

First Amendment lessons for liberals

BY ERWIN CHEMERINSKY HOWARD GILLMAN

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Violence is not progressive (NOAH BERGER/EPA)

In the first weeks of the new school year, campuses across the country are again in the thick of the war over free speech. As in recent years, a familiar pattern is emerging: Conservatives look to bring conservative speakers to campus. Some liberal faculty and students object, claiming that hateful and offensive voices cause great harm and should be prevented from speaking.

This is a corrosive, illiberal cycle, and it must end.

For example, at the University of California, Berkeley, conservative student groups invited speakers like Ben Shapiro, Milo Yiannopoulos, Ann Coulter and Steve Bannon to come speak early in the fall semester. The mayor of Berkeley and some students and faculty are urged that these individuals should not be kept off campus. There was also a looming threat of danger, as Antifa appeared ready to engage in violence, as it did last January when it forced the campus to cancel Yiannopoulos' speech.

This, of course, is happening on campuses across the country. All of which has led to a widespread perception that liberals are keeping conservatives from being able to speak on campus and that conservatives are the champions of free speech.

That's false. Liberals we know — at least, most of them — are forceful advocates for the free exchange of ideas.

In reality, conservatives such as Yiannopoulos and Coulter are thrilled when they are kept from speaking. It lets them portray themselves as victims, vilify the left as intolerant, and accuse campuses of being more concerned about indoctrination than the robust exchange of ideas.

It is essential that campuses, and especially progressive students and faculty, not fall for this ploy. Campus officials need to publicly and emphatically reaffirm that all ideas and views may be expressed on campus, period and without exception.



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They need to explain that universities cannot perform their core mission of creating and transmitting new knowledge if they establish orthodoxies of opinion and punish individuals who challenge prevailing wisdom.

Campus officials, of course, have the right and even obligation to speak, and may condemn what they find to be hateful or offensive. Students should be encouraged to engage in peaceful and non-disruptive forms of protest, as occurred when Shapiro spoke at Berkeley a couple of weeks ago, or when Jeff Sessions spoke at Georgetown last week.

The situation is made more difficult because off-campus groups, like Antifa, have their own agenda of agitation. This willingness to resort to violence is entirely counterproductive to progressive goals. An absolute commitment to non-violence, especially on college campuses, is essential. Campuses must be battlegrounds for the exchange of ideas, not actual battlegrounds.

Campuses must take whatever precautions are needed to protect public safety and prevent disruption of scheduled speakers. Admittedly, this can cost a lot; Berkeley spent \$600,000 in security to ensure that Shapiro could speak without disruption.

But the First Amendment and academic freedom require that campuses do all they can to protect the ability of all to speak. Moreover, the more committed we are to nurturing a culture of free expression, the less there will be a need to recruit hundreds of police just because someone was invited to give a lecture.

Even better, we may get to the point where provocateurs and trolls such as Yiannopolous are merely ignored and thus denied their desired circus atmosphere, as happened the second time he spoke at UC Irvine last year.

Often the desire to suppress speech comes from minority students who say free speech itself is a construct invented by the powerful white majority. Campus officials must acknowledge the consequences of hateful speech and take steps to ensure that all students feel respected and protected.

But every court to consider a campus hate speech code has declared it unconstitutional. The Supreme Court has been clear that speech is protected, even when it is deeply offensive.

The stakes in all of this are enormous. This is about whether the country's longstanding commitment to freedom of speech, as expressed in the First Amendment, will continue to protect all views in the very places designed to foster a free flow of ideas.

Chemerinsky is dean and professor at University of California, Berkeley School of Law. Gillman is chancellor and professor of law and political science at University of California, Irvine. They are co-authors of the new book, "Free Speech on Campus."