

**This includes previously unpublished work that was submitted after the publication deadline.*

By Justin McClinton

The man yelled “The holocaust is genocide!” standing on the quad at Berkeley. I slipped past him to find several students promoting the Berkeley Political Review advertising it as a bipartisan student periodical. I commended them for their dedication as they were the only student organization outside on this cold day during finals week. The cover of the city of Berkeley’s own newspaper, The Daily Californian featured a headline on the settlement between the University and two conservative student organizations the Berkeley College Republicans and the Young Americans for Liberty. The University of California represents free speech for American universities. The current form of free expression present on modern campuses is much more in line with a European version of free speech governed by laws of libel than the unabashed truth seeking that has defined the American version of free speech. The American version of free speech in its totality now only exists online. Political correctness plays the role of libel here in the states, and this is the reason why maligned students on campus are more interested in the ideas of internet thinkers than their own professors. Even if the students themselves disagree with many of the ideas espoused by these online luminaries, it is the reckless pursuit of the truth in a confused age that aligns these right wing students with their digital teachers.

The Young Americans for Freedom and the Berkeley College Republicans sued the UC Berkeley campus for a discriminatory major speakers policy that they considered unconstitutional due to vague and unfair constraints around time and venue policies. Berkeley spokesperson Dan Moguloff explained to me that the settlement did not actually require any changes to the major events policy but that the policy be made widely available to the public. The financial side of the settlement is an agreement to cover the students groups legal fees at the cost of \$70,000.

Dan Moguloff and I agreed that there is a left leaning climate at Berkeley that makes certain students rightly feel marginalized. This phenomena is not the disease but the symptom. The reality is that the student voices of dissent at Berkeley are marginal. The student groups are lucky

to field 10 dedicated members and the transient nature of student leadership leave them hardly what you would call organized. This is what sparked Jordanian born Khader Khadish, to found the Young Americans for Freedom chapter on campus. While Khadish himself identified as “center-left”, his is a crusade against unchecked progressivism on campus inspired him to foster the sort of dialogue he was promised in America. The experience of foreign born students should not be ignored and their is much diversity amongst students that dissent against the orthodoxy on campus. Though the dissenting group is not homogenous ideologically, they are unified by a push against political correctness.

William Morrow, whom had been the UC Berkeley student body President the 2017 Milo Yiannapolous riot, gave me his take on free speech,

“For me, the purpose of free speech in society is to provide the legal guarantee vis-a-vis the state that an individual has the right to be free from persecution for the expression of their beliefs and opinions. In principle, free speech thus ensures the just protection of contrarian ideas against censorship by the state. Furthermore, by protecting the expression of all ideas, free speech helps to promote robust discussion of all ideas that, in an ideal world, would allow for the best ideas to win out. However, when defenses of free speech are only given for particular ideological strands in a way they are not for others, it can give the impression that agents of the state may privilege some forms of speech more than others, and historically this has come to the detriment of marginalized communities, and particularly to those not guaranteed the rights of citizenship. That is why my belief aligns closely with that of the American Civil Liberties Union.”

Morrow's defense of free speech is right in line with the enlightenment ideas that have served to define the western thought process for free speech on paper but unfortunately the "collision with error" based interpretation of speech that John Stuart Mill proscribed is a far cry from reality. What we have is hardly a marketplace of ideas but instead conflict with no clear victor. In his speech at UC Irvine Dennis Prager declared that "there is a civil war in America, thank god it is not violent" between the left and the right. Thought mavens use the internet to escape the ideological rules of the game. This phenomena is a product of what University of Toronto Professor Jordan Peterson characterizes as "the search for ideas moving online." While some dissenting students in 2017 banded behind the Milo Yiannopoulos brand of shock jock opposition, this sort of trolling has died down while the more reasoned stance of the Prager types has managed to take hold of the conversation around political correctness on campus. In a tweet by conservative pundit Ben Shapiro about his August 2017 appearance at Berkeley he accused the university of levying additional security cost upon him at the amount of \$15,000 dollars. Campus spokesperson Dan Moguloff told me that the additional cost of security incurred by Shapiro was venue related and could have been placed on the attendees. While the situation remains a bit unclear on both sides, Shapiro is allowed to speak on UC campuses and the benefit he has provided by representing conservatism in a cogent manner is at least verbally acknowledged by UC officials. The events of the Milo visit to Berkeley seem to be an isolated occurrence as the 2017 Shapiro speech and the recent Prager visit, among several other conservative appearances on campus have gone on smoothly. Albeit contentious their seems to be a foothold at the university for mainstream conservatism but the nature of censorship in general remains a hot topic.

Legacy came up quite a bit in my chat with the Berkeley administrators and I reflected on these comments a stone throw from decadent administrative building at the conveniently titled campus Free Speech Cafe. Dennis Prager spoke at length during his UC Irvine talk about how his advertisements and many of the videos for his conservative media platform, Prager University, had been blocked by Spotify or Youtube. This is but one example

of the issue that faces platforms that host speakers that challenge the orthodoxy. It is important to consider the role that those that control the algorithms play in what is presented to us when we go on the internet. The problem present for platforms is the pressure that exists on both sides of the aisle for them to choose whom to support. This has caused many to call for government intervention in how these platforms are allowed to present information. The course of our history has already been changed by how social media has influenced the way we interact with information. It is unclear going forward how this will continue to play out but platforms must allow free speech to flourish or risk exerting undue influence on politics and discourse.

Grounded in student sources, testimony from the Berkeley chancellor's Free Speech Commission, local and national media coverage, social media, police reports, and oral history interviews with UC Berkeley officials, including both chancellors who set policy for the campus, this paper offers the first historical account that goes beyond the headlines to explore how the UC Berkeley administration navigated these months of political crises. The study also raises important free speech questions that emerged from these months of conflict at Berkeley, most notably what higher educational leaders are to do when their legal and moral obligations to uphold the First Amendment and free speech conflict with university's educational mission. Indeed, the months of tumultuous conflict over the invitations and appearance of far right speakers, with their assaultive rhetoric and bigotry, left many students disillusioned with what they saw as UC's free speech absolutism that resulted in building closures, police invasions of the campus, and academic class cancellations over security concerns. Many students at Cal came to loathe all this as a "political circus" that disrupted their education for the sake of crude and cruel speakers who lacked educational value, a disruption that seemed to them all the more irritating in that it was largely ignored by the media. This student view was worlds away from the media fixation on and insistence that the university be open to all speakers regardless of how loathsome students found them or how the protests and security wrought by unpopular speakers impacted the university and its academic mission.

**This includes previously unpublished work that was submitted after the publication deadline.*

By Justin McClinton

Late stage capitalism has greatly influenced free speech in America. The current form of free expression present on modern campuses and in the United States at-large is much closer to the British common law version of free speech governed by laws of libel. The key difference between the free speech speech practiced across the pond and the puritanical version that took root in America is the value of the truth. Libel laws protect the citizenry from speech that might cause violence. The parallel for contemporary America is the role of hate speech, while there are no official laws forbidding hate speech, the court of public opinion handles these cases. The issue with this lies with control over the definition of hate speech. To define hate speech in the court of public opinion creates many blurred lines. The recent Jussie Smollett incident demonstrates this. His manipulation of “hate speech” as the precursor to alleged violence was defined by the quote attributed to his alleged attackers “this is MAGA country”. The catchphrase of our sitting president is associated with literal violence for many within our country. Critique of Smollett from the left is that his act serves to undermine a legitimate cause of concern over the treatment of Black men and gays in America. The issue for the right is his willingness to potentially incite racial violence. Speech in and of itself cannot technically be a crime but statements serve as the precursor to an act of violence becoming a hate crime. In his speech at UC Irvine conservative commentator Dennis Prager declared that “there is a civil war in America” between the left and the right. Conservatives like Prager would contend that their viewpoints are policed through protest based on the grounds that the temperament in and of itself promotes hate. Campus protest though are also an act of free speech and college campuses have ensured to facilitate protest without technically impeding conservative speech. Conservative viewpoints are in reality marginal on campus and they only manifest with clandestine student groups and their invited speakers. The campuses are a left-wing orthodoxy which presents a problem because they are not representative of the diversity of opinion present in America.

The country by and large is 50% liberal and 50% conservative. There are many explanations for this glaring demographic disparity around the presence of vocal conservatism on campus. This of course presents a slew of challenges, the most glaring of course being the reality that some portion of the conservative viewpoint is truthful. The unabashed truth seeking that has defined the American version of free speech has fallen to political correctness. The American version of free speech in its totality now only exists online. The truth has become secondary to maintaining homogeneity on campus. This is undoubtedly a product of the capitalist realism that has ensured that higher education is in principle a high priced commodity designed to produce uniformity. Political correctness policed by the populace plays the role of libel here in the states, and this is the reason why maligned students on campus are more interested in the ideas of internet thinkers than their own professors. Even if the students themselves disagree with many of the ideas espoused by these online luminaries, it is the reckless pursuit of the truth in a confused age that aligns these right leaning students with their digital teachers. This phenomena is a product of what Jordan Peterson characterizes as “the search for ideas moving online.” Internet forums are in effect the wild west for idea exploration and this manifest as unrestrained critical thinking. Free and critical thought doesn’t necessarily work as a commodity because it is not good for stability hence the restrictions that are enforced upon it, whether these restrictions are instatitated the government or the populace. The reason politically correct culture is more effective for capitalism than libel enforced by the state is that the populace themselves act in the interest of the plutocratic the ruling class. It is not in the best interest of neoliberal elite to foster critical thinking.

The enlightenment ideas that have served to define the western thought process for free speech only exist on paper and the “collision with error” based interpretation of speech that John Stuart Mill proscribed is a far cry from present reality. What we have is hardly a marketplace of ideas but instead conflict with no clear victor. Thought mavens use the internet to escape the ideological rules of the game. While some dissenting students initially banded behind the Milo Yiannopoulos brand of shock jock opposition, this sort of trolling has died down while the more reasoned stance of the Prager types has managed to take hold of the conversation around political correctness on campus. Ben Shapiro is a good indicator for the views that are allowed on campus. He has had more innocuous appearances at Berkeley than controversial ones. The security requirements of his last visit to Berkeley, caused by raucous community members, did more to stir the Black and Brown students, faculty and employees on campus than the content of his message. Of course this is the reality of our contemporary political battle between the left and right. In line with what Malcolm X had said, the racial minorities in America are caught in the middle of ideological battles largely confined to white people. America’s minorities though should be aware of the larger cultural shifts taking place in America and the rest of the west for that matter. Racial minorities require this knowledge in order to advocate for their own respective interest. While Jamaican, American philosopher Charles Mills misses the mark on how the enlightenment applied to racial minorities in the west, he is correct about the maladies of liberalism. The fruits of liberalism and the universalism it promotes have been few and far inbetween particularly for Black people. In spite of Audre Lorde’s lamentation though the tool of free speech did prove valuable to an extent for racial minorities gaining rights in the west, particularly during the Civil Rights Movement. The bend of the west though has taken on more class oriented forms of oppression predicted by French, Marxist philosopher Frantz Fanon. He said “what matters today, the issue which blocks the horizon, is the need for a redistribution of wealth.”

The contrasting point to the oligarchical nature of modern society is the class based revolt taking place on both sides of the aisle. The right has its populism and the left has its socialism. The rising tides of populism and the differing view on immigration are the most pressing issues being discussed but I fear the university is too blinded by orthodoxy to genuinely contend with these matters. Unfortunately academia has been corroded by insularity and the radical use of free speech in the American tradition is best upheld by comedians and other online artist. A few professors have been able to commit to performing in this manner by building an online audiences but I am weary of the predictions that the future of formal education is online. Online platforms are facing a complex battle considering the pressure they are receiving from the left and the right. This has caused many to call for government intervention in how these platforms are allowed to present information. It is important to consider the role that those that control the algorithms play in what is presented to us when we go on the internet. The course of our history has already been changed by how social media has influenced the way we interact with information. It is unclear going forward how this will continue to play out but platforms must allow free speech to flourish or risk exerting undue influence on politics and discourse.