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When Free Speech Disrupts Diversity Initiatives: What We Value and What We Do Not

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[Back to Volume Nine Contents](#)

When Free Speech Disrupts Diversity Initiatives: What We Value and What We Do Not¹

Reshmi Dutt-Ballerstadt

Abstract

In this essay, I argue that the debate on free speech as pushed by the conservative right is a strategic apparatus to undermine the various diversity initiatives on college and university campuses. While supporters of the right wing extremists around the globe have pushed for various modes of exclusions (social, racial, ethnic, cultural, religious and sexual), here in the United States, such exclusions are most evident in the collapse of academic freedom and the rise of civility codes as students and educators use the platform of free speech to promote various forms of injustices and exclusions. Our neoliberal college and universities and their administrators, I argue, are caught in this precarious and tenuous conflict of protecting academic freedom against the pressures from the outside (the political right) to stage ideas and ideologies that are harmful for the public good in the name of “free speech.”

These days the Right’s reference to free speech sweeps away the guarantees of academic freedom, dismissing as so many violations of the constitution the thoughtful, critical articulations of ideas, the demonstration of proof based on rigorous examination of evidence, the distinction between true and false,

¹ A shorter version of this article was published in *CounterPunch*, October 2017; <https://www.counterpunch.org/2017/10/31/when-free-speech-dismantles-diversity-initiatives/>.

between careful and sloppy work, the exercise of reasoned judgement. Their free speech means the right to one's opinion, however unfounded, however ungrounded, and it extends to every venue, every institution.

—Joan Scott, “How the Right Weaponized Free Speech” (2018)

There are principles of radical democracy at stake in the kind of assemblies that I support. If a group of right-wing racists get together and say that they have been excluded from a public space that does not accommodate racists, then they are actually asking for a right to exclude others. They are trying to assemble and achieve public space for the expressed purpose of a racist and exclusionary project. That is hardly democratic in intent or in effect.

—”Judith Butler on Public Assembly, Precarity and Trump” (2016)

Case No. 1

In 2015 hundreds of students gathered at Amherst College for a sit-in against racial injustice. Among the many demands and as reported by the *New York Times*,² “They wanted students who had posted ‘Free Speech’ and ‘All Lives Matter’ posters to go through ‘extensive training for racial and cultural competency’ and possibly discipline. They wanted the administration to apologize for ‘our institutional legacy of white supremacy,’ among many other forms of discrimination, like ‘heterosexism, cis-sexism, xenophobia, anti-Semitism, ableism, mental health stigma and classism.’”

These students who protested at Amherst and a host of other liberal arts colleges for similar demands were not “snowflakes.” They demanded that historical injustices that continue to be present in our curriculums, hiring practices, power structures, and equity principles be corrected.

Case No. 2

In October 2017, Drexel University's administration suspended Professor George Ciccariello-Maher, a professor whose area of specialty is race and politics.³ His December 24, 2016, tweet “All I want for

² Anemona Hartocollis, “With Diversity Comes Intensity in Amherst Free Speech Debate,” *New York Times*, November 28, 2015, <https://www.nytimes.com/2015/11/29/us/with-diversity-comes-intensity-in-amherst-free-speech-debate.html>.

³ Scott Jaschik, “Controversial Professor Placed on Leave,” *Inside Higher Ed*, October 11, 2017, <https://www.insidehighered.com/news/2017/10/11/drexel-places-controversial-professor-leave>.

Christmas is white genocide" went viral and was met by the first calls that Ciccariello-Maher be fired. The university did not fire him. In October 2017 Ciccariello-Maher's tweet about the Las Vegas shooting by Stephen Paddock led to a campaign of harassment and death threats against him. In his series of tweets Ciccariello-Maher blamed "Trumpism" and the entitlement of white men carrying out acts of violence. The university administration put Ciccariello-Maher on leave.

Ciccariello-Maher finally resigned from his tenured position in December 2017 after receiving death threats, ongoing harassment by various right-wing media outlets, and a lack of understanding from his own university about his right to academic freedom.

Case No. 3

Bill Mullen, professor of American studies and an organizer for the Campus Anti-Fascist Network, requested that Purdue University (where he teaches) investigate documented incidences of white supremacy on campus. Instead Mullen received the following response from Purdue's President Mitch Daniels: "I have spent considerable time replying to multiple messages from citizens who find your various pronouncements abhorrent and unacceptable and demand that you be sanctioned or expelled from the university entirely."⁴

Case No. 4

On October 10, 2017, students at Columbia University protested and disrupted a far right white nationalist speaker, Tommy Robinson, an anti-Islam British activist. Students held signs that read "hate speech = violence" and "Muslims are welcome here." Columbia University formally investigated the student activists.⁵ They are now called the "Alt-Left Activists," according to *Breitbart's* Jack Montgomery, who claims that these student protestors "hijacked the engagement."⁶

⁴ Colleen Flaherty, "When Things Get Personal," *Inside Higher Ed*, October 19, 2017, <https://www.insidehighered.com/news/2017/10/19/professors-say-purdue-president-trying-deflect-attention-inaction-white-supremacy>.

⁵ Aiden Pink, "Columbia Probes Students Who Disrupted Far Right Speaker," *Forward*, October 19, 2017, <https://forward.com/fast-forward/385587/columbia-probes-students-who-disrupted-far-right-speaker/>.

⁶ Jack Montgomery, "Alt-Left Activists Shut Down Skype Talk by Britain's Tommy Robinson at Columbia University," *Breitbart*, October 11, 2017, <https://www.breitbart.com/london/2017/10/11/alt-left-activists-shut-down-skype-talk-britains-tommy-robinson-columbia-university/>.

These incidents at Amherst, Drexel, Purdue, and Columbia are not singular anecdotes about one's right to free speech, or protest. Rather, they form a continuum in a much larger national narrative unfolding in colleges and university campuses across the country about free speech, civility, and its relationship to academic freedom and the targeted attacks and undermining of numerous diversity initiatives that have historically provided space for various forms of marginality.

These stories, along with the more recent attack on acclaimed Arab American writer Randa Jarrar for refusing to eulogize Barbara Bush have gained public attention beyond the few academic news outlets (like the *Chronicle of Higher Education* and *Inside Higher Ed*). Popular and mainstream news sources like the *New York Times*, *Washington Post*, and the *Atlantic*, along with broad social media coverage (on Twitter and Facebook), have publicized these cases nationally and internationally. In addition, public petitions have circulated both in support of these faculty members and their right to free speech and academic freedom and in opposition to the academics, demanding that their universities terminate them. Faculty members like Ciccariello-Maher and Jarrar have also received vitriolic personal messages, including death threats and rape threats.

While such threats have become increasingly publicized and these faculty members have publicly spoken about them, what has been less publicized and transparent are administrative decisions made behind closed doors of these universities against these faculty members who have stood up for issues of equity, diversity, and social justice. Many of these administrative decisions, rather than protecting their faculty members' extramural speech, have led leaves, sanctions, and other punitive actions. In Ciccariello-Maher's case Drexel has blamed the professor's statement for "losing some prospective students and donors because of the furor over the tweets." In Jarrar's case, Fresno State's president, Joseph Castro, on April 17, 2018, released a statement saying that "a professor with tenure does not have blanket protection to say and do what they wish." The *Chronicle of Higher Education* reported that "a petition calling on Castro to fire her attracted more than 60,000 signatures. Others, including civil-liberties organizations, were equally adamant that her statements were protected speech."⁷

⁷ Katherine Mangan, "Professor's Tweets Were 'Insensitive' and Embarrassed Fresno State, but She Won't Be Punished," *Chronicle of Higher Education*, April 25, 2018, <https://www.chronicle.com/article/Professor-s-Tweets-Were/243227>. See also "Remove Ronda Jarrar from Fresno State University for Racist Comments," [change.org](https://www.change.org), <https://www.change.org/p/california-state-university-remove-randa-jarrar-from-fresno-state-university-for-racist-comments> (as of June 20, 2018, the petition had 89,488 signatures); and Foundation for Individual Rights in Education (FIRE) and American Civil Liberties Union (ACLU), Letter to Fresno University President Joseph Castro, April 19, 2018, <https://d28htnjz2elwuj.cloudfront.net/wp-content/uploads/2018/04/19174433/FIRE-Letter-to-Fresno-State-April-2018.pdf>.

Taken together, these narratives expose the precarious and tenuous position of our neoliberal institutions as they position themselves within the free marketplace of ideas, the privatization of resources, curricula controlled by donors, and a “customer service” and “profit generating” model of education. In a 2009 *New York Times* op-ed titled as “Neoliberalism and Higher Education,” Stanley Fish wrote:

Faced with this situation universities have responded by (1) raising tuition, in effect passing the burden of costs to the students who now become consumers and debt-holders rather than beneficiaries of enlightenment (2) entering into research partnerships with industry and thus courting the danger of turning the pursuit of truth into the pursuit of profits and (3) hiring a larger and larger number of short-term, part-time adjuncts who as members of a transient and disposable workforce are in no position to challenge the university’s practices or agitate for an academy more committed to the realization of democratic rather than monetary goals. In short, universities have embraced neoliberalism.⁸

In our current political climate, once again, the embrace of neoliberalism collides with the efforts of colleges and universities to preserve their diversity initiatives, especially when these initiatives begin to generate not profits or customers but controversies. These initiatives to represent historically marginalized and disenfranchised groups and their viewpoints, as well as left- and right-oriented critiques of free speech as ideological debates and rights protected by the First Amendment, have come under sustained attack as conservative students, politicians, and citizens claim that their own voices, ideas, and ideologies are suppressed when diversity initiatives are privileged. In this market-driven model of education, the biggest fear is not violations of academic freedom, or protecting the basic tenets of institution-wide diversity initiatives, but the crisis of falling enrollments and pressures to retain those students who threaten to leave (if their far right viewpoints or free speech rights are either restricted or not represented on college or university campuses). Here, free speech, as Farhana Sultana has emphasized, “is increasingly being abused by many to silence people, especially minorities and marginalized groups, most glaringly in the US where free speech is a politicized topic of national debate.”⁹ Such silencing is not just threatening but also detrimental to the progress that many institutions have made in advancing minority rights and positions, in attention to exclusions in curriculums, in hiring of faculty representing underrepresented groups and positions to increase

⁸ Stanley Fish, “Neoliberalism and Higher Education,” *New York Times*, March 8, 2009, <https://opinionator.blogs.nytimes.com/2009/03/08/neoliberalism-and-higher-education/>.

⁹ Farhana Sultana, “The False Equivalence of Academic Freedom and Free Speech: Defending Academic Integrity in the Age of White Supremacy, Colonial Nostalgia, and Anti-intellectualism,” *ACME: An International Journal for Critical Geographies* 17, no. 2 (2018): 230, <https://www.acme-journal.org/index.php/acme/article/view/1715>.

intellectual diversity, and in creating safe spaces where students from historically underrepresented and marginalized groups can thrive without fear of persecution.

The Past Tense of Diversity Initiatives

While any institution's history shapes and redefines the contexts for its current state of diversity and inclusion, it is important to remember the origins of diversity initiatives, and the era that spurred the introduction of multicultural curricula and the inclusion of US and global pluralism in many general education requirements. At the heart of these diversity initiatives that emerged in the early 1990s was a push for university curriculums to disrupt whiteness, colonialism, and imperialism as dominant epistemologies circulating in the humanities and the social sciences. While the turbulent 1960s may have given rise to black studies, women's studies, and gay and lesbian studies, it was not until the late 1980s and early 1990s that hiring of faculty and expansion of programs to address diversity began to be established more broadly.

While the first stages of diversity initiatives can be traced back to the civil rights movements, it is also important to understand that the primary goal of both multicultural education and diversity initiatives were to introduce more centrally the frames of inequality in terms of institutionalized oppression. With the introduction of Title IX in 1972 and the increasing strength of the women's movement, a critique of gendered oppression joined that of racial oppression in the numerous multicultural practices being initiated. Women's rights groups, women's studies departments, and feminist scholars challenged various inequities in employment and educational opportunities as well as income, and they identified inequity in education as a primary contributing factor in institutionalized and systemic sexism and oppression. Yet, 2017, as the *Chronicle of Higher Education*¹⁰ reported, was one of the worst years ever for women's studies programs, with many slated to be discontinued or have their courses cut drastically as cost-saving measures (the high enrollments in many of these courses notwithstanding). Such cuts or closures, needless to say, are setbacks for the diversity goals and initiatives that institutions want to promote, namely, gender equity or various human rights issues related to gender that are frequently taught in these programs. These cuts are particularly detrimental during a political time when sexual assaults and violence on college campuses are an epidemic and the #MeToo movement has gained momentum nationally and globally.

¹⁰ Emma Kerr, "For Scholars of Women, It's Been a Dangerous Year," *Chronicle of Higher Education*, February 11, 2018, <https://www.chronicle.com/article/For-Scholars-of-Women-s/242521>.

While women's and gender studies programs were being established in various colleges and universities, lively debates about the canon were also met by conservative challenges to "political correctness." While some scholars linked the roots of Western civilization with the era of colonialism and slavery in Africa and the Global South, conservatives who feared that the loss of European supremacy would mean the loss of civilization fiercely rejected such connections. While these tensions over the threat that education focused on multicultural and social justice poses to white and European supremacy within the curriculum have always existed, mission statements and policies made it clear that universities and colleges had zero tolerance for racist, sexist, homophobic, transphobic, anti-immigrant, and Islamophobic provocations. Since the election of Donald Trump in 2016, however, threats to diversity initiatives have made a forceful comeback.

On various campuses, white nationalist groups are demanding a return to white supremacy and launching a backlash against multicultural and social justice-centered education. We are witnessing a shift from zero tolerance policies toward attacks on those belonging to the "protected class" to a rhetoric of accommodation and calls for civility and reasonable engagement with those who attack, threaten, or agitate the protected class. These ideological agitators are now seen as providing what is being called "viewpoint diversity" or "ideological diversity" on many campuses. Stanford professors like Niall Ferguson, a conservative British historian and senior leader of the Cardinal Conversations (a Stanford University program that has invited speakers like Charles Murray), are active supporters of ideological diversity on university campuses.

Administrators, along with right-wing students, professors, politicians, and the larger community of conservative citizens, are concerned that students who want to promote "viewpoint diversity" like white supremacy, homophobia, transphobia, fascism, neocolonialism and colonialism, xenophobia, and ableist ideologies are being denied their right to free speech. In 2017, Evergreen State College, a small, progressive, public liberal arts college, made headlines. In "Another Side of the Evergreen State College Story," three faculty members analyzed and argued against the national coverage of what happened at Evergreen State. Their elaborate synthesis went much beyond noting the widely reported account of "white professor Bret Weinstein claiming that whites were 'ordered' off campus, facing an unruly crowd of student protesters, leaving the campus in 'fear,' and suing the college for \$3.8 million." Instead, the authors believe that the "right-wing forces have made the college a poster child for their campaigns . . . [targeting] students, staff and faculty of color who have used their free speech rights to bring public attention to racist practices on campus." The authors explained that the central clash has been "between conservative attacks on campus

diversity and equity programs, the far right white nationalist resurgence, the retrenchment of government programs supporting equal opportunity and diversity, and the events on our campus.”¹¹

The underlying causes of the events at Evergreen State College constitute not a singular narrative but a national one where diversity programs and initiatives have come under organized and deliberate attack to destabilize them under the guise of protesting reverse racism, oppressive climates for conservative students and faculty, and violations of their free speech rights. It is important to note that Judith Butler, in “Limits on Free Speech?,” has fiercely argued for curtailing such free speech rights by the Right when it becomes hate speech and devalues members of the protected class. According to Butler, “if free speech does take precedence over every other constitutional principle and every other community principle, then perhaps we should no longer claim to be weighing or balancing competing principles or values. We should perhaps frankly admit that we have agreed in advance to have our community sundered, racial and sexual minorities demeaned, the dignity of trans people denied, that we are, in effect, willing to be wrecked by this principle of free speech, considered more important than any other value.”¹²

What is troubling, yet taking place more and more frequently, are systematic efforts to weaken diversity initiatives. According to observations made by the authors of “Another Side of the Evergreen State College Story,” “the Trump administration directs its Justice Department to monitor and dismantle rights-based programs in colleges, including affirmative action, . . . as congressional committees hold hearings on the suppression of conservative views on campuses, while ignoring other forms of exclusion.” Threats to our DACAmented students are yet another example of the devaluing of immigrant rights in higher education. Rachel Buff, in “Trump’s Attack on DACA Is an Attack on Public Education,” has argued that “DACA benefits our public universities. The program allows undocumented students to participate in the democratic life of the university, engaging in discussion and debate.”¹³

While such conflicts between free speech rights and the undermining of other constitutional protections and concerns raised frequently by those belonging to the protected class have remained unanswered, what has become clear is that various diversity initiatives (among them curricular diversity and increasing the number of students and faculty that represent the historically underrepresented class) are being replaced by efforts to

¹¹ Anne Fischel, Zoltán Grossman, and Lin Nelson, “Another Side of the Evergreen State College Story,” *Huffington Post*, August 11, 2017, https://www.huffingtonpost.com/entry/evergreen-state-college-another-side_us_598cd293e4b090964295e8fc.

¹² Judith Butler, “Limits on Free Speech,” *Academe Blog*, December 7, 2017, <https://academeblog.org/2017/12/07/free-expression-or-harassment/>.

¹³ Rachel Ida Buff, “Trump’s Attack on DACA Is an Attack on Public Education,” *Truthout*, September 7, 2017, <https://truthout.org/articles/trump-s-attack-on-daca-is-an-attack-on-public-education/>.

enroll more conservative students. Last year *Inside Higher Ed* reported that the new president of Warren Wilson College, Lynn M. Morton, wants “the college to seek out and enroll conservative students.”¹⁴ Warren Wilson isn’t the only place trying recruit conservative students. Also according to *Inside Higher Ed*, a new survey of admissions directors confirmed that “9 percent of public colleges and 8 percent of private colleges were stepping up recruitment of conservative students. Some college leaders have said that the 2016 elections have inspired these efforts, with academics fearful that their institutions are disconnected from conservatives who make up a majority in much of the country.”¹⁵

Ironically, while our DACAmented students are under threat, college presidents like Morton declare that “people with conservative perspectives should be viewed as an *asset* [my emphasis] in interactions inside and outside the classroom.”¹⁶ Like Warren Wilson, other colleges are beginning to recruit conservative students and even faculty by claiming that conservative ideology should be included in representing diversity. At Wesleyan University, a school known for liberal activism, President Michael Roth hopes to bring some ideological diversity to his campus with an “affirmative-action program for the full range of conservative ideas and traditions.”¹⁷ All of the above suggests that conservative students have become the new minority, whose arrival has also brought to the stage conservative speakers like Jordan Peterson, Charles Murray, Milo Yiannopoulos, and Richard Spencer, as well as an era of free speech, offensive speech, Professor Watchlists, and snowflakes.

“Sticks and Stones May Break My Bones, but Words Can Never Hurt Me”

In November 2015, after the protests at University of Missouri, President Barack Obama gave an interview to ABC’s George Stephanopoulos in which he praised the student protestors and the football coach for “standing up for something that they think is right [, which] harkens back to a powerful tradition that helped to bring about great change in this country.” In that interview he also noted that

¹⁴ Scott Jaschik, “College with Liberal Reputation Wants to Recruit Conservative Students,” *Inside Higher Ed*, October 2, 2017, <https://www.insidehighered.com/admissions/article/2017/10/02/college-liberal-reputation-wants-recruit-and-admit-conservative>.

¹⁵ Scott Jaschik, “The 2017 Survey of Admissions Directors: Pressure All Around,” *Inside Higher Ed*, September 13, 2017, <https://www.insidehighered.com/news/survey/2017-survey-admissions-directors-pressure-all-around>.

¹⁶ Jaschik, “College with Liberal Reputation.”

¹⁷ Michael S. Roth, “The Opening of the Liberal Mind,” *Wall Street Journal*, May 11, 2017, <https://www.wsj.com/articles/the-opening-of-the-liberal-mind-1494515186>.

being a good citizen, being an activist, involves hearing the other side and making sure that you are engaging in a dialogue because that's also how change happens. . . . The civil rights movement happened because there was civil disobedience, because people were willing to go to jail, because there were events like Bloody Sunday, but it was also because the leadership of the movement consistently stayed open to the possibility of reconciliation and sought to understand the views, even views that were appalling to them, of the other side.¹⁸

The week after Obama's interview, student activists at Yale University and the University of Missouri protested against racism and worsening race relations on their campuses. This was followed by nationwide protests on campuses across the United States. Eighty US campuses detailed what they were calling for on a website called *The Demands*.¹⁹ The top two demands were "increasing diversity of professors" and "requiring diversity trainings."²⁰ While there is a national gap in representation of faculty from historically underrepresented or disenfranchised groups, many conservative scholars are not convinced that universities need to make any extra effort to close such gaps. In "Conservative Professors: Where's Our Inclusion on Campus?," Tiffany Pennamon notes that "only about 13 percent of college professors identified as conservative or 'far-right.' This means that, in the academy, liberal or far-left professors outnumber their ideologically opposite colleagues nearly 5 to 1. If we promote diversity in race, gender and religion within the student body, diversity of thought should be just as important, scholars on both political spectrums say."²¹ For many conservative professors, free speech protests and debates expose the lack of political diversity on college campuses. But what kind of political diversity is missing?

With the rise of the Ultra-Right and identitarian politics globally, advocates of such politics who are invited to college/university campuses (to represent political diversity) are not interested in intellectual or scholarly debates. Instead, they use "hate" speech as "free speech." As Sultana observes, "In recent years, free speech has been co-opted by far-right groups in liberal democracies such as the US, Canada, UK, and Europe to promote hate speech whereby hate speech and calls to violence are being promoted, whether directly or covertly, under the guise of free speech."²² This is what Scott calls the "weaponization of free speech," where

¹⁸ "Obama's ABC News Interview Transcript on Missouri Protesters," *FIRE*, November 15, 2015, <https://www.thefire.org/obamas-abc-news-interview-transcript-on-missouri-protesters/>.

¹⁹ WeTheProtestors, *The Demands*, n.d., <http://www.thedemands.org/>.

²⁰ Leah Libresco, "Here Are the Demands from Students Protesting Racism at 51 Colleges," *FiveThirtyEight*, December 3, 2015, <https://fivethirtyeight.com/features/here-are-the-demands-from-students-protesting-racism-at-51-colleges/>

²¹ Tiffany Pennamon, "Conservative Professors: Where's Our Inclusion on Campus?," *Diverse Issues in Higher Education*, September 14, 2017, <http://diverseeducation.com/article/101525/>.

²² Sultana, "The False Equivalence of Academic Freedom and Free Speech," 231.

under the guise of free speech racialized, homophobic, transphobic, and anti-immigrant ideologies are promoted and calls to embody such ideas are encouraged. Yet, “free speech makes no distinction about quality; academic freedom does,” as Scott reminds us, a central distinction that cannot be ignored when debating what kinds of free speech can be allowed or disallowed on college and university campuses.²³

What also needs to be understood clearly is that inciting violence and calls to harm, harass, or demean others or to actively discriminate against the protected class is not only *not* protected under free speech but making space for such speeches is the first step in dismantling diversity initiatives—which fundamentally prohibit a campus culture built on attacking the rights of the protected class. Or as Dan Siegel reminds us, “Arguing about the free speech rights of Nazis, fascists, and KKK members is a trap. The issue is not speech, it is violence. The fascists do not want to argue with us, they want to kill us.”²⁴ Take, for instance, Milo Yiannopoulos’s statement that “Now, some of the most dangerous places for women to be in the world are modern, Western, rich European countries. Why? One Reason. Islamic Immigration—it’s got to stop.”²⁵ Such statements are not calls for intellectual engagement or debate but expressions of deep Islamophobia. And then there is Richard Spencer, the leader of the alt-right movement whose vision of an ideal society is a white one. In 2016, in a speech at Texas A&M, Spencer declared, “Whether it’s nice to say or not, we won and we got to define what America means and we got to define what this continent means. America, at the end of the day, belongs to white men.”²⁶ In 2017, CNN reported that Yiannopoulos not only is encouraging college students to participate in hate speech but considers “bad ideas like . . . progressive social justice, feminists, Black Lives Matter” to be “cancerous and toxic to free expression.”²⁷ These “bad ideas” are also the historical roots of diversity initiatives.

It has become amply clear to faculty and students who are teaching and researching on issues of race, racism, decoloniality, gender equity, various intersections of minoritized positions, colonialism, and postcolonialism that the agenda of alt-right groups and some conservative campus clubs like Identity Evropa, Young Americans for Freedom, Turning Point USA, and Professor Watchlist is to not promote any

²³ Joan Scott, “How the Right Weaponized Free Speech,” *Chronicle of Higher Education*, January 7, 2018.

²⁴ Dan Siegel, “Why Fascist Speech Is Not Free Speech,” *Counterpunch*, September 6, 2017, <https://www.counterpunch.org/2017/09/06/why-fascist-speech-is-not-free-speech/>.

²⁵ Quoted in Jon Rappoport, “UC Berkeley Riots Last Night: Globalist Dupes on Parade,” *Jon Rappoport’s Blog*, February 2, 2017, <https://jonrappoport.wordpress.com/2017/02/02/uc-berkeley-riots-night-globalist-dupes-on-parade/>.

²⁶ Quoted in Michael Phillips, “The Elite Roots of Richard Spencer’s Racism,” *Jacobin*, December 29, 2016, <https://www.jacobinmag.com/2016/12/richard-spencer-alt-right-dallas-texas/>.

²⁷ Dan Lieberman, “Milos Yiannopoulos Is Trying to Convince Colleges That Hate Speech Is Cool,” *CNN*, February 2, 2017, <https://www.cnn.com/2017/02/02/us/milo-yiannopoulos-ivory-tower/index.html>.

viewpoint diversity but to “expose and document college professors who discriminate against conservative students and advance leftist propaganda in the classroom.” In January 2017 the AAUP released a statement addressing the issues raised by Professor Watchlist and other efforts to intimidate faculty members. The AAUP urged “administrations, governing boards, and faculties, individually and collectively, to speak out clearly and forcefully to defend academic freedom and to condemn targeted harassment and intimidation of faculty members.”²⁸ Here it should be noted that the majority of faculty members listed on Professor Watchlist are outspoken about issues of race, gender, class oppression, and social justice.

What is worse is that any critique or critical opposition to hateful speech or ideologies assaulting the dignity of marginalized groups and conditions (that is, ones that the Civil Rights Act of 1964 and Titles VI and VII have protected thus far) has become grounds for violations of constitutional protections of free speech. In this way the sole agenda of the Right on various college campuses is to disrupt legal and cultural protections by demanding platforms to legitimize ideologically racist and culturally conservative indoctrination. And this is all being carried out under the name of “political diversity” and the constitutionally protected right to free speech.

While diversity initiatives are being attacked and undermined overtly and covertly, and the vulnerability of those who belong to the “protected class” is at an all-time high, free-speech advocates such as Greg Lukianoff, who heads the Foundation for Individual Rights in Education (FIRE), insist that the views of ideological agitators like Richard Spencer, Charles Murray, Milo Yiannopoulos, Ann Coulter, and Jordan Peterson must be heard before they are rejected. Even the feminist studies professor Bettina Aptheker at University of California, Santa Cruz, has argued that “folks, even on the right, with whom we might radically disagree, should be allowed to speak unfettered.”²⁹ The 2018 final report of the Commission on Free Speech at the University of California, Berkeley, delivers a similar message while acknowledging the numerous constitutional protections granted by the Civil Rights Acts of 1964.

The discord arising from a few student-sponsored events from February to September 2017 exposed the tensions between these campus values. On the one hand, UC Berkeley is dedicated to inclusion as stated in its Principles of Community. This inclusion ranges from race, ethnicity, gender, immigrant status, disability, religion, sexual orientation, and political ideology to other

²⁸ AAUP, “Targeted Online Harassment of Faculty,” January 31, 2017, <https://www.aaup.org/news/targeted-online-harassment-faculty#.WxgncYVHMZo>.

²⁹ Lauren Camera, “A Free Speech Tug of War,” *U.S. News and World Report*, April 26, 2017, <https://www.usnews.com/news/the-report/articles/2017-04-26/free-speech-advocates-support-coulter-yiannapolous-right-to-speak>.

forms of difference, all “in a spirit of civility and respect in our personal interactions.” Such civility and respect, however, are not required by the First Amendment—and UC Berkeley champions assiduously the freedom of expression granted through the first article of the Bill of Rights, without which the University’s very mission would be jeopardized.³⁰

While it is not exactly clear what is implied by “harm” (physical or ideological) in the above report, or how such “harm” may compromise the protections provided by Title VI or Title VII, what is clear is that institutions like Berkeley insist that we debate such individuals and their ideas and continue to “support a vigorous campus culture of free speech” and that we do so by upholding civility.

Where the report of the Commission on Free Speech misses the mark is that colleges and universities invite speakers to present not otherwise unavailable discoveries but views that they have presented elsewhere and that have undergone a rigorous scholarly process, including some measure of peer review. Speech determined to consist of blanket statements invalidating the humanity of some people, as Ulrich Baer in her op-ed piece, “[What Snowflakes Get Right About Free Speech](#)” has emphasized, is “deemed as harmful to the public good.”³¹ Similarly, Butler expresses her strong opposition to the “Principles of Community” adopted by the University of California, Berkeley, and exposes the inherent inequality of free speech:

So what happens when by honoring freedom of expression we permit an attack on the dignity of some individuals and groups on campus? It would seem that if we place the First Amendment above all other constitutional mandates, then it is merely considered unfortunate that the dignity of those individuals was attacked, and it is accepted to be the price we must pay for free speech.³²

In this debate between free speech and hate speech, what is allowed or disallowed, what is ideologically harmful or harmful to one’s dignity or not, what is protected under the US constitution or not, what is certainly lost is the question of academic freedom, a principle both central and fundamental to the kinds of ideas that we within the space of an academic institution value, or do not value. Joan Scott not only offers a much-needed clarification between the two but also raises the issue of (in)civility and its relationship to power and status quo by posing a series of questions: “Free Speech makes no distinction about quality; academic freedom does. Are all opinions equally valid in a university classroom? . . . What has it meant historically for

³⁰ *Report of the Chancellor’s Commission on Free Speech*, University of California, Berkeley, April 9, 2018, 8, https://chancellor.berkeley.edu/sites/default/files/report_of_the_commission_on_free_speech.pdf.

³¹ Ulrich Baer, “What ‘Snowflakes’ Get Right about Free Speech,” *New York Times*, April 24, 2017, <https://www.nytimes.com/2017/04/24/opinion/what-liberal-snowflakes-get-right-about-free-speech.html>.

³² Judith Butler, “Limits on Free Speech?”

those marginalized by or excluded from majority conversations and institutions to protest their treatments? . . . Sometimes it requires extraordinary actions to make one's voice heard in a conversation that routinely ignores it. Incivility, even today, is most often a charge made against protestors on the left, while the hate speech of those on the right looks for—and finds—protection in the right of free speech.”³³

Here the issue is less about freedom of speech than freedom of expression. While freedom of expression may sound harmless, speech acts do affect and even harm. The nursery rhyme logic postulated by the Right—“Sticks and stones may break my bones, but words can never hurt me”—is discernibly false. What these proponents of free speech fail to acknowledge is that “freedom of expression” does not give anyone an unfettered permission to say anything that want. Baer, in his widely read *New York Times* opinion piece “What ‘Snowflakes’ Get Right about Free Speech,” reminds us that free speech on a college or university campus has a responsibility to balance “the inherent value of a given view with the obligation to ensure that other members of a given community can participate in discourse as fully recognized members of that community. Free-speech protections . . . should not mean that someone's humanity, or their right to participate in political speech as political agents, can be freely attacked, demeaned or questioned.”³⁴

Free Speech, Civility, and the “Disrupters”

While the debate on free speech is dominating most college campuses, we are also told that offensive speech, if it has to be tolerated, must be tolerated using “civility” in a “mutually respectful” climate. Repeatedly civility is used as a smoke screen to silence speech that wants to undermine racism, white supremacy, and fascism. Linda Zerilli asks, “At what point, then, can we draw a line in the sand between incivility, on the one side, and civil disobedience, speaking back, or new citizenship claims, on the others?” Zerilli further argues that “there is no such line, certainly not a historical one . . . but only particular cases that need to be judged in a historical context. Not only is what we deem uncivil deeply normative and thus dependent on changing social conventions, but whether we call something uncivil will depend on how we evaluate behavior as part of a larger social or political goals.”³⁵

³³ Joan Scott, “On Free Speech and Academic Freedom,” *Journal of Academic Freedom* 8 (2007), <https://www.aaup.org/JAF8/free-speech-and-academic-freedom>.

³⁴ Ulrich Baer, “What ‘Snowflakes’ Get Right about Free Speech.”

³⁵ Linda M. G. Zerilli, “Against Civility: A Feminist Perspective,” in *Civility, Legality, Justice in America*, edited by Austin Sarat (Cambridge: Cambridge University Press, 2014), 109.

Under the current political climate and especially on many college campuses, any critique or outrage over discriminatory and vile rhetorical remarks made by the Right, or remarks made by ideological agitators, marks one as being “uncivil.” Whether or not one interprets remarks made by ideological agitators or their dissenters as uncivil threats to one’s political or constitutional freedom depends on one’s belief in the equality of free speech, or, as Zerilli puts it, “whether you think everyone is in fact situated equally in the marketplace of ideas.”³⁶ Most recently, Arab American professor Randa Jarrar demonstrated the falsity of the equality of free speech principles as promoted by the Right. Instead of eulogizing former first lady Barbara Bush, Jarrar tweeted on April 17, 2018, that “Barbara Bush was a generous and smart and amazing racist who along with her husband, raised a war criminal.” As a result of her tweet thousands of far right supporters, white nationalists, and Internet trolls first made vitriolic threats against Jarrar on Twitter, Facebook, and other social media platforms and then called and emailed Fresno State University’s president and demanded that the university fire Jarrar. Such online lynch mob and cyberbullying attacks have become an all too familiar mode of attack by far right supporters.

Although Fresno State University president Joseph Castro released a statement about the event condemning Jarrar for misusing her tenure to advance her free speech rights, he issued another statement. In his second statement he said that he and his administration concluded that Jarrar’s “comments, although disgraceful, are protected free speech under the First Amendment of the U.S. Constitution.”³⁷

In my own *Buzzflash* op-ed, I not only pointed out that Jarrar’s tweet was based on historical evidence and was factually correct but also reminded those who demanded that Jarrar be fired or subjected to disciplinary action that her tweet “is extramural utterance and . . . is protected under academic freedom. Freedom of extramural utterance, according to the [AAUP](#), allows a faculty member “to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint.”³⁸

³⁶ *Ibid.*, 111.

³⁷ “President Joseph I. Castro Letter on Conclusion of Review Regarding Professor,” *Fresno State News*, April 24, 2018, <http://www.fresnostatenews.com/2018/04/24/president-joseph-i-castro-letter-on-conclusion-of-review-regarding-professor/>.

³⁸ Reshmi Dutt-Ballerstadt, “Professor Randa Jarrar Cannot Be Fired for Not Eulogizing Barbara Bush,” *Buzzflash*, April 25, 2018, <http://buzzflash.com/commentary/professor-randa-jarrar-cannot-be-fired-for-not-eulogizing-barbara-bush>. The AAUP language about extramural utterances appears as sample language, in “Subcommittee proposal option 2” of a report of a subcommittee of the AAUP’s Committee A on Academic Freedom and Tenure, which considered the impact of a 2006 US Supreme Court decision in *Garcetti v. Ceballos*, *Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos*, 2009, <https://www.aaup.org/report/protecting-independent-faculty-voice-academic-freedom-after-garcetti-v-ceballos..>

Turning Point USA's Professor Watchlist blacklists more than two hundred faculty members, many of whom have been accused of spreading liberal bias through extramural speech. Similarly, the Foundation for Individual Rights in Education (FIRE) blacklists institutions that have disinvited conservative speakers, marking them as the free speech violators.³⁹ Casting itself as a crusader for free speech, FIRE receives its major funding "from the ultra-conservative Earhart, John Templeton, and Lynde and Harry Bradley Foundations; the Scaife family foundations; [and] the Koch-linked Donors Trust." These same funders also support "conservative campus-targeting organizations that include . . . the Intercollegiate Studies Institute, the David Horowitz Freedom Center (whose 'Academic Bill of Rights' would mandate more hiring of conservative faculty and would monitor professors' syllabi for 'balance') and Campus Watch (which tracks and condemns liberal professors' comments on the Middle East)."⁴⁰

There is a growing fear on many college and university campuses that if one speaks *against* the master narratives of culturally and morally oppressive stances of particular speakers, or critiques forms of structural and institutional racism and privilege, such disruptions are seen as "too disruptive," "too offensive," or "too uncivil." The alt-right, its donors and many followers have overwhelmingly targeted scholars of color for speaking against racism, sexism, white supremacy, and fascism. In January 2018, my *Inside Higher Ed* opinion piece was the subject of vitriolic backlash on right-wing sites like *College Fix*, the *Washington Times*, *BarbWire*, and unfiltered media aggregators like Reddit.⁴¹ In a follow-up article, I made the following observation:

"While those who teach about racism and conduct antiracist work grounded in sociological and historical findings are repeatedly charged with 'white shaming,' what is also ironic is that such work (both academic and activist) is often marked as promoting 'reverse racism.' Sara Ahmed in her book *On Being Included: Racism and Diversity in Institutional Life* makes an astute remark on 'how the creation of diversity as a political solution can participate in making those who speak about racism the cause of the problem.'"⁴²

In June 2017 such an uncivil disrupter was Johnny Eric Williams, a Trinity College African American sociology professor. Williams had shared an article in *Fusion* titled "Bigoted Homophobe Steve Scalise's Life

³⁹ FIRE, "All Fire Cases," 2018, <https://www.thefire.org/cases/?limit=all>.

⁴⁰ Jim Sleeper, "The Conservatives behind the Campus 'Free Speech' Crusade," *American Prospect*, October 18, 2016, <http://prospect.org/article/conservatives-behind-campus-%E2%80%98free-speech%E2%80%99-crusade>.

⁴¹ Reshmi Dutt-Ballerstadt, "Are You Supporting White Supremacy?," *Inside Higher Ed*, January 12, 2018, <https://www.insidehighered.com/advice/2018/01/12/checklist-determine-if-you-are-supporting-white-supremacy-opinion>.

⁴² Reshmi Dutt-Ballerstadt, "Striking a Nerve," *Inside Higher Ed*, March 2, 2018, <https://www.insidehighered.com/advice/2018/03/02/what-do-when-you-are-academic-under-attack-right-wing-publications-opinion>.

Was Saved by a Queer Black Woman.”⁴³ He later shared another article from *Medium* titled “Let Them Fucking Die”⁴⁴ and used #LetThemFuckingDie as a hashtag. As a result of this hashtag, Williams received violent threats. Rather than defend his right to free speech, Trinity’s administration put him on administrative leave. As Hank Reichman noted, this raised serious questions about academic freedom and Williams’s right to freedom of expression: “By placing Professor Williams on leave while at the same time failing to publicly defend—even minimally—his rights to freedom of expression and academic freedom, the statement suggests that Trinity’s president is abdicating her moral authority as an academic leader.”⁴⁵

The Emerging Discourse of Silencing

Perhaps we need to start thinking seriously about not the role of free speech but the discourse of disciplinary silencing and sanctions that has emerged in a campus climate that have historically suppressed ideas and positions of exclusion. Sarah Lawrence College’s Board of Trustees passed a *Statement on Academic Freedom* in 1938 in response to attacks on academic freedom experienced by several faculty members. A decade later, nationwide assaults on academic freedom would become commonplace with the onset of McCarthyism. The attacks on Sarah Lawrence, as documented in its archive, “began with the publication of *The American Legion Magazine* article by Louis Budenz in November, 1951 naming Sarah Lawrence, along with other colleges and universities across the country, for employing ‘subversive’ and ‘communist’ faculty members.”⁴⁶

We have also witnessed the intimidation and silencing of faculty members since the attacks of September 11, 2001, and the subsequent passage of the US Patriot Act. David Cole has explained how this new attitude of silencing and exclusion found legal expression in the Patriot Act, which authorized new governmental surveillance methods, detention of individuals under suspicion of terrorist aims or sympathies, and actions against organizations (and their supporters) believed to have terrorist ties, and has led to a collapse of civil liberties for both citizens and noncitizens in the United States.⁴⁷ On many US college and university campuses new measures for investigating and monitoring foreign students and scholars were normalized.

⁴³ Anne Branigin, “Bigoted Homophobe Steve Scalise’s Life Was Saved by a Queer Black Woman,” *Splinter*, June 15, 2017, <https://splinternews.com/bigoted-homophobe-steve-scalises-life-was-saved-by-a-qu-1796135276>.

⁴⁴ Son of Baldwin, “Let Them Fucking Die,” *Medium*, June 16, 2017, <https://medium.com/@SonofBaldwin/let-them-fucking-die-c316eee34212>.

⁴⁵ Hank Reichman, “Trinity Places Williams on Leave; Fails to Defend Academic Freedom,” *Academe Blog*, June 26, 2017, <https://academeblog.org/2017/06/26/trinity-places-williams-on-leave-fails-to-defend-academic-freedom/>.

⁴⁶ Sarah Lawrence College, “Sarah Lawrence under Fire: The Attacks on Academic Freedom during the McCarthy Era,” College Archives, n.d., <https://www.sarahlawrence.edu/archives/exhibits/mccarthyism/>.

⁴⁷ David Cole, *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism* (New York: New Press, 2003).

Similarly to the Professor Watchlist, many postcolonial and area studies scholars were blacklisted on “Campus Watch,” a website maintained by right-wing Zionist Daniel Pipes for the Middle East Forum. According to the website, Campus Watch “reviews and critiques Middle East studies in North America with an aim to improving them.” Critics like Pipes and Horowitz named prominent scholars like the late Edward Said on Campus Watch and explained how such trendy theorizing discouraged students from entering the nation’s public service and must be monitored as anti-American.

A debate about free speech and even offensive free speech on college and university campuses should not come at the cost of what we do not value and cannot value. As Cheryl Harris has forcefully said, “Defending the right to speak is theoretically distinct from defending the underlying message but over and over, those who protest the racist character of the event are subject to the most strident critique.”⁴⁸ Many of the professors/protestors/activists whose cases I have discussed are ardent supporters of diversity initiatives that promote and protect the most marginalized people, nations, politics, histories, or ideas. Yet, in our current political climate, their passionate critiques and condemnation of racist, sexist, homophobic, transphobic, ableist, xenophobic, and Islamophobic public stances and extramural speeches have repeatedly come under attack both from the Right and from their own administrations. Women and faculty of color are disproportionately attacked and intimidated for speaking out against discriminatory speeches and practices; the same conservative supporters and administrators who call for a campus climate and space that embraces “viewpoint” diversity are also quick to punish these faculty and students.

In the end the issue is less about free speech and more about what we value. We must ask ourselves these fundamental questions: Do we value free speech that seeks to promote racism, homophobia, transphobia, bigotry, misogyny, rape culture, violence against women, and a disregard for disabled individuals on our campus? Do we value free speech that promotes white ethnonationalism and passive ethnic cleansing and degrades the value of multiculturalism and the protections provided by the Civil Rights Act of 1964? Or do we value free speech that honors diversity and promotes a climate that is antiracist, antisexist, antibigoted, antihomophobic, antitransphobic, antiableist, and antifascist? Free speech cannot and should not be divorced from the values and “mission statements” that many institutions promote. In fact, speech and values that go against the basic tenets of the diversity initiatives and social justice principles that colleges and universities have pledged to uphold should be treated as fundamental violations of any institution’s core mission statement.

⁴⁸ Cheryl I. Harris, “More Than What Is: What Ought to Be,” *Huffington Post*, October 24, 2016, https://www.huffingtonpost.com/cheryl-i-harris/more-than-what-is-what-ou_b_8377726.html.

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