

Balancing Goods, Intellectual Honesty, and Transcendent Principles

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Professors Zhao and Bindewald have written an important and persuasive paper, articulating not only a strong argument for why we should encourage students to engage with people who hold opposing views but also illustrating the intellectual history that has been formative for many students' reticence to do so. In recent years I have been researching and lately also organizing deliberative dialogues between people, including students, who are deeply opposed to each other. But this work is for me ridden with ambivalence, which leads me to three critiques of the authors' position.

First, while I agree with the authors that, "intolerance to oppositional views can potentially lead to totalitarian thinking and thus take us to the other side of justice and humanity," it is *also* the case that there is significant inequality in how students are affected by open discussion of controversial views. For some students, such discussion may serve as a challenging intellectual exercise. For others, it may strike at the heart of their lives.

For example, discussing whether DACA should be revoked introduces into the classroom the heart-wrenching topic of whether *this student* may at any moment need to leave school and return to a country that is foreign to her. It may mean seeing her dreams unravel. Perhaps it would be salutary for other students to hear about her experience and views; it remains an open question whether it would be salutary for her. Hence while the authors are correct that such discourse is crucial to our democracy and to students' intellectual and political engagement, it is also the case that the experience of it will have dramatically different effects on students who occupy different positions.

You may notice that I appeal here not to the content of speech—it is possible within the range of democratic views to be opposed to DACA—but

to students' first-person experiences. For what I suggest is that we should not consider the question of whether speech should be admitted into the classroom based solely on whether doing so is beneficial from the perspective of democratic pluralism or even intellectual development.

I suggest instead that we see this as a case of competing goods. The goods under competition are those of the democratic and intellectual gains of introducing all topics for discussion, on one hand, and the suffering this may cause to some students, on the other.

Liberalism has traditionally been friendlier to toleration than kindness. Yet my suggestion is not without precedent among liberal theorists. Richard Rorty wished to convince us that the most salient question a liberal can ask is not, are your democratic rights being violated, but rather, are you suffering?¹

What would it mean to balance the democratic gains of open discussion with the suffering of students? First, what kind of suffering and for which students?

I suggest that we limit our concern not to the discomfort of being challenged in our views, but to times in which our right to be part of the discussion is itself being challenged. This is after all part of the equal respect on which Habermas premises his discourse ethics. Hence we must think carefully about discussion of a policy that could undermine a student's right to even be in the room. And I suggest, further in the spirit of alleviating not only contemporary suffering but the historical inequality that has caused it for some groups more than others, that we prioritize the suffering of students who are most vulnerable socially and economically.

The recommendation to care about students cannot lead to absolute policies, but relies on teacher discernment. This will be shaped by many factors. A discussion of immigration policy when no particular bill is pending is different from a discussion of DACA when a student's ability to continue her education might be imminently revoked. A discussion of affirmative action when there are at least several students of color in the class is different than a classroom in which there is only one student, who may feel that she alone must defend

her place at the university.

This does not mean that in such cases we should abandon discussion of these issues. It means considering how to support particular students. A student who is politically active in regard to the issue may welcome the chance to share her knowledge and experience. Students who seem more reticent might benefit from the inclusion of class speakers who can represent a view that they might not feel comfortable expressing themselves.

Such measures are easy fixes because they do not conflict with deliberative aims but in fact strengthen them. While the goal is to take care of vulnerable students, the effect is more speech.

But might there be times when speech should not be given equal consideration? Professors Zhao and Binderwald argue that instead of restricting the content that can be admitted to deliberation:

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 their purpose is only to degrade and diminish, rather than to seek understanding.

But *who* would reject such speech based on the rightness criterion? As the authors note, within the framework of discourse ethics, the appeal is not to transcendent principles but to the logic of the deliberator. If the class contains an articulate and persuasive young Richard Spencer, some students may not reject such speech.

Is this a problem? It is, for three reasons. The first is the one I have already mentioned, regarding the experience of students whose very existence in the class or even the country is being questioned. The second however is that I find it inadvertently intellectually dishonest to suggest that we are basing the legitimacy of the young Spencer's propositions on the process of deliberation. I suggest that our democracy is in fact premised on transcendent principles regardless of whether they are legitimized through deliberative argument. And

this is the third reason for my critique: the speech of the articulate young Spencer violates those principles that we ought to hold as—forgive me—self-evident.

It is easy to accuse a person of being against a country's fundamental or founding principles—isn't it after all a matter of how those principles are interpreted? But the new Far Right is unique in their explicit rejection of them. Spencer for example has stated: "Our dream is a new society, an ethno-state that would be a gathering point for all Europeans. It would be a new society based on very different ideals than, say, the Declaration of Independence."²

Deliberative theorists have been critiqued for presuming that there is a common good on which we can agree. But even political theorists whose conception of democracy is the most clearly opposed to that of Habermas assume that we begin with some principles in common. Chantal Mouffe for example has argued that deliberation will fail, or worse, cloak oppression, because interests are inevitably in conflict and the best we can do is channel those differences into nonviolent competition such as protests and lawsuits. But Mouffe argues that we can view our competitors as worthy opponents precisely because we all agree on fundamental democratic norms.³ Not so with Spencer and his friends.

For me, then, it is more intellectually honest to admit that I am concerned with eliminating such views more than I am with the democratic and intellectual gains of legitimizing the process through deliberation. This brings us back to the helpful intellectual history the authors relayed of how contemporary liberal students have become so speech-shy. Marcuse, the authors remind us, was inspired to give up on equal protections by his experience with Nazis. It is no coincidence that "Nazis" are a trump for most considerations. People who wish to eliminate others are dangerous.

We have become accustomed to viewing the claim that a group of people is dangerous as itself dangerous. Once a group is labeled in this way, they become vulnerable to tremendous abuse, as the authors note in their reflections on Communist terror and their fears about contemporary liberals. I have seen this in my own research on how police justify torture and extrajudicial executions.

But the danger of labeling someone as dangerous does not make them

less so. Spencer and his comrades have incited real violence and have made people afraid to leave their homes. To me then the question is not primarily about the ethics of free speech, but whether Marcuse is right when he says: “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.”⁴

I am not wholly convinced by this claim, and if it *is* the case, I am not persuaded that limiting the speech of American Neo-Nazis will diminish their movement. But it is this question in which I am ultimately interested, and if such speech is included on campus, for me it would be for the purpose of eliminating it in the long-run.

1 Richard Rorty, *Contingency, Irony, and Solidarity* (Cambridge: Cambridge University Press, 1989), 198.

2 “Richard Bertrand Spencer,” Southern Poverty Law Center (2013), <https://www.splcenter.org/fighting-hate/extremist-files/individual/richard-bertrand-spencer-0>.

3 Chantal Mouffe, “Deliberative Democracy or Agonistic Pluralism?,” *Social Research* 66, no. 3 (1999): 745–758.

4 Herbert Marcuse, “Repressive Tolerance,” in *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965), 109.