

## Free Speech on Campus (Sigal Ben-Porath)

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Review of

## *Free Speech on Campus*

by Sigal Ben-Porath. Philadelphia: University of Pennsylvania Press, 2017

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For anyone who has looked on in dismay as Harvard law professors are asked to eliminate the word “violate” from their vocabulary (Lukianoff & Haidt, 2015), or come up philosophically short when Berkeley cancels a lecture by Milo Yiannopoulos, *Free Speech on Campus* is a welcome guide to navigating the moral issues at play on campuses today. Political and educational philosopher Sigal Ben-Porath traces a path through the contemporary forms of injustice, protest, and identity politics that appear to strain our intuitions with regards to free speech, while delivering a resounding defence of academic honesty and intellectual open-mindedness.

This book is not a direct engagement with either the generic free-speech literature or earlier philosophical debates about academic freedom in the abstract. Rather, it provides a high-level framework for interpreting the seemingly endless stream of crises and clashes that have rocked campuses in the last several years, and advocates principled responses to sensitive political encounters. Central to her approach is Ben-Porath’s interpretation of the changing landscape of higher education, and more implicitly, the pall of post-truth politics. Appearing on the heels of the 2016 U.S. presidential election, *Free Speech on Campus* conveys the urgency of renewing our commitment to both inclusion and freedom in the face of unprecedented polarization and democratic instability in America.

The thrust of Ben-Porath’s approach—which she calls “inclusive freedom”—is to challenge the presumed incompatibility of two cardinal values on campus that appear to be in tension. “Inclusion”—associated with the left, with identity politics, and with demands for increased recognition—is sometimes invoked to shut down offensive guest lectures, rebuke insensitive professors and administrators, and call out politically incorrect expression. “Freedom”—in this context, associated with more conservative values and classical liberal rights—emphasizes the open exchange of words with little regard for structural injustices that limit the freedom of marginalized communities to participate safely. So construed, the ideals frequently collide. As Ben-Porath explains, “the left is often worried about rampant hate being protected by appeals to free speech, while the right voices concerns about liberal professors limiting expression and indoctrinating students in the name of inclusion and diversity” (p. 31). However, she asserts, these values are not only compatible, but mutually dependent. Freedom that purports to be equally distributed while perpetuating familiar hierarchies is unworthy of its name. Inclusion that pushes progressive causes by curtailing speech is self-defeating. As she argues, “[a] call for creating an inclusive environment in which all members are respected and where all voices can be heard should be framed and recognized as furthering rather than impeding the realization of a free and open campus.” (p. 37)

Her argument unfolds in four chapters, deftly weaving conceptual concerns and on-the-ground examples of hard cases. The result is readable and engaging, accessible to anyone who follows headlines about higher education, but especially resonant for we academics who fret about their ramifications in our own lives. Chapter One introduces the political context on American campuses and suggests, without wading into excessive literature, that free speech on campus is a *sui generis* problem given the evolving role of higher education and increasing diversity of college populations. Chapter Two outlines the theory of “inclusive freedom,” a kind of rallying cry for overcoming bitter tensions on campus and avoiding democratic foul play. Chapter Three examines the application of this ideal to “free speech in the quad,” or the common space of campus, while Chapter Four considers conundrums of speech in the classroom. The conclusion includes a brief compendium of practical suggestions for instructors and students, student groups, and campus officials.

Ben-Porath charts a thoughtful, moderate course that will resonate with most liberal academics. She is pro-speech, pro-diversity, and worried about the risk of shutting down intellectual openness in the name of putative social justice. She is against speech codes, but in favour of “explicit classroom ground rules that focus on engagement and inclusion” (p. 102); she is skeptical of overusing “trigger warnings,” but encourages professors to notify students of upcoming content as a matter of good pedagogy. With exquisite diplomacy, she succeeds at defending the recognition needs of marginalized groups while questioning the appropriateness of some of their demands. This manoeuvre is bolstered by her engagement with Eamonn Callan’s (2016) distinction between “intellectual safety” and “dignity safety,” articulated in a symposium in this journal. “Dignity safety,” for Callan, “is to be free of any reasonable anxiety that others will treat one as having an inferior social rank to theirs” (p. 65). Yet the purpose of higher education would be utterly defeated if students were accorded intellectual comfort at all times. He explains that “liberal education requires *unsafe* spaces for students because it will threaten their established intellectual identities by its necessary incitement to open-mindedness” (p. 75).

Callan invokes the norm of civility as a guide to protecting dignity safety along with intellectual openness. While Ben-Porath affirms that we ought to distinguish between more and less legitimate demands for safety, she disagrees that civility is adequate in pursuing a robust social justice agenda. The point is well made in her response to Callan’s article, where she says, “The form of respect expected by Callan’s civility seems to allow only ‘appropriate’ or ‘noble’ forms of expression to count as civil, whereas those traditionally ascribed to women and to ‘lesser’ cultures—excitement, anger, tears—continue to be rejected and censored” (2016, p. 84). In *Free Speech on Campus*, however, she sketches a surprisingly narrow definition of civility, which excludes “[dancing] on the campus main walkway” and “[dressing] in unusual ways to make a statement” (p. 73), but is potentially compatible with “students [fearing] humiliation, ridicule, and rejection” in the classroom (p. 76). It must be wondered whether she thereby relinquishes the domain of civility entirely to the historically privileged rather than claim it for more expansive purposes. Her alternative suggestion—that “campuses should rely on responses rooted in democratic principles rather than in calls for proper and civil exchange” (p. 72)—is unfortunately not well elaborated in this volume.

This stance on civility and its mostly unexplored relationship to democracy constitutes one of the limits of such a concise book. While offering a crisp and compelling vision of the delicate political balance we should aim for, Ben-Porath at times downplays the non-ideal reality we live in. For example, she asserts that “[c]ontaining the process of discussing controversial issues makes it possible to have an open and free exchange while avoiding both dignitary and intellectual harms” (p. 94). In other places,

she acknowledges that containing harm is *not* always possible, which seems more accurate; moreover, the debate over free speech has been polluted precisely by the overuse of “harm” claims, for which there is no strictly apolitical adjudication. This is why we need principled ways of assessing conflicting rights, particularly in an anti-intellectual political climate. The Millian paradigm is inadequate when claims of subjective dignitary harm can be appropriated by almost anyone, to almost any end.

Indeed, it may be difficult to identify any firm overlap between freedom and inclusion when the limits and definitions of both are being constantly stretched. Like a calm mediator, Ben-Porath asserts:

Free speech arguments should not be wielded against demands for inclusion, and neither should claims of harm be lobbed at free speech. The common ground between the two sides is in fact much broader and more stable than either side assumes. (62)

But at what point do some of these critiques of each side become legitimate? *Free Speech on Campus* was written before the horrors of Charlottesville, for example, leaving Ben-Porath’s “middle ground” arguably smaller than it once was. Is there an “inclusive” (i.e., dignity safe) way of talking to white supremacists? And what are the costs of not talking to, or about, them? Extremists may take undue succor from Ben-Porath’s defense of free speech, where she diverges from more cautionary leftists on certain questions, such as the propriety of hearing Charles Murray (author of *The Bell Curve*) speak at a liberal arts college. For example, in response to cancellations and protests of campus speakers with racist reputations, including white-supremacist organizer Richard Spencer, far-rightists have doubled down on First Amendment freedoms and successfully instituted “campus free speech laws” that could impose penalties for boycotting particular speakers (Baumgaertner, 2017). A line may eventually need to be drawn on the blurry continuum between engaging unpopular or offensive views in an inclusive intellectual community, and using campuses to empower fascist ideologues.

No book could tease apart all these threads, much less anticipate all future challenges. Among the virtues of Ben-Porath’s work is how it calls us to sustained reflection on the resilience of liberal ideals in hard cases. Pessimists may point to recent events, or challenging professional experiences, as evidence that liberal education is in real trouble. Ben-Porath evinces confidence that respect for broad civil liberties and improved accessibility will yield more inclusive, safe, and intellectually rigorous campuses. How successfully this approach will be able to withstand further assaults on meaningful equality remains to be seen. Without question, though, Ben-Porath has provided a valuable framework for reflecting on one of the most timely and critical issues facing education—and politics—today.

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