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Addressing the Real Crisis of Free Expression on Campus

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April 25, 2017

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Jeffrey Herbst¹

College campuses should be bastions of free speech. Today, they often seem to be the very places in American society where there is the least tolerance for controversial ideas. Unfortunately, much of the discussion of why this has occurred is based on the ad hoc experiences of a few campuses that briefly gained national attention when lecturers were harassed or prevented from speaking by unruly and, occasionally, riotous crowds.

Systematic public opinion polling and anecdotal evidence suggests, however, that the real problem of free expression on college campuses is much deeper than episodic moments of censorship: With little comment, an alternate understanding of the First Amendment has emerged among young people that can be called “the right to non-offensive speech.” This perspective essentially carves out an exception to the right of free speech by trying to prevent expression that is seen as particularly offensive to an identifiable group, especially if that collective is defined in terms of race, ethnicity, gender, or sexual identity. The crisis is not one of the very occasional speaker thrown off campus, however regrettable that is; rather, it is a generation that increasingly censors itself and others, largely silently but sometimes through active protest. Of course, high-level observations about an entire age cohort are by definition difficult and

¹ President and CEO, Newseum. The Free Speech on Campus project – including two conferences and this paper – was supported by a grant to the Newseum Institute from the John S. and James L. Knight Foundation. I am grateful to Lata Nott, Barbara McCormack, Murray Garnick, Gene Policinski, and John Wilson for their helpful comments.

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care must be taken in making generalizations. However, to ignore the different view that many of today's students have on free speech would be to doom any effort to promote intellectual exchange on campus.

This paper reviews the development of young adults' perceptions of some of our basic liberties. It then provides a set of recommendations to promote free expression on campus that directly addresses the students' concerns. Most notably, the case for free speech will be especially persuasive to young people if it is repeatedly and powerfully argued that free expression especially benefits minorities and those alienated from society. Young people themselves are the best ambassadors for this message. Such an approach will depoliticize the discussion and thereby build a larger constituency for free speech. Absent such efforts, we may continue to speak past each other.

The following pages outline the true constraints on free expression on campus, and propose several steps that must be taken if campus free expression is to be promoted.

- Elementary and secondary schools must educate students on the First Amendment, how far the right of free expression extends, and the opportunities it affords to those who want to change society. Students carry attitudes with them to college so we must address young people when their views on free speech are first being formed.
- Colleges and universities must make an absolutist case for speech to a generation of students who have more complicated views.
- Critically, we must continually make the case that free speech particularly helps minorities and those who are alienated. The failure to understand the precise

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challenge to free speech has caused, to some degree, the debate over expression to become politically polarized.

- Colleges and universities will have to become much more deliberate about encouraging advocates of free expression.
- In particular, we must find ways for students to become the advocates for free speech for their generation.

Banning speakers is the symptom, not the disease

Attention to the state of free speech on campus tends to spike when controversial speakers are prevented from speaking. As dramatic indictments of the core tenets of our institutions, these are moments that make for good press and photos. Among the most commonly cited examples are Middlebury College (Charles Murray, whose writings on race and intelligence have been highly controversial, was kept from speaking and then, shockingly, attacked); Brown University (former NYPD Commissioner Ray Kelly was prevented from speaking); Yale (an email about Halloween costumes became a reason to denounce a residential college dean and a professor); University of California, Berkeley (online provocateur Milo Yiannopoulos was barred from the podium by a crowd); and the University of Pennsylvania (students shouted down the CIA director so that he eventually left the stage).

Yet, there are more than 4,000 colleges and universities across the country and each of these incidents, while awful, does not give us an accurate understanding of the state of free speech on campus. Also, the press tends to focus on elite, highly selective colleges

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that are in many ways not representative of other campuses (recognizing also that this type of campus may be particularly prone to censorship by the crowd).

The problem with the episodic focus on free speech is the assumption that if controversial lecturers were allowed to express their opinions, the problem would be solved. However, the problem goes much deeper. Charles Murray, for instance, has spoken at many colleges and universities over the years. Are the students at Middlebury who prevented him from speaking in March 2017 uniquely intolerant? They probably are not. Rather, a particular combination of factors (the presence of talented student “grievance entrepreneurs” who could effectively mobilize a crowd, geography of the campus, bitterness over the 2016 campaign) came together to produce a very bad result. Murray himself argues that being chased off the stage at Middlebury was “an inflection point”² in the evolution of free speech on college campuses, but there is really no evidence for this. Rather, the Middlebury incident was more like a ship hitting an iceberg in an ocean filled with such dangers. The actual collision was spectacular (in a bad sense), but the dangers had been growing under the surface for a long time. What is visible from the surface is only a partial glimpse of how grim the situation really is.

Similarly, the excellent PEN America report on campus free speech focused, in good part, on discrete campus controversies (notably Yale, UCLA and Northwestern), noting, “While current campus controversies merit attention and there have been some troubling instances of speech curtailed, these do not represent a pervasive ‘crisis’ for

² Charles Murray, “Reflections on the Revolution at Middlebury,” [AEI Ideas](https://www.aei.org/publication/reflections-on-the-revolution-in-middlebury/), March 5, 2017. Found at: <https://www.aei.org/publication/reflections-on-the-revolution-in-middlebury/>

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free speech on campus.”³ Yet, the number of speakers thrown off campus is not a good indication of underlying attitudes and practices toward free speech, because much of the free expression that colleges rightly value should occur every day among students. If activists stop chasing speakers off campus, that would hardly mean that the problem has been solved. Rather, campus tranquility might simply indicate that college administrators have perfected the strategy of not inviting those who might incite protest.

Understanding the deeper crisis

To develop a more comprehensive picture of the challenges to free expression, I draw on several different sources while avoiding the episodic moments that grab the headlines. We do have an increasing amount of public opinion research on high school and college student attitudes toward free speech. The Newseum also held a conference (funded by the Knight Foundation) in spring 2016, where 50 student leaders from a wide range of institutions discussed the actual threats to free expression. At that meeting, students talked mainly about the challenges posed by other students, and did not mention administrators, graduation speakers, trigger warnings, or safe spaces. I then became convinced that the issue of free speech had to be approached from the students’ perspective rather than that of older adults and campus administrators. The Newseum followed up that conference with a Knight-funded competition that asked college students from across the country to create short videos on how they dealt with a controversial topic on campus without curtailing speech. Finally, I have drawn upon my own experiences as chair of a large department at an Ivy League school (Politics,

³ PEN America, And Campus for All: Diversity, Inclusion and Freedom of Speech at U.S. Universities (New York: PEN America, 2016), p. 8.

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Princeton), provost of a medium-size public university in the Midwest (Miami University, Ohio), and president of a liberal arts college (Colgate University).

Student attitudes in high school

The focus on the regrettable incidents of censorship inevitably leads to a narrative that goes something like this: Liberal professors and spineless administrators have created an environment where the “snowflakes” are too sensitive to hear any type of speech that may clash with their worldviews. Although professors are disproportionately liberal and administrators can certainly be criticized, this approach assumes that students are mere vessels without ideas of their own. In fact, young adults come to campus with some fairly well-developed views that explain much of what subsequently occurs as they confront challenging speech.

The Knight Foundation’s 2016 survey of high school students and teachers found that 91 percent of students agreed that “people should be allowed to express unpopular opinions.”⁴ That is certainly in accord with the First Amendment. However, when pressed, only 45 percent of students agreed that “People should be allowed to say what they want **in public** even if it is offensive to others,” and only 43 percent concurred with the statement that “People should be allowed to say what they want **on social media** even if it is offensive to others.” It seems that high school students make a sharp distinction between free speech in theory, or speech that touches on general political

⁴ Knight Foundation, Future of the First Amendment: 2016 Survey of High School Students and Teachers. Found at: <https://kf-site-production.s3.amazonaws.com/publications/pdfs/000/000/228/original/FOFA-2016-final-2.pdf>. Emphasis in the original.

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issues, and speech that affects others.⁵ Of course, hate speech, except under very narrow exceptions — such as direct encouragement to others to commit violence — is protected speech in the United States.

The attitude of students toward free expression is not simply a patchwork of politically correct views, but something substantial and more worrying: An alternative understanding of free speech that is essentially “the right to non-offensive speech.” Overall, young adults tend not to believe that there is dissonance between being generally supportive of speech and regulating speech that is offensive to particular groups. Thus, they can, as the Knight Foundation survey notes, be even more supportive of the First Amendment than previous groups of students polled between 2006 and 2014 because they have a particular understanding of these foundational rights. In a recent poll, the Pew Foundation found that 40 percent of Millennials would accept limiting speech that is offensive to minorities. In contrast, only 27 percent of Gen Xers, 24 percent of Boomers and 12 percent of what Pew calls “Silents” (those born between 1928 and 1945) believe that government should limit speech accordingly.⁶

Where did such a particular understanding of our most basic freedoms come from? This is a complicated question, but certainly part of the answer could be found in early education settings. The approach to diversity in many elementary and secondary schools seems to be little more than “Don’t say things that could hurt others.” While this might be very good life advice, students have come to interpret it as curtailing the First

⁵ The Knight Foundation also asked two questions about speech “that could be seen as bullying others.” I have not included the results for these queries because students might reasonably infer from the question that the bullying was directed against a specific individual and therefore might not be protected speech.

⁶ Jacob Poushter, “40% of Millennials OK with limiting speech offensive to minorities,” [Pew Research Center Factank](http://www.pewresearch.org/fact-tank/2015/11/20/40-of-millennials-ok-with-limiting-speech-offensive-to-minorities), November 20, 2015. Found at: <http://www.pewresearch.org/fact-tank/2015/11/20/40-of-millennials-ok-with-limiting-speech-offensive-to-minorities>

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Amendment. Indeed, only 53 percent of high school *teachers* agreed that people should be allowed to say whatever they want in public even if it offensive to others, only eight percentage points higher than students. And a similarly small majority (51 percent) of teachers believes that people should be able to say whatever they want on social media even if it is offensive to others, again, merely eight percentage points more than their students. Young adults, far from being unruly and undisciplined, seem to be following their teachers.

The reasons for the attitude of current teachers are complex. Catherine Ross, in her broad and powerful survey of the First Amendment in public schools, notes, “the many incentives that lead educators to value order over what they fear will become the chaos of free expression and to enforce a legal regime that emphasizes obedience instead of balancing rules and rights.”⁷ Indeed, Ross writes that, “Educators continually teach students...that the First Amendment is a sham, something for the ages, but not for them” in part because “educators often lack the most rudimentary familiarity with constitutional demands.” Since there is no high-stakes test (the challenge that increasingly dominates curricular decisions) that demands familiarity with our constitutional freedoms, it is not surprising that teachers opt for order in the classroom by tamping down on speech that could be seen as offensive, and therefore generate countless headaches, especially in our contentious and litigious society.

Equally or perhaps more important, today's students are the first generation to have grown up surrounded by social media. They have deeply formed habits of mind that can be traced back to at least the age of ten, when on average, they received their

⁷ Catherine Ross, [Lessons in Censorship: How Schools and Courts Subvert Students' First Amendment Rights](#) (Cambridge: Harvard University Press, 2015), p. 288 and subsequent quotes on p. 6 and p. 4.

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first smartphone.⁸ The digital platforms they inhabit allow them to “unfriend” or otherwise block people whom they do not want to hear. The algorithms used by the technology companies, reacting to students’ online behavior, also can provide a relatively comforting cocoon of news and posts with which they are likely to agree. It is no surprise that young people want their physical environment to be as controlled as the virtual world they have been accustomed to for almost as long as they can remember.

College student attitudes

To better understand the actual state of free expression in higher education, the Knight Foundation and the Newseum Institute commissioned the Gallup Organization in 2016 to conduct what is undoubtedly one of the most comprehensive surveys of college student attitudes toward our foundational freedoms. A total of 3,072 students from 32 four-year colleges were interviewed, and 2,031 adults also were surveyed to provide comparative data.⁹

As with the survey of high school students, there is some encouraging news. Most college students (73 percent in our survey) are confident about the security of free speech, and even more (81 percent) believe that the free press is secure. They are actually much more sanguine than older adults about both the current state of free speech (only 56 percent of adults believe speech is secure) and free press (64 percent for adults). Seventy-eight percent of college students believe their campuses should

⁸ Influence Central, “Kids & Tech: The Evolution of Today’s Digital Natives,” 2016. Found at: <http://influence-central.com/kids-tech-the-evolution-of-todays-digital-natives>

⁹ Knight Foundation and Newseum Institute, Free Expression on Campus: A Survey of U.S. College Students and U.S. Adults, 2016. Found at: https://www.knightfoundation.org/media/uploads/publication_pdfs/FreeSpeech_campus.pdf

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strive to create an open environment where they are exposed to many different types of speech and views. Seventy-two percent say that colleges should not restrict political speech even if it upsets or offends certain groups. Students at public and private universities hold these views in equal proportions.

However, the same survey found that today's college students also favor restrictions on free speech when it comes to slurs and other language that is deliberately upsetting to some groups. Sixty-nine percent favor limitations on this kind of speech, while 63 percent support policies that restrict the wearing of costumes that stereotype particular groups. Notably, all student subgroups — including whites, men and Republicans — support restrictions on slurs and costumes. One Middlebury student clearly described the attitudes of many students: “For too long, a flawed notion of ‘free speech’ has allowed individuals in positions of power to spread racist pseudoscience in academic institutions, dehumanizing and subjugating people of color and gender minorities.”¹⁰ The continuity of attitudes expressed by students in high school seems clear and offers enough evidence to suggest there is a generational attitude toward free expression.

The result, not surprisingly, are campus climates shaped by policies designed to reduce offensive speech but that also discourage expression. Our survey found that 54 percent of students agree that their campus climate “prevents some people from saying things they believe because others might find them offensive.” Students appear to think that this is a good thing. Men and women, whites and blacks agree on self-censorship

¹⁰ Osita Nwanevu, “The Kids Are Right,” Slate, March 12, 2017. Found at: http://www.slate.com/articles/news_and_politics/cover_story/2017/03/there_s_nothing_outrageous_about_stamping_out_bigoted_speech.html

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at the same rate. Students who identify as Republicans are more likely to agree (62 percent) compared to Democrats (54 percent) or Independents (49 percent) that the campus climate deters people from making statements that others might consider offensive. There is substantial evidence that conversation on campus accords with what students *believe* the First Amendment should entail.

In that context, the focus on individual speakers being censored and the guidelines that are being developed to keep college and universities from disinviting speakers are appropriate, but miss a much bigger problem. That most of the disallowed speakers are found guilty of offending minorities (Murray is a classic in this regard) is a symptom of a perspective on speech which assigns special opprobrium to observations seen as offensive to groups defined by race, ethnicity, sexual orientation or gender. The real tragedy of free expression on college campuses may be that a great many speakers never are invited in the first place because of faculty and administrators' fears that they will offend students.

Most of all, there is the very real danger of a stifling intellectual atmosphere where students say nothing controversial to each other so as not to risk offending. William Deresiewicz, in a compelling and depressing article about college environments, described the banality of today's college conversation:

I listened to students — young women, again, who considered themselves strong feminists — talk about how they were afraid to speak freely among their peers, and how despite its notoriety as a platform for cyberbullying, they were grateful for YikYak, the social media app, because it allowed them to say anonymously what they couldn't say in their own name. Above all, I heard my students tell me

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that while they generally identified with the sentiments and norms that travel under the name of political correctness, they thought that it had simply gone too far — way too far. Everybody felt oppressed, as they put it, by the “PC police” — everybody, that is, except for those whom everybody else regarded as members of the PC police.¹¹

Promoting free expression for all on campus

Eloquent statements of why freedom of expression must flourish on campus do exist. Most recently, my former colleagues Robert George and Cornell West published “Truth Seeking, Democracy, and Freedom of Thought and Expression,” which does an excellent job of making the traditional case for free speech in society and on campus. They are particularly persuasive in arguing that, “The more important the subject under discussion, the more willing we should be to listen and engage — especially if the person with whom we are in conversation will challenge our deeply held — ever our most cherished and identity-forming — beliefs.”¹²

However, it is unlikely that these promulgations by themselves will effectively address the campus free expression problems. Rather, two steps must be taken if campus free expression is to be promoted. First, it must be recognized that the shaping of a generation’s understanding of free expression must begin long before college. Second, it is critical to address the alternative understanding of free expression that has developed among students.

¹¹ He makes clear in the article that he is focused on elite private schools. William Deresiewicz, “On Political Correctness: Power, Class and the New Campus Religion,” The American Scholar (Spring 2017). Found at: <https://theamericanscholar.org/on-political-correctness/>

¹² Found at: <http://jmp.princeton.edu/statement>

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Elementary and secondary schools must educate students on the First Amendment, how far the right of free expression extends, and the opportunities it affords to those who want to change society. Students carry attitudes with them to college so we must address young people when their views on free speech are first being formed. For instance, the Newseum’s educational wing NewseumED is a vital resource for teachers and reaches more than seven million school children in the U.S. and across the world. It presents history through the lens of the First Amendment, showing how freedom of speech has influenced conflicts ranging from anti-immigrant movements to women’s suffrage to gay marriage, protecting both the “winners” and “losers” in each clash. Case studies, timelines and other resources on these historic movements showcase how the free exchange of ideas was essential to the ultimate resolution. In the NewseumED class “You Can’t Say That In School?!” students relive the debate over profanity and anti-war speech in *Cohen v. California* (1971), and decide if they agree with Justice John Marshall Harlan’s opinion that “one man’s vulgarity is another’s lyric.”

Colleges and universities must make an absolutist case for speech to a generation of students who have more complicated views. The excellent University of Chicago statement on free speech gets it exactly right:

As a corollary to the University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on

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campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.¹³

Some universities, like Purdue, have adopted the University of Chicago's statement. However, other campuses have taken a more conflicted approach. Middlebury President Laurie Patton, whose students ignored her when she implored them to listen respectfully to Charles Murray, made a case for free speech in the fall of 2016 that presents speech as a tool for promoting harmony on campus as opposed to intellectual discovery:

Rhetorical resilience assumes that free speech is not the opposite of an inclusive society, but the way to achieve it. So when we gather together, let's make our conversations authentic and resilient. Resilience is the ability to change and grow in response to our environment. Let's train ourselves to make critiques, and to respond to critiques, in a way that focuses on the path forward together, and allows for honest engagement. We face many structural challenges as a society, and while we cannot solve all of those problems overnight, we can find better ways to address them if we remain resilient and engaged in free and open conversation.¹⁴

¹³ "Free Speech on Campus," January 6, 2015. Found at: <http://www.law.uchicago.edu/news/free-speech-campus-report-university-faculty-committee>

¹⁴ Laurie Patton, "Rhetorical Resilience: Free Speech and Inclusivity," *The Middlebury Campus*, September 14, 2016. Found at: <https://middleburycampus.com/article/rhetorical-resilience-free-speech-and-inclusivity/>

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This view is actually quite close to the attitudes of students who want to see free speech protected as long as it is not offensive. While the Middlebury students made their own decision to chase Charles Murray off the stage (and then through the streets), they had not been presented with a ringing endorsement of free speech that would have taught them that speech is protected even if it does not produce honest engagement.

Critically, we must continually make the case that free speech particularly helps minorities and those who are alienated. The failure to understand the precise challenge to free speech has caused, to some degree, the debate over expression to become politically polarized. For instance, the PEN America report notes that FIRE (The Foundation for Individual Rights in Education), undoubtedly the leading national organization that promotes free speech on campus, “is often regarded as libertarian or conservative and is viewed suspiciously by some liberal or progressive students and faculty.”¹⁵ In fact, the free speech group has a long history of defending liberals on campus, and Will Creeley of FIRE admits that he has “long been frustrated by the fact that our successful advocacy on behalf of liberal or progressive students and faculty is not more widely recognized.”¹⁶

In all likelihood, the reason for this misperception is that FIRE’s (rightfully) absolutist position on free speech ignores the free expression carve-out curtailing speech that is offensive to minorities or those thought to be disenfranchised. Those advocating for free speech are coded as conservative on campuses when they do not address concerns over offense to minorities or alienated groups, issues that are

¹⁵ p. 75.

¹⁶ Will Creeley, “Reviewing Pen America’s Campus Free Expression Report,” October 20, 2016. Found at: <https://www.thefire.org/reviewing-pen-americas-campus-free-speech-report/>

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traditionally associated with the left. The case for free speech then becomes politicized and, inevitably, less strong.

PEN America makes the argument that liberal and left-leaning groups on campus should promote free speech. That is undoubtedly correct but probably does not go far enough. Rather, to truly combat young adults' intolerance of free speech, we must make the case that minorities and alienated groups especially benefit from the full exercise of free speech and free expression. These rights are critically important for those whose speech might be muzzled because of their position in the social hierarchy. It is, therefore, critical to argue that multiculturalism can best flourish in an environment where all speech is protected. If the speech of all is not safeguarded, then power will determine who speaks.

Colleges and universities will have to become much more deliberate about encouraging advocates of free expression. For instance, many campuses rightly celebrate students who, through their own initiative, promote diversity and campus harmony. Yet there are very few colleges or universities that go out of their way to honor students who have exercised free speech (except when it is for a cause that administrators believe in). Schools could also sponsor debates that intentionally bring together speakers with different views to show the value of diversity of ideas.¹⁷ Institutions of higher learning seeking to portray a harmonious campus to prospective students seldom talk about the messy discord of their vibrant student conversations. Yet, it is critical to do so if the generational attitudes toward non-offensive free expression are to be countered. Schools also might find that efforts to highlight free

¹⁷ I am grateful to John Wilson for this suggestion.

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expression on campus will attract some idiosyncratic young people who have come to realize how stifling the prevalent attitudes toward expression can be for their development.

In particular, we must find ways for students to become free speech advocates for their generation. Energetic student participation in the Newseum's video contest asking them to explain how they solved campus problems through free expression suggested that there is great potential in having young adults themselves make the case for free speech. Not surprisingly, given their generational concerns, many of the student videos focused on diversity concerns and free expression, addressing precisely the crux of the problem in ways that only they could. We asked the students to produce short videos, rather than more traditional academic papers, precisely so that they could work in a medium that is especially popular with young people.

The long fight for free expression

Today's young people have deeply formed beliefs that can be traced back to at least when they entered the digital realm. The first step to combating the problem is to recognize that these attitudes need to be countered through programs that, by word and deed, promote a robust understanding of free speech in elementary and secondary schools as well on college campuses. The nature of the programs will evolve over time, but they must make the case that free speech especially benefits those who are less powerful, and we should recognize that students are the best ambassadors for this message. Absent such long-term and compelling programs, the young people will carry the attitudes they have developed into the world at large, making them incapable of fully

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participating as citizens since not all will live in the self-censoring environments they found on campus. As Millennials increasingly dominate our society by dint of their demography (they now outnumber Boomers¹⁸), there is also the danger that their restrictive understanding of free expression will come to dominate our society, to our great detriment.

¹⁸ U.S. Census Bureau, "Millennials Outnumber Baby Boomers and Are Far More Diverse, Census Bureau Reports," June 25, 2015. Found at: <https://www.census.gov/newsroom/press-releases/2015/cb15-113.html>