the paradox showed tolerant pluralistic society to be impossible.¹⁰ Both readings misinterpret Popper's own views. More importantly, as I will show in a later section, Popper does provide us with many useful ways to think about protecting society from the threat of intolerance in the form of racism and white nationalism. On my reading of both Popper and Mill, the question of how liberal society handles the issue of white nationalism is one that goes beyond the language of tolerance, into concerns of security against harm caused by incitement.

Popper's paradox of tolerance is described in an end-note in his book *The Open Society and its Enemies*,¹¹ as an elucidation of political paradoxes he identifies in the Platonic dialogs.¹² Popper does

8 Andrew Katz, "Unrest in Virginia," *Time Magazine*, n.d., <http://time.com/charlottesville-white-nationalist-rally-clashes/>.

9 Valerie Aurora, "A philosophical principle coined in 1945 could be a key defense against white supremacists," *Quartz*, August 16, 2017, <https://qz.com/1054694>.

10 Jason Kuznicki, "On the Paradox of Tolerance," *Libertarianism.org*, August 17, 2017, <https://www.libertarianism.org/columns/paradox-tolerance>

11 Karl R. Popper, *Open Society and its Enemies*, Ch. 7, Note 4, (New Jersey: Princeton University Press, 1963): 265.

12 In addition to the paradox of tolerance, in the same note Popper briefly explains the paradox of freedom and the paradox of democracy. It is worth noting that these paradoxes are, for Popper, surmountable. He writes, "The so-called paradox of freedom is the argument that freedom in the sense of absence of any restraining control must lead to very great restraint, since it makes the bully free to enslave the meek." Popper also described the paradox of democracy as "the possibility that the majority may decide that a tyrant should rule." The note concludes with Popper's suggested remedy to these paradoxes, which is that democratic societies "demand a government that rules according to the principles of equalitarianism and protectionism; that tolerates all who are prepared to reciprocate, i.e.: who are tolerant; that is controlled by, and accountable to, the public." (Popper, *Ibid.*)

claim that absolute tolerance is paradoxical, as the intolerant will take advantage of such a policy in order to attack the tolerant, and render the state absolutely intolerant. He explicitly clarifies however that this does not imply we should suppress intolerant speech. Suppressing speech which can be shown as intolerant in public debate would be unwise, Popper says, but a tolerant society must still reserve the right to suppress such speech by force in special circumstances. If such speech is withheld from rational debate in the public sphere—which is to say if the author or speaker refuses to subject their claims to the scrutiny of others with opposing views—and if it directs its audience to resort to violence rather than reason in order to support their position, then Popper says it should be within the rights of an open society to prohibit that speech. Popper concludes, “We should therefore claim, in the name of tolerance, the right not to tolerate the intolerant. We should claim that any movement preaching intolerance places itself outside the law, and we should consider incitement to intolerance and persecution as criminal, in the same way as we should consider incitement to murder, or to kidnapping, or to the revival of the slave trade, as criminal.”¹³

Popper's argument is meant to guard tolerant society from being destroyed by its own principle of toleration, and his reference to “incitement to intolerance and persecution” is important here, as it identifies a particular kind of speech with a history of exceptions in legal and moral frameworks. Incitement is more closely related to the action it intends to provoke, whereas the kind of tolerance Popper encourages exists entirely within a rational sphere of debate and opinion. Once speech leaves this domain of reason, it acquires a quality that Popper acknowledges can be dangerous. He therefore endorses a legislative approach that protects all speech, but maintains the right to make special exceptions in cases where speech constitutes incitement to act unlawfully. Here my reading takes Popper's claim “that any movement preaching intolerance places itself outside the law” to refer again to incitement, insofar as preaching is interpreted as a speech act which advocates a particular course of

13 Popper, *Open Society*, 265.

action. In other words, when Popper says we should claim the right not to tolerate the intolerant—which is where most commentators conveniently stop—he goes on to clarify that we should *exercise* that right only when incitement is present *in addition* to the intolerance of the speaker. The major question Popper raises then, is how we determine when speech is not just an act of intolerance, but an act of incitement. There is no quick and easy answer to this dilemma, but I will identify some guiding criteria which may at least suggest a place to start this discussion.

The liberal appeal to Popper post-Charlottesville glossed over the fact that incitement was what Popper's paradox really targeted, implying instead that we should not tolerate intolerance itself—i.e.: racism in all its forms. I take this to be a dangerously incorrect reading of Popper. Namely, by suggesting that certain kinds of speech and assembly should not be tolerated, liberals threaten the most foundational principles of open society, which actually serve to protect it from violence. In the section that follows, I support this claim with the help of John Stuart Mill's *On Liberty*.

III. J.S. Mill On the Importance of Protecting Distasteful Speech

In America, racist speech is considered protected under the First Amendment, supported by the 'slippery slope' argument: restricting any speech, however undesirable, risks restricting all speech. One opposing argument is that racist speech constitutes a form of harm, not only to the targets of racist speech, but to society as a whole, and even the speaker, who morally degrades themselves in the process.¹⁴ John Stuart Mill, a philosophical cornerstone of political theory, and one of the strongest defenders of free expression in the Western tradition, would vociferously disagree. For him, freedom of expression is not just a liberty the state ought to guarantee the individual on moral grounds, but for the very practical reason that it is essential to civic harmony.

In *On Liberty*, Mill outlines four reasons why free expression of opposing views is so important:

(1) being fallible in our judgments, we should allow our views to be challenged, thereby arriving closer

¹⁴ Kimberly A. Gross and Donald R. Kinder, "A Collision of Principles? Free Expression, Racial Equality and the Prohibition of Racist Speech," *British Journal of Political Science*, Vol. 28, No. 3 (1998): 446-448.

to the truth; (2) opposing views, even if they are wrong, may contain some grain of truth that would otherwise be lost; (3) the validity and strength of our views is improved by constant scrutiny from other viewpoints—e.g.: encountering racism forces us to examine our own racial prejudices, even if we assumed previously that we had none; and lastly, (4) when our beliefs go unchallenged, they become dogmatic, bereft of meaningful moral truth, and since we can no longer rationally defend them, we become susceptible to acquiring other similarly indefensible views.¹⁵

I find all of Mill's concerns immediately applicable to the circumstances surrounding the events in Charlottesville. While liberal society tends to praise itself for its openness, racism still produces stunning inequities throughout the world to this day. We should recognize we are fallible and engage with those who hold racist views in order to come closer to the truth, and yet there remains a general attitude of denial on the part of political and other leaders in position of power, which suggests to the public that racism is a fringe or non-issue.¹⁶ I argue that this is symptomatic of a lack of exactly the kind of open, critical, public debate that Mill defends. White supremacist speech represents a challenge to the belief that American society is open and tolerant, which forces us to re-examine that belief, and if necessary, re-affirm or strengthen our moral and practical reasons for holding that belief. At the same time, the ideology that motivated the “Unite the Right” rally was able to flourish despite its falsity, thanks in part to it being withheld from the scrutiny of public debate. This demonstrates the consequences of ignoring Mill's first and fourth reasons for defending free expression, i.e.: (4) liberal beliefs about the tolerance and openness of American society, having gone unchallenged, have become dogmatic, and therefore lack meaningful rational defense in the public sphere, while (1) white nationalist ideology, because it evades scrutiny in the public sphere, is never revealed to its adherents as possibly or definitely false.

15 Mill, “On Liberty,” 60-63

16 Mark Christian, “An African-Centered Perspective On White Supremacy,” *Journal of Black Studies*, Vol. 33, No. 2, (2002): 190.

Mill would arguably say that, had those heinous ideas been admitted to the public discourse, fewer would have been able to maintain their white nationalist views under scrutiny, and the liberal opponents to white nationalism would be better equipped to refute and resist racist ideology. While white nationalist speech should therefore be protected and allowed in public, my aim in the rest of this section is to show that, even according to the stringent criteria of Mill, the organizing of the “Unite the Right” rally constitutes more than mere white nationalist speech, that it is instigation to cause harm, and not a matter of tolerance and free expression. Mill himself provides an illustration to show that incitement exists beyond the limits of normal speech:

No one pretends that actions should be as free as opinions. On the contrary, even opinions lose their immunity, when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act. An opinion that corn-dealers are starvers of the poor, or that private property is robbery, ought to be unmolested when simply circulated through the press, but may justly incur punishment when delivered orally to an excited mob [...] Acts, of whatever kind, which, without justifiable cause, do harm to others, may be, and in the more important cases absolutely require to be, controlled by the unfavourable sentiments, and, when needful, by the active interference of mankind.¹⁷

Note that Mill too explicitly points out that *instigation* is the peculiar kind of speech that most warrants scrutiny—it is not just distasteful opining, but something more dangerous that demands intervention by society. Speech acts can thus be distinguished as either of an opining variety, or of a more instigative nature. Opinions, thoughts, and feelings are kinds of speech with a far more benign quality than what we call incitement. Mill recognized that expression of an opinion could become easily and dangerously conflated with speech acts of a different nature, and points out that it is the circumstances surrounding a speech act which reveal it to be instigative or not. As Daniel Jacobson notes, “The freedom of expression Mill advocates is the freedom to express any factual or normative opinion, where opinions are understood to be individuated by their content. It is not the freedom to express that opinion in any context whatsoever, because in certain contexts such expression constitutes

¹⁷ John Stuart Mill, “On Liberty” in *On Liberty and the Subjugation of Women*, ed. Alan Ryan, (London: Penguin, 2006): 65.

incitement, conspiracy, or fraud.”¹⁸ In other words, while context may determine a speech act to be harmful, there is no speech act Mill considers harmful in and of itself. A large part of what constitutes democratic society is the discussion of different points of view, which is where the concept of tolerance is tested. Mill believes that this arena of debate is essential to preserving justice and freedom, and makes no exceptions for racist speech or any other kind of particularly heinous prejudice—he only makes exceptions for speech which involves “a positive instigation to some mischievous act.”

Mill's liberalism may seem a far cry from our contemporary notion of liberalism today, which has been accused of having an aversion to conflict and antagonism that runs contrary to human nature and group dynamics. Moreover, this aversion to conflict has been criticized for producing a depleted sense of identity, on the basis that we learn more about the human condition when we are confronted by other people with conflicting views.¹⁹ While there is some merit to this line of reasoning, particularly in modern liberal society, similar criticisms were made by Mill himself, who's account of liberalism has at its heart a perpetual source of antagonism within the bounds of civic harmony.²⁰

Although Mill's defense of free expression has been interpreted as promoting a competitive marketplace of ideas, he never makes the economic analogy himself. The important takeaway from the analogy is that Mill believes we should be free to express our ideas without restraint, and that, like a marketplace, the proper functioning of society requires that freedom, so that we bring our best and most unique inventions of the mind, the finest products of independent thought given to our civic existence, out and into the public sphere. Mill's writings do not provide any strong support for an interpretation that suggests an eventual convergence of opinion—an ideological monopoly in the marketplace of ideas—on the contrary, he describes a cycle of competitive debate in which new ideas are abundant, good ones rise to prominence, and bad ones fall out of favour, though always with the risk that they

18 Jacobson, “Mill on Liberty,” 285-287

19 Brandon P. Turner, “John Stuart Mill and the Antagonistic Foundation of Liberal Politics,” *The Review of Politics*, Vol. 72, No. 1 (2010): 40-41.

20 Turner, “Antagonistic Foundation of Liberal Politics,” 25-28.

may eventually rise again. On this reading, antagonistic debate is necessarily and perpetually a part of social life, because bad ideas never completely disappear without risk of being resurrected, and good ideas lose their force and meaning if they go unchallenged too long.²¹

In this light we can see even more clearly why speech promoting white nationalism should be protected. Even though it is a bad idea, it may never be entirely eliminated from society, and if the idea of an open society is a good one, it must perpetually be willing to prove itself in the public sphere, whereas if racist speech were banned, it would only continue to thrive in dark corners, never seeing the light of reason. I find Mill's liberalism and his defence of free speech are incredibly compelling. That we should tolerate all speech, even intolerant speech, and engage with intolerant ideas perpetually, in order to strengthen the resolve of virtue, and weaken the grip of ignorance, seems a wise observation.

However, we should not protect white nationalist violence, and that is what is at stake when discussions like those following Charlottesville are framed in terms of tolerance and free speech, rather than in terms of civic harmony and protection against harm. I argue that the response to the current resurgence of white nationalism must go beyond language of tolerance, as it is not merely an opinion or point of view, but an agenda which has as its aim the establishment of an ethno-state, which necessarily involves violence. Mill's harm principle, "that the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others,"²² provides a crucially important metric for determining where state intervention is due, but it still remains vulnerable to the paradox of tolerance,²³ due to the problem of ambiguity over what constitutes harm. Tolerance is most fundamentally directed toward beliefs—not harmful acts—with the object of maintaining civic harmony. However, the ambiguity of what constitutes civic harmony also allows for broad interpretations to be made about the limits of tolerance. As Wibren Van Der Burg has argued, it is

21 *Ibid*, 43-50.

22 Mill, "On Liberty," 16.

23 Van Der Burg, "Beliefs, Persons and Practices," 234-235.

not patently obvious that framing issues of multiculturalism and racism in terms of tolerance is always useful.²⁴ Perhaps these are issues better understood in terms of harm and security.

Some want to argue that racist speech is unique because, unlike other kinds of speech, the historical precedent of racism in America provides ample evidence to suggest that racist speech causes harm. On this reading, “[r]acist speech renders the free exchange of ideas that the First Amendment was intended to promote impossible.”²⁵ While this line of reasoning does offer some resistance to the “slippery slope” objection, I do not consider it sufficiently compelling, as it would still make Mill’s harm principle far too broad in application. On such a reading, anyone could claim that their right to free speech is harmed by the expression of opposing views, so long as they could argue that there was some historical precedent that supported their claim. Sophistic legal arguments for religious censorship immediately come to mind. There would simply be far too much room for interpretation if racist speech were given this unique character apart from other forms of distasteful speech. Racist speech therefore, as depraved as it may be, I maintain should be protected in liberal society.

Van Der Burg goes on to consider whether the same tolerance is owed to racist marches and assemblies, as is due to racist speech.²⁶ For Mill, it is clearly the case that we should tolerate racist assemblies and marches, in that this embodies his three essential liberties: freedom of conscience and expression, the freedom of autonomy, and the freedom of association. However, while Mill does guarantee the freedom of association, he qualifies this as a “freedom to unite, for any purpose not involving harm to others,”²⁷ and in describing the freedom of autonomy, again he qualifies, “so long as what we do does not harm [others.]”²⁸ Therefore, according to Mill, white nationalists are protected in their autonomy, the freedom to gather and associate together, and the freedom to express themselves.

24 Wibren Van Der Burg, “Beliefs, Persons and Practices: Beyond Tolerance,” *Ethical Theory and Moral Practice*, Vol. 1, No. 2 (1998): 228.

25 Gross and Kinder, “A Collision of Principles?” 448

26 Van Der Burg, “Beliefs, Persons and Practices,” 242-244.

27 Mill, “On Liberty,” 19.

28 *Ibid*, 18-19.

To infringe on these liberties on the basis of someone's views would be fundamentally unjust. Van Der Burg therefore misses the mark in pointing to racism itself as the offensive characteristic that demands intervention. Mill seems to demand, and I tend to agree, that it is every citizen's right to be racist, to utter racist speech, to assemble with other racists and make dissentious demonstrations in public.

We need not look to the racist character of white nationalist ideology and behaviour to find the heinous quality that legitimates its censorship. What makes white nationalism distinctly prohibitable is not that it is motivated by a racist ideology, but that it necessarily involves instigating violence for the sake of establishing an ethno-state. Insofar as white nationalism's end is to produce an ethno-state, we can deduce that it must also aim, as a means to that end, attacking the civic liberty of every non-white citizen by either evicting or eliminating them. Moreover, by assembling in numbers capable of overwhelming local police forces, and by preparing for violence with weapons and riot gear, the “Unite the Right” rally revealed itself as a gathering together for the purpose of harming others, which is a kind of assembly that Mill explicitly suggests is prohibitable. Therefore a white nationalist assembly like the “Unite the Right” rally—which went beyond dissentious demonstration and was prepared for violence from its conception—is necessarily more than an expression of an opinion: it is a call to action, a show of force, a first step in the agenda to create an ethno-state. In other words, it is a preliminary action necessary to the objective of the white nationalist agenda, which is explicitly predicated on performing or provoking acts of harm toward fellow citizens. White nationalist rhetoric is therefore exactly the kind of instigative speech Mill and Popper were concerned with. It does not engage in rational discourse in the public sphere, and it is not a thought, feeling, opinion, or sentiment. It is the propaganda of a political agenda that seeks to destroy pluralistic society, and which therefore explicitly threatens other citizens with violence and the infringement of their rights and freedoms by its very nature. While white nationalists should, according to Mill, be able to express their views, gather together, and hold public meetings, the “Unite the Right” rally is an instance of explicit preparation for

and provocation of ethnic violence.

I would go perhaps one small step further than Mill and explicitly include, not just assembling for the purpose of harming others, but also assembling for the purpose of incitement, as an offence worthy of interference by the state. As we have seen, Popper's paradox suggests as much—if we should treat incitement to intolerance as criminal, assemblies designed to incite intolerance should be prohibited. However, this would require reliable criteria for determining whether incitement was occurring or imminent, and whether said incitement presented an imminent threat of harm. Some possible criteria have already been suggested: if the numbers of the assembly threaten to overwhelm local authorities, and if the rhetoric or stated purpose behind the assembly sanctions or encourages harm toward others, the assembly could be said to be an organized attempt to commit or instigate violence. On this reading, the rally should never have been permitted unless numbers were reduced and there were no preparations made for violence or instigative rhetoric involved. By spelling out these kinds of restrictions, which are ostensibly plausible criteria for determining the harm a rally may present to the public, it seems obvious that the “Unite the Right” rally intended to cause harm to others from its inception. Nevertheless, it has to be admitted that what I am arguing here remains a contentious issue, certainly not obvious to a great many people—there were, after all, many who feel there was nothing inherently wrong with the rally in Charlottesville, and that it was the police or the counter-protestors who were at fault.

While Mill offers some reasons to refine our understanding of Popper, lest we attack the essential principle of freedom of expression, there are limits to his schema, and he does not offer strong support for my claim that assembling for the purpose of incitement should be prohibitible. Mill puts certain qualifications around his harm principle that suggest he regards liberalism primarily as a guarantee of certain rights, chief among them the right not to be interfered with by others in the autonomous enjoyment of one's life. Some take this as a contradiction in Mill's schema. The harm

principle is thus criticized as both too weak and too strong; harm can be interpreted in a broad way that makes every interaction a concern of the state, and on a more narrow interpretation of harm, the state cannot intervene, even in ways that are crucial to civic harmony. In both cases the harm principle seems to be at odds with liberty.²⁹

If the harm principle is to be useful to us, we must be able to interpret it in a way that can guarantee freedom from interference in the autonomous enjoyment of one's life. My task has been to show that, according to Mill and Popper, while we should protect white nationalist speech in principle, in practice and in the example of the “Unite the Right” rally, white nationalist speech constitutes instigation to commit imminent harm, and the rally itself constitutes an assembly for the purpose of causing harm. I think that, while there is controversy and ambiguity surrounding Mill's harm principle, if we are charitable in interpreting it as a safeguard against undue interference, and if we are objective in our assessment of white nationalism being fundamentally directed at interfering with non-white citizens, then Mill can be said to support my argument, including the claim that assemblies for the purpose of incitement are, effectively, assemblies for the purpose of causing harm. If this is the case, both theorists suggest a legitimate schema for protecting freedom of expression, while censoring instigative forms of white nationalist speech and assemblies. In the following section, I consider how Popper diverges from Mill in his thinking about tolerance and nationalism, and suggest further criteria for evaluating instigative speech

IV. Popper: Rationalism vs. Nationalism

In her article, “Inciting Genocide, Pleading Free Speech,”³⁰ Susan Benesch references the Rwandan genocide and an inflammatory publication that preceded its eruption to demonstrate the relation between violence and speech acts. Given that the two have occurred in tandem in every

²⁹ Daniel Jacobson, “Mill on Liberty, Speech, and the Free Society,” *Philosophy & Public Affairs*, Vol. 29, No. 3 (2000): 277-279.

³⁰ Susan Benesch, “Inciting Genocide, Pleading Free Speech,” *World Policy Journal*, Vol. 21, No. 2 (2004): 62-69

modern example of genocide that we have, it is possible that a prerequisite for genocide is its incitement, i.e.: a kind of speech. Presumably people do not gather into mobs and attack others spontaneously. Incitement, when delivered by propaganda campaigns such as those that preceded the Rwandan genocide and the Holocaust, often aims to diminish the humanity of its opposition, in an attempt to legitimize hateful feelings and dehumanizing acts towards them.³¹ Benesch points out that the American limits on defining genocide would have exonerated some of those most guilty for building an environment where genocide could occur in Rwanda, because their speech acts were not followed quickly enough by violent acts, despite being directly related. In view of First Amendment protection, to count as incitement in America, speech must be directed at, and have a reasonable chance of *immediate* success in, provoking others to lawlessness. However, at least one exception was made in 2003, when one state upheld a ban on cross burning because of the historical precedent that suggests it represented an immediate *provocation* of violence (*Virginia v. Black*), even though no violent act did immediately occur. This is important to my argument, as historical precedent plays a significant role in deducing the white nationalist agenda, and analyzing its rhetoric. In international law, the definition for incitement to genocide is slightly broader, including genocidal intent, and foreseeability that the speech will lead to violence.³² I would argue that an analogous framework could apply to white nationalist speeches and assemblies. If there is an instigative intent, and foreseeability that speech will lead to violence, determined in part by the historical precedent made by similar speech acts,³³ it should be prohibitable by the state to ensure civic harmony. This may be a step too far for Mill, but likely not for

Popper.

31 Benesch, "Inciting Genocide," 62-64.

32 *Ibid*, 64-67.

33 Note that this paper does not tackle the difficult issues of how to precisely determine instigative intent, or measure the foreseeability of violence. These are important determinants of identifying instigative speech which are up for interpretation by the adjudicating body in each individual case. One possible condition for identifying instigative intent is suggested by Popper: the speech is guarded from the scrutiny of public debate and encourages its audience to use violence rather than reason to support their position. In addition, foreseeability of violence as a response to instigative speech may be measured in part by the historical precedent of similar kinds of speech acts. These suggestions are tentative and inadequate but may provide a starting point for further investigation.

While Popper's case against nationalism is not systematic or by any means complete, it is clear that his opposition was strong, consistent, and influential.³⁴ Popper was aware of the relation between nationalism and racism, being an outspoken critic of racial segregation laws, saying: “Clearly, not all nationalists are overtly racist, nonetheless; the nationalist perspective opens the door to potential racism.”³⁵ Nationalism constitutes a tribal mentality that Popper considers antithetical to the moral ends of society, but unavoidable as a convenient play made by rhetoricians who will take advantage of a morally deficient sphere of public opinion in order to make themselves more persuasive. In this sense, the conflict in Charlottesville is more demonstrative of tribal warfare than of the paradox of tolerance.

There are other grounds on which Popper can be said to repudiate nationalism, the most foundational being his concept of philosophy as emerging from the failure of closed society, in a movement toward open society. Andrew Vincent notes that for Popper, “[o]ne cannot be a nationalist and a philosopher. Popper suggests that the singular importance of tribe or nation inevitably becomes suspect as soon as any sophisticated rational intelligence develops.”³⁶ Even more damning, Popper associated nationalism with neurotic hysteria, as if it were a kind of mental deficiency rather than a coherent political position.³⁷ Other scholars have also described white nationalist thought and behaviour as akin to psychopathy.³⁸

Nationalists argue that personal identity is largely constituted by political membership, as support for attributing rights and protections to their ethnic group. Popper contends that personal identity and moral character are qualities of individuals, and that “nothing of significance attaches to national identity.”³⁹ If identity is always individual, it is unintelligible to argue for the preservation of

34 Andrew Vincent, “Nationalism and the Open Society,” *Theoria: A Journal of Social and Political Theory*, No. 107, (2005): 53-58.

35 Vincent, “Nationalism and the Open Society,” 42.

36 *Ibid*, 39.

37 *Ibid*, 39-40

38 Christian, “On White Supremacy,” 191-192.

39 Vincent, “Nationalism and the Open Society,” 41

the moral character of a national or ethnic identity, because it would be contingent upon the moral character of its individual constituents.⁴⁰ Popper also suggests nationalism is opposed to reason, insofar as “reason is always concerned with mature individuals, within a society, coming to decisions through a rigorous process of self-criticism and communicating that method to others.”⁴¹ Any social movement that would forfeit rational discourse and civic harmony as white nationalism does is therefore suspect.

In his article “Utopia and Violence,” Popper claims that, at bottom, there are two ways to respond to disagreement: rational argument, and violence. The mark of a reasonable person is that they “would rather be unsuccessful in convincing another man by argument than successful in crushing him by force, by intimidation and threats, or even by persuasive propaganda.”⁴² In other words, a person capable of reason must also possess a certain degree of intellectual humility to argue rationally, to give and take, and thereby avoid violence. Popper echoes Mill's defence of free speech when he writes that this humility “is born of the realization that we are not omniscient, and that we owe most of our knowledge to others.”⁴³ Approaching social life with anything other than a reasonable attitude is likely to produce violence according to Popper, and yet there are limits to a reasonable attitude, as there are limits to tolerance. A reasonable attitude is irrelevant if one's interlocutor is determined to be violent.

An important distinction to make when society grapples with issues beyond reasonableness and tolerance, is that between aggression and resistance to aggression, both of which can exhibit similar qualities, i.e.: violence.⁴⁴ Returning to the example of Charlottesville, some have made the argument that both the white nationalists and the liberal counter-protesters were equally guilty of the violence that took place. However, it is clear that the white nationalists were the aggressors, given that they proposed, organized, and carried out the rally, while the counter-protesters were the resistance to that

40 *Ibid*, 40-44.

41 *Ibid*, 40

42 Popper, “Utopia and Violence,” 4.

43 *Ibid*.

44 *Ibid*, 3-4.

aggression, who merely responded to the initial acts of the white nationalists. This distinction is important in that it leaves room for civil disobedience on the part of an oppressed group, one that is resisting or responding to aggression, whereas the instigators of aggression are given no such consideration. In this context, those who resist aggression are less morally accountable for their actions than the instigators of the original aggression. In other words, for Popper there is a rational justification on grounds of self-preservation for the violence committed by liberal anti-racist and anti-fascist groups in opposition to the white nationalist agenda, but no justification for the violence perpetrated by the white nationalists themselves.

Popper saw rationalism as the basis of civil society, but also acknowledged the reality of a flawed human nature: “If I say that I believe in man, I mean in man as he is; and I should never dream of saying that he is wholly rational.”⁴⁵ Popper argues that a flawed political rationalism that privileges abstract ends ahead of the practical means to those ends would lead to a dangerous and self-defeating utopianism, which I believe describes white nationalist thought precisely, which privileges the abstract end of an ethno-state over the reprehensible means required to achieve that end. Popper elaborates that, because it is impossible to definitively identify the ultimate end of society, utopianism will produce violence between those who disagree about whatever end is proposed, or the means toward it. The difference between self-defeating utopianism and a virtuous political ideal is that the former aims for “the realization of abstract goods,” and the latter for “the elimination of concrete evils.”⁴⁶ Therefore, to Popper, the best end of politics is to address the urgent problem of human misery in concrete, direct ways, and leave the abstract notion of producing happiness as an individual problem. Moreover, it is easier to agree on the evils that society must expel for civic harmony, than it is to agree on the ultimate and ideal end of all political activity.⁴⁷ The white nationalist agenda is the result of just such a flawed

45 *Ibid.*

46 *Ibid.*, 7

47 *Ibid.*, 5-7

political rationality, insofar as its end—the white ethno-state—is an abstract concept that is practically antithetical to an open society.

While Popper may have allowed that, due to its departure from the domain of reason, white nationalist propaganda and rallies should be prohibitable, he would not have agreed with those who invoked his words after Charlottesville, that white nationalist speech should not be tolerated by a liberal society. On the contrary, it is essential that speech be protected, so that “[t]hose of us who do not suffer from these miseries [i.e.: racism] meet every day others who can describe them to us.”⁴⁸ Again, this is demonstrated in America today, where the history of segregation and racism still keeps white and black communities separated in ways that diminish the reality of the black American experience, and white America is just beginning to come to terms with the non-white experience. In the closing section that follows, I will attempt to combine Popper and Mill's thought in suggesting a viable set of criteria for evaluating and resisting white nationalism in modern society.

V. Moving Beyond Tolerance

The reach of white nationalist ideology, with a history spanning centuries, is far more expansive and insidious than most people can appreciate. Mark Christian writes, “At the dawn of a new millennium, it can be confidently stated that the world continues to be largely maintained by various forms of White supremacy.”⁴⁹ We are thus living witnesses to the earliest stages of reconciling our humanity with a legacy of slavery, violence, and subjugation predicated on white supremacy. As recently as the 1990's at least one scholar described America as two hostile ethnic states—white America and black America—existing under one nation. Moreover, on practically every metric of socioeconomic welfare, black Americans rank lower than their white counterparts.⁵⁰ At least one part of ending racism is acknowledging that black and other non-white Americans are still actively oppressed

48 *Ibid.*

49 Christian, “On White Supremacy,” 180

50 *Ibid.*, 180-182

and threatened by white nationalism, which is seeing a rise in popularity and tacit endorsements from prominent public figures. A coherent and principled response is called for.

I have argued that a rigorous philosophical resistance to the white nationalist agenda must go beyond language of tolerance. While Popper's paradox of intolerance is not a viable analytic for the rise of white nationalism, both he and Mill can be read to support the censorship of white nationalist propaganda and public rallies, insofar as they abandon reason, and use instigative speech to cause harm to society. On this reading, white nationalism constitutes an explicitly violent agenda aimed at establishing an ethno-state at the expense of the liberty of non-white citizens. Being itself an attack on the foundations of society, speech acts that attempt to further this agenda by its proponents should be prohibitable. Seen through the lens of Charlottesville, Mill and Popper give us a viable schema to analyze and respond to instances of racist speech and behaviour, in a way that protects freedom of expression and civic harmony simultaneously. Both thinkers allow that speech can be censored by the state, and combined they suggest some of the following criteria: speech becomes instigative and can therefore be limited if (1) it is directed at inciting—or, on my broader reading, producing the conditions necessary for inciting, i.e.: assembling for the purpose of incitement—a group or individual to cause harm; (2) has a reasonable and foreseeable ability to cause harm;⁵¹ (3) directs its audience to use violence rather than engage in rational discourse; (4) rejects rational debate in the sphere of public opinion; and (5) has a precedent of causing harm. These criteria describe the limits of tolerance in liberal society, where speech is not meant to opine, but to instigate, and expression becomes an action which can harm others. Neither Mill nor Popper bring out the fifth point explicitly, but I believe it to be an important safeguard to maintaining freedom of expression while still addressing the evils of ethnic nationalist agendas. White nationalism has a long, dramatic history of subjugation and violence, and it

⁵¹ See note 32. This remains a major hole in my argument, in that there is a tremendous ambiguity surrounding the terms 'reasonable' and 'foreseeable' in this context. Without proper analysis and definition of these terms, this schema risks prohibiting legitimate forms of speech and assembly. Currently the only protection against this risk I have been able to include is the fifth (5) criterion above, though this may prove to be inadequate.

should therefore come as no surprise when its proponents reproduce the same prejudice, violence, and civic chaos that characterized Nazism. This precedent should make white nationalism far more suspect than other forms of intolerance, where questions of tolerance and free speech may in fact be warranted.

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