

A Delusive Assurance That All Is Well on Campus

COMMENTARY

By **Peter Berkowitz** - RCP Contributor July 05, 2019
AP Photo/Richard Drew

For many decades, defenders of liberal education — not only conservatives — have been warning the public about colleges’ and universities’ hostility to free speech. If the warnings are unsound, why has controversy persisted? If they are sound, why hasn’t the problem been corrected?

One tranquilizing possibility explains away the problem: Malcontents there will always be. The boundaries of free speech are inherently uncertain and always fluctuating. Free speech, and debate about free speech’s limits, are welcome on campus. Controversy only persists because of outside agitators ignorant of university culture and determined to extract partisan advantage by misrepresenting campus life to a polarized public.



But the persistence of the criticism is also consistent with an alarming possibility: Universities’ determination to regulate speech and curtail dissent is entrenched on campus; unfree speech is entwined with the structure of university governance; and censorship, both open and covert, serves the interests of the huge and self-reproducing progressive majorities that dominate university administration and the professoriate. Consequently, higher education is exceedingly resistant to reform.

The question is of special concern because all

of our other freedoms are bound up with free speech, which enables us to contribute to and learn from public debate, hold officials accountable, and associate with others to advance our private interests and the public good. The security and vigor of free speech depends in turn on the lessons about liberty of thought and discussion taught — both in the classroom and through the norms and rules that constitute the educational enterprise — by our schools, not least institutions of higher education.

The president of Columbia University says not to worry, all is well. In last month's Atlantic, in an article headlined "Free Speech on Campus Is Doing Just Fine, Thank You," Lee Bollinger asserts that First Amendment norms are evolving as they have throughout American history. And he offers his assurance, as a free speech scholar as well as a university president, that higher education is standing fast in its commitment to present both sides of the argument. "At Columbia and at thousands of other schools across the United States," he writes, "controversial ideas are routinely expressed by speakers on both the left and the right, and have been for decades."

Bollinger (pictured, at left) offers little evidence to back up this claim, and that is not an isolated lapse in his self-congratulatory depiction of free speech on campus. The conspicuous weaknesses of his arguments — including the casual disparagement of those who see matters differently — intensify the anxieties he aims to allay.

That's because free speech is not only a matter of formal protections. It also rests on what John Stuart Mill, in Chapter 2 of "On Liberty," called "the real morality of public discussion." This involves "the calmness to see and honesty to state what" one's "opponents and their opinions really are, exaggerating nothing to their discredit, keeping nothing back which tells, or can be supposed to tell, in their favor." By this exemplary standard, Bollinger's apology for the status quo confirms free speech's dire condition on campus today.

Bollinger gets off to a bad start by attacking the intentions of those who assert that free speech is embattled. According to him, President Trump's March executive order requiring colleges and universities that receive federal funds to "promote free inquiry" had nothing to do with improving education. Rather, it "was a transparent exercise in politics," Bollinger asserts. "Its intent was to validate the collective antipathy that many Trump boosters feel toward institutions of higher learning." Bollinger, however, adduces no instances of actions or statements that support his imputation of malign intentions to the president and those who believe that colleges and universities need encouragement to meet their educational obligation to foster robust exchange of opinion.

It is not as if Bollinger holds a principled objection to the federal government conditioning support to universities on their willingness to adhere to federal standards. After all, he did not take to a prominent national magazine in 2011 to object when the Obama administration promulgated extensive and intrusive instructions requiring universities, if they wished to continue to receive federal funding, to strip the accused of due process protections in procedures dealing with allegations of sexual misconduct.

Yet Bollinger's words about Trump's order also describe the Obama Department of Education's dictate "requiring colleges and universities that receive federal funds to do what they are required by law to do" — namely, to protect students from discrimination on the basis of sex. The main difference between now and then is that whereas the Trump executive order on free speech upholds a freedom deeply rooted in the American constitutional order, the Obama administration edicts, by shrinking due process protections, weakened an essential safeguard of freedom firmly grounded in the American constitutional order.

Bollinger also inadvertently draws attention to the precarious condition of free speech on campus by boasting about events that ought to be routine occurrences. "During the 2017-18 academic year, the conservative radio talk-show host and author Dennis Prager spoke at Columbia," Bollinger writes. "The Fox News legal commentator Alan Dershowitz, the 2016 Republican Party presidential candidate Herman Cain, and the immigration activist Mark Krikorian spoke too—all without incident." That such speakers were able to complete their remarks at Columbia without significant interruption is a low bar for a prominent institution of higher education. Far from a cause for celebration, it is the least that should be expected.

Prager is a New York Times best-selling author with a nationally syndicated radio show. Harvard Law School professor emeritus Dershowitz is a life-long Democrat and one of the foremost lawyers and legal minds of the last 50 years. Cain is a successful businessman who achieved national prominence in a bid for the presidential nomination of one of the nation's two major political parties. Krikorian runs a D.C. think tank that argues for greater restrictions on immigration coupled with policies that are more welcoming to new immigrants.

By flaunting as evidence of free speech's vitality that best-selling authors, prominent public intellectuals, and politicians can present their views at one of our nation's top universities without being shouted down, Bollinger underscores just how far American colleges have departed from the norm of open debate.

In addition to baselessly impugning the motives of university critics and dressing up central activities of the university as noteworthy achievements, Bollinger also distorts evidence. "According to a 2016 Knight Foundation survey, 78 percent of college students reported they favor an open learning environment that includes offensive views," he states. "President Trump may be surprised to learn that the U.S. adult population as a whole lags well behind, with only 66 percent of adults favoring uninhibited discourse." But digging deeper into the Knight Foundation survey shows that students are much more comfortable with the regulation of speech — and are more inclined to believe they should have the right to restrict the speech of others, as in, say, preventing certain journalists from coming to campus to cover protests — than are adults in general.

For Bollinger, excess lies principally in how events on campus have been described: "It's true that, in recent years, there have been more than a few sensational reports — at places such as [Middlebury](#), [William & Mary](#), and [UC Berkeley](#) — of misguided demands for censorship on campus, providing a ready, if false, narrative about liberal colleges and universities retreating from the open debate they claim to champion." Bollinger implies that the reports — not the incidents — are egregious.

In reality, the propensity of campus authorities to censor unorthodox views is widespread and well-

documented. Bollinger could have saved himself from falsely suggesting that the controversy over free speech is little more than a public relations problem for universities had he fairly examined the work of [The Foundation for Individual Rights in Education \(FIRE\)](#), which has gathered a mountain of evidence demonstrating the commonplace — on many campuses, institutionalized — hostility to free speech marking higher education in America.

Another alarming feature of Bollinger's denial of the erosion of free speech on campus is his disregard of how universities' impoverished curricula deprive students of knowledge of, and experience in, free speech. Few colleges and universities require students to study the modern tradition of freedom, in which free speech is rooted. And few offer, let alone require students to take, courses that feature the conservative side as well as the progressive side of the debate, as old as the republic, about the operation and aim of liberal democracy in America. By shirking their responsibility to teach the principles of free speech and by evading their duty to challenge students with a full range of perspectives, colleges and universities magnify the crisis of free speech.

The problem will only fester on campus and continue to spread beyond it if those who lead our institutions of higher learning concentrate on tranquilizing rather than informing the public.

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