

Conflating Criticism and Cancellation

COMMENTARY

By [Peter Berkowitz](#) - RCP Contributor

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Liberal democracy -- grounded in the “inalienable” rights all human beings share -- protects, and is protected by, free speech. Good laws alone, though, cannot keep speech free. Also necessary is a public culture that promotes an accurate understanding of free speech and fosters the virtues that undergird it. The breakdown in the United States of that public culture -- particularly among the nation’s progressive elites -- is of pressing concern.

The First Amendment of the U.S. Constitution provides that “Congress shall make no law... abridging the freedom of speech.” The Supreme Court interprets this provision to require a broad though not absolute prohibition on government regulation of expression. Even among liberal democracies, Americans enjoy an unusually extended sphere in which they can speak their minds. Expression is subject to a few specified legal limitations: these include incitement to imminent lawless action, true threats, classified information, and slander and libel. This, however, leaves abundant room in which citizens can readily encounter unorthodox, dissenting, and, yes, deeply disagreeable opinions.

While government always poses a major threat to free speech, it never represents the sole danger. Today, apprehensions about Big Tech regulation – subtle and surreptitious as well as brazen and heavy-handed -- of social network and consumer platforms command center stage. Meanwhile, old nemeses of free speech -- inherited authority, social pressure, and public opinion -- show little sign of abating.

Because of the new and old threats, practicing free speech requires -- as always -- moral virtue: courage to present one’s views accurately and subject them to public scrutiny, patience to consider alternative arguments, self-control to tolerate fellow citizens’ seemingly wrong-headed and ill-conceived notions. Free speech also needs intellectual virtue. To benefit from the give-and-take that energizes a free society, we must examine our ideas’ vulnerabilities. That difficult process depends on restating accurately, interpreting reasonably, and looking for the kernel -- or more -- of truth in opinions and positions that we are inclined to oppose.

In “[The Campaign to Cancel Wokeness](#),” New York Times columnist Michelle Goldberg attempts to defend free speech by exposing conservative hypocrisy. Because of the propensity to protect one’s own speech while curtailing that of the other camp, Goldberg could have performed a service by holding conservatives to a standard they profess. She missed the opportunity, as do many progressives, by conflating criticism and cancellation.

Principled defenses of liberty of thought and discussion from the left would be particularly welcome in the New York Times. Alas, the venerable institution has proved a fair-weather friend of free speech. Last spring, for example, many staff members revolted and management forced

out Opinion Editor James Bennet because the newspaper published an [op-ed](#) by Sen. Tom Cotton arguing -- consistent with the views of about half of Americans -- that the president should use his authority to direct the military to respond to violent rioting in American cities. Only last month, the Times demanded the departure of science and health reporter Donald McNeil after more than 40 years at the newspaper. His principal offense? In the process of answering a student's question about a notorious racial slur, McNeil uttered it himself.

Goldberg, though, does not rise to the moment by providing a ringing endorsement of a public sphere that welcomes opinions from right and left. Instead, she provides a textbook case of the failure to understand the principles of free speech, and to exercise the moral and intellectual virtues that bring benefits from it.

Conservatives "don't like cancel culture," writes Goldberg, yet they pursue, she charges, "an ironic quest to cancel the promotion of critical race theory in public forums." Her accusation betrays a rudimentary misunderstanding of cancel culture, which involves the *shaming, ostracism, and silencing* of individuals and companies for expressing disfavored opinions. In contrast, conservative *criticism* of critical race theory and *opposition* to using government organs to promote its controversial claims about race and justice are perfectly legitimate activities in a free society.

CRT is not merely an academic theory. In their 2011 book, "Critical Race Theory: An Introduction," law professors Jean Stefancic and Richard Delgado -- Goldberg cites Delgado as "a key figure in the movement" -- stresses that CRT is simultaneously a form of activism grounded in a radical perspective that "questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law."

Such extreme positions are an integral part of the public debate; canceling those that propound them would be unconscionable. Yet there are excellent reasons to criticize CRT ideas and counter efforts by activists to promulgate CRT views through government training sessions and school curricula. These include CRT's blurring of scholarship and politics, its incoherent rejection of principles of freedom and equality bound up with the Enlightenment on which it covertly relies, and its failure to grasp accurately and present fairly America's founding principles and constitutional traditions.

In the conservative critique of CRT ideas and opposition to entrenching its doctrines as the nation's official public philosophy, nevertheless, Goldberg sees only "outright government censorship" and "attempts to suppress an entire intellectual movement." Her evidence shows nothing of the kind.

Last September, Goldberg writes, "Donald Trump's Office of Management and Budget ordered federal agencies to 'begin to identify all contracts or other agency spending related to any training on 'critical race theory,'" which it described as 'un-American propaganda.'" The First Amendment, however, does not guarantee a right to have the federal government propound your preferred critique of America.

British conservatives, Goldberg argues, are just as bad as American conservatives. Again, her reporting misleads. A month after the Trump OMB directive, according to Goldberg, “the conservative government in Britain declared some uses of critical race theory in education illegal.” Indeed, Tory women and equalities minister Kemi Badenoch indicated in a parliamentary debate that it would be illegal to use CRT for propaganda purposes. The very words that Goldberg quotes show that Badenoch was opposing indoctrination, the teaching of a radical theory about racial justice as if it were the last word about race and justice. The Guardian, a left-wing British newspaper, [emphasized](#) that Badenoch argued not for the exclusion of views but for schools to remain “politically impartial.”

Goldberg also deplores developments in France. She cites a Times colleague: “French politicians, high-profile intellectuals and journalists are warning that progressive American ideas -- specifically on race, gender, post-colonialism -- are undermining their society.” But a warning is not censorship. Here, it is a routine exercise of free speech.

Goldberg rightly criticizes misguided conservative proposals in several U.S. states to ban the teaching of CRT. But she overlooks or ignores news that doesn’t fit her narrative. While highlighting a pair of bills introduced by an Arkansas legislator banning the teaching of CRT ideas, she omits that on Feb. 9 -- more than two weeks before her column appeared -- an Arkansas legislative panel [rejected](#) the proposal. State Education Secretary Johnny Key, a Republican, explained that curricular matters are “best left to the local elected boards and administrators and educators.”

Goldberg’s interest in protecting free speech is laudable. But in falsely accusing conservatives of undertaking a concerted international campaign to censor CRT, she conflates criticism and cancellation, misrepresents conservative ideas and actions, and assumes that there is only one way to uphold racial justice.

An effective defense of free speech must embody the principles, and exercise the virtues, of free speech.

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