We seemingly live in an era of unparalleled possibilities for communication. The combination of new IT technologies, of globalising media organisations, of increased cultural pluralism and of somewhat more deliberative democratic practice has, it seems, made it easier than at any other time to communicate widely and effectively. Yet some of the norms for communicative action that are now most widely promulgated, accepted and legally enforced marginalise rather than support communication. This is at the very least surprising, and surely worth exploring. So a good deal of this paper will be devoted to exploration. My explorations will focus on three widely accepted norms: freedom of expression, transparency and the protection of ‘personal’ data. Each is widely endorsed and entrenched in public and institutional life.

A right to self-expression was famously defended by John Stuart Mill (Mill 1859/1989), and was later promulgated in the United Nations Universal Declaration of Human Rights (UDHR 1948) and the European Convention on Human Rights (ECHR 1950), whose standards have shaped and are supposedly given definitive form in subsequent international conventions and national legislation (enforced with varying enthusiasm and efficacy). Freedom of expression is now increasingly seen not merely as an individual right, but as continuous with press and media freedom. Transparency and protection of ‘personal’ data do not have quite such august pedigrees, but both are seen as instrumental for securing human rights, are deeply entrenched in contemporary cultures and legislation and have large effects on the daily lives of institutions and of individuals.

Yet each of these norms sets requirements for the handling of information that can be respected while disregarding many of the most significant norms that bear on communication. Indeed, each can be met without any communication taking place. Far from being central to the ethics of communication, these three requirements, I shall argue, can at most play ancillary roles.

1. Freedom of Expression

A right to Freedom of Expression is set out in Article 10 of the European Convention. The first clause of the article begins:

10 (1) Everyone has the right to freedom of expression . . . This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers . . . (ECHR 1950)
In the standard style of the Convention, the second clause of the article lists permissible restrictions on the exercise of this freedom. Since I shall rest nothing on claims about the legitimacy of these restrictions, I leave them aside.

The notable thing about Article 10 of ECHR is that the individual right that it asserts is simply a right to individual self-expression. It is a liberty right for individuals to express, receive and impart information or ideas. Acts of self-expression may or may not communicate successfully with others. Sometimes they are designed to do so, are adjusted to the audiences whom they address and secure uptake. Other acts of self-expression fail to communicate for various reasons: some are eccentric, unintelligible or egocentric to the point of obscurity; some are intelligible to some audiences, so could be used to communicate, but may be misdirected, ignored or misinterpreted. Rights of self-expression can be exercised without meeting even elementary requirements for communication (such as intelligibility), or more specific epistemic requirements (such as accuracy) or ethical requirements (such as truthfulness).

This may, in fact, be part of the appeal of viewing freedom of expression as a central political ideal. It seems so slight a freedom, yet appears to promise so much. Yet much of this promise can be delivered only where acts of self-expression also communicate. John Stuart Mill extolled freedom of expression as making minimal demands. Decades before Kant had made parallel but more limited claims.1 Mill argued for rights of self-expression on the grounds that acts of self-expression are generally only self-regarding (= self-affecting), and should be restricted only if likely to harm others (shouting ‘fire!’ in a crowded theatre; slander; libel) (Mill 1859/1989: 15). He then argues that this ‘absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological’ brings with it ‘liberty of expressing and publishing opinions’, because this is ‘practically inseparable’ from freedom to express oneself (Mill 1859/1989: 15).

If this were correct, rights to self-expression would provide the core of ethics of communication. The basic communicative obligation would be the duty not to impede others’ self-expression. However, once we think about matters carefully, this looks quite implausible. A right of self-expression does not secure a right to communicate, still less a right to communicate beyond narrow circles. Many acts of self-expression fail to communicate with anybody at all, or communicate only within narrow circles. No act of self-expression communicates widely without help from some form of publishing. However, as noted long ago by A. J. Liebling, ‘Freedom of the press is guaranteed only to those who own one’ (Liebling 1960: 105). By itself freedom of expression is just that, and cannot be stretched into a right to communicate with some or many audiences. Indeed, it is hard to see how there could be a right to communicate—rather than a right to try to communicate—unless at least some others had a duty to receive communications.

A right to try to communicate information or ideas to others could be secured by pairing rights to speak or write with duties on those who control the means of

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communication. Indeed, this pairing would be a natural reading of the version of a right to freedom of expression set out in UDHR, which runs:

Everyone has the right to freedom of opinion and expression; the right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers. (UDHR 1948: Art 19)

However, Article 19 of UDHR too is generally understood merely as asserting a liberty right to express oneself, without any concomitant right to be assisted in communicating with wide—or narrow—audiences. Article 19 is not read as laying a duty on anyone or any institution to enable the communication of individuals. Yet unless others, including the media, have such duties, individual rights to self-expression will be just that. Yet contemporary discussions of press or media freedom tend to assimilate it to freedom of expression, and to repudiate the idea that it is restricted by any obligations, such as obligations to support individuals’ self-expression. If the media were in the business of self-expression, they (like individuals) would be liberated from requirements to communicate effectively, accurately or in ethically acceptable ways. A very broad, indeed close to unconditional, conception of press and media freedom would be seen as a corollary of a very broad, indeed close to unconditional, individual freedom of expression.

However, this is not a convincing line of thought. Freedom of expression for the media (or for other powerful organisations) cannot be justified as ‘the most innocuous freedom’: on the contrary it can be harmful to the less powerful. Press and media freedom is not best justified by analogy with individual freedom of expression, as an innocuous right that should be more or less unrestricted. Media freedom is probably better justified by appealing to the needs of democracy, or (in my view less plausibly) the needs of truth-seeking. However, either of these strategies of justification would vindicate not an unrestricted right of self-expression, but a less extensive, conditional freedom to publish or broadcast. A conception of press freedom that was justified by reference to the needs of democracy or of truth-seeking might, for example, require the media to aim for accuracy when making truth-claims, whereas an unrestricted right of self-expression also protects communication that misinforms (cf. O’Neill 2004).

These considerations show why freedom of expression can provide only part of a convincing account of the ethics of communication. Individual rights to self-expression may indeed generally be innocuous. Self-expression by individuals is often obscure, uncivil or inaccurate, but even when it fails in these ways usually causes little harm. But if powerful organisations enjoy more-or-less unconditional rights of self-expression they are likely to harm and injure: that is why we do not allow companies to invent their accounts, or public bodies to report inaccurately, or to remain silent about their work and their use of funds. Freedom of expression is not an appropriate ideal for institutional life for two reasons. It is inadequate because it marginalizes communication, and because it
dismisses any requirement to attempt effective, accurate, or ethically acceptable communication.

2. Transparency and Data Protection

Ideals of transparency and of data protection also set standards that ostensibly bear on communicative action. They respectively require and forbid the communication of certain sorts of information.

Transparency demands that public bodies make publicly available certain types of information about their activities, either regularly or on demand, apart from specific categories of reserved information. While not itself a human right, transparency is often seen as an indispensable adjunct to making human rights effective. Transparency requirements can be used to obtain information that can be used to hold public institutions and officials to account, so can (for example), be used to expose and deter violations of human rights, corruption or poor performance. Transparency is variously institutionalized in *Freedom of Information* legislation, in the work of *Transparency International* in combating corruption, and in contemporary standards for corporate governance and for conduct in public and professional life. However, transparency too sets standards for the handling of information, rather than for communication. There is quite a lot to be said for transparency, but by itself it may not improve or even secure communication—let alone accountability. It is all too common for material that is publicly disclosed or disseminated, thereby achieving transparency, not to be read, heard or seen by any or many audiences; even where it is read, heard or seen, it may not to be grasped or understood by those audiences. Transparency counters secrecy, but it does not ensure communication (cf. Heald and Hood 2006). Sometimes it is even used to maintain secrecy: one effective way to ensure that information is not communicated is not to keep it secret, but to ‘release’ it with no fanfare.

Protection of ‘personal’ data sets a rather different sort of demand on the use of information. It requires the non-disclosure—the protection—of information that is classified as ‘personal’. Within the European Union, data protection legislation implements the 1995 *European Directive on Data Protection* (Directive 95/46/EC) and varies considerably between different member states. Data protection provisions too focus on the handling of information rather than on communicative action, and demand that specific types of data be comprehensively sequestered and held as secret, unless the persons to whom the data pertain give their consent to a specific use of their data. In a way it is obvious why ‘protecting’ data will not communicate them, and indeed data protection requirements have sometimes produced more formidable barriers to communication than may have been intended, and have even prevented or damaged important and socially valuable sorts of communication.

One striking corollary of this focus on informational content rather than communicative action is that compliance with data protection standards and systems does and cannot prevent third parties from coming to know information
that is ostensibly protected. Data protection requirements demand only that those who hold data that are classified as ‘personal’ not disclose or disseminate them without the right sort of authorisation. Yet information held as ‘personal’ in one location, so falling under data protection legislation, may legitimately be public in another location. Such data may therefore be legitimately known to some or many others, or inferable by them from sources to which they have legitimate access. There can be many direct and even more inferential routes to any specific knowledge claim.

Like Freedom of Information regimes, Data Protection regimes are supposed to regulate the handling of some sorts of information. They are unconcerned about communication, unless it discloses information from a source where it is held as ‘personal’ without the right sort of authorisation for that use of those data. Data protection does not guarantee data subjects that their ‘personal’ information will not become known to others without authorisation, but only that those data will be not be disclosed by specified ‘data controllers’ from specified data bases without their authorisation.

3. Informational Rights or Communicative Norms?

There is, I conclude, a common reason why these three standards, far from being central to communication or illuminating the ethics of communication, have little bearing on either. It is that each requirement ranges over informational content rather than over communicative action. These requirements focus on propositional content rather than on communicative acts.

Self-expression is achieved when an individual articulates or expresses some idea or opinion. Freedom of self-expression is an important protection for individuals, whether or not they manage to or even seek to communicate with others. Unless self-expression takes the form of a speech act that harms or threatens others—for example, by inciting hatred, slandering, or endangering—there is generally little to be said against it. The ideas and opinions individuals express may or may not communicate with others; their opinions may be true or false; their ideas may be conventional or original, important or trivial, admirable or execrable. Rights of self-expression do not take account of these differences. They allow individuals to express themselves freely, so long as they do little harm and damage no reputation but their own. Such rights are quite reasonably not restricted by duties to express oneself effectively, sensibly, accurately, or in any other specific way.

But when informational content is embedded in types of speech act that are more than acts of self-expression, it often has wider effects, and there can be reasons for thinking that such communicative action should meet a range of norms, including epistemic and ethical norms. For example, if an individual is selling a product or seeking employment, he may be held to account for the accuracy of his truth-claims. Or if an individual is promising, or contracting, or getting married, she may be held to account for honouring the commitments that
she makes. However, these and many other norms that are relevant to speech acts that do more than express an agent’s ideas and opinions apply not to the propositional content expressed in those acts, but to the acts—typically communicative acts—attempted or performed.

A focus on speech acts rather than informational content is also relevant to the communicative acts of organisations. Many of the communicative acts of organisations make truth-claims, and aim to communicate these to various audiences. Here living up to norms such as intelligibility, relevance, accuracy and honesty is likely to be important. We do not happily condone unintelligible or irrelevant communication by institutions; we do not pretend that it is mere self-expression—although the flowery end of marketing practice gets away with a good deal that amounts merely to self-expression, for example by gesturing towards truth-claims without quite making them. Nor do we condone inaccurate or dishonest institutional reports or financial accounts by classifying them as mere self-expression.

I think it is therefore quite surprising that freedom of expression should now be widely seen as one of the central political standards relevant to communication. Freedom of expression can, I have argued, be treated as very wide, indeed more or less unconditional, provided we see it only as a right of individuals. But press freedom for powerful organisations, including powerful media organisations, cannot be modelled on individual self-expression. Contemporary media empires often achieve great political power, some of them on a global scale. Freedom of expression for these powerful organisations is not innocuous, and a blanket rejection of other norms for communication by the powerful, including the media, is implausible.

Nor, I believe, can freedom of expression for the media be justified on the grounds that it is needed for truth-seeking. Truth-seeking demands discipline rather than mere self-expression, including disciplines such as experiment, careful inquiry, fact checking, and many others. Bernard Williams put the point well in Truth and Truthfulness:

... in institutions that are expressly dedicated to finding out the truth, such as universities, research institutes, and courts of law, speech is not at all unregulated. People cannot come in from outside, speak when they feel like it, make endless irrelevant, or insulting, interventions, and so on; they cannot invoke a right to do so, and no-one thinks that things would go better in the direction of truth if they could. (Williams 2002: 217)

Those who are in the business of making truth-claims neglect the disciplines and norms of truth-seeking at high cost, to themselves and to others.

The requirements of truth-seeking may not provide a convincing basis for media freedom, but there are better arguments for less extensive (and more traditional) conceptions of press and media freedom. The most convincing, I think, appeal to the importance of (adequately) accurate reporting for public life, and especially for the public life of democracies. Citizens need reliable
information by which to judge what is done to them and in their name; and there are analogous needs in more restricted institutional contexts.

However, these considerations cast a curious light on the importance now assigned to transparency. Transparency or openness requires only that specified types of informational content be disclosed or placed in the public domain, either on a routine basis or upon specific request. Once again this is a requirement—a positive right when backed by Freedom of Information legislation—that ranges over informational content rather than communicative action. The activity by which information is made transparent places it in the public domain, but does not guarantee that anybody will find it, understand it or grasp its relevance.

Other more specific rights that are often thought of as corollaries of transparency are similarly blind to the needs of communication. For example, in discussions of medical and especially genetic information and privacy, claims that there is ‘right to know’ information about oneself if it is available are often advanced. It has been suggested that I have a ‘right to know’ genetic information about myself if a relative has discovered this information by taking a DNA test. The information after all may pertain just as much to me as to the relative who had the test. Others claim that individuals have not only a ‘right to know’ such information, but also a ‘right not to know’ it.

Some light can be cast on putative ‘rights to know’ and ‘rights not to know’ by considering what counterpart obligations others would need to have if there were any such rights. If I am to have a ‘right to know’ certain truth-claims, then some others must have an obligation to ensure that I know them. Yet this is a fairly implausible obligation: ensuring that others know something is often beyond our powers. It is easy enough to put information in others’ way—to disclose, disseminate, make transparent—but very hard to ensure that information is attended to, grasped or absorbed. Sociological inquiries into the success of supposed informed consent procedures in medical ethics reveal that disclosure and dissemination of information by itself frequently fails to ensure that others know something. Similarly of supposed ‘rights to know’ and ‘rights not to know’: requiring those who hold certain types of information either to disclose or to protect it will not guarantee that anyone else either comes to know it or does not come to know it (cf. Manson and O’Neill 2007: chapter 6).

Transparency too is a requirement on information handling, rather than a requirement to communicate, or an entitlement to knowledge. It is often a useful requirement: information that is subject to transparency requirements may—if intelligibly formulated and suitably conveyed—be accessed and grasped by others, in which case communication will take place, and can be judged by standards that are relevant to communication. But transparency in itself requires no communication: it prohibits certain sorts of secrecy without setting standards for communicating.

Data protection is even more clearly a standard for the handling of information rather than its communication. It is based on the thought that we can divide informational content into the sort that ought to be protected (e.g. a person’s tax or health information), and the sort that need not be protected (some, but not all,
of which may be or ought to be subject to transparency requirements. The category of information that data protection regimes seek to protect is spoken of as ‘personal information’, and some of it as ‘sensitive personal information’.

Unfortunately, there is great unclarity about which information counts as personal. It is rather obvious that personal data are data that are held to be true of a person [referred to in data protection legislation by the neologism ‘data subject’]. However, not everything that is true of some data subject counts as personal data. I have one head and quite a lot of red blood cells: but these facts do not count as personal data. Yet it is very hard to see which of the information that is true of an individual counts as personal data, and ought to be protected. Personal information does not have to be uniquely true of an individual to count as such: for example, if A has lung cancer that will count as ‘personal’ information—yet, as we know all too well, this is not uniquely true of A. There are unfortunately many who suffer from lung cancer. This may seem like a philosopher’s cavil, but I think that it is not, and that the unclarity of the very category of ‘personal’ information makes it hard to construct data protection systems that are coherent or usable—or that achieve a sensible and defensible configuration of informational privacy.

Some attempts to clarify the idea of ‘personal’ data suggest that what matters is that identifiable data are not disclosed. Data are seen as ‘personal’ if one can infer, and thereby identify, to whom they refer. By this standard, persons’ names, home addresses and other standard ‘bio data’ are paradigmatic ‘personal’ data. Yet these are also the very sorts of information most often used and needed for public purposes. For an example of the absurdity to which this may lead, consider the fact that under UK Data Protection legislation (Data Protection Act, 1998) a person’s home address counts as ‘personal’ in the doctor’s office, and must not be imparted to others without permission. Meanwhile, on the other side of town, a person’s home address must be publicly available in the electoral register. I think that this suggests that there may be great difficulty in devising a system of data protection that focuses on a well defined category of ‘personal’ information—of supposedly personal semantic or propositional content. Informational privacy is, I suspect, likely to be better protected by requirements on communicative action than by attempts to sequester ill-defined categories of information. The more traditional approach to informational privacy that relied heavily on requirements of confidentiality may offer a more coherent approach. Confidentiality requirements do not focus on informational content, but on the permissibility or impermissibility of communicative acts that impart information obtained in specific ways—paradigmatically in confidential relationships—to third parties without the right sort of authorization.

Freedom of expression, transparency and data protection are seen as setting important standards for information handling, and have become pervasive features of contemporary culture. Yet each standard can be met without any communication taking place. Should we conclude that this is just the way things are, and that it has been a misnomer to speak to this as the age of communication? Or should we conclude that a focus on informational content and information
handling, rather than on communicative action, has been a feature of the early days of the revolution in information technology, now perhaps to be changed with the increased possibility of two-way electronic communication provided by e-mail, blogging and various new media? Or should we be sceptical about these newer possibilities of interactivity, which make more two-way communication possible? I shall leave these interesting questions to one side, and return to considering the normative requirements for communication.

4. Accessible and Felicitous Communication

Once we shift our focus from handling informational content to communicative action, we can see that a focus on normative requirements must do more than set standards for information handling. The first requirement for any communication is that it be capable of reaching its intended audiences. Would-be communicative acts that fail in this respect remain inaccessible to their intended audiences, and no communication takes place. Accessibility is therefore the most elementary standard that communicative acts must seek to meet, and is more basic than specific epistemic and ethical standards that may be relevant to communicative action of specific sorts.

In matters of communication, accessibility is analogous to the requirements for successful or felicitous action on which J. L. Austin concentrated in his work on speech acts. Austin took it that the thought that saying may be doing invites many distinct sorts of questions about ways in which speech acts may be felicitous or infelicitous, which need answering before we attend to more specific questions about the ethics of speech acts. His interest was therefore in the issues that he thought we must grasp ‘before we consider what actions are good or bad, right or wrong’ (Austin 1962b: 126). His first concern was with ways in which speech acts (in particular performatives) can fail to be acts of the intended type, and are ‘subject to certain whole dimensions of unsatisfactoriness to which all actions are subject’ (Austin 1962a: 21).

Without accessibility, communicative acts—whether or not they meet a range of epistemic or ethical standards—fail because they cannot communicate with intended audiences. Communicative acts may be inaccessible to intended audiences for a range of reasons. Some may be unintelligible because intended audiences cannot follow what is communicated: even if satisfactory as acts of self-expression, they inevitably fail as communication. Other speech acts may be intelligible enough, but yet be irrelevant to intended audiences. For example, if communicative acts are freighted with large amounts of trivial information of no interest to intended audiences, this may defeat communication even if each element of the communication is intelligible. These elementary requirements set necessary conditions for the possibility of effective communication, and must be presupposed before we consider epistemic and ethical requirements that may be relevant to specific types of communicative acts.
Consideration of these elementary norms for communicative action shows why freedom of expression is an incomplete, indeed in some ways a perversely incomplete, approach to ethical requirements on speech acts. Freedom of expression does not require what is expressed to be intelligible to any audience: it is indifferent to the reality that some expressive acts are wholly inaccessible to some or all audiences. It is hardly surprising that if we view speech acts simply as self-expression, and forget about communication, we are drawn to an account of free speech that is oblivious in the same way. Conceptions of freedom of speech that identify it mainly with freedom of (individual) expression may provide a basis for an adequate ethics of self-expression (were we to need such a thing); they don’t provide a basis for an adequate ethics of communication.

However, accessibility to intended audiences is only a first and necessary step in an account of norms for communication. Other epistemic and ethical norms may be relevant to specific sorts of communicative action. These epistemic and ethical norms can usefully be thought of as standards that must be met to make communicative action not merely accessible to intended audiences but (adequately) assessable by them. It may not, however, be possible to list these norms in a systematic, non-overlapping way: norms can often be specified in a variety of ways. Indeed, it may not be useful to try to classify each norm as either epistemic or ethical: it seems more likely that many norms that matter for communication fall under both headings. For example, norms of non-deception may be seen both as epistemic and as ethical norms.

One way of thinking about this range of norms is to consider not individual requirements, but an ideal or model of optimal communication. For example, in face-to-face, unmediated communication between willing speakers and hearers the links between accessibility and assessability will be close. Where understanding fails or content is ambiguous, a hearer can ask questions, clarify obscurities and judge not only what a speech act means, but (to some extent) whether it is intended as fact or fiction, as rumour or report, as mere speculation or a flight of fancy, as offer or threat, as promise or prediction. Face-to-face communication, provided it is not distorted by asymmetries of power and control, can allow two-way give and take, by which willing speakers and hearers cooperate to disambiguate and assess what they are told, and to check trustworthiness and (where appropriate) truth. Speakers who are intelligently questioned by their hearers then quickly find that they must either make their utterances assessable or engage in deception or evasion. However, this model of fully achieved communication fails in other contexts.

Assessing written communication usually demands more. Ambiguities and queries often cannot be instantly resolved, because the communication is neither face-to-face nor two-way. All reading of texts sets interpretive demands, and effort may be needed to work out whether an interpretation is well judged or tendentious, whether a claim is intended as fact, factoid or falsehood. Is a text corrupt or distorted? Has the reader got a grip on appropriate conventions for interpreting this genre of writing? Might other conventions prove more illuminating? Is a passage to be taken literally or not? Are the empirical claims
made true or false? Is the cited evidence reliable? Willing writers can ease readers’ interpretive tasks, but unwilling, incompetent or obscure writers make them harder. Writing has the signal advantage that a text can be fixed and revisited (by contrast unrecorded utterances fade as spoken), so that content can be interrogated more carefully. But often this possibility is merely theoretical: writers may baffle or mislead; readers may lack time, skill, opportunity, resources or courage to interrogate texts. In many cases the result is that readers are unsure, misled or deceived.

Assessing speech acts demands even more if they are not merely one-way but mediated. Mediated speech acts are assembled, edited, transformed and transmitted by complex processes and institutions, including the media, publishers, government, corporations and countless other organisations. Readers, listeners and viewers of mediated communicative acts usually have limited understanding of ways in which words and images may have been produced and processed, formatted and manipulated. Unless mediating institutions—not only the media—and those who work in and for them, make considerable efforts, listeners, readers and viewers can have a hard time assessing meaning, let alone truth, or the wider implications of texts, broadcasts and programmes, and an even harder time detecting evasions and deception. Is what is reported as fact, true or false? Is a government report accurate or deceptive? Does a company report offer a ‘true and fair view’ to investors, or is it concealing something material? Is a purported editorial really an advertorial? Is purported information in whole or in part misinformation, or disinformation, or infotainment? Is a film that looks like a documentary really a docudrama? Is the evidence provided for audiences enough for them to assess what is presented to them? Do authors, editors, producers, publishers or owners have undisclosed financial or other interests in the matters discussed? How are readers, listeners and viewers to judge whether they are being deceived unless those who speak, write, publish and broadcast take assessability as seriously as accessibility?

It is, I suggest, against this background that we should think about the importance of contemporary ideals of transparency and data protection. These, I have argued, are not really norms for communication, but rather norms for information handling. In contemporary institutional life there is a lot of information handling—processing, as data protection legislation has it. Information can be recorded, filed, stored, destroyed, transmitted and the like without its being communicated to any intended audience, in ways that affect possibilities for its communication.

Information provides the semantic content for possible communication. So one indirect way in which to regulate communicative action is by regulating informational material or content, for example by hiding it from others or making it available to them. But control of information—of the raw material or content of communication—offers only a crude and indirect way of thinking about the epistemic and ethical standards that really matter in communicating. It is crude because it attends only to the sequestering or disclosing of information of variable import and relevance. It is indirect because it does not engage with the
most significant norms for communication, but only with the availability (in principle) of informational content.

5. Disciplining Deception: Lying and Deceiving

Requirements that communication be assessable as well as accessible have many more specific features, which can be illustrated very briefly by pointing to one of the central clusters of epistemic and ethical norms that matter in communication. My example will be of requirements not to mislead or deceive, which are important in both ways.

It is often hard for intended audiences to assess communication that makes truth-claims. The defect when false truth-claims are made may be *only epistemic*, as when inaccurate information is communicated in good faith, without any lying. Or it may be *only ethical*, as when information that is wrongly believed to be false is dishonestly communicated, but no deception occurs because what is communicated is true. In the other cases the defect is both epistemic and ethical, as when false information is dishonestly communicated and deception is intended—and perhaps achieved.

Many discussions of the ethics of communication focus primarily on the rather specialised epistemic and ethical failure of lying, where false truth-claims are knowingly and intentionally communicated as true. However, lying is a special case of a more protean failure, namely deception, which can be achieved by various patterns of epistemic and ethical failure. Lies are neither necessary nor sufficient for deception. If deceivers are clever they do not need to lie, and create a misleading impression without making false claims. Equally if readers, listeners and viewers are clever they may detect lies and will not be deceived.

6. A Limited Conclusion

In this lecture I have suggested that, as it seems to me rather surprisingly, contemporary culture is more concerned about norms for information handling than about norms for communication. We could of course, take both sorts of norms seriously. But a public culture that lays too much stress on and enforces norms for information handling, may marginalise the demands of communication and obstruct a useful view of the norms that matter for communicating, including communicating in the public domain.

The three norms for handling information whose limitations I have discussed in this lecture are not irrelevant to communication. But they play only an ancillary role in the ethics of communication. *Freedom of expression* is an inappropriate standard for public or institutional communication, where norms of accessibility and non-deception also matter. *Transparency* is a useful antidote to secrecy, but does not ensure communication, and plays at most a subordinate role in supporting accountability, let alone trust. *Data protection* standards regulate the

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disclosure of certain poorly characterised types of information, but do not guarantee informational, let alone wider, forms of privacy for individuals. If we are to say something more penetrating about the ethics of communication, we need to attend much more specifically to the necessary conditions for communicative acts to be accessible to and assessable by their audiences.

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NOTES

1 Kant had characterised the more limited freedom ‘to make public use of one’s reason’ as ‘the most innocuous freedom’ [‘die unschädlichste unter allem, was nur Freiheit heißen mag’] (Kant 1784/1996). He sees freedom to make ‘public’ use of reason not as a matter of actually reaching a large public, but of writing and speaking in ways that do not rely on arbitrary assumptions that would make claims incomprehensible to some audiences. Kant does not extend this freedom to speech or writing done in an official capacity, or to unreasoned speech or writing, seeing both of these as ‘private’ uses of reason that may legitimately be restricted.

2 Indeed, the gap between individual rights to self-expression and a right to ‘seek, receive and impart information and ideas through any media’ is enormous—although seldom discussed by those who advocate extensive media freedom. See for example the aims of the campaigning organisation Article 19.

3 Transparency International is an NGO that bills itself as ‘the global coalition against corruption’.

4 Data protection requirements on the use of medical data have often led to such complications. Where interpreted as barring the use of any, including reversibly anonymised, patient information without explicit consent, information needed for public health measures or for epidemiology may be systematically unavailable or selectively skewed (cf. Manson and O’Neill 2007: chapter 5).

5 This is not to deny that institutions may also have expressive powers. Everything we know about ritual suggests that there are many ways in which great ceremonies and enactments, from coronation services to the mass, from graduations to funerals, work as they do because they express more than they state, or perhaps than can be stated propositionally.

6 Information is held in confidence when obtained in certain ways. Confidentiality does not pertain to information as such, but to the holding and transmission of information. Information held in confidence need not be ‘personal’. Confidentiality requirements cover the communication not only of ‘personal’ data, but also of matters that are, for example, commercially or professionally confidential.
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