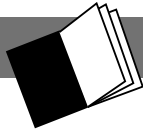


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The First Amendment and Racism on Campus

This is the fourth piece in a series about activism in higher education. College campuses have always been a place of activism in its many forms. In this series, I ask: Who can participate in activism, and how, as well as what dangers are there to us who do, and what can we accomplish? In each piece, I look closely at an issue that is affecting college campuses right now. Last month, that issue was sexual harassment in academia. This month, the issue is free speech on campus and the First Amendment.

The Bell Curve

When I was in college, a terrible book was published by two subpar writers, a book that was racism thinly disguised as scientific research. The book was titled *The Bell Curve* (1994), and its authors were psychologist Richard J. Herrnstein and political scientist Charles Murray, who spouted nonsense about, among other things, why black people were genetically inferior to white people in terms of intelligence. (Murray is also known for his 2005 masterwork, “Where Are the Female Einsteins?”)

I did not attend an undergraduate institution with a very wise student body, but some of my classmates were wise enough to know that Herrnstein and Murray and their *Bell Curve* were problematic, and we protested when a professor on campus was invited to deliver a lecture supporting the book. (This was in 1995.)

There were not many black students at my institution, and those that weren’t scholarship athletes were fewer still. Their presence was constantly questioned—they were told that affirmative action was the reason they were on campus and that they had stolen spots from more deserving white students. *The Bell Curve* with its racist arguments took aim at their hearts. A protest of the professor’s talk seemed appropriate. Criticism in the student paper did as well. No one argued at that time that our protests violated the free speech of the professor giving a talk. We had our place to speak, and he had his.

We still had faith—naïve faith, perhaps—in Oliver Wendell Holmes’ marketplace of ideas.

We were wrong. After all, how much worse could it get?

Racists on Campus

Worse, much worse. *The Bell Curve* has been credited with serving as the foundation for the contemporary

white-nationalist movement in the United States, providing scientific “proof” for white supremacy. Thank you, Professor Murray and sidekick.

There have been many instances lately of neo-Nazi or white supremacist speakers being invited to speak college campuses, only to have their visits interrupted for one reason or another. When these interruptions have occurred, the invitees complained loudly that their “free speech rights” have been violated. But have they? Let’s take a closer look at some examples. Note that in all of these cases, the speakers were invited to campus by student groups—they did not invite themselves to campus to speak. Schools must be evenhanded about how they treat student-invited speakers, ignoring the substance of their speech when granting permission to speakers. Schools that receive public funding (and that’s most of them) also must be evenhanded in whom they allow to rent out space on campus.

One famous example occurred when Milo Yiannopoulos, former Breitbart editor and self-avowed white nationalist, was invited to speak at the University of California, Berkeley—but dangerous protests, led by nonstudents, in advance of his speech caused the university to cancel his speech due to risks of violence. The University of California, Davis, where Yiannopoulos traveled on the same bus tour, the university canceled his talk due to security concerns. And at UCLA, where Yiannopoulos

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also sought to speak, the campus group that invited him “said in a statement that it could not accommodate Yiannopoulos’ ‘long list of requirements’ for a Feb. 2 campus appearance. The statement added that club members also were concerned about public safety, since Yiannopoulos’ appearances on his ‘Dangerous Faggot’ campus tour have triggered violence.” On their Facebook page, the group wrote, “To clarify: we are not canceling the event due to the threat of protesters. Milo canceled on us due to the fact that we could not meet his accommodations.”

Thus, what’s at stake then seems to be different things: (1) whether campus protest can reach a level that scares off a speaker who is determined to speak—and whether that violates free speech; (2) whether protestors can make the risk levels too high for campus security forces—and whether *that* violates free speech; and (3) whether the threat of protests can make campus security determine that a campus speaker must foot the bill for additional security or accommodations (as appears to be the case at UCLA and other campuses)—and whether *that* violates free speech.

Some of those questions are easy to answer. Regarding the first and second questions, there’s the issue of what’s commonly called “the heckler’s veto”—[when disruptive behavior shuts down a speaker](#). Right now, under a 1951 Supreme Court case, the heckler’s veto does not violate the First Amendment. Regarding the third question, schools cannot pass security costs on to speakers. In *For-syth County, Georgia v. The Nationalist Movement* (1992), the U.S. Supreme Court held that [doing so is a way to restrict speech](#).

In *Tinker v. Des Moines Independent School District* (1969), the U.S. Supreme Court held that high school stu-

dents were permitted to wear black armbands to school to protest the Vietnam War because the armbands were protected by the First Amendment. The Court wrote, “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

Essentially, the law states that “non-disruptive” speech is permitted in schools. Schools and universities are “limited public forums”—they do not have the same wide-open First Amendment protections as a street corner. But they do have some.

What’s at Stake

But so much of this legal history has to do with what one is permitted to *say* on campus. As legal commentator Dahlia Lithwick argued in *Slate* a few years back, “The answer, it seems to me, lies less and less in the First Amendment focus on the right to speak, and more in its implicit obligation to listen.” This obligation to listen truly gets to the heart of what Holmes’ “marketplace of ideas” is all about—hearing what others have to say, rather than going on a bus tour and spouting your own

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brand of racism and taking off before morning—avoiding the consequences of your speech. That’s not free speech. That’s cowardice.

Furthermore, every time someone like Richard Spencer, Yiannopoulos or someone of their ilk comes to campus, a school must spend upward of half a million dollars in security fees, sometimes closer to a million dollars. That is not a good use of public funds. The ACLU insists that we must protect the speech that we hate the most. But I disagree: we do not need to protect *hate speech*.

The problem is, the law, in all of its glory, disagrees. According to current First Amendment jurisprudence, the words of Spencer, Yiannopoulos and company are, indeed, hate speech—speech that attacks on the basis of race, religion, ethnic origin, sexual orientation, disability, gender or another attribute. But at the same time, hate speech is protected by the First Amendment. Only actual threats that can cause actual harm are not.

The law is wrong. There is nothing equivalent about the controversial antiracist speakers of the 1960s and the controversial Nazi speakers of today. The ACLU is wrong.

Here’s why: There is no difference between actual threats that can cause actual harm and hate speech itself. Hate speech causes actual, material harm. Words themselves change how we see the world. Murray wrote *The Bell Curve* in the early 1990s and then today we have Spencer and a new breed of white supremacists who use it as one of their sacred texts.

Words can change the world. Don’t be fooled. 


—KRGP

Congrats, George Mitchell Scholars!

The 19th class of George Mitchell Scholars included 12 scholars, five of whom were women. The George Mitchell Scholarship is a prestigious scholarship that allows U.S. students to study at universities in Ireland. The program is named in honor of former U.S. Senator George Mitchell, who chaired the peace talks for Northern Ireland.

The five women students are:

- **Celia Hallan**, a senior at Michigan State University;
- **Fatoumata Keita**, a graduate of Franklin and Marshall College PA;
- **Anjali Misra**, a senior at the Massachusetts Institute of Technology;
- **Hadley Pfalzgraf**, a senior at Northwestern University IL; and
- **Shauna Rust**, a graduate of the University of North Carolina at Chapel Hill.

Source: *Women in Academia Report*. 

As of Jan. 1, 2018

Women Out-Enroll Men in Medical School

2017 was the first year that more women enrolled in medical schools in the United States than men. The Association of American Medical Colleges (AAMC) released new data on enrollment in December. Women made up 50.7% of 21,338 new enrollees in 2017, which is up from 49.8% in 2016. Men’s enrollment was down 0.3% from 2016 to 2017. *AAMCNews* reports, “Since 2015, the number of female applicants has increased by 4.0%, while the number of male applicants has declined 6.7%. While the majority of matriculants this year were female, males remained a slight majority (50.4%) of applicants.” It’s great that women are applying and getting into medical schools at higher rates, but Newswatch wants to see data on whether the higher enrollments lead to more women becoming doctors.

Larger enrollments for women don’t necessarily mean that the pipeline won’t end up being leaky. It seems that the AAMC recognizes this potential problem. AAMC President and CEO Darrell G. Kirch, M.D., noted, “This year’s matriculating class demonstrates that medicine is an increasingly attractive career for women and that medical schools are creating an inclusive environment. While we have much more work to do to attain broader diversity among our students, faculty, and leadership, this is a notable milestone.”

—*AAMCNews* on Dec. 18, 2017

Why Don’t Women Persist in Philosophy Classes?

A new study, “Similarity and Enjoyment: Predicting Continuation for Women in Philosophy” in *Analysis*, by Dr. Heather Demarest and other authors, tries to answer this question. They found that women students only continue to study philosophy if they feel like they are similar to philosophers they’re taught, and likely their instructors too. While women are around 50% of the students in the introductory classes in philosophy, that number drops off to 30% in advanced classes. The study included a survey of philosophy students to figure out what kinds of attitudes lead students to continue in the field. Students who agreed with the statement “I feel similar to the kinds of people who become philosophers” were more likely to persist in philosophy. Demarest recommends changes to the philosophy curriculum to make philosophers seem less like great thinkers in the abstract by focusing more on their actual lives. She said, “People think of philosophers as stereotypically a dead white man.... But few people present Descartes as a devout Catholic, or as a father who loved his daughter, or as someone who liked to sleep in until noon. Nobody teaches it, and many students are left without anything to relate to, thinking of Descartes only as an abstract thinker.”

—*WIA Report* on Dec. 27, 2017