

Reconciling social justice and freedom of expression

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The university is a truth-seeking community. Its core purpose is the discovery and dissemination of knowledge. To fulfill this purpose, a university requires a broad commitment to freedom of expression: people cannot discover the truth without being able to scrutinize and debate all ideas.¹ Hence, there is a strong presumption in favor of freedom of expression on campus.

In recent years, social justice activists have questioned the scope of open inquiry on campus. They argue that properly respecting disadvantaged groups requires limiting inquiry on sensitive topics, such as the legitimacy of using preferred pronouns for transgender people. There are two main arguments for limiting freedom of expression. First, limiting some speech can increase the total amount of speech. Hateful speech can have a chilling effect on minorities, and discourage them from speaking up, when their voices need to be heard most. For example, when Ku Klux Klan members are given a public platform, minorities may feel threatened and unsafe, and refrain from expressing themselves. Limiting such speech can therefore contribute to an environment of open expression for disadvantaged groups, whose viewpoints are underrepresented and hence contribute more to the discussion. The second argument is that hateful speech directly causes harm to disadvantaged groups. Debating whether it's legitimate to refuse to use preferred pronouns can make transgender people feel uncomfortable, and undermines their identity and dignity. Limiting such speech limits harm, and, the argument goes, the dignity of disadvantaged groups outweighs the freedom of expression of bigots.

These arguments clearly capture the importance of promoting social justice. But how do we reconcile them with the university's role as a truth-seeking community? There are many ways to oppose hateful speech, ranging from debate and peaceful protest to banning speakers and violence. Social justice activists have frequently called for banning speakers. This is a stark solution, with extremely broad consequences: any speaker who is deemed hateful can be banned from campus. This should be worrying to anyone who values truth-seeking. What is the precise definition of "hateful speech"? In practice, who will make these decisions? Would anti-abortion speakers be banned, because they cause harm to women? Would anti-Israel speakers be banned, because they cause harm to Jews?² There is no clear conceptual limit to the principle of banning hateful speech. Moreover, this policy would have a chilling effect on the study of controversial topics, which most require open and civil debate. Given the fundamental threat to academic freedom and the risk of a slippery slope, a principle of banning hateful speech must be rejected.

¹ To even set rational limits on limits on such exploration requires first going through a process of open questioning and debating.

² Authoritarian leaders often ban criticism of their regime. Do we trust that our leaders wouldn't exploit such a policy and ban their critics from campus?

But taking bans off the table does not mean we have no tools to fight hateful speech. A different solution is protest and persuasion: people can try to convince the organizer to uninvite provocateurs like Milo Yiannopolous³, and if that fails, they can protest the event (or perhaps ignore it⁴). They can hold counter-rallies to generate support for the disadvantaged groups targeted by the speaker. This doesn't prevent hateful speech from occurring, but it does mitigate its harms: by expressing support for disadvantaged groups and condemning bigotry, protests provide comfort and defend against the chilling effects of bigoted speech. Although this approach might achieve less reduction of harm per unit of effort, it also carries less risk of undermining the truth-seeking norms required in a university.

One response to my position is that while the banning argument suffers from fuzzy lines, so does the free speech argument. Defenses of free speech draw the line at speech that contains an imminent threat of violence; this speech is unprotected. However, the definitions of “imminent”, “threat”, and “violence” are going to be vague, and any practical implementation by the courts will seem somewhat arbitrary. I grant this point, but assert that drawing a fuzzy line at “imminent threat of violence” is more defensible than drawing a fuzzy line at “hateful speech”. The latter is more susceptible to a slippery slope, because any speech can be construed as ‘hateful’ to some group, but cannot reasonably be interpreted as imminently threatening violence.

A different response draws on John Stuart Mill’s worry about the tyranny of social pressure (Mill 1859). My solution to hateful speech involves using social pressure to protest hateful speakers. Can’t this be pushed too far and used to obstruct open inquiry? In short, yes: we have seen many examples of nonviolent protests that jeopardize a truth-seeking environment. Protestors must judiciously decide whether a speaker is bigoted, and not merely someone they disagree with. But then, why cannot universities judiciously ban speakers? I see two relevant differences: first, bans are official policy, and set precedent in a way that social pressure does not. Second, discretion over banning could easily be captured by individual ideologues and politicized.

At the beginning of this essay I assumed that the university is a truth-seeking community. Is this assumption justified? Jonathan Haidt has called for ‘letting a thousand flowers bloom’, with universities declaring whether their core commitment is to truth or social justice (Haidt 2016). Some universities could be primarily committed to social justice, and set limits on free expression accordingly. However, for public universities at least, this raises the question of

³ Recently, the UCLA student Republicans group invited Yiannopolous to speak on campus. Gabriel Rossman, a conservative professor, called for the invitation to be rescinded, arguing that while they have the right to invite him, they shouldn’t exercise it. The students later cancelled the invitation.

⁴ Given the Streisand effect (attempting to ban something gives it more attention), and the provocateur’s strategy of generating publicity through controversy, the main method for opposing people like Yiannopolous should be ignoring them.

whether social justice is a public good in the same way as the discovery and dissemination of knowledge, and hence warrants public funding.

References

- Haidt, Jonathan. 2016. "Why Universities Must Choose One Telos: Truth or Social Justice".
<https://heterodoxacademy.org/one-telos-truth-or-social-justice/>
- Mill, John Stuart. 1859. *On Liberty*.