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The Constitutional Status of Speech about Oneself

R. George Wright

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THE CONSTITUTIONAL STATUS OF SPEECH ABOUT ONESELF

R. GEORGE WRIGHT*

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“[N]ot only does democracy make men forget their ancestors but also hides their descendants and keeps them apart from their fellows. It constantly brings them back to themselves and threatens in the end to imprison them in the isolation of their own hearts.”

Alexis de Tocqueville**

“Alexis de T. - but what did he know about . . . *Let’s talk about Me!*”

Tom Wolfe***

I. INTRODUCTION

This Article focuses on speech that is about oneself. The self¹ is usually thought to be both real and important.² Admittedly, the nature and boundaries of the self

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** ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 589 (Gerald E. Bevan trans., Penguin Books 2003) (1840).

*** Tom Wolfe, *The ‘Me’ Decade and the Third Great Awakening*, N.Y. MAGAZINE, available at <http://nymag.com/print/?/news/features/45938/index9.html>.

¹ As a preliminary matter, the stylistic distinction between ‘oneself’ and ‘one’s self’ is murky. The case for ‘one’s self’ becomes stronger as the distinct emphasis on the ‘self’ increases, but the stylistic boundary line may still be unclear. In some cases, substituting the parallel constructions of ‘myself’ or ‘yourself’ and checking the logic may help. For the view that ‘one’s self’ is often more correct in psychological or spiritual contexts, see BRYAN A. GARNER, *GARNER’S MODERN AMERICAN USAGE* 592 (3d ed. 2009). On the other hand, if the ‘one’s self’ usage suggests that the self is anything like a personal possession—in which one speaks of one’s self roughly as one might speak of one’s lunch bucket, or even one’s mood—that usage is hardly philosophically or spiritually neutral.

may be unclear.³ Some writers go so far as to reject familiar ideas of the self, the person, and personal identity.⁴ Other writers, however, hold that there is indeed such a familiar self, and that there are boundaries of the self.⁵

It is thus admittedly possible that even our most basic ideas of the self are illusions, even if they are useful or even unavoidable, illusions.⁶ Such a skeptical conclusion about the self would, however, seem to call for a major reassessment of our Bill of Rights law, along with the Thirteenth and Fourteenth Amendments,⁷ as well as our language and broader culture. This Article will not take any such skeptical path.

Instead, this Article simply assumes some more or less familiar idea of the self. This non-skeptical approach to the self accords with what ordinary citizens, typical litigants, relevant constitutional theorists,⁸ and the case law⁹ have widely assumed. The controversial focus herein is instead on the proper degree of First Amendment protection for speech that is about¹⁰ the speaker,¹¹ and is in that sense autobiographical or self-focused speech.

² The character of Sir Thomas More vividly links the self to integrity: “When a man takes an oath, Meg, he’s holding his own self in his own hands. Like water . . . And if he opens his fingers *then*—he needn’t hope to find himself again.” ROBERT BOLT, *A MAN FOR ALL SEASONS* 140 (Vintage Int’l ed. 1990) (1960).

³ For an image of holism and inseparability in this regard, see WALT WHITMAN, *SONG OF MYSELF: THE FIRST AND FINAL EDITIONS OF THE GREAT AMERICAN POEM* 1 (Sam Torode ed. 2010) (1855) (“For every atom belonging to me as good belongs to you.”).

⁴ See *infra* notes 93-95 and accompanying text.

⁵ See *supra* note 3. See also SIGMUND FREUD, *CIVILIZATION AND ITS DISCONTENTS* 13 (First American ed. 1961) (1930) (“Pathology has made us acquainted with a great number of states in which the boundary lines between the ego and the external world become uncertain or in which they are actually drawn incorrectly.”). This is not to suggest that the Freudian ego should be identified with the self in its entirety. At a minimum, though, drawing the boundaries of the self at one point or another seems, according to Freud, to have consequences and to be subject to evaluation. Without exception, the constitutional opinions examined herein presume some sort of distinction between the self, or the person, and a non-self, or the not merely self. See *infra* Part IV.

⁶ See *infra* notes 94-95.

⁷ See, e.g., U.S. CONST. amend. XIV. The Fourteenth Amendment, in particular, of course refers literally to persons.

⁸ See *infra* Part IV.

⁹ See *infra* Part IV.

¹⁰ This is not to deny the problems of what it means for speech to be about, to refer to, or to be somehow centrally focused on the speaking self. At least since Descartes, the distinction between a self that is doing the speaking, and a self that is the topic or focus of the speech, has been a continuing philosophical problem. See, to begin with, RENE DESCARTES, *PHILOSOPHICAL ESSAYS* 23-32 (Laurence J. Lafleur trans., 1964) (1641).

¹¹ Nor does this Article address the extent to which the self is constituted by, and inseparable from, a network of various group memberships, associations, and identifications. For background, see GEORG SIMMEL, *CONFLICT & THE WEB OF GROUP-AFFILIATIONS* 125 (Kurt H. Wolff & Reinhard Bendix trans., 1st Free Press paperback ed. 1964) (1922). We shall assume that even a self that comprises group memberships can still be a sufficiently

Crucially, the idea has recently been raised that the free speech clause does, or at least should, protect speech that is about the speaker with generally the same stringency as it protects speech that is about political or other public matters.¹² Those who see speech about oneself and speech about politics as constitutionally of equal value usually do not claim that in this context, the self and the political can never be distinguished. They do not claim that speech about oneself always involves political speech. There will certainly be some cases in which speech that is about the speaker also amounts to political speech.¹³ The categories of speech about the self¹⁴ and speech that is political clearly overlap to one degree or another. The widely accepted assumption is instead that not all speech that is about the speaker is also political speech, or public interest speech, for first amendment purposes. With this assumption, we have no quarrel.

The advocates of strong protection for speech about oneself thus distinguish speech about the self, in some cases, from political or public interest speech.¹⁵ This Article, however, in response, rejects the idea that speech about the self and speech about politics should be protected equally where the categories do not overlap. Equating the constitutional value of the two kinds of speech is, first, clearly inconsistent with Supreme Court and other case law.¹⁶

This Article further contends that elevating the constitutional protection of non-political or non-public interest speech about the self to that of political or public interest speech would be ill-advised. This judgment is based on a consideration of the reasons for specially protecting speech in the first place. As it turns out, there is only a minimal relation between speech about the self, with no further public import, and any consensually recognized purpose underlying our special protection of speech. Finally, we consider the cultural risks of unintentionally validating, through a change in first amendment law, what is widely thought of as sheer narcissism.¹⁷

II. NON-POLITICAL SPEECH ABOUT ONESELF AND POLITICAL SPEECH: SUPPOSEDLY EQUAL IN FIRST AMENDMENT STATURE?

The First Amendment value of speech that is about oneself has recently been raised in a controversial and sometimes emotional context. Specifically, a number of courts have addressed an unusual element of the federal Stolen Valor Act.¹⁸ The

distinct self. And in this assumption, we again track virtually all of the relevant judicial discussions.

¹² The classic skeptical citation is to Duncan Kennedy, *The Stages of Decline of the Public/Private Distinction*, 130 U. PA. L. REV. 1349 (1982). See also Carol Hanisch, *The Personal Is Political*, NOTES FROM THE SECOND YEAR: WOMEN'S LIBERATION (originally 1969) <http://www.carolhanisch.org/CHwritings/PIP.html> ('political' therein as referring to power relationships).

¹³ See *infra* Part IV.

¹⁴ For examples of literal autobiographical speech, many with a political or broadly social tenor, see *infra* notes 57-72.

¹⁵ See *infra* Part II.

¹⁶ See *infra* Part III.

¹⁷ See *infra* Parts III-V.

¹⁸ 18 U.S.C.A. § 704(b)-(d) (West 2011).

Stolen Valor Act holds, in part, that “[w]hoever falsely represents himself or herself, verbally¹⁹ or in writing, to have been awarded any decoration or medal authorized by Congress for the Armed Forces of the United States . . . shall be fined under this title, imprisoned not more than six months, or both.”²⁰

This statutory prohibition does not expressly require a showing of the defendant’s mens rea or of any specific harm in the particular case. For the sake of simplicity, though, we may think of the criminal offense as involving a knowing falsehood, or lie,²¹ in the defendant’s claim to have been awarded a particular medal.

Among the most notable discussions of the constitutionality of the Stolen Valor Act,²² certainly, is that of the distinguished scholar²³ and Ninth Circuit Chief Judge Alex Kozinski. Judge Kozinski’s memorable²⁴ discussion of this issue takes the

¹⁹ ‘Verbally’ is here apparently taken to be synonymous with ‘orally.’ For written discussion, see THEODORE M. BERNSTEIN, *THE CAREFUL WRITER* 319 (1995); BRYAN A. GARNER, *supra* note 1, at 840. See also R.W. BURCHFIELD, *FOWLER’S MODERN ENGLISH USAGE* 820-21 (3d ed. 2004).

²⁰ 18 U.S.C.A. § 704(b) (West 2011).

²¹ For discussion of the free speech value of lying in certain contexts, including that of the Stolen Valor Act, see R. George Wright, *Lying and Freedom of Speech*, Utah L. Rev. (forthcoming 2012).

²² Constitutional assessments of the relevant sections of the Stolen Valor Act are found in, among other cases, *United States v. Alvarez*, 617 F.3d 1198 (9th Cir. 2010), *rehearing and rehearing en banc denied*, 638 F.3d 666 (9th Cir. 2011); *United States v. Robbins*, 759 F. Supp. 2d 815 (W.D. Va. 2011); *United States v. Strandlof*, 746 F. Supp. 2d 1183 (D. Colo. 2010).

²³ In the free speech area, see Alex Kozinski & Stuart Banner, *The Anti-History and Pre-History of Commercial Speech*, 71 TEX. L. REV. 747 (1993).

²⁴ Perhaps most notably, consider Judge Kozinski’s remarkable taxonomy of the uses of lying, reproduced in full below:

Saints may always tell the truth, but for mortals living means lying. We lie to protect our privacy (“No, I don’t live around here”); to avoid hurt feelings (“Friday is my study night”); to make others feel better (“Gee you’ve gotten skinny”); to avoid recriminations (“I only lost \$10 at poker”); to prevent grief (“The doc says you’re getting better”); to maintain domestic tranquility (“She’s just a friend”); to avoid social stigma (“I just haven’t met the right woman”); for career advancement (“I’m sooo lucky to have a smart boss like you”); to avoid being lonely (“I love opera”); to eliminate a rival (“He has a boyfriend”); to achieve an objective (“But I love you so much”); to defeat an objective (“I’m allergic to latex”); to make an exit (“It’s not you, it’s me”); to delay the inevitable (“The check is in the mail”); to communicate displeasure (“There’s nothing wrong”); to get someone off your back (“I’ll call you about lunch”); to escape a nudnik (“My mother’s on the other line”); to namedrop (“We go way back”); to set up a surprise party (“I need help moving the piano”); to buy time (“I’m on my way”); to keep up appearances (“We’re not talking divorce”); to avoid taking out the trash (“My back hurts”); to duck an obligation (“I’ve got a headache”); to maintain a public image (“I go to church every Sunday”); to make a point (“Ich bin ein Berliner”); to save face (“I had too much to drink”); to humor (“Correct as usual, King Friday”); to avoid embarrassment (“That wasn’t me”); to curry favor (“I’ve read all your books”); to get a clerkship (“You’re the greatest living jurist”); to save a dollar (“I gave at the office”); or to maintain innocence (“There are eight tiny reindeer on the rooftop”).

form of a concurrence in the denial of rehearing and rehearing en banc of a Ninth Circuit case.²⁵

Judge Kozinski begins by remarking that “Alvarez’s conviction is especially troubling because he is being punished for speaking about himself; the kind of speech that is intimately bound up with a particularly important First Amendment purpose: human self-expression.”²⁶ By itself, this formulation gives us some flavor of Judge Kozinski’s more detailed perspective.

Even at this early stage, there are already points to be noted. First, a person’s claim to have been awarded the Congressional Medal of Honor can, for Judge Kozinski’s purposes, and for our own, be treated as speech that is about the speaker. There is of course a sense in which a person’s claim to have won a Congressional Medal of Honor is inescapably relational. Such a claim necessarily refers to persons and entities outside oneself who have assessed oneself favorably, in accordance with general standards external to the self. In this sense, the claim is obviously social and institutional, and not merely personal.

Chief Judge Kozinski doubtless does not intend to deny this, and neither do we herein. That is because there is also a familiar, homespun, garden-variety sense in which a claim to have won a Congressional Medal of Honor is about the speaker, or about the speaker’s self. One’s resume is in this sense about oneself, even if the resume contains misrepresentations, and is thoroughly relational and institutional in its reference.

To claim to have won a prestigious award may involve an implicit (favorable) comparison with the many who have failed to achieve the honor in question, or more abstractly, with a less distinguished self. Even narcissism itself is relational.²⁷ But narcissism is also about the self.²⁸ To claim any public recognition of one’s achievements—to claim any credential—is typically to speak (favorably) of and about oneself. Commonly, the point of speaking about one’s receiving an award is to somehow address one’s presumed virtues, capacities, traits of character, accomplishments, or likely future performance.

This claim can be made modestly or immodestly, even self-deprecatingly. But to claim a Congressional Medal of Honor is often—perhaps even at its core—speech that is about, among other things, one’s own courage, one’s own grace under pressure, one’s luck, one’s own heroic virtue, one’s effective sense of duty or loyalty, or one’s own efforts to overcome fear, as later officially recognized. Often, the intended effect of claiming such an award is to enhance one’s own reputation. In these basic senses, to speak of oneself as the recipient of a coveted, competitive, and thoroughly socially-embedded award is still to speak of and about oneself.

Alvarez, 638 F.3d at 674 (Kozinski, C.J., concurring in the denial of rehearing en banc). Compare LUDWIG WITTGENSTEIN, *PHILOSOPHICAL INVESTIGATIONS* § 23 (G.E.M. Anscombe trans., 2nd ed. 1958) (presenting a list of, arguably, 26 kinds of “language-games”). On the subject of lying, see the diverging perspectives of PAUL J. GRIFFITH, *LYING: AN AUGUSTINIAN THEORY OF DUPLICITY* (2004); MARK TWAIN, *ON THE DECAY OF THE ART OF LYING* (1885), available at <http://www.online-literature.com/twain/1320> (last visited Jan. 13, 2012).

²⁵ *Alvarez*, 638 F.3d at 673.

²⁶ *Id.* at 674.

²⁷ See *infra* Part V.

²⁸ See *infra* Part V.

Judge Kozinski's initial formulation also speaks of "human self-expression"²⁹ and thus of 'self-expression.'³⁰ The term 'self-expression' may have taken on one or more somewhat different technical meanings in the context of free speech. We certainly do not object to its use here. But we should recognize the possibility of ambiguity in the term 'self-expression.' Judge Kozinski would apparently agree that not all self-expressive speech is about the self.³¹ Some self-expression will indeed be about the speaking self: "I have reached the end of my rope" may be self-expressive, and also amount to speech about the speaker. But 'self-expression,' even if it excludes impersonal discussions of broad, abstract matters, can be 'about' many topics far removed from the speaker's self.

Judge Kozinski's initial observation then refers to speech about the self as "intimately bound up with a particularly important first amendment purpose: human self-expression."³² For reasons we have just in part considered,³³ this formulation holds the potential to mislead. There can be constitutionally important self-expressive speech that is not also about the speaker or the speaking self. Speech can be in a sense self-expressive when its subject is the broad injustice of the economic system under which some persons known to the speaker are burdened. Such speech may be of a constitutionally important general sort and may amount to speech that is self-expressive, in the sense of reflecting the speaker's judgments and commitments. But such speech certainly need not amount to speech that is about the speaker. This will remain true whether we choose to join Judge Kozinski in finding speech about the self "intimately bound up with"³⁴ self-expression.

In any event, we should pause to notice that Judge Kozinski here characterizes self-expression as "a particularly important first amendment purpose."³⁵ This is thought to matter especially because speech about the self is said to be intimately linked to self-expression. If self-expression is indeed a particularly crucial First Amendment purpose, then the closer the linkage between speech about the self and self-expression, the closer the linkage between speech about the self and an important purpose of the First Amendment.

We need not just for the moment be concerned with the nature of the linkage between speech about the self and self-expression. Rather, we should first ask whether it is true, as Judge Kozinski asserts, that self-expression is "a particularly important first amendment purpose,"³⁶ or indeed a purpose of the First Amendment at all.

As we shall explore below,³⁷ self-expression is a complex idea. Some may be tempted to treat the idea of self-expression as loosely synonymous with (free) speech

²⁹ See *supra* note 26 and accompanying text.

³⁰ See *supra* note 26 and accompanying text.

³¹ See *supra* note 26 and accompanying text.

³² See *supra* note 26 and accompanying text.

³³ See *supra* notes 29-31 and accompanying text.

³⁴ See *supra* note 26 and accompanying text.

³⁵ See *supra* note 26 and accompanying text.

³⁶ See *supra* note 26 and accompanying text.

³⁷ See *infra* Part III.

itself. If we think of self-expression as roughly equivalent to (free) speech it will not be surprising that self-expression will seem constitutionally important. But it will then be odd and uninformative to say that self-expression is “a particularly important First Amendment purpose.”³⁸ That would come too close to saying that (free) speech is an ‘important purpose’ of protecting free speech.

Free speech is not generally thought to serve as anything like its own intrinsic purpose, aim, goal, or justification. Free speech has a range of more or less widely recognized purposes. These values are often thought to include something like the search for political or other truth, the promotion of a stable political democracy, and one or more forms of autonomy or self-realization.³⁹ One could in a sense perhaps think of self-expression as itself a purpose of freedom of speech. The potential for confusion, though, lies in the fact that we can at the same time obviously see self-expressive speech—speech that is self-expressive—as a *kind* of speech, rather than as a *purpose* of free speech.

Judge Kozinski then pursues the question of the constitutional value of speech about oneself by quoting Justice Marshall in the prison mail censorship case of *Procunier v. Martinez*.⁴⁰ Justice Marshall had argued that

[t]he First Amendment serves not only the needs of the polity but also those of the human spirit—a spirit that demands self-expression. Such expression is an integral part of the development of ideas and a sense of identity. To suppress expression is to reject the basic human desire for recognition and affront the individual’s worth and dignity.⁴¹

Judge Kozinski also quotes Justice Stevens to the effect that “[o]ne fundamental concern of the First Amendment is to ‘protec[t] the individual’s interest in self-expression.’”⁴²

An initial difficulty in the case law, however, is this: it is difficult to sort out holding and dicta, for present purposes. This is especially so when a given case refers to self-expression—whether about the self or not—that also amounts to speech on a matter of public interest or public concern.⁴³ Speech that is about a matter of

³⁸ See *supra* note 26 and accompanying text.

³⁹ See, e.g., THOMAS I. EMERSON, THE SYSTEM OF FREE EXPRESSION 6-8 (1970); JOHN STUART MILL, ON LIBERTY chs. 2-3 (Gertrude Himmelfarb ed. 1974) (1859); FREDERICK SCHAUER, FREE SPEECH: A PHILOSOPHICAL ENQUIRY (1982); Kent Greenawalt, *Free Speech Justifications*, 89 COLUM. L. Rev. 119 (1989).

⁴⁰ *Procunier v. Martinez*, 416 U.S. 396, 422, 427 (1974) (Marshall, J., concurring); *Thornburgh v. Abbott*, 490 U.S. 401, 413-14 (1989) (applying a rational relationship to legitimate penological interest standard).

⁴¹ *Martinez*, 416 U.S. at 427, quoted in *United States v. Alvarez*, 638 F.3d 666, 674 (9th Cir. 2011) (Kozinski, C.J., concurring in the denial of rehearing en banc).

⁴² *Citizens United v. FEC*, 130 S. Ct. 876, 972 (2010) (Stevens, J., concurring in part and dissenting in part) (quoting *Consol. Edison Co. v. Pub. Serv. Comm’n*, 447 U.S. 530, 534 n.2 (1980)).

⁴³ Preceding the passage from Justice Marshall’s opinion in *Martinez* quoted by Judge Kozinski, *supra* note 41 (noting that Justice Marshall states that “the plight of prisoners is a matter of urgent public concern”) *Martinez*, 416 U.S. at 427 (Marshall, J., concurring).

public interest and concern is all else equal⁴⁴ likely on its own to evoke relatively strong free speech protection,⁴⁵ as Judge Kozinski of course recognizes.⁴⁶

Judge Kozinski's basic normative argument also has academic support. Consider, for example, the thesis of Professor Sonja R. West:⁴⁷

[T]he time-honored practice of talking about yourself has been ignored by legal scholars. A consequence of this oversight is that current free speech principles protect the autobiographies of the powerful but leave the stories of "ordinary" people vulnerable to challenge. Shifting attitudes about privacy combined with advanced technologies, meanwhile, have led to more people than ever before having both the desire and the means to tell their stories to a widespread audience.⁴⁸

Unlike Judge Kozinski,⁴⁹ Professor West presents her analysis explicitly as a normative recommendation for reform of the law: "it is time for the law to recognize and to fully protect the freedom of autobiographical speech."⁵⁰ And Professor West's emphasis, in contrast to that of Judge Kozinski, is on truthful,⁵¹ as opposed to lying⁵² as well as truthful, speech about oneself.

Professor West argues that "[a]utobiographical speech adds vital knowledge to the public debate while also preserving the essence of human autonomy."⁵³ It should be emphasized, though, that Professor West⁵⁴ and Judge Kozinski⁵⁵ both recognize a distinction between political speech and autobiographical speech, or speech about oneself, a distinction they retain.

⁴⁴ But consider the limited protection for such speech if uttered within the scope of one's public employment responsibilities. *See, e.g.,* *Garcetti v. Ceballos*, 547 U.S. 410 (2006).

⁴⁵ *See infra* Part III.

⁴⁶ *See* *United States v. Alvarez*, 638 F.3d 666, 677 (9th Cir. 2011) (Kozinski, C.J., concurring in the denial of rehearing en banc).

⁴⁷ Sonja R. West, *The Story of Me: The Underprotection of Autobiographical Speech*, 84 WASH. U. L. REV. 905 (2006).

⁴⁸ *Id.* at 905. Professor West later builds on this argument in Sonja R. West, *The Story of Us: Resolving the Face-Off Between Autobiographical Speech and Information Privacy*, 67 WASH. & LEE L. REV. 589 (2010). For a contrasting perspective, *see* Anne M. Coughlin, *Regulating the Self: Autobiographical Performances in Outsider Scholarship*, 81 VA. L. REV. 1229 (1995).

⁴⁹ *See Alvarez*, 638 F.3d at 673-74.

⁵⁰ West, *supra* note 47, at 905.

⁵¹ *See id.* ("[T]ruthful autobiographical speech deserves heightened constitutional protection.").

⁵² *See Alvarez*, 638 F.3d at 674; *see also supra* note 24 and accompanying text.

⁵³ West, *supra* note 47, at 905. Judge Kozinski, along with Justice Marshall, emphasize some conception of human or personal autonomy as well. *See Alvarez*, 638 F.3d at 674.

⁵⁴ *See* West, *supra* note 47, at 905 (stating that autobiographical speech as occupying "an exceptional place in the public discourse—perhaps rivaled only by political speech").

⁵⁵ *See Alvarez*, 638 F.3d at 673-74.

Before we address any normative arguments, though, we should establish the willingness and ability of the courts to distinguish between, and to differently value, speech that is about matters of public concern and speech that is about matters of private or personal concern. In this respect, Judge Kozinski's discussion does not aptly represent current law.

III. SPEECH ON MATTERS OF PUBLIC CONCERN VERSUS SPEECH ON MATTERS OF PRIVATE OR PERSONAL CONCERN

Let us begin with a judicially widely-recognized distinction. Some speech that is about oneself is also speech that is on a matter of public concern, and some speech about oneself is not. If we wish to, we can use the term 'speech that is on a matter of public concern' as a rough synonym for 'political speech' in a broad and very useful First Amendment sense. But on any reasonable definition, not all speech that is about oneself will qualify as political speech or as speech on a matter of public concern. There will, of course, inevitably be problems in drawing this distinction in borderline cases.⁵⁶

Consider a typical 'autobiography.' A book can be of the autobiography genre without every sentence in the book taking the form of autobiography, in the sense of being about the author or even about the author's life. Or we could say that in some sense, not every "autobiographical" sentence need be about the author. And of course, the most commercialized autobiographies may involve a mixture of voices, as among collaborators.⁵⁷ Every well-known autobiography will differ as to the degree of its explicit focus on the writer. The autobiographical writer's focus may be on the self, or on the writer's surroundings, or on larger public issues and concerns, all to varying degrees, ranging from narrow self-absorption to complete immersion in important civic events.

Consider, for example, the differences in the degrees of focus on matters of public, as distinct from merely private or personal, concern in even the most generally "politicized" or public issue-attuned autobiographies. One might think, for example, of the autobiographies of Theresa of Avila,⁵⁸ Simone de Beauvoir,⁵⁹ Eldridge Cleaver,⁶⁰ Charles Darwin,⁶¹ Frederick Douglass,⁶² Anne Frank,⁶³ Benjamin

⁵⁶ See R. George Wright, *Speech On Matters of Public Interest and Concern*, 37 DEPAUL L. REV. 27 (1987).

⁵⁷ See, e.g., NICHOLAS PILEGGI, *WISEGUY: A LIFE IN A MAFIA FAMILY* (1985) (showing complications regarding "speech about oneself" or "autobiographical speech" as litigated under a New York statute unsuccessfully seeking to prevent criminals from profiting from their published accounts of their uncompensated crimes); *Simon & Schuster v. Crime Victims Bd.*, 502 U.S. 105 (1991).

⁵⁸ ST. TERESA OF AVILA, *INTERIOR CASTLE* (E. Allison Peers ed. & trans., Doubleday 2004) (1588).

⁵⁹ SIMONE DE BEAUVOIR, *MEMOIRS OF A DUTIFUL DAUGHTER* (James Kirkup trans. 1959).

⁶⁰ ELDRIDGE CLEAVER, *SOUL ON ICE* (1968).

⁶¹ CHARLES DARWIN, *THE AUTOBIOGRAPHY OF CHARLES DARWIN* (W.W. Norton & Co. 1958) (1881).

Franklin,⁶⁴ Mohandas Gandhi,⁶⁵ Helen Keller,⁶⁶ Malcolm X,⁶⁷ Margaret Mead,⁶⁸ John Stuart Mill,⁶⁹ John Henry Newman,⁷⁰ Jean Jacques Rousseau,⁷¹ and Natan Sharansky.⁷² Of course, for some free speech purposes we would want to judge these books only as a whole.⁷³ But for analytical purposes, we can also make defensible judgments as to whether, say, a sentence, or paragraph, or chapter, is about the writer, and whether that speech implicates a matter of public interest and concern.

Our constitutional free speech jurisprudence carefully and explicitly distinguishes in several contexts between speech on matters of public versus private interest. The context in which precisely this distinction is most frequently drawn is probably that of a free speech defense to public employer discipline of a public employee, where the discipline is allegedly based on the employee's somehow objectionable speech.⁷⁴

In such cases, hornbook law has it that "[w]hether an employer's speech addresses a matter of public concern must be determined by the content, form, and context of a given statement, as revealed by the whole record."⁷⁵ The content of the

⁶² FREDERICK DOUGLASS, NARRATIVE OF THE LIFE OF FREDERICK DOUGLASS, AN AMERICAN SLAVE, WRITTEN BY HIMSELF (Bedford Books ed., 1993) (1854) (noting that the distinctly political point of the title's declaration that a former slave was responsible for the prose, style, and content).

⁶³ ANNE FRANK, ANNE FRANK: THE DIARY OF A YOUNG GIRL (Pocket Cardinal ed., B.M. Mooyart-Doubleday trans., Pocket Books 1953) (1947).

⁶⁴ BENJAMIN FRANKLIN, THE AUTOBIOGRAPHY OF BENJAMIN FRANKLIN (Charles W. Eliot ed., Tribeca Books 2011) (1791).

⁶⁵ MOHANDAS K. GANDHI, AN AUTOBIOGRAPHY: THE STORY OF MY EXPERIMENTS WITH TRUTH (Mahadev Desai trans., 1993) (1927).

⁶⁶ HELEN KELLER, THE STORY OF MY LIFE (Modern Library ed., 2003) (1903).

⁶⁷ MALCOLM X AS TOLD TO ALEX HALEY, THE AUTOBIOGRAPHY OF MALCOLM X (Penguin Books ed., 2001) (1965).

⁶⁸ MARGARET MEAD, BLACKBERRY WINTER: MY EARLY YEARS (1972).

⁶⁹ JOHN STUART MILL, 1 COLLECTED WORKS OF JOHN STUART MILL: AUTOBIOGRAPHY AND LITERARY ESSAYS (John M. Robson ed., 2006) (1873).

⁷⁰ JOHN HENRY CARDINAL NEWMAN: APOLOGIA PRO VITA SUA (Martin J. Svaglic ed., 1967) (1865).

⁷¹ JEAN-JACQUES ROUSSEAU, THE CONFESSIONS OF JEAN-JACQUES ROUSSEAU (J.M. Cohen trans., 1953) (1782).

⁷² NATAN SHARANSKY, FEAR NO EVIL (Stefani Hoffman trans., 1988).

⁷³ For example, obscenity prosecutions typically assess the work taken as a whole. *See, e.g., Miller v. California*, 413 U.S. 15, 24 (1973).

⁷⁴ For discussion of whether a particular instance of public employee speech rises to the level of speech on a matter of public interest and concern, *see, for example, Garcetti v. Ceballos*, 547 U.S. 410 (2006); *Rankin v. McPherson*, 483 U.S. 378 (1987); *Connick v. Myers*, 461 U.S. 138, 146-48 (1983).

⁷⁵ *Connick*, 461 U.S. at 147-48.

speech is often the most important single factor, and it is said that speech addresses a matter of public, rather than of personal or private concern, if it is “of political, social, or other concern to the community.”⁷⁶

This distinction is important for our purposes because the Supreme Court has held that “public officials enjoy ‘wide latitude’”⁷⁷ in responding to public employee speech on matters of merely personal or private concern “without ‘intrusive oversight by the judiciary in the name of the First Amendment.’”⁷⁸ The idea is roughly that mere personal grievances, without broader public implications, do not generally implicate the most vital and most central concerns of the First Amendment.⁷⁹

The underlying reasoning seems to be that

speech on matters of purely private concern is of less First Amendment concern” because “[t]here is no threat to the free and robust debate of public issues; there is no potential interference with a meaningful dialogue of ideas concerning self-government; and there is no threat of liability causing a reaction of self-censorship by the press.”⁸⁰

Thus in the absence of a “subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public at the time of publication,”⁸¹ the public concern standard is not met and the speech in question does not receive substantial free speech protection.⁸²

A number of public employee speech discipline cases collectively provide at least some guidance in applying this schema of two distinct levels of speech protection.⁸³ Some cases—toward either end of the continuum—are easy and

⁷⁶ *Id.* at 146.

⁷⁷ *Evans-Marshall v. Bd. of Educ.*, 624 F.3d 332, 338 (6th Cir. 2010) (quoting *Connick*, 461 U.S. at 146).

⁷⁸ *Id.* at 338 (quoting *Connick*, 461 U.S. at 146).

⁷⁹ *See, e.g.*, *Gorum v. Sessoms*, 561 F.3d 179, 187 (3d Cir. 2009) (citing *Borden v. Sch. Dist.*, 523 F.3d 153, 169-70 (3d Cir. 2008)).

⁸⁰ *Id.* (quoting the defamation case of *Dun & Bradstreet v. Greenmoss Builders, Inc.*, 472 U.S. 749, 759-60 (1985) (plurality opinion)).

⁸¹ *City of San Diego v. Roe*, 543 U.S. 77, 84 (2004) (per curiam).

⁸² *Id.* at 84-85.

⁸³ *See, e.g.*, *Clairmont v. Sound Mental Health*, 632 F.3d 1091, 1103-04 (9th Cir. 2011) (showing matters of (inherent) public concern as encompassing governmental functioning, the performance of government agencies, possible government discrimination or civil rights violations, threats to public safety; noting a circuit split on whether all public employee courtroom testimony is (inherently) of public concern regardless of its content; refusing to adopt any precise definition or multi-factor test in this regard; with internally expressed employee grievances as likely outside the category); *Dahl v. Rice Cnty.*, 621 F.3d 740, 744 (8th Cir. 2010) (distinguishing between informing the public of governmental malfeasance and a focus on a supervisor’s mere unpleasant demeanor); *Gross v. Town of Cicero*, 619 F.3d 697, 706 (7th Cir. 2010) (seeking to distinguish between public employment sex discrimination as a likely matter of public concern, and purely personal grievances regarding public employment sexual harassment, which are not within the scope of free speech protection) (citing Seventh Circuit authority); *Deutsch v. Jordan*, 618 F.3d 1093, 1100 (10th

uncontroversial. Consider two clear hypothetical examples. A public agency accountant who testifies in court that the mayor is bankrupting the city through a pattern of embezzlement is generally speaking on a matter of public concern. A public university professor's complaint that his office should be slightly nearer to the candy machine is generally not, in the absence of an unusual context.

Of course, there remain indeterminate, middle-ground cases, the number of which should not be underestimated. At least in some instances, whether we judge the speech in question to be on a matter of public concern or not may crucially reflect how we controversially choose to characterize the speech in question. Many workplace grievances that are otherwise merely personal may involve alleged violations of official policy, of binding law, or may involve the waste of public resources.

In such middle-ground cases, we have a reasonable choice between alternative characterizations of the actual speech in question. How we reasonably choose to then describe the subject of the speech may determine the outcome of the case. This point is akin to the well-known problem of choosing among possible levels of verbal generality in a description, as discussed by Professor Mark Tushnet⁸⁴ and others.⁸⁵

Let us consider an actual case example. In one case, the plaintiff public school teacher employees asserted that "their complaints involved subjects ranging from the discipline of the students to the legality and desirability of suggested educational programs to other teachers' disregard for school procedures when making school-related decisions"⁸⁶ These are clearly characterizations of the school employees' speech, and not "quotations" thereof. It is arguably possible that the school employees' speech in this case was entirely about trivial matters, entirely about publicly important matters, or some mixture of the two.

Once we hear the actual speech in its actual context, we may judge the speech to be easily classifiable as on a matter of public concern, or just as easily classifiable as

Cir. 2010) ("[S]peech which discloses any evidence of corruption, impropriety, or other malfeasance on the part of city officials clearly concerns matters of public import.") (quoting *Dill v. City of Edmond*, 155 F.3d 1193, 1202 (10th Cir. 1998)) (showing that symmetrically judging that speech alleging and speech defending against allegations of official misconduct ordinarily amount to speech on a matter of public interest); *Dill*, 155 F.3d at 1099 n.1 (noting the circuit split on whether public employee trial testimony is per se on a matter of public concern); *LeFande v. District of Columbia*, 613 F.3d 1155, 1158-60 (D.C. Cir. 2010) (discussing the crucial *Connick*, 461 U.S. 138, case in some detail; speech on mere officer morale, employee "beef," and public employee "misbehavior" as not rising to the level of a matter of public concern); *Brownfield v. City of Yakima*, 612 F.3d 1140, 1147-48 (9th Cir. 2010) ("internal power struggles within the workplace" and "the minutiae of workplace grievances" as outside the scope of (speech on) matters of public concern); *Anthoine v. North Cent. Counties Consortium*, 605 F.3d 740, 748-49 (9th Cir. 2010) (showing a "report regarding the agency's failure to comply with its legal obligations" as clearly speech on a matter of public concern); *Cockrel v. Shelby Cnty. Sch. Dist.*, 270 F.3d 1036, 1050-51 (6th Cir. 2001) (discussing and applying *Connick*, 461 U.S. 138).

⁸⁴ See MARK TUSHNET, RED, WHITE, AND BLUE: A CRITICAL ANALYSIS OF CONSTITUTIONAL LAW 165 (1988).

⁸⁵ See, e.g., the debate between Justices Scalia and Brennan in *Michael H. v. Gerald D.*, 491 U.S. 110 (1989); Laurence H. Tribe & Michael C. Dorf, *Levels of Generality in the Definition of Rights*, 57 U. CHI. L. REV. 1057 (1990).

⁸⁶ *Leary v. Daeschner*, 349 F.3d 888, 899 (6th Cir. 2003).

on a matter of personal or private concern. Even in the closer middle ground cases, though, it may still be possible to make some reasonable progress in fairly classifying the speech in question.⁸⁷

Taken as a whole, the public employee speech cases show that the basic distinction upon which Chief Judge Kozinski himself and others rely—between something like political or public interest-oriented speech and speech narrowly about oneself or one’s personal concerns—is often reasonably manageable, with the courts generally according far less free speech protection to the latter sort of speech.⁸⁸

A similar matter of public concern/matter of personal concern distinction is, we might emphasize, also employed in a number of the defamation cases,⁸⁹ and in other free speech contexts,⁹⁰ all to a similar effect, as Judge Kozinski himself⁹¹ has elsewhere recognized.⁹² In these contexts, too, speech about matters of personal but not public interest receives substantially less First Amendment protection.

We are, however, not yet in a position to conclude that on the normative merits, speech about oneself that does not also address a matter of public concern nevertheless should or should not receive free speech protection akin to that of political speech. On that normative question, we provide further perspective below.

⁸⁷ See R. George Wright, *Speech on Matters of Public Interest and Concern*, 37 DEPAUL L. REV. 27 (1987). The suggestion here is to ask, in a close case, about the various costs the speaker would realistically have faced if the speaker had sought to re-formulate the speech, or change the context of the speech, so as to make the speech significantly more clearly on a matter of public interest. See *id.* For one alternative approach, see Karin B. Hoppmann, Note, *Concern With Public Concern: Toward a Better Definition of the Pickering/Connick Threshold Test*, 50 VAND. L. REV. 993 (1997).

⁸⁸ See cases cited *supra* notes 77-83 and accompanying text.

⁸⁹ See, e.g., the plurality and (more skeptical) dissenting opinions in the defamation case of *Dun & Bradstreet v. Greenmoss Builders, Inc.*, 472 U.S. 749, 774 (1985); *Chandok v. Klessig*, 632 F.3d 803, 814 (2d Cir. 2011) (“In *Dun & Bradstreet* the Court noted that speech on matters that are of purely private concern is of less First Amendment importance.”); *TMJ Implants, Inc. v. Aetna, Inc.*, 498 F.3d 1175, 1185 (10th Cir. 2007).

⁹⁰ See, in particular, the widely discussed military funeral protest case of *Snyder v. Phelps*, 131 S. Ct. 1207, 1215-17 (2011) (“[W]here matters of purely private significance are at issue, First Amendment protections are often less rigorous.”) (citing *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 56 (1988)); *Snyder*, 131 S. Ct. at 1215 (“[R]estricting speech on purely private matters does not implicate the same constitutional concerns as limiting speech on matters of public interest.”) (citing *Dun & Bradstreet*, 472 U.S. at 760, 762).

⁹¹ See *Hart v. Massanari*, 226 F.3d 1155, 1170 n.25 (9th Cir. 2001) (Kozinski, J., discussing the *Dun & Bradstreet* case in this context).

⁹² For critical discussion of this distinction in the constitutional defamation context, see Stephen J. Mattingly, *Drawing a Dangerous Line: Why the Public Concern Test in the Constitutional Law of Defamation Is Harmful to the First Amendment and What Courts Should Do About It*, 47 LOUISVILLE L. REV. 739 (2009); Nat Stern, *Private Concerns of Private Plaintiffs: Revisiting a Problematic Defamation Category*, 65 MO. L. REV. 597 (2000).

IV. THE SELF, AUTONOMY, SELF-REALIZATION AND FREEDOM OF SPEECH

The traditional idea of the self has had enthusiastic advocates.⁹³ But especially of late, the very idea of the self has taken a battering.⁹⁴ Some familiar conceptions of the self are still defended,⁹⁵ though, and for our purposes, we need take no issue with Judge Kozinski's reliance on the idea of the self⁹⁶ as a topic of speech. We assume that Judge Kozinski and others are using the idea of the self in some familiar sense, in which the self is in crucial respects deeply social.⁹⁷ To entirely abandon the idea

⁹³ See, e.g., RALPH WALDO EMERSON, SELF-RELIANCE (1841), available at <http://www.bartleby.com/5/104.html>; GEORG SIMMEL, FREEDOM AND THE INDIVIDUAL: ON INDIVIDUALITY AND SOCIAL FORMS 217 (Donald L. Levine ed., Richard P. Albares trans., 1971) (1957) (describing the development of the themes of modern individuality and freedom from the time of the Italian Renaissance); CHARLES TAYLOR, SOURCES OF THE SELF: THE MAKING OF THE MODERN IDENTITY 368-69 (1989).

⁹⁴ See, e.g., DANIEL DENNETT, *Conditions of Personhood*, in THE IDENTITIES OF PERSONS 175, 175 (Amelia Oksenberg Rorty ed., 1976) (“In the end we may come to realize that the concept of a person [perhaps distinguishable from a ‘self’] is incoherent and obsolete.”); RAYMOND MARTIN & JOHN BARRESI, THE RISE AND FALL OF SOUL AND SELF: AN INTELLECTUAL HISTORY OF PERSONAL IDENTITY 297 (2006) (showing that recently, “[P]sychologists and cultural theorists not only demoted the self, but dismantled it as a unitary object of study.”); GALEN STRAWSON, *The Self*, in PERSONAL IDENTITY 335, 359 (Raymond Martin & John Barresi eds., 2003) (“[T]he basic form of our consciousness is that of a gappy series of eruptions of consciousness from a substrate of apparent non-consciousness.”); STRAWSON, *supra* at 340 (“[P]erhaps the so-called self is just the human being incompletely grasped and illegitimately spiritualized.”); CHARLES TALIAFERRO, *The Soul of the Matter*, in THE SOUL HYPOTHESIS: INVESTIGATIONS INTO THE EXISTENCE OF THE SOUL 26, 33 (Mark C. Baker & Stewart Goetz eds., 2011) (citing DENNETT, *supra*, as arguing that there is no inner self, as opposed to “multiple parallel processes,” and that the ‘self’ is merely a useful abstraction, vaguely like a “center of narrative gravity”).

⁹⁵ Even Professor Galen Strawson concedes that “all languages have words which lend themselves naturally to playing the role that ‘the self’ plays in English, however murky that role may be . . . It has a natural use in religious, philosophical, and psychological contexts, which are very natural contexts of discussion for human beings.” STRAWSON, *supra* note 94, at 336. See also JERROLD SEIGEL, THE IDEA OF THE SELF: THOUGHT AND EXPERIENCE IN WESTERN EUROPE SINCE THE SEVENTEENTH CENTURY 3 (reprint ed., 2005) (“By ‘self’ we commonly mean the particular being any person is . . . [distinguishes one being from another,] draws the parts of our existence together, persists through changes, or opens the way to becoming who we might or should be.”); RICHARD SORABJI, SELF: ANCIENT AND MODERN INSIGHTS ABOUT INDIVIDUALITY, LIFE, AND DEATH 4 (2006) (“There has been much opposition to the idea of the self, but often the opposition turns out to be a particular philosophical idea of self as something disembodied and undetectable, like a soul or a Cartesian ego. But this is only one conception of the self.”); SORABJI, *supra*, at 17 (discussing further the opposition to the idea of the self). For some fascinating debates on the self, see THE WANING OF MATERIALISM (Robert C. Koons & George Bealer eds., 2010).

⁹⁶ See *United States v. Alvarez*, 638 F.3d 666, 674 (Kozinski, C.J., concurring in the denial of rehearing en banc).

⁹⁷ See SEIGEL, *supra* note 95, at 4 (noting the modern emphasis on the sociality of the self through language systems, “communities, nations, classes, or cultures”); CHRISTIAN SMITH, WHAT IS A PERSON?: RETHINKING HUMANITY, SOCIAL LIFE, AND THE MORAL GOOD FROM THE PERSON UP (2010). See also *supra* note 11 and accompanying text.

of the self in this familiar social sense would actually seem to require a revolution in thought and practice.⁹⁸ In any event, we will take no issue with Judge Kozinski's usage. Like Judge Kozinski, we shall treat speech about public issues as overlapping with, but not inherent in, speech that is about oneself. Some speech about oneself will thus not (also) be about public or political matters.

Let us focus then, with Judge Kozinski, on non-political, non-public interest-focused speech about oneself. Does such speech, on the merits, deserve stringent free speech protection akin to that of political or public interest-focused speech? The most obvious way to address such a question would be to ask to what extent a given kind of speech tends to promote the basic purposes of constitutionally protecting speech in the first place. By consensus, the basic purposes of special protection for speech in general focus on the pursuit of truth of one sort or another,⁹⁹ promoting and maintaining a functioning democracy,¹⁰⁰ and some form of autonomy or personal self-realization.¹⁰¹

On this sensible approach, the case for protecting speech that is about oneself, but without implicating any matter of public concern, as on par with political speech seems extremely doubtful. To begin with, speech about oneself not also implicating any public concern can, in the usual course, hardly promote or contribute to democratic government as directly as most political speech does. On the other hand, some personal speech can, through an unintended logical or causal chain, nevertheless inspire political thoughts in a listener.¹⁰² But for that matter, so can entirely unprotected speech, such as obscenity,¹⁰³ or actions that are not even symbolic speech.¹⁰⁴ Some political speech might actually tend in practice, if not intention, to undermine, rather than promote, democracy.¹⁰⁵ But we do not typically

⁹⁸ For the practical robustness and importance of some distinction between self and other, see, e.g., MARTIN & BARRESI, *supra* note 94, at 304 (“whether or not, in theory, persons or selves persist through changes, in practice, they do; lenders still expect debtors to repay their debts and debtors are still obligated to repay them”) (or if not, we at least have some idea of who has filed for bankruptcy and who has not). At least one major philosopher, however, has argued that deflating familiar ideas of the self and of personal identity could be manageable. See DEREK PARFIT, REASONS AND PERSONS 281 (1984) (“My death will break the more direct relations between my present experiences and future experiences, but it will not break certain other relations . . . Instead of saying ‘I shall be dead,’ I should say, ‘There will be no future experiences that will be related, in certain ways, to these present experiences.’”).

⁹⁹ See *supra* note 39 and accompanying text.

¹⁰⁰ See *supra* note 39 and accompanying text.

¹⁰¹ See *supra* note 39 and accompanying text.

¹⁰² Roughly as a glorious sunrise might prompt a renewed personal or political optimism.

¹⁰³ See, e.g., *Miller v. California*, 413 U.S. 15 (1973).

¹⁰⁴ For discussion of what does or does not amount to speech, see R. George Wright, *What Counts as “Speech” in the First Place?: Determining the Scope of the Free Speech Clause*, 37 PEPP. L. REV. 1217 (2010).

¹⁰⁵ Provoking a frenzied mob to political violence might, in limited cases, fall into this category. Much of the first half of the twentieth century's free speech law embraces similar restrictions. *But see* the “heckler's veto” free speech case of *Terminiello v. Chicago*, 339 U.S. 1 (1949).

trust the legislatures and executive to thus characterize particular instances of political speech and to therefore provide only lesser constitutional protection for such speech, except in extreme cases.¹⁰⁶

What, though, if we instead consider the alternative basic free speech value of promoting the search for truth? Would speech about oneself seem distinctly valuable in that context? There are more possible kinds of truths to be pursued than truth just in the political realm. One might well argue that there can be truths of psychology,¹⁰⁷ philosophy,¹⁰⁸ literature,¹⁰⁹ or science in general, and that speech about the speaker can at least occasionally claim to make contributions in these respects.¹¹⁰

We have no objection to the idea that some speech that is about oneself may also be intended to promote the search for truth in any of several broader fields. We may think of Augustine's *Confessions*,¹¹¹ in part, as Augustine speaking about himself. But it would hardly be fair to assume that those portions of the *Confessions* cannot also be intended to tell us anything arguably true about the culture or even the human personality more broadly.

The main response, though, should again be that the law can simply protect, to whatever appropriate degree, speech that is intended to make a contribution to the search for truth as the law understands that search. Some speech that is about oneself may qualify, but much will not. There is again no reason to focus on the broad category of speech that is about oneself, and to uniformly exalt its constitutional status, overall, to one akin to political or public concern speech.

Thus far, then, we have seen no convincing reason to ignore the basic insight that speech about oneself is often no more than that, and can hardly claim to be seeking to advance any of the consensual basic free speech values.¹¹² But the most interesting argument for exalted protection for speech about oneself has not yet been

¹⁰⁶ See, e.g., *Brandenburg v. Ohio*, 395 U.S. 444 (1969) (rather stringently protecting even potentially dangerous political speech); *281 Care Comm. v. Arneson*, 638 F.3d 621, 635 (8th Cir. 2011) (stating that even false electoral speech is protected by a strict scrutiny test).

¹⁰⁷ It is occasionally possible to better understand some aspects of human psychology by careful introspection, and reporting what we have discovered of ourselves.

¹⁰⁸ Similarly, some might argue that philosophy of mind, epistemology, and the truth of the idea of free will can be pursued in autobiographical terms, by experiencing and then seeking to speak truly about the experiences of the self. But for one skeptical view among many, see the observations of Professor Richard Rorty in RICHARD RORTY & PASCAL ENGEL, *WHAT'S THE USE OF TRUTH?* (William McCuaig trans., 2007).

¹⁰⁹ For an example of speech about the self constituting a literary contribution, see, for example, 1 MARCEL PROUST, *SWANN'S WAY* (D.J. Enright rev. ed., C.K. Scott Moncrieff & Terence Kilmartin trans., Random House 1992) (1981). Several of the more political autobiographies cited *supra* notes 58-72 could also be credited with distinct literary value. For how a court assesses the rather different idea of "serious" such value in an allegedly "obscene" work, see *Pope v. Illinois*, 481 U.S. 497 (1987).

¹¹⁰ This is not to suggest that the speech about oneself is genuinely equally likely to also constitute an arguable contribution to the search for truths about each of these various areas.

¹¹¹ SAINT AUGUSTINE, *CONFESSIONS* (Oxford World Classics ed., Henry Chadwick trans., 1998).

¹¹² See *supra* text accompanying notes 99-101.

addressed. It is often suggested that one of the basic purposes of free speech protection is to promote personal autonomy or self-realization, however understood.¹¹³ Given the emphasis therein on the self and on the person, doesn't this autonomy or self-realization-focused approach hold some promise for constitutionally elevating speech about oneself generally?

As it turns out, though, matters are not so simple. The relevant ideas of autonomy and self-realization have been and remain murky, if not contested.¹¹⁴ While some conceptions of promoting autonomy and self-realization do seem to help the Kozinski argument, other conceptions do not, in that there is again only a limited overlap between speech about oneself and clearly important senses of autonomy and self-realization.

If we consider what has been said historically about autonomy and self-realization, we find a variety of meanings.¹¹⁵ In one sense of the term 'autonomous,' we can link the autonomous self to a reasonable self,¹¹⁶ a higher self,¹¹⁷ a real self,¹¹⁸ an ideal self,¹¹⁹ or to a self that displays self-mastery¹²⁰ as opposed to bondage to immediate impulse.¹²¹ Thus in Rousseau's classic phrase describing positive or moral freedom, "to be governed by appetite alone is slavery, while obedience to a law one prescribes to oneself is freedom."¹²²

¹¹³ See *supra* note 39 and accompanying text.

¹¹⁴ See, e.g., ISAIAH BERLIN, *Two Concepts of Liberty*, in LIBERTY 166, 179 (Henry Hardy ed., 2002); GERALD DWORKIN, THE THEORY AND PRACTICE OF AUTONOMY 6 (1988); T.H. GREEN, THE POLITICAL THEORY OF T.H. GREEN 52 (John R. Rodman ed., 1964) (1881) (referring on T.H. Green's work, see DAVID O. BRINK, PERFECTIONISM AND THE COMMON GOOD: THEMES IN THE PHILOSOPHY OF T.H. GREEN (2003); Avital Shimony, *Beyond Negative and Positive Freedom: T.H. Green's View of Freedom*, 21 POL. THEORY 28 (1993)); Ian Carter, *Positive and Negative Liberty*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY (October 8, 2007) available at, <http://plato.stanford.edu/entries/liberty-positive-negative>; John N. Gray, *On Negative and Positive Liberty*, 28 POL. STUD. 507 (1978); Gerald C. MacCallum, Jr., *Negative and Positive Freedom*, 76 PHIL. REV. 312 (1967); Charles Taylor, *What's Wrong With Negative Liberty?*, in PHILOSOPHY AND THE HUMAN SCIENCES, 2 PHIL. PAPERS 211 (1985).

¹¹⁵ See DWORKIN, *supra* note 114, at 6 (regarding the term 'autonomy': "[i]t is very unlikely that there is a core meaning which underlies all of these various uses of the term"); John Christman, *Saving Positive Freedom*, 31 POL. THEORY 79, 87 (2005) ("Autonomy is defined in various ways.").

¹¹⁶ See BERLIN, *supra* note 114, at 179.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² JEAN JACQUES ROUSSEAU, THE SOCIAL CONTRACT, bk. I, ch. 8, at 65 (Maurice Cranston trans., 1968) (1762).

Of course, appeals to a self that is supposedly higher, truer, or more authentic than the merely empirical or subjective self are subject to monumental abuse.¹²³ There are sound reasons to limit reliance on the idea of a higher and better self, as determined by the powerful, when we establish the meaning and aim of autonomy. We could reduce the risk of abuse by following John Stuart Mill in thinking of liberty, with some careful qualifications, in terms of “doing as we like.”¹²⁴

But even Mill himself thinks of liberty and autonomy in terms well beyond one being socially unhindered in doing as one likes. How did we come to have the ‘likes’ we do? Freely? Mill contrasts the role of reason, as distinct from passing desires, in assessing our progress and development.¹²⁵ Freedom and diversity are necessary for the sake of “the highest and most harmonious development of [the person’s] powers to a complete and consistent whole.”¹²⁶ This cannot be reduced to merely doing as one likes, however one’s desires were generated and molded.

When Mill compares the circumstances of two persons, he does not focus entirely on their respective degrees of subjective satisfaction, or even on the degree to which both persons are doing as they like.¹²⁷ Famously, Mill argues instead that it is “better to be Socrates dissatisfied than a fool satisfied.”¹²⁸ Persons “addicted” to lower pleasures, rather than choosing deliberately and autonomously between higher and lower pleasures, may disagree, but Mill finds their claims unconvincing.¹²⁹

Mill’s line of thought on this sense of freedom and autonomy or self-realization is then elaborated by T.H. Green. Green bluntly declares that “the mere enabling [of] a man to do as he likes, is in itself no contribution to true freedom.”¹³⁰ A bit more expansively, Green argues that:

[W]e measure the progress of a society by . . . the increasing development and exercise on the whole of those powers of contributing to social good with which we believe the members of society to be endowed; in short, by

¹²³ See generally 2 KARL POPPER, *THE OPEN SOCIETY AND ITS ENEMIES* (5th rev. ed., 1971); J.L. TALMON, *THE ORIGINS OF TOTALITARIAN DEMOCRACY* (1952).

¹²⁴ JOHN STUART MILL, *ON LIBERTY* 71 (Gertrude Himmelfarb ed., 1974) (1859). Mill goes on to qualify this definition, but without immediately raising the question of whether liberty or its opposite could be involved in the various ways in which we may come to like some of the things we do.

¹²⁵ See *id.* at 121.

¹²⁶ *Id.* (citing Wilhelm von Humboldt, *THE SPHERE AND DUTIES OF GOVERNMENT* (1852), reprinted in *THE LIMITS OF STATE ACTION* 11-13 (J.W. Burrow, ed., Cambridge, 1969)).

¹²⁷ Compare *id.* with JOHN STUART MILL, *UTILITARIANISM* ch. 2 (1863), available at <http://www.utilitarianism.com/mill2.htm>.

¹²⁸ MILL, *supra* note 127 (going on to argue for the addictiveness, under particular circumstances, of lower pleasures, a view that is easily restateable in terms of autonomy).

¹²⁹ See *id.* Compare the judgment of Mill’s near contemporary, MATTHEW ARNOLD, *CULTURE AND ANARCHY: AN ESSAY IN POLITICAL AND SOCIAL CRITICISM* ch. 2, at 51 (1869), available at <http://www.victorianweb.org/authors/arnold/writings/2.html> (“[C]ulture is, or ought to be, the study and pursuit of perfection.”).

¹³⁰ GREEN, *supra* note 114.

the greater power on the part of the citizens as a body to make the most and best of themselves.¹³¹

Green thus follows Mill in emphasizing genuinely developmental self-realization rather than merely speaking or acting as one likes as the crucial point of freedom. Not all speech about oneself promotes or seeks in the slightest to promote self-realization or autonomy in this sense.

Let us briefly recapitulate. If we are to follow Judge Kozinski and others in according the strongest general level of free speech protection to speech that is about oneself, we will want to be able to point to some consensually important basic free speech goal or purpose we can distinctively promote by doing so. We have found, however, that the courts often distinguish between, and decline to attribute equal constitutional value to, speech that is, or is not, about a matter of public concern. We have seen that some speech about oneself can be political, or on a matter of public concern. But much speech about oneself, we concluded, does not fall into this latter category. Such speech is typically not intended by its speaker as even in part a contribution to discussion of self-government, democracy, or any particular public issue. Nor is such speech about the self typically intended to contribute to the pursuit of truth in any recognized general cultural realm.

It is also contestable whether speech about oneself, but not also about any public concern, generally advances the free speech value of autonomy in arguably the most important and valuable sense of ‘autonomy.’ Speaking merely of oneself, apart from any matter of public concern, doubtless advances the speaker’s autonomy in the sense of speaking, or otherwise acting, just as one may care, for whatever reason, to speak. One thus wishes to, and does, speak merely about oneself. But speaking of oneself, again, only partially overlaps with, and often does not encompass, autonomy in the sense of recognizable self-realization, or promoting one’s arguably highest and best self.¹³²

This is of course not to suggest that speech about oneself that does not even seek to promote the speaker’s flourishing is of no value at all, or, even more dramatically, that governments should commonly intervene, perhaps coercively, when persons speak in ways that do not promote their flourishing. That would of course be intolerable and counterproductive, if not totalitarian.¹³³ But that does not mean that speaking about oneself in, for example, concededly trivial ways deserves essentially the same degree of first amendment protection as political speech. It is obviously inappropriate for the government to regulate most trivial speech, but that hardly

¹³¹ *Id.*

¹³² Provocatively, the psychologist Abraham Maslow argued, at least preliminarily, that persons otherwise evaluated as highly realized or “self-actualized” tend to focus on problems outside of themselves rather than on themselves, and in this sense they tend to be “problem-centered rather than ego-centered.” ABRAHAM H. MASLOW, *MOTIVATION AND PERSONALITY* 159 (2d ed., 1970).

¹³³ Relatedly, for the free speech status of what has been called “casual chit-chat,” see *Trejo v. Shoben*, 319 F.3d 878, 887 (7th Cir. 2003); *Swank v. Smart*, 889 F.2d 1247, 1251-53 (7th Cir. 1990) (showing that Judge Posner recognizing that government attempts to regulate even admittedly trivial speech could raise a host of constitutional issues beyond the First Amendment). See also *LeFande v. District of Columbia*, 613 F.3d 1155, 1162; *Contreras v. City of Chicago*, 920 F. Supp. 1370, 1388 (N.D. Ill. 1996).

makes the trivial speech less trivial, or worthy of the same degree of presumed free speech protection as non-trivial or political speech.¹³⁴

All of our assessments above of the free speech value of speech that is about the self but not also about matters of public concern stand by themselves, on their own merits. More speculatively, though, we might also briefly try to put our conclusions in a cultural context. We live in a particular culture, with particular cultural strengths and weaknesses. Suppose we were to elevate virtually all speech about oneself, even apart from any matter of public concern, to the highest general levels of first amendment protection. If this constitutional reform were to be adopted, what sorts of indirect consequences might we anticipate given our broader culture? Below, we take up merely one important strand among the possible arguments.

V. SPEECH ABOUT ONESELF AND THE VALUE OF NARCISSISM

We have assumed throughout that speech about oneself that also addresses a matter of public concern deserves at least some elevated level of free speech scrutiny, and that such speech deserves rigorous protection if the speech can be characterized as political. This would of course admit of no exception for the (political) speech of outsiders, the marginalized, and the oppressed, or for speech by anyone raising related issues and concerns.¹³⁵

The main area of contention, then, is over speech about oneself that does not address any such public issue or concern. The speech in that sense is personal or private. Speech of this sort is of course a main constituent of many ordinary social encounters. Such speech has its own sorts of value, even if such speech does not qualify as meaningfully promoting the basic free speech values. But it is difficult, especially in our own contemporary culture, to reflect on speech that is focused solely on the speaking self without thinking also of one form or another of the idea of narcissism.

The idea of narcissism is used in various senses,¹³⁶ and even measured in different ways.¹³⁷ However the term is used, though, most speech about oneself will

¹³⁴ See authorities cited *supra* note 133.

¹³⁵ See generally, *supra* note 47, at 966-67. The ability to tell an interesting, non-political story about oneself seems shared as much by dominant groups as by non-dominant groups. As one further complication, speech that is about oneself might, in some cases, also amount to commercial speech, deserving of whatever protection is properly accorded to the kind of commercial speech in question. See, e.g., *Central Hudson v. Pub. Serv. Comm'n*, 447 U.S. 557 (1980); *Thompson v. W. States Med. Centers*, 535 U.S. 357 (2002). For a discussion by Judge Kozinski of commercial speech, see *supra* note 23 and accompanying text. See also R. George Wright, *The Openness of the Commercial Speech Test and the Value of Self-Realization*, 88 U. DET. MERCY L. REV. 17 (2010). We can imagine speech about oneself, in the form of a standard employment resume that consists of mainly commercial speech. But resumes may also serve other purposes, and we should be extremely reluctant to conclude that most speech about oneself should be classified as commercial speech. See generally, *Va. State Pharmacy Bd. v. Va. Citizens Consumer Council*, 425 U.S. 748 (1976). For discussion of the idea of alienation, see BERTELL OLLMAN, *ALIENATION: MARX'S CONCEPT OF MAN IN CAPITALIST SOCIETY* (2d ed. 1977).

¹³⁶ See, e.g., CHRISTOPHER LASCH, *THE CULTURE OF NARCISSISM: AMERICAN LIFE IN AN AGE OF DIMINISHING EXPECTATIONS* 31-32 (1991 ed.) (1979).

¹³⁷ See, e.g., Joshua D. Miller & W. Keith Campbell, *Comparing Clinical and Social-Personality Conceptualizations of Narcissism*, 76 J. PERSONALITY 449 (2008) (clinical use of

not count as narcissistic speech.¹³⁸ And much speech that we could classify as narcissistic, or as narcissistically driven, will not be about the speaker.¹³⁹ Nor is it actually clear that narcissism, in some undesirable sense, has of late been significantly increasing in our own culture.¹⁴⁰ Even if it were clear that malign

the Personality Diagnostic Questionnaire as capturing an introverted form of narcissism, whereas the social personality research-oriented Narcissistic Personality Inventory captures a more extraverted form of narcissism).

¹³⁸ See, e.g., WILLIAM SHAKESPEARE, *KING LEAR*, act 3, sc. 4 (1608) (“Poor Tom’s a-cold”); M. WILLIAM PHELPS, *NATHAN HALE: THE LIFE AND DEATH OF AMERICA’S FIRST SPY* (“I only regret that I have but one life to lose for my country.”) (quote attributed to Nathan Hale, upon his execution in 1776).

¹³⁹ Consider one of the standard items on the Narcissistic Personality Inventory: “Everybody likes to hear my stories.” Robert Raskin & Howard Terry, *A Principal Components Analysis of the Narcissistic Personality Inventory and Further Evidence of Its Construct Validity*, 54 J. PERSONALITY & SOCIAL PSYCHOL. 890, 894 (1988). Presumably even the most narcissistic person could talk about politics without explicitly referring to himself.

¹⁴⁰ For contrasting views as to whether the United States has over the last generation or so seen a meaningful increase in narcissism, or in narcissism scores, compare JEAN M. TWENGE, *GENERATION ME: WHY TODAY’S YOUNG AMERICANS ARE MORE CONFIDENT, ASSERTIVE, ENTITLED—AND MORE MISERABLE THAN EVER BEFORE* 82 (2006) (“Almost 1 out of 20 college students expects to become an actor, artist, or musician, more than want to be lawyers, nurses, accountants, business owners, journalists, or high school teachers.”); JEAN M. TWENGE & W. KEITH CAMPBELL, *THE NARCISSISM EPIDEMIC: LIVING IN THE AGE OF ENTITLEMENT* 30-31 (2009) (“College students in the 2000s were significantly more narcissistic than Gen Xers and Baby Boomers in the 1970s, ‘80s, and ‘90s.”); TWENGE & CAMPBELL, *supra* at 34 (referring to the questionnaire item “I am an important person,” only 12% of teens in 1951 responded with agreement, whereas in 1989, 80% of teen girls and 77% of teen boys did so); Jean M. Twenge & Joshua D. Foster, *Birth Cohort Increases in Narcissistic Personality Traits Among American College Students, 1982-2009*, 1 SOCIAL PSYCHOL. & PERSONALITY SCI. 99 (2010); Jean M. Twenge & Joshua D. Foster, *Mapping the Scale of the Narcissism Epidemic: Increases in Narcissism 2002-2007 Within Ethnic Groups*, 42 J. RES. PERSONALITY 1619 (2008); John Tierney, *A Generation’s Vanity, Heard Through Lyrics*, N.Y. TIMES (April 25, 2011), available at http://www.nytimes.com/2011/04/26/science/26tier.html?_r=1&scp=1&sq=John%20Tierney,%20A%20Generation%20E2%80%99s%20Vanity,%20Heard%20Through%20Lyrics,&st=cse (referring to Professor Twenge’s co-authored analysis of popular song lyrics over the period of 1980-2007 finding an increase in self-focus and references to negative or antisocial behavior); M. Brent Donneallen et al., *An Emerging Epidemic of Narcissism Or Much Ado About Nothing?*, 43 J. RES. PERSONALITY 498 (2009) (finding minimal evidence of recently increased college student narcissism); M. Brent Donneallen & Kali H. Trzesniewski, *Groundhog Day Versus Alice in Wonderland, Red Herrings Versus Swedish Fishes, and Hopefully Something Constructive: A Reply to Comments*, 5 PERSP. ON PSYCHOL. SCI. 103 (2010) (emphasizing developmental over generational effects); Brent W. Roberts et al., *It Is Developmental Me, Not Generational Me: Developmental Changes Are More Important Than Generational Changes in Narcissism—Commentary on Trzesniewski & Donneallen* (2010), 5 PERSP. ON PSYCHOL. SCI. 97, 101 (2010) (“[E]very generation is Generation Me.”); Kali H. Trzesniewski et al., *Do Today’s Young People Really Think They Are So Extraordinary?: An Examination of Secular Trends in Narcissism and Self-Enhancement*, 19 PSYCHOL. SCI. 181 (2008) (finding no significant overall increase on the Narcissistic Personality Inventory among college students from the 1980s to 2007). It seems difficult to believe that today’s college students are especially overconfident in how far their ability will carry them economically, even if they evaluate themselves generously in other respects.

narcissism were increasing, we should hesitate to allow perhaps passing social trends to unduly influence constitutional free speech law.

Instead, we are supposing herein that narcissism, in some largely undesirable sense,¹⁴¹ disproportionately reflects a concern for oneself, at the expense of a perceptive concern for the long-term good of others or for the broader public interest. If this is so, we should hesitate to validate or even unintentionally promote narcissism by reforming fundamental law to exalt speech that is merely about the self, with no intended further social import or value.

The narcissist, we assume for our purposes, tends to be more preoccupied with the self than the non-narcissist. The self will tend to loom larger in importance for the narcissist. As Richard Sennett describes the original myth of Narcissus, “he is in love with his own beauty, but the myth would still make sense if he were in love with his unhappiness . . . [H]e wants to get closer and closer to the image of himself reflected on the water’s surface. . . .”¹⁴²

But apart from the general unattractiveness of self-absorption, why not re-write the free speech rule to provide greater implicit validation for narcissism? At least some forms of narcissism may indeed involve certain benefits, at the very least for the narcissist in question.¹⁴³ But narcissism also, as we might suspect, imposes interpersonal and broader social costs which, in the aggregate, strike many as disproportionate to narcissism’s collective benefits.¹⁴⁴ All else equal, narcissism is not to be unnecessarily further validated or legally promoted.

The social costs of narcissism seem disproportionate whether we think of ‘narcissism’ as popularly defined,¹⁴⁵ as clinically defined,¹⁴⁶ as examined in social

¹⁴¹ The personal and social value of narcissistic traits may vary depending upon how narcissism is conceived and measured. See *supra* note 137, as well as Paul Rose, *The Happy and Unhappy Faces of Narcissism*, 33 PERSONALITY & INDIVIDUAL DIFFERENCES 379, 379 (2002) (“[O]vert narcissists report higher self-esteem and higher satisfaction with life, whereas covert narcissists report lower self-esteem and lower satisfaction with life.”); Rose, *supra*, at 389 (“[L]ooking down on others has . . . been linked to better health and adjustment.”); Paul Wink, *Two Faces of Narcissism*, 61 J. PERSONALITY & SOCIAL PSYCHOL. 590, 590 (1991) (distinguishing two forms of narcissism, but with a common core of “exploitativeness and a sense of entitlement” as well as “conceit, self-indulgence, and disregard of others”); Wink, *supra*, at 591 (overt form of narcissism as associated with “exhibitionism, self-importance, and preoccupation with receiving attention and admiration from others . . . [whereas the covert narcissist may] appear to be hypersensitive, anxious, timid, and insecure, but [may] . . . surprise observers with their grandiose fantasies”).

¹⁴² Richard Sennett, *Narcissism and Modern Culture*, 4 OCTOBER 70, 72 (1977).

¹⁴³ See W. Keith Campbell et al., *Understanding the Social Costs of Narcissism: The Case of the Tragedy of the Commons*, 31 PERS. & SOCIAL PSYCHOL. BULL. 1358, 1358 (2005) (“On the positive side of the ledger, narcissists generate and maintain positive feelings surrounding the self, including high levels of positive affect, low levels of negative affect, and high self-esteem.”) (citing Morf & Rhodewalt, *infra* note 147, and focusing on the relatively common narcissistic personality, as opposed to the rare and severe Narcissistic Personality Disorder).

¹⁴⁴ See Campbell et al., *supra* note 143, including the problem that “narcissists need to distort reality into a form conducive to self-enhancement.” See also TWENGE & CAMPBELL, *THE NARCISSISM EPIDEMIC*, *supra* note 140, at 42-55; *infra* notes 145-48.

¹⁴⁵ See Carolyn C. Morf & Frederick Rhodewalt, *Unraveling the Paradoxes of Narcissism: A Dynamic Self-Regulatory Processing Model*, 12 PSYCHOL. INQUIRY 177, 177 (2001) (defining as ‘self-aggrandizing and self-absorbed, yet easily threatened and overly sensitive to

science experiments,¹⁴⁷ or as characteristic of the society as a whole.¹⁴⁸ Nor can we view self-absorption and unempathetic indifference to others as merely the unfortunate downside of some otherwise distinctive narcissist ideology, political viewpoint, or broader philosophy. As one scholar writes:

More than any other personality type, what the narcissist personality says should be viewed as “calculated for effect.” The only central and stable belief of the narcissist is the centrality of the self. What is good for him is good for his country. The narcissist does not have any consistent beliefs. He is capable of changing any position . . . if to do serves his needs at the moment.¹⁴⁹

All things considered then, there seems no net benefit to even indirectly and unintentionally validating narcissism by officially elevating the First Amendment status of speech about oneself.

VI. CONCLUSION

We have accepted above the well-established idea that speech about oneself that is also intended to convey some sort of political idea or to address some matter of public concern can typically be distinguished from speech about oneself with no such further intent. On this basis, we have argued, contrary to recent contentions, that the latter sort of speech—speech that is “merely” about the self, or about one’s merely personal or private concerns—should not generally qualify for any sort of elevated free speech protection. Fundamentally, this is because such speech does not systematically promote any of the consensually recognized and distinctive values or purposes justifying special constitutional protection for speech. And we have also suggested, secondarily, that enhanced first amendment protection for such self-focused speech might unintentionally further validate or even promote the widely recognized narcissistic personality, an outcome that is not worth publicly risking. Heightened protection for speech that is about the self, with no pretense of broader implications, is neither required by current law, nor well-advised as a legal reform.

feedback . . . prone to extremes of euphoria, despair and rage . . . charming and socially facile while simultaneously insensitive to others’ feelings, wishes, and needs”).

¹⁴⁶ See Morf & Rhodewalt, *supra* note 145 (defining as “grandiosity, self-focus, and self-importance . . . they display a sense of entitlement and the expectation of special treatment . . . [t]hey are unwilling to reciprocate the favors of others and are unempathetic and interpersonally exploitative”).

¹⁴⁷ See Campbell et al., *supra* note 143, at 1333-67 (specifically “[i]n the context of a resource dilemma, narcissism confers a benefit for the self but a longer term cost to others and to the commons”).

¹⁴⁸ See LASCH, *supra* note 136, at XVII (“In a narcissistic society—a society that gives increasing prominence and encouragement to narcissistic traits—the cultural devaluation of the past reflects not only the poverty of the prevailing ideologies, which have lost their grip on reality and abandoned the attempt to master it, but the poverty of the narcissist’s inner life.”).

¹⁴⁹ Jerrold M. Post, *Current Concepts of the Narcissistic Personality: Implications for Political Psychology*, 14 POL. PSYCHOL. 99, 110 (1993). As well, it is difficult for the narcissist either to admit ignorance or to rely on expert advice. *See id.* at 104, 110.