

# Tolerance and Free Speech in Education: A Habermasian Perspective

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## INTRODUCTION

Americans are deeply and increasingly polarized along political and ideological lines.<sup>1</sup> In the past few decades diversity has been widely seen as a strength that brings vitality to social lives, but recently it seems Americans have become largely divided into separate, even hostile, sub-cultures or adversarial groups: progressives vs. conservatives, urban vs. non-urban populations, the elites vs. the working class, the more vs. the less educated, and so on. The lack of engagement, understanding, and appreciation between people of these groups is stunning and potentially catastrophic. Education, especially higher education, is where the elite and the more educated take hold, and the divide is shown in the lack of exposure of students to different political and ideological views along with their reasons and grounds, the invisibility and silence of students in expressing their unpopular political views, and by the frequent incidences of student protesters shouting down invited speakers whose political and ideological views are different from their own.

There are many historical, socio-cultural, and economic factors that have contributed significantly to the current big divide, yet the situation in education may have been largely shaped by a particular progressive approach, which has been long in the making throughout the last half century and is characterized by an indubitable self-justification and explicit intolerance to conservative political and ethical viewpoints. Rather than engaging in dialogue, understanding, and deliberation, such an approach tends to designate a morally and culturally distasteful category, a defining term to the opposite views, and subsequently,

to relegate and dismiss them from entering public discussion. While those categories and defining terms are often not without merits and even speak certain insights, we argue that such an approach is potentially dangerous and in need of reconsideration.

Tolerance and consideration of different ideas and points of view, even the unpalatable ones, are at the core of a pluralist, democratic order. If the history of the 20<sup>th</sup> century has taught us anything at all, it is the lesson that absolute power buttressed by unquestioned self-assurance and self-righteousness is at the root of some of the most unspeakable human suffering. All those who have suffered persecution under the fascist or communist regimes know very well how a self-righteous and self-justified mob or state machine can inflict tremendous harm on people they deem wrong, or plainly not worthy of basic human dignity and moral consideration. We argue that, despite the best intentions and assumed high moral grounds, intolerance to oppositional views can potentially lead to totalitarian thinking and thus take us to the other side of justice and humanity. In higher education, especially in light of the recent presidential election and emboldening of the far-right, we are concerned that U.S. colleges and universities may become increasingly radicalized in the opposite direction where the progressive majority's views become entrenched as unquestioned and self-righteous orthodoxy.

In this article, we will analyze ideas of two theorists who may have contributed to shaping the current progressive nontolerant approach in education. From Herbert Marcuse's proposition of "discriminating tolerance" (1965) to Foucault's analysis of the "knowledge/power" apparatus (1984), we suggest, a clear tendency of intolerance and non-engagement is supported. At the end, we introduce, as an alternative, Habermas' approach of deliberative democracy where challenges and differences in political and ideological views are seriously engaged, understood, and debated, and better arguments are sought after. We argue that the Habermasian approach, both as a principled guide to public discourse and basis for civic education, is crucial for the establishment of a pluralist, democratic community where productive engagement across difference is the norm, and reason is to defeat ignorance.

## MARCUSE'S "DISCRIMINATING TOLERANCE"

Herbert Marcuse was a member of the German Frankfurt School, which developed what has come to be known as "Critical Theory." During WWII, Marcuse moved to the United States to escape the Nazi persecution and later became a professor at Brandeis University and the University of California, San Diego until his death in 1979. In the 1960s and the 1970s, Marcuse was an iconic figure to the New Left, the hippie and anti-war generation, and college campus protesters. As a spiritual leader of the New Left, Marcuse provided philosophical justification for the struggle for liberation in the post-war Western democracies.

Marcuse is known for his proposition of "discriminating tolerance" and for advocating "intolerance against movements from the Right, and toleration of movements from the Left".<sup>2</sup> In an article published in 1965, "Repressive Tolerance," Marcuse claims that "what is proclaimed and practiced as tolerance today, is in many of its most effective manifestations serving the cause of oppression."<sup>3</sup> According to Marcuse, democratic deliberation and tolerance of all parties can only be practiced in a state "in which a multitude of different pressures, interests, and authorities balance each other out and result in a truly general and rational interest."<sup>4</sup> He states:

[T]he democratic argument implies a necessary condition, namely, that the people must be capable of deliberating and choosing on the basis of knowledge, that they must have access to authentic information; and that, on this basis, their evaluation must be the result of autonomous thought. ... But with the concentration of economic and political power and the integration of opposites in a society of domination, effective dissent is blocked where it could freely emerge.<sup>5</sup>

In other words, in a society where there is unequal economic and political power and domination, free sharing of ideas and perspectives is often obstructed and democratic deliberation is necessarily compromised. In this situation, he maintains, unqualified tolerance becomes "perverted"<sup>6</sup> and can only serve the purpose of oppression. Given the situation, Marcuse proposes

that a liberating<sup>7</sup> or “discriminating tolerance”<sup>8</sup> must be practiced “as a means of shifting the balance between Right and Left by restraining the liberty of the Right ... and strengthening the oppressed against the oppressors.”<sup>9</sup>

In addition, based on the judgement that “law and order are always and everywhere the law and order which protect the established hierarchy,” Marcuse believes that it is the “natural right” of the oppressed to “use extralegal means if the legal ones have proved to be inadequate” in the struggle against their oppressors.<sup>10</sup> To “break this tyranny,” he asks oppressed minorities to be “militantly intolerant and disobedient to the rules of behavior which tolerate destruction and suppression.”<sup>11</sup>

Thus, in the name of freedom and justice, it is justifiable to use violence, to break the law, and above all, to be intolerant of the conservative Right, who represents the power of the establishment. Interestingly, as Marcuse makes clear, the end result is not necessarily a freer and more just society, but a “more equitable distribution of misery and oppression.”<sup>12</sup> The Chinese and the Cuban Revolutions (we may now add the Soviet, the North Korean, and the Cambodian, to mention a few) inspiring Marcuse as the illustration of such struggle indeed accomplished such a goal of inflicting increased misery and oppression upon the “oppressors” and the unworthy.

Marcuse further argues that in times of “extreme danger,”<sup>13</sup> it is necessary to suspend “the right of free speech and free assembly”<sup>14</sup> of the majority-oppressor. For: “In past and different circumstances, the speeches of the Fascist and Nazi leaders were the immediate prologue to the massacre. The distance between the propaganda and the action, between the organization and its release on the people had become too short,” and “if democratic tolerance had been withdrawn when the future leaders started their campaign, mankind would have had a chance of avoiding Auschwitz and World War.”<sup>15</sup> For this reason, and because “our society is in such an emergency situation, and that it has become the normal state of affairs,”<sup>16</sup> tolerance and the right of speech should be withdrawn in the face of perceived danger. We can no longer allow “different opinions and ‘philosophies’ ... [to] compete peacefully for adherence and persuasion on rational grounds.”<sup>17</sup> Excessive measures, the measures of

intolerance and suspension of free speech, must be practiced even in advanced democratic societies.

Apparently, many of Marcuse's propositions bear the mark of the historical limitations and influence of the world-wide communist movement, and this may have been part of the reason that his name had fallen out of fashion in the last decades. Yet, much of his ideas have resurfaced in recent student protests, and scholars of Marcusean persuasion, who have been working in various disciplines in higher education (e.g., philosophy, history, sociology, political science, and mostly activism), have come to defend and justify student protests with Marcuse's concept of "repressive toleration."<sup>18</sup> His argument and reasoning have become fresh and alive again in many people's minds, supporting their struggle against the perceived system of injustice. We seem to have forgotten that the communist regimes of the 20<sup>th</sup> century, though justified on the same philosophy and political grounds, were manifestations of oppression and mass murder no less so than Auschwitz and World War II.<sup>19</sup>

While Marcuse is right in his observation that in advanced democratic societies there is still uneven economic and political power structures, and the equal sharing of ideas and perspectives is often compromised, instead of advocating for the hard work of removing the blocks and obstacles and ensuring better and freer sharing of ideas and persuasion on rational grounds for genuine democratic deliberation, he proposes intolerance of opponents' political and ideological perspectives in the name of freedom and justice. The danger of such thinking is that it leaves the absolute power to the actor to assume the role of judge, jury, and executioner in violating others' freedom on the grounds of self-righteousness and self-justification, without systematically ensured challenges and external constraints. The high moral ground of freedom and justice they ascribe to their intentions and actions, therefore, can justify all injustice, cruelty, and oppression they claim to fight against.

## FOUCAULT'S ANALYSIS OF THE KNOWLEDGE/POWER APPARATUS

The other theorist who may have contributed greatly to the current progressive intolerant and non-engagement approach to opposing political and ideological views is Michel Foucault, one of the most influential thinkers in the period of the 1980s-90s and throughout the beginning of this century. Foucault's analysis of the knowledge/power apparatus, while providing incredible insights into how our pursuit of knowledge has always been situated in its intellectual, socio-cultural, and political environment, has enabled a dismissive approach to knowledge claims and helped to brush aside meaningful difference among divergent truth/knowledge statements. His analysis of the functions and effects of truth statements and his inattention to questions of validity regarding their supporting warrants replace close examination of the content and merit of claims with an analysis of the positionality of the claimants. This approach can serve to dismiss and otherwise impede productive democratic deliberation across difference.

Paul Rabinow, editor of *The Foucault Reader* (1984), commented that Foucault "doesn't refute [claims of universal truth]; instead, his consistent response is to historicize grand abstractions. In the last analysis, ... he changes the subject and examines the social functions that such concepts have played in the context of practices."<sup>20</sup> Rather than asking the what and why questions in relation to a particular truth claim, Foucault's emphasis is on who is speaking and what has made the claim possible. Starting from the question of how a particular conception/claim has come to be what it is, he exposes its conditions and functions: who interprets, what circumstances, and to what effect.

Foucault goes even further to suggest that power produces knowledge, and therefore knowledge functions as a technology of power. He states:

We should admit ... that power produces knowledge (and not simply by encouraging it because it serves power or by applying it because it is useful); that power and knowledge directly imply one another; that there is no power relation

without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations.<sup>21</sup>

This entanglement, this wholesale claim of the power-knowledge apparatus is the unswerving assertion that “it is not the activity of the subject of knowledge that produces a corpus of knowledge,” but the nameless “power-knowledge ... that determines the forms and possible domains of knowledge.”<sup>22</sup> For some scholars influenced by this conception of knowledge, it becomes unsavory to engage with others’ perspectives, examine the warrants of their claims, consider their truth value or ethical significance, understand their meanings, debate ideas, or reach agreement or compromise. Thus, when someone issues a different point of view, all that is needed is to point out its connection to power and its potential functions and effects. No serious engagement or understanding is needed, and the debate is already won on the basis of how one positions oneself and one’s opponent.

But such an approach does not resolve our differences with others or enable us to communicate productively across these differences. It only brings on an analytical paralysis when one faces different points of view and diverse perspectives. In fact, when unwarranted assumptions embedded in claims and speeches are dismissed quickly without scrutiny and challenge, they become entrenched among their proponents. By positioning ourselves in oppositional terms and by simply dismissing others’ points of view, we make democracy a political battle in which, as Dewey noted decades ago: “The ballot is ... a substitute for bullets,”<sup>23</sup> rather than a public forum where questionable assumptions can be challenged and rejected, and common interests identified and pursued.

Furthermore, this approach fails to motivate many members of the historically powerful groups to engage with members of less-powerful groups, thus entrenching the power imbalance. By denying basic moral considerations to political opponents, this approach eschews the values of true justice and equality to all that are needed to foster productive, democratic pluralism. The resulting identity politics renders it difficult for members of various oppositional groups to engage, compromise, and solve common problems with one another.

In the current political and ideological landscape, we see echoes of Marcuse's approach in radical activists' (sometimes aggressive) intolerance against not only the far-right but also conservatives and even liberals and progressives who are deemed too tolerant of people on the right,<sup>24</sup> with the justification that tolerance and recognition of the speech rights of those groups would help establish and reinforce the status quo. We clearly see the influence of Marcuse when activists suggest that verbal protest is insufficient and suppression of speech and physical violence are needed.<sup>25</sup> Yet one may notice that our society has significantly progressed from Marcuse's time,<sup>26</sup> and now voices on the left, through overrepresentation in the mainstream media,<sup>27</sup> popular culture, and the education system, have become dominant in public discourses and thus have tipped the imbalance in information sharing and perspective expression. This situation calls for extreme caution and self-discipline—so that one system of oppression is not merely replaced by another.

We see echoes of Foucault also when a person's right to speak on particular issues is contingent upon their place in an intersectional oppression hierarchy. In many progressive-controlled spaces, a person's identity categories seem to determine their power and privilege, as well as the moral significance of their expression. Thus, rather than looking into the actual statement of expression, searching for its particular meanings as well as possible embedded privileges and prejudices, the categories a person possesses predetermine the power of their statement, unless they are advocating on behalf of other identity groups. In these contexts, we seem to have ignored Freire's prescient warning against the oppressed becoming the oppressors. Such identity politics fuels the inflamed right-wing movements advocating exclusively for the interests of historically powerful groups and further undermines prospects for productive democratic pluralism.

### HABERMAS' DELIBERATIVE DEMOCRACY AS A PROMISING ALTERNATIVE

Therefore, we propose a Habermasian perspective and argue that it



enables a more responsive, respectful, and just approach to differences and to oppositional points of view. Habermas' perspective not only supports tolerance and the right of free speech to all parties within a normative context (so long as the speaker acknowledges the basic equality and dignity of his interlocutors and accepts terms of reciprocity and mutuality), but also grants autonomy of decision making to all members through the process of democratic deliberation. We argue that it is the most suitable approach in education, as educators encounter students of difference on a daily basis. It is our ethical responsibility to create an environment in which all are welcome and respected as persons, and all are engaged and free from coercion in their decision making. Basing civic education for young citizens on the guiding principles of Habermas' discourse ethics, basic equality, and reciprocity, we suggest, will enhance democratic deliberation in both higher education contexts and beyond to the broader public sphere.

Unlike Marcuse, Habermas does not conceive the modern advanced democratic society as irredeemably oppressive and irreconcilably divided into groups that have no shared norms and interests. For Marcuse, the oppressed have to violate the rights and freedom of the oppressors in order to break the chain and achieve their own liberation and justice. But Habermas sees democratic society as consisting of diverse individuals and groups who share the same "lifeworld"<sup>28</sup> and can work to ensure the rights and freedom of all. Thus, although it does not require blanket acceptance of all ideas or behaviors, Habermas' theory is for a civil society where pluralism entails inclusion of all people and groups, and recognition of the rights of all to participate in and contribute to a better life together.

In Habermas' vision of a pluralist democratic society, citizens propose claims to be examined and tested, are prepared to defend them against criticism, and, in so doing, trust that they can be recognized and deemed applicable with binding force to others, as well.<sup>29</sup> Thus, we are not only orienting our actions based on our choices but also attempting to persuade or motivate other's actions through communication. Habermas states, "I call interactions communicative when the participants coordinate their plans of action consensually, with-the agreement reached at any point being evaluated in terms of the intersubjective

recognition of validity claims.”<sup>30</sup> Communicative action, therefore, is how we intersubjectively coordinate our lives together based on shared norms and truth claims.

But how, in a world of difference, can people rationally agree upon the same norms and truth claims if we all have different perspectives and different subjective experiences? Precisely because different peoples do not share a common understanding and there are subjective worlds to which only the individual has privileged access, Habermas maintains, public debate and deliberation must be carried out to establish a common normative definition of a given situation. Habermas proposes that a validity claim must be evaluated from three aspects: its *truth* as it refers to the objective world, its *rightness* in the sense of its legitimacy in the normative context of the community, and its *truthfulness* as it refers to “the intention expressed by the speaker.”<sup>31</sup> For Habermas, “Communicative reason makes itself felt in the binding force of intersubjective understanding and reciprocal recognition.”<sup>32</sup> In addition, deliberation is the only way the dignity and freedom of each individual of the community can be realized and maintained.

In addressing issues of difference and impartiality, in the Western philosophical tradition we have had Kant who attempts to raise the individual mind to the level of universal reason so a rational human being can be a law-giver who transcends individual interests. Similarly, Rawls attempts to ensure impartial consideration of all affected interests by imagining a veil of ignorance, so the difference of power, position, and interests are eliminated, and equal freedoms for all are guaranteed. In all these treatments, an abstract individual mind undertakes the task of legislation for all to ensure universality and impartiality. But Habermas argues that it is not enough for each individual to reflect and to will a general law for all. Instead, “What is needed is a ‘real’ process of argumentation in which the individuals concerned cooperate.”<sup>33</sup> As Habermas explains, “nothing better prevents others from perspectively distorting one’s own interests than actual participation. It is in this pragmatic sense that the individual is the last court of appeal for judging what is in his best interest.”<sup>34</sup> He claims:

The categorical imperative needs to be reformulated as follows: “Rather than ascribing as valid to all others any maxim that I can will to be a universal law, I must submit my maxim to all others for purposes of discursively testing its claim to universality. The emphasis shifts from what each can will without contradiction to be a general law, to what all can will in agreement to be a universal norm.”<sup>35</sup>

Therefore, democratic deliberation is justified and grounded on the assumption that the individual knows best about their own interest and should have the opportunity to freely express it. Our decision cannot be made by others on our behalf, and we have to assume autonomy to express ourselves without influence and coercion.<sup>36</sup> Thus, a Habermasian approach may help establish and maintain a community that is built upon the recognition of the dignity and freedom of the intersubjectively situated human beings who are seriously engaged with each other about their differences.

From this approach, all individuals of difference should be welcomed into the public sphere and basic equality as persons be taken as the starting point in political engagements. Habermas does not call for unqualified endorsement of all viewpoints and ideas but tolerance of individuals expressing their views. Ideas, he suggests, should be engaged rather than ignored or silenced, and should be subjected to critical scrutiny before being rejected.

## TOLERANCE AND FREE SPEECH FOR A PLURALIST DEMOCRATIC COMMUNITY

In the last analysis, therefore, it boils down to how we perceive our society, or education in particular, as well as the people in it. Is it a community of different, yet respectable and free members who share the lifeworld and are working to build a better life together? Or is it a society of antagonistic parties engaged in a constant struggle to undermine each other's power, where one party's gain necessitates another party's loss? This is not only a descriptive question, but also a normative one: *which direction do we want to go in education and*

*as a culturally-diverse, democratic society?*

It is our position that, in education, we have the ethical responsibility to work towards building a community of difference together where all are respected as persons, accepted on equal terms, and seriously engaged. Tolerance and respect for the right to free speech is only the beginning part of the building process. Habermas' proposition that discussants "must presuppose that the context of discussion guarantees in principle freedom of access, equal rights to participate, truthfulness on the part of participants, absence of coercion in adopting positions"<sup>37</sup> testifies to the needs for tolerance and freedom of speech.

Yet many in education have suggested that Habermas is too idealistic—that his ideas are unrealistic or even inapplicable because there is always inequality and a power structure that may hamper equal and democratic deliberation. Some suggest that there are claims and speech acts, such as racist and misogynist ones, that should be silenced. Allowing such views a public platform is itself an act of injustice and helps reinforce inequality, and therefore we should pre-draw lines where certain ideas are beyond the limit.

While we are fully aware of the political, ethical, and practical implications any speech act or idea may embody, we urge not to give up the hard work of deliberation for equality and emancipation and return to the brute power struggle, like Marcuse has suggested. Instead of pre-drawing a line and preventing certain ideas from entering discussion, we should bring all political, ethical, and practical implications up to be directly addressed in the discussion. Pre-drawing a line to make utterances of certain ideas taboo without being challenged and deliberated first is dangerous because the power to draw the line can be easily abused and lead to all kinds of discrimination and oppression. We suggest, as Habermas has insisted, to apply the three criteria (truth, rightness, truthfulness) to a deliberative situation and, for example, the rightness criterion would immediately challenge and hence reject the overtly racist and misogynistic speech acts if they serve only to degrade and diminish, rather than to enhance understanding.<sup>38</sup>

- 1 E.g., Diana Hess and Paula McAvoy, *The Political Classroom: Evidence and Ethics in Democratic Education* (New York: Routledge, 2014); Tim Wallace, "The Two Americas of 2016," *New York Times* (Nov. 16, 2016).
- 2 Herbert Marcuse, "Repressive Tolerance," in *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965), 109.
- 3 Ibid., 81.
- 4 Ibid., 93.
- 5 Ibid., 95.
- 6 Ibid., 111.
- 7 Ibid., 109.
- 8 Ibid., 119, 123.
- 9 Marcuse, "Postscript 1968," in *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965), 119-120.
- 10 Marcuse, "Repressive Tolerance," 116.
- 11 Marcuse, "Postscript 1968," 123.
- 12 Marcuse, "Repressive Tolerance," 107.
- 13 Ibid., 110.
- 14 Ibid., 109.
- 15 Ibid., 109.
- 16 Ibid., 110.
- 17 Ibid., 110.
- 18 E.g., a recent special issue of *New Political Science* is devoted to Marcuse and his relevance to the current student movement. Bryant William Sculos and Sean Noah Walsh, "The Counterrevolutionary Campus: Herbert Marcuse and the Suppression of Student Protest Movements," *New Political Science* 38, no. 4 (2016): 516-532.
- 19 I.e., Approximately 100 million deaths and innumerable arrests and imprisonments on the basis of thought crime. See Stéphane Courtois et al., *The Black Book of Communism: Crimes, Terror, Repression* (Cambridge, MA: Harvard University Press, 1999).
- 20 Paul Rabinow, "Introduction," in *The Foucault Reader* (New York: Pantheon Books, 1984), 4.
- 21 Michel Foucault, *The Foucault Reader* (New York: Pantheon Books, 1984), 175.
- 22 Ibid.
- 23 John Dewey, *The Public and Its Problems* (Athens: Swallow Press, 1927/1954), 207.
- 24 Concept creep has led to careless mislabeling and suppression of the speech and assembly rights of those who dissent from social justice orthodoxy (and the rights of would-be listeners to hear them speak), as in the case of "known fascist" Christina Hoff Sommers (a classical liberal feminist philosopher) and even physical violence, exemplified by a far-left mob's assault on and hospitalization of liberal professor Allison Stranger in response to her tolerance of and engagement with libertarian author and alleged "white supremacist" Charles Murray.
- 25 E.g., <http://www.motherjones.com/politics/2017/04/timeline-anti-fascists-nazi-punching/>
- 26 E.g., Significant measures of progress are noted in Steven Pinker, *Enlightenment*

*Now: The Case for Reason, Science, Humanism, and Progress* (New York: Viking, 2018).

27 Although conservative outlets such as Fox News and talk radio have provided significant resistance to progressive messaging.

28 Jürgen Habermas, "Discourse Ethics: Notes on a Program of Philosophical Justification," in *Moral Consciousness and Communicative Action* (Cambridge, MA: The MIT Press, 1990), 58.

29 Habermas, "Discourse Ethics," 50.

30 Ibid., 58.

31 Jürgen Habermas, "An Alternative Way Out of the Philosophy of the Subject: Communicative Versus Subject-centered Reason," in *Critical Theory: The Essential Readings* (pp. 273-281), eds. D. Ingram & J. Simon-Ingram (New York, NY: Paragon House, 1992), 275.

32 Habermas, "An Alternative," 279.

33 Habermas, "Discourse Ethics," 67.

34 Ibid., 67.

35 Ibid., 67.

36 Ibid., 71.

37 Jürgen Habermas, "Remarks on Discourse Ethics," in *Justification and Application: Remarks on Discourse Ethics* (Cambridge, MA: The MIT Press, 2001), 31.

38 Guided by Habermas' normative principles and criteria, we suggest that teachers and school administrators should play important roles in helping to establish and maintain democratic classroom and school communities where young students will be fairly treated and given meaningful opportunities to develop deliberative skills and dispositions.