

## **The Liberal Case for Restrictions on Campus Speech**

**Heather Bone**

There is a great debate occurring across North America and throughout the Western world about the proper limits on speech on university campuses. The majority of today's discussion focuses on the content of that speech, and how to determine whether or not an opinion is simply too offensive, inaccurate, or otherwise inappropriate to be given a platform in a university setting. Those on both the left and right of the political spectrum perform such assessments. This could be seen in protests against conservative provocateur Ben Shapiro speaking at UC Berkeley<sup>1</sup> and Dalhousie University's complaint against Masuma Khan, a student who criticized "white fragility" in the context of a campus controversy over Canada 150 celebrations.<sup>2</sup>

In this essay, I will take an alternative approach and argue that universities should place some restrictions on freedom of speech. However, these restrictions should primarily inform how ideas are communicated rather than what ideas are. In the same way that a legal framework is necessary to protect property rights, and a constitution can prevent a tyranny of the majority, these rules can be used to enhance liberty and freedom of expression. Many university administrations today, however, tend to take the opposite approach, and have been known to discipline academics and students for expressing unpopular opinions, while allowing use of the heckler's veto to become standard practice. While there are many conceivable cases where idea-based discrimination is just (such as a decision, for instance, to only hire professors with reputable research as perceived by the academic community), I will argue that it is a bad idea for universities to deny a platform to certain ideas entirely, even if the ideas are genuinely offensive or entirely false. Central to this claim is the idea that the pursuit of truth is aided through an exploration of all viewpoints, even if some of these turn out to be incorrect, or are clearly untrue from the start.

To understand the range of actions that should be permissible within a university community, we must first consider the question: What is a university and what is its purpose? While there is considerable debate around this, most scholars, both historically and in the present day, agree that universities exist to provide more than simply vocational training. Most

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<sup>1</sup> Sudhin Thanawala, "Multiple arrests at Ben Shapiro Berkeley protests," *USA Today*, September 15, 2017, <https://www.usatoday.com/story/news/nation/2017/09/15/ben-shapiro-berkeley-protest-arrests/669071001/>.

<sup>2</sup> Brett Bundale, "Dalhousie University Withdraws Complaint Against Masuma Khan For Facebook Post," *The Huffington Post*, October 25, 2017, [http://www.huffingtonpost.ca/2017/10/25/dalhousie-university-withdraws-complaint-against-masuma-khan-for-facebook-post\\_a\\_23256061/](http://www.huffingtonpost.ca/2017/10/25/dalhousie-university-withdraws-complaint-against-masuma-khan-for-facebook-post_a_23256061/).

definitions include the promotion of scholarship and the pursuit of truth.<sup>3</sup> This commitment to scholarship makes universities different from other publically funded bodies. While most universities in Canada receive government funding, they are best viewed as arms' length institutions with their own established standards, values, and norms. As political theorist Jacob Levy has argued, this has implications for freedom of expression, and rightly so. Levy distinguishes between the obligations of a government to protect free speech and the obligations of a university by highlighting their varied approaches to ghostwriting:

“On a university campus, if you submit written work in one of your classes that you paid someone else to write for you and you put your name on it, you get expelled. On a university campus, if I publish a piece of research that I didn't write and I paid someone else to write and I put my name on it, I get fired. And appropriately so. That kind of misrepresentation which is fair game as a matter of freedom of speech is not fair game in terms of the structure of community of inquiry and discourse that is part of a college or university. It is one of the very worst offenses in a college or university.”<sup>4</sup>

What Levy makes clear here is that universities must in some cases restrict free speech in order to remain committed to its scholarly purpose. In this case, ghostwriting must be restricted to uphold academic integrity. This rule isn't necessary outside of academic contexts. Rules of this sort are necessary to preserve public trust in universities as institutions where truth is pursued.

In addition to these matters of academic integrity, restrictions on speech are sometimes necessary to ensure that all voices have the opportunity to be heard. For example, it is often a good idea for professors to deny some students the chance to speak in their classroom in order to provide an opportunity for others who have contributed less to the discussion to begin doing so. These restrictions play the same role as a chair does in a meeting. While some may advocate for conversation to develop organically, too often this leads to the domination of a few select voices. In this case, restricting some voices is necessary to maintain order and can be used to enhance the quality of debate and discussion.

Furthermore, as argued by philosopher Helga Varden, the work of Immanuel Kant can aid us in determining when it is appropriate to put restrictions on freedom of speech. Kant argues that the law should be used to ensure that people's behaviour is consistent with the freedom of

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<sup>3</sup> Swain, Harriet. "What are universities for?" *The Guardian*, October 10, 2011. <https://www.theguardian.com/education/2011/oct/10/higher-education-purpose>.

<sup>4</sup> Jacob T. Levy, "Safe spaces, academic freedom, and the university as a complex association," *Bleeding Heart Libertarians*, March 28, 2016, <http://bleedingheartlibertarians.com/2016/03/safe-spaces-academic-freedom-and-the-university-as-a-complex-association/>.

others.<sup>5</sup> Speech, according to Kant, does not violate the freedom of others, regardless of whether or not the speech is true, since "it is entirely up to them [the listeners] whether they want to believe him or not."<sup>6</sup>

There are some notable exceptions in which speech can hinder the freedom of others and, thus, for which restrictions on free speech may be appropriate. Varden argues that Kant's reasoning implies there is private wrongdoing in cases where others are debilitated due to the speech's causal effect on their bodies.<sup>7</sup> For example, it would be wrong to play loud music outside a neighbour's window, as it would limit their freedom to work, relax, and sleep. Similarly, there have been cases on university campuses where student protesters have actively disrupted the learning environment of their peers. In a case at Columbia University, a class on sexuality and gender law was interrupted by protestors who objected to the professor's handling of campus rape cases in her administrative role as the Executive Vice President of University Life.<sup>8</sup> Using Kant's reasoning, it may be appropriate for a university administration to punish students for such a distraction, as they interfered with the rights of their peers to their education for which they had paid. Importantly, wrongdoing in these cases does not arise from the content of the speech in question, but its physical effect of the words on other people. Indeed, this is the connecting theme of the suggested limits on free expression discussed thus far: They do not target any particular viewpoint, but they put limits on the ways that opinions can be expressed.

This approach, however, does not rule out a lot of incredibly offensive speech, which is most often the centre of concern in disputes surrounding freedom of expression on campus. Though universities do not have the same responsibility as governments do to protect freedom of speech, I argue that it is in their best interest, as institutions concerned with the discovery of truth, to promote this value. In 1859 treatise *On Liberty*, John Stuart Mill defended freedom of expression on two main grounds. First, he argues that any opinion condemned to silence may, in fact, turn out to be true. Even when a viewpoint appears obviously false, Mill retorts, "To refuse a hearing to an opinion, because they are sure that it is false, is to assume that *their* certainty is

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<sup>5</sup> Immanuel Kant, "The Metaphysics of Morals", quoted in Helga Varden, "A Kantian Conception of Free Speech," in *Free Speech in a Diverse World* (Springer, 2010), 41.

<sup>6</sup> Immanuel Kant, "The Metaphysics of Morals", quoted in Helga Varden, "A Kantian Conception of Free Speech," in *Free Speech in a Diverse World* (Springer, 2010), 42.

<sup>7</sup> Helga Varden, "A Kantian Conception of Free Speech," in *Free Speech in a Diverse World* (Springer, 2010), 43.

<sup>8</sup> Colleen Flaherty, "Classroom, Interrupted" *Inside Higher Education*, October 11, 2017, <https://www.insidehighered.com/news/2017/10/11/students-storm-class-columbia-protest-universitys-handling-rape-cases>.

the same thing as *absolute* certainty. All silencing of discussion is an assumption of infallibility."<sup>9</sup>

Furthermore, Mill adds that it is difficult for us to be confident in such an assertion when we have refused to listen to the opposing viewpoint, arguing that, "to call any proposition certain, while there is any one who would deny its certainty if permitted, but who is not permitted, is to assume that we ourselves, and those who agree with us, are the judges of certainty, and judges without hearing the other side."<sup>10</sup> While Mill certainly stressed the arrogance of the claim to knowledge of absolute truth, it is important to note that Mill's defense of free speech does not depend on the truth or even potential truth of the argument in question. Mill further argues that if an opinion is prevented from being expressed, "If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error."<sup>11</sup>

That being said, there are many ways in which a viewpoint can be expressed. Universities have many different platforms that they can provide for ideas, and not all are created equal. Universities often invite distinguished guests to give addresses to and on behalf of the university community, which carries with it an implied endorsement of the speaker's message. Additionally, hiring a tenure-track professor carries with it the implicit message that the scholar's research is credible. Because a university is not only a place dedicated to the pursuit of knowledge and truth, but also an institution that society views as an arbiter of the validity of various ideas, it would be inappropriate, for instance, to hire someone who opposes vaccinations to conduct research on immunology at a university. On the other hand, a controversial speaker invited by a campus club has often very little to do with the university administration, except for the fact that they provided the space to the club to be used. Mill's argument highlights the negative consequences associated with silencing opinions, but does not require that a controversial opinion be given a megaphone when it could instead be given a soapbox.

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<sup>9</sup> John Stuart Mill, *On Liberty* (Kitchener, Ontario: Batoche Books, 2011), 19, <https://eet.pixel-online.org/files/etranslation/original/Mill,%20On%20Liberty.pdf>.

<sup>10</sup> John Stuart Mill, *On Liberty* (Kitchener, Ontario: Batoche Books, 2011), 23, <https://eet.pixel-online.org/files/etranslation/original/Mill,%20On%20Liberty.pdf>.

<sup>11</sup> John Stuart Mill, *On Liberty* (Kitchener, Ontario: Batoche Books, 2011), 19, <https://eet.pixel-online.org/files/etranslation/original/Mill,%20On%20Liberty.pdf>.

Universities are unique and complex institutions with multiple goals that do not always align with one another. The conflict between the university's role in society as an arbiter of truth and its existence as a place where truth is pursued through debate is one example of this, but by no means the only one. Administrators have a lot of freedom to grant or deny platforms to specific groups, which determines the range of opinions and types of expression that can occur on a university campus. Because this freedom is so easily abused, this paper has presented guidelines to aid in making these difficult decisions. What is clear, however, is that limitless free speech on university campuses is not an ideal worth pursuing. While classical liberals rightly resist any attempt by the government to censor speech, universities are communities with distinct goals and obligations and as such must be held to different standards. That being said, universities do benefit from the expression of a range of ideas, as it aids in the exploration and pursuit of truth, regardless of whether or not the opinion in question is actually true. While there is no universal axiom by which to make judgements on these issues, it should be the hope of liberals that administrators exercise caution when making these decisions.

## Works Cited

- Bundale, Brett. "Dalhousie University Withdraws Complaint Against Masuma Khan For Facebook Post." *The Huffington Post*, October 25, 2017.  
[http://www.huffingtonpost.ca/2017/10/25/dalhousie-university-withdraws-complaint-against-masuma-khan-for-facebook-post\\_a\\_23256061/](http://www.huffingtonpost.ca/2017/10/25/dalhousie-university-withdraws-complaint-against-masuma-khan-for-facebook-post_a_23256061/).
- Flaherty, Colleen. "Classroom, Interrupted." *Inside Higher Education*, October 11, 2017.  
<https://www.insidehighered.com/news/2017/10/11/students-storm-class-columbia-protest-universitys-handling-rape-cases>.
- Kant, Immanuel. 1996. *The Metaphysics of Morals*. Edited by Mary Gregor. New York, NY: Cambridge University Press.
- Levy, Jacob T. "Safe spaces, academic freedom, and the university as a complex association." Bleeding Heart Libertarians. March 28, 2016.  
<http://bleedingheartlibertarians.com/2016/03/safe-spaces-academic-freedom-and-the-university-as-a-complex-association/>.
- Swain, Harriet. "What are universities for?" *The Guardian*, October 10, 2011.  
<https://www.theguardian.com/education/2011/oct/10/higher-education-purpose>.
- Thanawala, Sudhin. "Multiple arrests at Ben Shapiro Berkeley protests." *USA Today*, September 15, 2017. <https://www.usatoday.com/story/news/nation/2017/09/15/ben-shapiro-berkeley-protest-arrests/669071001/>.
- Mill, John Stuart. *On Liberty*. Kitchener, Ontario: Batoche Books, 2011. <https://eet.pixel-online.org/files/etranslation/original/Mill,%20On%20Liberty.pdf>.
- Varden, Helga. "A Kantian Conception of Free Speech." In *Free Speech in a Diverse World*, 39-55. Springer, 2010.