

“Harms of Silence: From Pierre Bayle to De-Platforming”

Andrew Jason Cohen

Abstract

Early in the history of liberalism, its most important proponents were concerned with freedom of religion. As politics and individuals now accept a dizzying array of religions, this has receded to the background for most theorists. It nonetheless remains a concern. Freedom of speech is a similar concern and very much in the foreground for theorists looking at the current state of academia. In this paper, I argue that inappropriate limits to freedom of religion and inappropriate limits to freedom of speech—especially in the form of de-platforming on college campuses—both have, as one of their effects, what I call *harms of silence*. This means we ought not have those limits, so should seek to change them where they exist.

In the naked light I saw
Ten thousand people, maybe more
People talking without speaking
People hearing without listening
People writing songs that voices never share
And no one dared
Disturb the sound of silence.

-Paul Simon

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Early in the history of liberalism, its most important proponents were concerned with freedom of religion. As politics and individuals now accept a dizzying array of religions, this has receded to the background for most theorists. It nonetheless remains a concern. Freedom of speech is a similar concern and very much in the foreground for theorists looking at the current state of academia.

Here is the simple claim of this paper: Inappropriate limits to freedom of religion and inappropriate limits to freedom of speech—especially in the form of “de-platforming” on college campuses—have, as one of their effects, what I call *harms of silence*. Prohibiting a particular religion or prohibiting public displays of that religion, is an assault on freedom; prohibiting public speech (about religion, a minority political view, or anything else), perhaps by de-platforming an invited speaker, is a similar assault on freedom. This means we ought not have those limits, so should seek to change them where they exist. (More precisely, it gives us a *pro tanto* reason to change them.) If we wish for our society to be genuinely liberal—which I here (without argument) take to mean being in accord with the harm principle—we need to make changes so as to prevent these harms of silence from occurring.

Putting my thesis differently, I tie classical liberal thinking about toleration of religion (widely accepted today) to contemporary issues regarding free speech. Just as some classical thinkers did not go far enough when they were prepared to accept (or even endorse) differential treatment of religious groups by the state and the resulting public silencing of religions that were “tolerated enough” to exist in private, contemporary liberals do not go far enough when they accept (or even endorse) differential treatment of political perspectives in public discourse

(especially on college campuses). Just as we should oppose silencing religious minorities, we should oppose silencing political minorities. In particular, I aim to show that de-platforming on college campuses is an unacceptable way that students (and others) limit speech—similar to the way states historically limited religions and speech about religion. Throughout, I draw attention to ways toleration has not been extended far enough, with the result being *harms of silence*.

The paper unfolds as follows. In the first section, I explain what I mean by silencing, defining it simply as the prevention of open inquiry. In the same section, I also discuss what I mean by harm, giving some precision to the concept, and explain the harm principle. Next, in sections two and three, I detail some of the actual harms of concern—both historically and in contemporary society. These result from the failure to extend toleration appropriately—i.e., in accord with the harm principle. I conclude in section four.

As we will see, early defenses of toleration allowed for silencing of minority religious views. In contemporary society, we see direct limits to the speech of those with views that are in the political minority on college campuses and elsewhere when dialogue is shut down by those who de-platform speakers, perhaps in the name of protecting students' feelings and making them "feel safe."²

The problem I am concerned with touches upon all liberty. When open dialogue is prohibited—formally or informally—people cannot discuss their options, people stop thinking about options, and people stop presenting options. More simply, we become afraid to think for ourselves and we become afraid to act in ways that will be scorned. The harms of silence limit all our liberties.

§1. Silencing and Harm

As already indicated, throughout this paper I shall consider silencing to be the prevention of open inquiry. To clarify, silencing is an act by one or more individuals, by a corporate entity, or by norms,³ that cause one or more other individuals to refrain from engaging in discussion of some topic.⁴ It need not actually stop conversation as other topics may be discussed—perhaps more superficial topics—when people refrain from discussing a topic of concern. Silencing can be intentional, but need not be. It can also be wrongful, but need not be.⁵

When a teacher tells students that if they speak they will fail her class, she intentionally silences their discussion. This may be useful as a means of promoting their education but it silences them nonetheless. It may also not be wrongful, and so may not be harmful (as I will explain shortly.) Full silence—complete lack of talking—is not our concern here, though it too may be a problem. We are concerned with cases wherein some specific topic is removed from discussion.⁶ This, too, may be rightful in some cases. In a college classroom, for example, we expect that a math professor teaching a trigonometry course will disallow discussion of popular cultural portrayals of romance. This also shows that silencing need not be intentional. In most college math classes, after all, no one attempts to introduce discussion of cultural portrayals of romance and so no one need tell them they should not.

In some cases, of course, it will be wrongful to intentionally silence students. For example, when a professor of a political philosophy class about justice tells students that although the material they will discuss may cause them to think of Marxism or libertarianism, they cannot bring Marxism or libertarianism into the discussion as its been definitively disproven or is otherwise of no value. (Or imagine a professor telling a student that their input is unwelcome as they are stupid or have nothing worth saying—or standing by as one student says this to another.)

That a particular instance of silencing is not intentional also need not mean it involves no wrong. A professor might unwittingly encourage norms in his classroom that hinder learning; this professor's failure is not rendered innocent by his lack of attention to good pedagogy. For an obvious example, a professor that only calls on male students in class may leave some views unheard while preventing female students from engaging with the material. Even if completely unintentional, this is blameworthy.

What interests us here is when silencing is harmful. For silencing to be harmful, it may be intentional or not, but it must be wrongful.⁷ To clarify: harms, for our purposes, are *wrongful setbacks to interests*—not *mere hurts*, which are setbacks to interests but not wrongful.⁸ Jack's tripping on a stone in his path and thus skinning his knee is, in the ordinary case, a hurt, but not a harm. While Jack surely has an interest in not skinning his knee, if we assume—what is reasonable—that no one wronged Jack and the stone just happened to be in the wrong place

causing him to fall, with no one at fault, there is no wrongfulness and thus no harm understood as a wrongful setback to interests.

If we are concerned, as I am, with the sorts of limits that are used to justify interference, we need a principle that indicates when such limits are proper and when they are not.⁹ The principle we are considering here—and the reason for our concern with harms—is the harm principle, originally put as follows by John Stuart Mill:

the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection ... the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.¹⁰

I won't directly defend the harm principle here.¹¹ I assume it is clear: absent the credible threat or presence of harm there is no justification for interference. Interference is (*pro tanto*) permissible to prevent or rectify harm. This paper is intended as something of a test of this principle. If we think its verdict correct in the sorts of cases discussed here, we have some reason to endorse it; if we don't, we have some reason to reject it.

Harms are the sorts of events that often warrant interference or change. Where a harm is credibly threatened or present, we consider whether interference should follow.¹² If a supposed harm sets back no interests or does so, but does not do so wrongfully, we are unlikely to think there is warrant for interference or change on these grounds.¹³ So return to the case of Jack tripping over a rock where no one wronged him. With no wrong, there is no harm and, according to the harm principle, with no harm, there is no reason for interference. Put simply, we don't think Jack has any justified complaint against anyone with whom we could interfere. By contrast, if you take Jill's laptop computer without her permission and claim it as your own, you wrongfully setback her interests in the computer, she is justified in complaining, and interference with you to rectify the situation is warranted. Similarly, if Albert stabs Charles in order to satisfy his (Albert's) desire to see blood, Charles is justified in complaining and interference with Albert is warranted to rectify the situation. Jack is hurt but not harmed. Jill and Charles are both harmed. According to the harm principle, interference is *pro tanto* warranted in the latter cases but not the former.

While I won't be discussing *the sorts* of changes or interferences that might be warranted

when a harm is credibly threatened or present, my interest in both freedom of religion and freedom of speech—and freedom more generally—is primarily about this normative issue. Put differently, it is the normative limits of those (and other) freedoms and, importantly, the normative limits of *actual imposed limits to those freedoms*, that I am concerned with. That is, my overarching concern is with when a particular sort of religious activity, speech, or what have you, may be permissibly limited and when *attempts to limit those* may themselves be limited. A teacher wrongly limiting his students should be limited (whether retrained or relieved of his duties), a University should adopt policies that do not allow for wrongful limits to speech or religious activity,¹⁴ and a state should be changed if it wrongly limits religious activity or discussion of some specific topic.

Harms, as they are constituted for relevance with the harm principle are events that are wrongful setbacks to interests. So what are the harms of silence? In particular: What are the harms of silence involved when a religious group and its practices are otherwise tolerated, but must be kept private? And what are the harms of directly silencing speakers?

In the next two sections, I make clear that there are real harms of silencing. I first discuss those that result from religious toleration that is not as extensive as it should be and then discuss the sorts of silencing that sometimes happens on college campuses. Some of each of these may seem minor. Others will not. All should make us consider whether the silencing in question is morally permissible. If we take the harm principle seriously any silencing that causes a harm is at least subject to further discussion. Absent overriding reason to allow such silencing, it should be prevented.

§2. Harms of Silence With Regard to Religious Toleration

Early modern thinkers defended freedom of religion—though with more limits than we would endorse today. Some thought all religious views *except* atheism or “Papism” should be tolerated. Even those willing to tolerate *all* religious views sometimes limited the extent of toleration. Some, for example, thought religious groups could be differentially taxed while all were tolerated. Others thought that a religion could be tolerated while its practitioners were not allowed to publicly display their religiosity. Pierre Bayle, for example, wrote:

consider ... the following Rule, or fixt point of Liberty: *That it is the Duty of Superiors to use their utmost endeavors, by lively and solid Remonstrances, to undeceive those who are in error; yet to leave 'em the full liberty of declaring for their own Opinions ... neither laying before 'em any Snare or Temptation of worldly Punishment in case they persist, nor Reward if they abjure.* Here we find the fixt indivisible Point of true Liberty of Conscience. ... For anything further, I don't think the having publick Churches, or walking in Processions thro the streets, essential to Liberty in Religion. This may contribute to the outward Pomp ... but the ends of Religion are sufficiently answer'd, if they be allow'd to assemble to perform divine Service.¹⁵

Bayle is a hero to many who write in defense of religious toleration and toleration more broadly.¹⁶ Yet, on his view, the state might have an official religion whose adherents would be free to “walk in Processions thro the streets” and keep “publick Churches” while adherents of other religions would not. Strictly speaking, it might be true that in such a state all religions are tolerated even if *public displays of adherence* to a variety of religions are not, but those of us committed to freedom more generally would question why those public displays should be forbidden. Certainly, they involve no necessary harms, so would not be justifiably interfered with according to the harm principle. Moreover, when burdens are differentially placed on religions, one would expect that those religions more heavily burdened would lose adherents while those less burdened would gain adherents.¹⁷

Even if the sort of differential toleration Bayle accepted did not itself do direct harm—given the available alternatives of his time (death, imprisonment, and other forms of persecution for adherents of religions not endorsed by the state), it was certainly a kinder, gentler policy than the alternatives—we should not find it acceptable. Promoting one religion (paying for its churches, allowing it public displays and processions, etc.) while only allowing another to be practiced in private may be the quintessential state of affairs that motivates the claim that toleration is insulting to the tolerated—in this case, a failure to recognize that there is no reason to give less respect to one religion than another (promoting one while *merely* tolerating the other). In such circumstances, those tolerated would rightly say “we do not accept mere toleration, you owe us respect and must fully accept our presence!” Those with the power to tolerate, after all, have the power (and, it seems, reason) to interfere.¹⁸

Those of us who believe the ideal liberal state is a state that has maximal toleration

(limited only by a narrowly restricted set of principles) have a ready answer to those who claim that when we say the state must tolerate X, this assumes X is unfairly subject to the will of the state. We insist that where the state must tolerate X, it must tolerate all things of X's type and that, as such, X is no more (or less) subject to the will of the state than other things of its type. If Catholicism is tolerated, so too is Protestantism, Judaism, Islam, Buddhism, Hinduism, etc. The properly liberal state tolerates equally. It is a neutral state.¹⁹ Part of that neutrality, to be clear, is a requirement to allow speech equally to all individuals, no matter their religion or cultural group—and no matter where or how the speech is conducted.²⁰

In the twenty first century these issues are largely settled. The liberal states of the West might have official religions, but (perhaps other than special tax privileges, which should be rejected), adherents of other religions receive equal treatment. No religious group is condemned to the shadows. Problems of this sort, though, persist.²¹ For one quick example, in May of 2018, a man was fined 210 Swiss francs for greeting a friend in public by declaring “Allahu akbar.” Officials were worried this might have caused others to become “afraid or shocked.”²² Being Moslem is tolerated in Switzerland, but speaking Arabic too loudly is apparently not. Silence seems preferred.

Pierre Bayle's brother was arrested by the French Catholic authorities because of Bayle's “heretical” writings and died in prison. The French at the time (partly) tolerated Protestants, but Bayle had converted to Catholicism and then returned to his earlier Protestant faith. For this, he drew the scorn of the Catholic authorities (as well as important Protestant theologians). Bayle himself had to leave France. There can be no doubt that the French government harmed Bayle's family, especially his brother. There is little reason to go through the many other sorts of harms that have occurred due to refusal to tolerate religious difference. The history here is clear. Augustine recanted his defense of toleration, after all, when he saw the Donutest heresy (which he despised) disappearing—as Donutests were killed or unable to transmit their views to others for fear of being killed. The effect of such persecution is to silence minority religions. That silencing is itself a harm—the wrongful setting back of people's interests in discussing their religion—separate from the harm of imprisonment or death. It is a *harm of silence*.

Bayle's crime wasn't (or wasn't solely) that he was public about his non-endorsed religion, but that doesn't make the point less clear. Being able to practice one's non-Catholic Christianity, one's Judaism, or one's Islam (etc.) in private but not in public has a similar effect. Indeed, even if the punishment for failure to abide by the law is relatively minor—say having to pay a fine rather than go to jail—the effect is silencing. People are less free to discuss the merits of their religion as opposed to the merits of another religion—especially that endorsed by the government. When this is the case, people are less likely to learn about competing religions, so less likely to decide to choose a different religion or even become familiar with the beliefs of others. Of course, there could be discussion in private, but this leaves everyone with limited numbers of people to discuss religion with. They can discuss religion with friends and family, but are unlikely to have friends and family who outright reject their religious views or who accept radically different views. To encourage discussion with people like that requires being able to discuss it publicly—to invite discussion with people previously unknown to oneself. Such discussion is of value and many (arguably all) of us have interests in its occurring—both in speaking and in hearing about different religions. Absent a good justification, these interests are wrongfully set back if government (or others) does not tolerate public discussion of religion.²³ The failure to tolerate, in other words, results in harms of silence.

§3. Harms of Silence on College Campuses

On college campuses in the US and elsewhere, student groups have sought to “de-platform” speakers with whom (they think) they disagree.²⁴ Some of these speakers, admittedly, should not be invited to college campuses in the first place. Milo Yiannopoulos, a political commentator that worked at Breitbart News with no reputation as an academic, comes to mind. While inviting him to a campus is likely a mistake—as it would provide little opportunity for serious learning—uninviting or de-platforming him causes other problems. It can, for example, easily give conservative students the impression that their voice is not respected. (A better solution: explain to students in advance why an invitation to such a speaker is not worthwhile and have them consider alternative speakers whose presence would be.)

Consistent with the harm principle, my view is that we should each be generally free to

express ourselves as we wish unless our doing so is, in that instance, a harm. (This does not require the provision of a forum, but does require not interfering with available fora.) Silencing is otherwise *prima facie* wrong. Yet, in recent years there have been attempts on college campuses—perhaps the most important locations of what should be unfettered discussion—to silence some who would participate in that discussion.

Perhaps the clearest case of attempts to silence academic participants is the de-platforming of Charles Murray at Middlebury College in Vermont in early 2017 (a case in which a professor from that school was physically hurt enough to go to the hospital).²⁵ Murray is known as a politically conservative thinker. Some academics defend Murray's work and others think it indefensible, but no matter one's assessment of its merits, it is *academic work*—published in academic outlets with peer review. A talk on campus by Murray would not be worthless. He was invited by a student group to speak at the campus. The group—The American Enterprise Club—presumably hoped that his presence would spur honest discussion. Instead, opposed students acted in ways that would embarrass faculty and administrators at any college.²⁶ They were rude to the speakers before Murray and then, as Murray began speaking, stood, turned their backs to him, and spoke loudly in unison against him so that he could not be heard. He may have said things they would want to argue against. He may have said things they would agree with. They could not know. (If they simply did not want to know, of course, they could have stayed home.) This, it seems, shows a clear lack of respect for those who attended the talk to hear Murray as well as *those who issued the invitation*—and the effects of both are hard to undo. Of course, others with more or less mainstream views have also faced de-platforming.²⁷ De-platforming is obviously about silencing.

In some cases, speakers have declined invitations to speak at college campuses because of protests.²⁸ In still other cases, speakers have had their invitations revoked.²⁹ In all of these cases, open inquiry was prevented. The prevention was intentional and, too often, wrongful.³⁰ There are many reasons to worry about these sorts of silencing activities. I have discussed some of them elsewhere.³¹ Here, the point is only that there were some that had an interest—in most of these cases, a clear and stated interest—in engaging with the silenced speakers (who also have an interest in engaging with them). Absent a justification that overrides those interests and the

other problems with silencing—significant at a college³²—these activities are harms.

Some might argue that “no platforming” is permissible because colleges are not meant to provide speakers about every topic. No university that I know of, for example, brings in speakers to discuss the relationship between Charles Schultz’ *Peanuts* and the weather. There is (I assume) no reason for such discourse. So too, though, there is likely no reason to bring in speakers advocating a “flat earth” theory, a theory about how vaccines cause autism, or a theory about how the Nazis did not kill anyone during World War II. We can agree, though, that there is no reason to bring in such speakers and still think that “de-platforming” is unacceptable.

Note that I switched, in the last paragraph, from talking of “no platforming” to talking of “de-platforming.” The former may be the original term—and is used to indicate university policies against inviting speakers of certain sorts. Such policies are justified, presumably, on the simple basis that universities are not committed to teaching students all views, but only academic and plausible views. This is not a limit to free speech, we can agree, but an exercise of academic freedom. Academic freedom, in my view, involves recognizing that the professoriate serves as a gatekeeper, encouraging discussion of academic and plausible views even if they are fringe, disturbing, or opposed, but not encouraging discussion of other views—perhaps views by those with no accredited expertise. It is the faculty that should determine the sorts of discussions encouraged on college campuses; it is the mission of colleges to provide a broad forum for such *with policies that vest control in the faculty*.³³

Notice, though, that such policies are not at issue in the Charles Murray case or other de-platforming cases. In these, we have speakers who have been invited—usually by student groups—and given a platform but then made unable to use it. They have been *de-platformed*, not *no platformed*. Put differently, they have been invited and brought to the campus given the campus policies but then not allowed to dialogue—by students, not faculty or administration.³⁴

Just as journal editors and referees serve as gatekeepers, preventing (usually) the publishing of low quality work in academic journals, professors (should) serve as the gatekeepers on campus. They not only determine what is taught in the classroom—fully responsible for the content of their own courses, but also, via service on hiring committees and college curricula committees, responsible for what sorts of courses are offered at all—and also often determining

what speakers are brought to campus. They may bring speakers for talks targeted primarily at faculty, but they may also bring speakers for talks aimed at students and the public. In that capacity, they seek to invite speakers—and set policies for others to invite speakers—whose talks would provide value according to the mission of the university (this need not be limited to those doing academic work).³⁵ The important point here is that it is the professoriate, not the students, who have the qualifications to decide who should have a platform at the school.

Of course, student groups may be given the right to invite speakers, but that right is one that should be granted by the faculty of the college and subject to monitoring and revocation by that faculty. In the current state of academia, it is more often administrators that decide who can be brought to campus and which student groups can invite speakers. Often, today, student groups have much wider latitude (in policy) to invite speakers than I advocate.³⁶ On my view, partially because faculty uninviting speakers would create problems akin to those of de-platforming, the monitoring should be significant and applied in such a way as to avoid the invitation of any speakers the faculty would deem unacceptable.

Some may think that this insistence on the professoriate having the final control over who can be invited (platformed) to speak on a campus is illiberal—that having anyone able to censor students by limiting who they invite is a problem for those of us committed to liberalism. Those with this worry, of course, should have the same problem with administrators or student government leaders in such a gate-keeping role. They would likely suggest, though, that neither administrators nor student government leaders act in the way I am suggesting faculty ought to act. More reasonably, it might be thought that neither administrators nor student government leaders would interfere with student invitations. Granting that they *could* even if they often *do not* interfere in troubling ways, it is immediately clear that this worry is somewhat limited in that there is little reason to think faculty would abuse this power more than administrators or student government leaders.

The worry is not, of course, dispelled by merely indicating others could act in the same worrisome way that concerns our interlocutor. The worry, in fact, may seem similar to an important and long standing theoretical concern: the paradox of toleration is, put simply, that if we are committed to toleration, we may need to tolerate non-tolerating behavior by others. The

interlocutor here might suggest that we should tolerate student activities even if they involve non-tolerating behavior (or intolerant speakers). My view, by contrast, suggests there is some such behavior that we ought *not* tolerate. Student invitations to Milo Yiannopoulos, for example.

A more apt consideration is the paradox of liberalism: as liberals, we believe our states ought to be committed to extensive toleration but might wonder whether that requires that we tolerate those committed to overthrowing that same system of extensive toleration. The paradox, in my view,³⁷ is answered in that if we endorse a particular principle about the limits of power, that principle will indicate what sorts of behavior we do not have to tolerate. If we accept the harm principle, as I do, then we can interfere with behavior that is harmful. We can (and should), for example, tolerate talk of overthrowing the system of extensive toleration, but not actions that harm others, including such actions that are part of a plan to overthrow the system. The air of paradox is dispelled by the principle because remaining in accord with the principle is necessary for the institution to remain. Of course, the case of a college is different than the case of a liberal state. (Though colleges too should be concerned to limit harm and so should endorse the harm principle, at least as a disjunct of their policy.) Still, *any* institution will have policies against those seeking the destruction of the institution. The Catholic Church, for example, reasonably refuses to tolerate priests that advocate atheism.

The principle or policy that indicates what sorts of behavior to tolerate or not on a college campus will depend on the college's goals. It is perfectly reasonable, for example, for a small Baptist College to have a mission that is narrower and different than a small secular liberal arts college and for both to have different missions than that of a research university. (Colleges can brand themselves.) I would suggest, though, that each should be transparent about its mission. I would not help my child attend a college that promised to have no speakers that were experts in evolution, but others might. I would also not help my child attend a college that promised to have no discussions of theology, but again, others might. It is important that colleges adhere to a requirement that they be truthful about what they are and what they permit on their campuses. I believe the best colleges not only allow, but provoke open inquiry. In any case, if a college is genuinely committed to open and honest inquiry into all domains of the liberal arts and sciences, the faculty should set policies for platforming that reflect that mission. It is, then, the mission of

the college—presumably set by the faculty, which it also helps to constitute (via hiring policies)—that sets the limits to the platforming policies faculty ought to work with. If a speaker's talk is likely to be inconsistent with a college's mission, the faculty of that college have good reason not to provide her a platform. Such no platforming is thus justified and so not harmful. De-platforming someone platformed in accord with such a policy, on the other hand, is unjustified and thus potentially harmful—that is, likely to cause a harm of silence—if it sets back the interests of others. (At the sort of college I would prefer, there would be few limits other than those imposed by limited resources—speakers are often paid after all and come with other costs—and the need not to hinder open and honest inquiry conducive to learning.)³⁸

So again, on the view defended here, one role of the professoriate is to serve as gatekeepers to those that might speak on campus. This is important not only to protect the integrity of the institution but also because being given a platform provides others *second-order evidence* that the speaker's talk is of value—that the speaker ought to be taken seriously.

There are many sorts of evidence about whether what a speaker says is true. First order evidence is evidence about the claim in question. Second order evidence, by contrast, is evidence one has to believe some other evidence about the claim. A speaker presents evidence in virtue of speaking. Whether that evidence is reliable is a second order question. If one has reason to believe the speaker is mentally incapacitated in some way, one has second order reason to disbelieve the first order evidence provided by the speech. A professoriate's conferring a platform on a speaker provides (or is, in any case, often taken to provide) second order evidence that the talk is of value—that the speaker is to be trusted and taken seriously (not necessarily to conclude that the speaker is correct).³⁹

Faculty ought not give a platform (or let students give a platform) to an anti-vaccination crusader whose credentials include nothing certifying any expertise in the biological sciences. (The faculty may want to talk to such a person themselves, but giving them a platform might lead students and others to take the view more seriously than they ought.) They ought not give a platform to someone claiming aliens began invading the earth in the 1930's and that they know this (only) because they were abducted by aliens (absent, I suppose, further evidence of that abduction). They might, on the other hand, want to give a platform to Avi Loeb, Chair of the

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Department of Astronomy at Harvard University and Chair of the Board on Physics and Astronomy of the National Academies, who takes seriously the idea that the asteroid Oumuamua might be an alien spacecraft. Loeb's discussions of such things would be of value to a university, though the supposed abductee's would (likely) not.

Students, I submit, are not in the same sort of position as faculty to know whether speakers are worthy of their attention. They are not in position, that is, to decide, absent any oversight, who should receive a platform nor to overrule other students, faculty, or administrators, in determining when a speaker is acceptable. Their de-platforming a speaker is unacceptable even if a university or its faculty can acceptably *no platform* others. Students are not in a suitable position to decide that their colleagues should not be able to listen to Loeb or, to return to an earlier example, Charles Murray. They can, of course, refuse to listen themselves. Claiming no one ought to be exposed to a speaker the faculty approved, however, disrespects the faculty and fails to show the humility appropriate to their status as *students*.

We should not overstate the concern; de-platforming does not occur that frequently. Students at many colleges can not afford the time to engage in the sort of behavior those at Middlebury can. Many have to balance child care and employment while simultaneously doing school work and so can not get involved in extracurricular campus activities, including those involving de-platforming speakers. Nonetheless, de-platforming does happen and is not the only sort of silencing that takes place in the hallowed halls of higher education. I discussed other sorts of cases in section I above—cases involving how professors sometimes silence students. There are also cases involving faculty being silenced on their own campuses.

There are cases where one or more members of an academic department or college actively seek to prevent one or more other members from pursuing certain intellectual pursuits. This might be a matter of trying to prevent the acceptance of funding for an academic project from a particular source. That funding might help a student group that wishes to bring in speakers of a particular sort, it might help the faculty member travel to give talks on a particular topic or take the time needed to finish writing a paper or book, or it might be funding to hire academics working in a specific area or to start or promote an academic program. In these and other sorts of cases, faculty who hold minority views may well get the impression that their voice

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is not respected by their colleagues even while they continue to publish in respected venues.⁴⁰ Some, of course, will go on doing what they do regardless of the condemnation. Others, though, may leave the profession, may choose to leave the college (or find a way to switch departments), or simply alter their research and teaching so as appear not to have minority views.⁴¹ All of these cases involve silencing—and at least some are simply unjustifiable instances of setting back the interests of faculty with minority viewpoints (and those genuinely committed to open inquiry).⁴² They are, that is, harms of silence.

§4. Conclusion

And the people bowed and prayed
To the neon god they made.

-Paul Simon

The phenomena I have discussed in the previous two sections are significant harms—and of the same sort. Making that clear is the main point to this paper. According to my discussion of the harm principle earlier, they satisfy a necessary condition for interference. That interference would be with historical laws that prevent religious speech (perhaps mostly, though not entirely, counterfactually) or college policies that allow for de-platforming by students and other attempts to silence speech on campus.⁴³ These may need to be changed. Still, in each sort of case, we may not have sufficient reason to require such changes. The question is whether anything would override our *pro tanto* claim that policies and laws that cause harms of silence ought to be changed. Some might insist that it is simply protection of the college community and its students, or the polity and its residents (perhaps especially citizens), that justifies the sorts of interferences I have argued are (often) harms. Indeed, on my view, if the actions are (genuinely and correctly) justified in this way—or any other way—they are not harms as they are not wrongful.

Politically, the claim that these actions—limiting public discussion of a religion or limiting speech on college campuses (or elsewhere)—are necessary to protect the population are likely.⁴⁴ I conclude by briefly indicating why I think this claim is misguided.

Self-protection is always a reasonable defense of action. If you are about to stab me with a knife, I am allowed to defend myself. If the only means of self-protection available to me is

the gun at my side, I am likely morally permitted to use it, even, if necessary, that means your death. Some will think that something similar applies to colleges and polities. If it is necessary to interfere with people's voluntary actions in order to protect the college or polity, then it is permissible to do so.

The response to this is clear with regard to speech on college campuses. Put simply, open inquiry is the lifeblood of colleges. Their *raison d'être* is to create knowledge and encourage its spread through reasoned dialogue. This entails that—in direct contrast to the objection—silencing is what would kill colleges. (More specifically: a college dies from platforming or de-platforming that is opposed to its mission.) The objection is thus not merely misguided when applied to colleges, but gets things completely backwards. Colleges die from silencing, not from speech.

The criticism fares no better with regard to silencing minority religions. To put the point simply, if a society cannot survive while people actively and publicly debate religion (or academic topics), it ought not survive. Not all societies, after all, are worth maintaining. No one thinks, I assume, that Nazi society should have been protected.

We should also note, of course, that there is little cause to believe individuals are harmed by the sorts of speech in question. People may well be offended if their religion is questioned, but being offended is not the same as being harmed. No one has a right, after all, to not have these sorts of questions asked. And, again, on college campuses—at least those committed to what Jonathan Rauch calls “liberal science”—students should expect to be questioned.⁴⁵ Speech that contradicts their view is not merely not harmful, it is imperative. (As Frederick Schauer argues in his paper in this volume, it can help contribute to the development of moral agency. This seems especially true on college campuses.)

Interference with speech of the sorts I discussed above is unjustified. The interference in those cases is itself harmful. One might wish to show it is not harmful because justified, but such a defense is not evident and until it is made evident we should take the interferences to be unjustified. We should thus oppose the silencing of religious minorities and of academics invited by the requisite faculty or in accord with faculty-approved policies.

¹ For feedback on drafts of this paper, I am grateful to Teresa Bejan, Bill Edmundson, Khalil Habib, Daniel Jacobson, Adam Kissel, Andrew Koppelman, Thomas Cushman, Patrick Lynch, JP Messina, Adam Moore, Christopher Robertson, Frederick Schauer, David Schmitz, Daniel Shapiro, Bas Van der Vossen, Brandon Warmke, Keith Whittington, Joanna Williams, and Ronald Wilson. I am also grateful for funding for this project that was provided by the Institute for Humane Studies and Liberty Fund. Writing the paper was also helped by Disturbed.

² There is more to be said on this topic as it relates to social media. As Facebook, for example, seeks to limit its use by those on the far right (as of May 2019), one might be concerned about “de-platforming” or uninviting there. I won’t discuss that here. These digital platforms do not seem like central loci of *thoughtful* free speech that provides a genuine marketplace of ideas, even if some people do use them for such speech. Recent actions by these platforms may nonetheless be—I think, is—still worrying. (Interestingly, we are seeing a variety of new platforms—like heynewit.co, kialo.com, letter.wiki, and minds.com—that are more promising.)

³ Two immediate complications. First, intentional omissions may count as acts. This may be conceptually curious (see Randolph Clark’s *Omissions*, Oxford University Press, 2014), but is perfectly normal. Acts of toleration, after all, are acts of omission: cases where we intentionally refrain from interfering with another. (See my “What Toleration Is,” *Ethics* Volume 115, 2004: 68-95) Second, talk of acts *by norms* may be misleading. What is meant is that norms can influence people, causing them to act in certain ways either because they have internalized the norms or because they know others have. For an example of the first sort, males that have internalized norms of dress in the US don’t wear skirts. For an example of the second sort, males that have not internalized those norms may refrain from wearing skirts due to fear of being attacked by others who have.

⁴ This is different from the definition offered by Jennifer Hornsby in her “Disempowered Speech” (*Philosophical Topics* Volume 23, 1995: 127-147). Hornsby claims “The silenced person is someone who literally cannot do with speech what she might have wanted to” (138). See also Jennifer Hornsby and Rae Langton “Free Speech and Illocution” (*Legal Theory* Volume 4, 1998: 21-37), 21. My argument here has an affinity toward the arguments of thinkers like Langton and Hornsby and others that claim pornography silences women. My argument, though, does not lead to the same conclusions. Those arguments seem to define pornography as necessarily subjugating women, so that a nude dominatrix having sex with a male customer could not count as pornography—and thus not (or not necessarily) silencing of women. When this is recognized, I think the conclusions of the arguments are closer. Nonetheless, I would insist that so long as all participants are consensually involved there is no wrong—and so even if there is silence, it’s not a harm of silence. Mary Kate McGowan may come close to this when she notes that even some oppressive speech acts “would not (and should not) be ... legally actionable” (Mary Kate McGowan, “Oppressive Speech” (*Australasian Journal of Philosophy* Volume 87, 389-407), 400). I would also add that while oppressive speech may cause harms of silence, *mislabeling speech as oppressive may also cause harms of silence*. In any case, I certainly agree that pornography can contribute to silencing (see Hornsby and Langton, 28), but *contributing to silencing* should be distinguished from *being an act of silencing*. I take no stand on whether freedom of speech is freedom of illocution, as these writers do, or freedom of locution, as Daniel Jacobson does in his “Freedom of Speech Acts? A Response to Langton” (*Philosophy and Public Affairs* Volume 24, 1995: 64-79). See Hornsby and Langton, 32ff for persuasive argument. Limiting speech on either understanding can be a harm.

⁵ Determining what is wrongful and what is not is, of course, a difficult question. I won't attempt to answer it here.

⁶ With full silence, obviously, a specific topic may be removed from discussion. But that may not be the case. In a room of cacophonous chatter, it may be that nothing of significance is discussed; it may be that a teacher has no interest in prohibiting discussion of a particular topic but merely an interest in focusing her students.

⁷ This paragraph is adapted from my "The Harm Principle and Parental Licensing" (*Social Theory and Practice* Volume 4, 2017a: 825-849), 826-7. In my 2018 (*Toleration and Freedom from Harm*, Routledge, 2018), I offer a refined definition such that "to undergo a harm is to be the subject of an event wherein one's interests are wrongfully set back and wherein the status of the undergoing of the harm derives from its being the sort of event that it is (namely, a wrongful setting back of interests), independently of the badness of any resulting state" (56). The reasons for the complications can be put aside; the simpler Feinbergian (see next note) definition will do.

⁸ Joel Feinberg argues that this is the way harm is best understood in the harm principle. See, e.g., his *Harm to Others* (Oxford University Press, 1984: 31-45), the first of the four volumes in his magnum opus, *The Moral Limits of the Criminal Law*. The definition has been challenged, of course. See footnote 5 in my 2017a (op cit).

⁹ Some prefer to talk of rights to religion, to speech, etc. I have no view of the nature of rights. Some argue, of course, that rights are ultimately grounded in the will or respect for people's choices. Others, of course, argue that rights are grounded in interests—respect for people's welfare. I think it more direct to discuss when people are wronged, whether because they are prohibited from acting on their will or because their welfare is impeded (in either case they have an interest wrongfully set back). This is why I am most sympathetic to theories of rights that take rights to be a species of normative constraints. For two different accounts I am sympathetic to, see Eric Mack's "In Defense of the Jurisdiction Theory of Rights" (*The Journal of Ethics*, Volume 4, 2000: 71-98) and George Rainbolt's *The Concept of Rights* (Springer Publishing 2006).

¹⁰ Mill, John Stuart. *On Liberty*. Indianapolis, IN: Hackett Publishing, 1978 (originally 1859), 9.

¹¹ See my *Toleration* (Polity, 2014) and 2018 (op cit) for defense. In my 2018, 106, I offer a refined version of the principle but the differences will not matter here. I have an expansive view of how to use the harm principle, but to simplify here will assume that the principle provides (the only) justification for any interference, where that entails "impeding or preventing—even partially—an agent from doing as they wish, intend, or will. That is, it is hindrance or obstruction" (2018, 35). Importantly, if A contractually obligates himself to do P for B, but then wants not to do P, A has bound himself to do P nonetheless and it is not interference to hold him to it. So, for example, students at universities are contractually obligated to abide by the rules of the university; requiring their compliance in doing so will not count as interference any more than requiring a renter to pay the rent they owe their landlord.

¹² To be clear, harm is a necessary but not a sufficient condition for interference.

¹³ I don't mean to deny there might be reason for action based on other grounds. A dangerous intersection, for example, might not result in harms in the technical sense but might nonetheless leave many people being hurt. It would clearly be worth it to those using the intersection to improve it. Similarly, though, I have reason to change the font I work with on my computer if the one I am working with is difficult to read. In neither case is there warrant for interference—i.e., no individual needs to be prevented from acting as he wills.

¹⁴ I favor endorsing something like the Chicago Statement on free speech, but will not delve into that here. For the Statement, see <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>.

¹⁵ Pierre Bayle. *A Philosophical Commentary on These Words of the Gospel, Luke 14:23, "Compel Them to Come In, That My House May Be Full."* (Indianapolis, IN: Liberty Fund, 2005, originally 1688), Chapter V, §¶ 24. In correspondence, Teresa Bejan rightly indicates that John Locke is more tolerant of religious ‘fanatics’ than Bayle—so more accepting of public displays of religiosity. Locke, though, did not extend advocacy of freedom of religion to Muslims, Catholics (“Papists”), or atheists. For the first, see *Letter Concerning Toleration* (ed. James Tully, Indianapolis: Hackett Publishing, 1983), 50-51. As Waldron notes, Locke doesn’t specifically name Catholics (see Jeremy Waldron’s “Tolerating Athiests” in his *God, Locke, and Equality*, Cambridge University Press, 2002: 217-243), but what he says clearly suggests it. For more on the intolerant Locke, see Alex Tuckness’s “Rethinking the Intolerant Locke” (*American Journal of Political Science*, Vol 46 No 2, 2002: 288-298). See also the newly discovered notes on tolerating Papists; available at http://digitalarchives.sjc.edu/items/show/6528?_ga=2.219652633.1486104775.1567655766-738543759.1566387839.

¹⁶ For recent works that discuss Bayle, see Rainer Forst’s *Toleration in Conflict* (Cambridge University Press, 2013) and Chandran Kukathas’s “Toleration without Limits” (in *Religion in Liberal Political Philosophy*, ed Cécile Laborde and Aurélie Bardon, Oxford University Press, 2017: 262-274) as well as his introduction, with John Kilcullen, to Bayle’s *Commentary* (*op cit*).

¹⁷ While the burdening might be akin to libertarian paternalist nudges, it is not clear what the justification would be for encouraging citizens to adopt one religion rather than another. Contemporary economics of religion suggests that competition between religions helps competing religions gain or maintain adherents. See footnote 23 below.

¹⁸ See my 2004 (*op cit*).

¹⁹ See Peter Balint’s *Respecting Toleration* (Oxford University Press, 2017), particularly chapter 3. See also my 2018 (*op cit*), 23-24.

²⁰ This means only that the state refrains from interfering with all, except in cases where the strictly limited principles that indicate when interference is justified do so. The same principles are applied neutrally in all cases. Put differently, the liberal state is neutral in policy, not outcome. (I am not, of course, claiming any existing state is properly neutral, tolerant, or liberal.) If the state tolerates group A’s speech only in private, it should do the same for group B. If it tolerates group A’s speech publicly, it should do the same for B.

²¹ See Yuval Jobani and Nahshon Perez’s forthcoming *Governing the Sacred* (Oxford University Press) for examples of cases where toleration of religious practices (at sacred sites) remains problematic.

²² <https://www.thelocal.ch/20190110/man-fined-210-swiss-francs-for-saying-allahu-akbar>

²³ It is also likely to result in fewer people actively participating in religion in general. See my 2018, 70-72 and the work of Iannacone I cite there.

²⁴ Below, I will distinguish between “de-platforming” and “no platforming.”

²⁵ See <https://www.insidehighered.com/news/2017/03/03/middlebury-students-shout-down-lecture-charles-murray> and, for one fair account of the violence, see <https://www.theatlantic.com/politics/archive/2017/03/middlebury-free-speech-violence/518667/>. Video of the actual event is linked there.

²⁶ The students were (mildly) disciplined. See <https://www.nytimes.com/2017/05/24/us/middlebury-college-charles-murray-bell-curve.html>.

²⁷ See, for example, <https://www.newstatesman.com/2019/01/i-was-no-platformed-here-s-why-it-s-counterproductive>.

²⁸ For one example, Condeleeza Rice, former Secretary of State, declined to appear at Rutgers University. See <https://www.cnn.com/2014/05/04/us/condoleeza-rice-rutgers-protests/>. Nothing I say here should be taken to indicate an opposition to student protests. On the contrary, student protests can be a vital part of discourse. When protests turn to violence or shouting down speakers, though, there is a problem.

²⁹ For one example, Suzanne Venker was uninvited to Williams College. See <https://www.insidehighered.com/news/2015/10/21/williams-students-revoke-invitation-speaker-who-criticizes-feminism>. In cases where invitations are retracted for fear of protest, we have a heckler's veto. Declined invitations (if declined for fear of protests) are similar. In either case, we have a group (the hecklers) setting back the interests of others (those that wish to hear or speak with the speaker). Absent good reason, this is a harm.

³⁰ I am inclined to think such is always wrongful if the invitation was issued properly (including being vetted by faculty). There can be cases where a student group invites a speaker that they should not have and so the invitation is revoked in order to right the situation—making it such that all speaker invitations are issued appropriately—and where the revocation is done (perhaps with embarrassment and regret) such that it is not wrongful.

³¹ See my 2014 (*op cit*), 136-140.

³² See my “Psychological Harm and Free Speech on Campus.” *Society*, Volume 54, 2017b: 320–325.

³³ As I will note, different colleges will have different policies in accord with their mission. (See note 14 above.)

³⁴ What I say here is partly in response to Robert Simpson and Amia Srinivasan's “No Platforming” (Jennifer Lackey ed, *Academic Freedom*, Oxford University Press, 2018). Our views are similar. Where I speak of de-platforming and no-platforming, they use only the latter but recognize that interfering with faculty approved speakers is an infringement of academic freedom (of the host faculty). They also insist there are sometimes reasons for faculty to consult with students about invitees (and hires). I agree, but this does not alter my main point. When faculty approved policy rules out *non-credible* visitors (“no platforming” as I use the term) there is no problem. When speakers are invited in accord with such policy but are de-platformed, we have wrongful interference. (Uninviting speakers is more like de-platforming than no platforming, but I will not delve into that here.)

³⁵ To be clear, I do not advocate a policy where only Phds are invited to campus. News reporters, politicians, business people, etc, are not academically credentialed but may well be correctly thought to have something valuable to say in an academic setting. This should be the decision of faculty.

³⁶ To be clear, I advocate for *de jure* limits in policy—for reasons that follow in the text. These limits, if carefully set, may provide student groups great latitude and if those limits are not challenged, those groups may have extensive *de facto* control over who they invite.

³⁷ See my 2014, 121-124. For the paradox of toleration, see 111-113.

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³⁸ A final concern is worth touching on briefly. Some believe colleges should provide “safe spaces” where students can rest without concern that they will hear (or be asked to discuss) topics they do not wish to. As I note in my 2017b (324-325), the only place for this on a college campus, in my view, is the student’s own dormitory room. There, the student is free to close the door and not allow in anyone they disagree with. This is the student’s home. On my view, though, demanding that one be as safe from debate in the rest of the dormitory is essentially indicating one wishes not to be in college. Some might agree with this but worry that student groups should be free to form as the participating students wish without allowing dissenters. I am inclined to think this is also a mistake—that so long as the dissent is respectful, it should be allowed. If a group of students does not wish to accept even respectful dissent in their midst, they might meet in one of their dorm rooms or off campus.

³⁹ In his “No Platforming and Higher-Order Evidence, or Anti-Anti-No-Platforming” (*Journal of the American Philosophical Association* Volume 5, 2019: 487-502), Neil Levy makes use of the distinction between first and second order evidence to argue in favor of some no-platforming, but does not distinguish between no-platforming and de-platforming. I agree with Levy that universities ought not platform everyone, but add that once platformed by the professoriate, a speaker ought not be de-platformed. (Nor should they be uninvited absent extraordinary circumstances *related to the claim that their talk provides academic value*—e.g., where it is clearly shown that the invited speaker plagiarized work or falsified data). See <https://aeon.co/ideas/why-no-platforming-is-sometimes-a-justifiable-position> for a short version of Levy’s view.

⁴⁰ I recognize a tension between saying it is *the faculty* that ought to decide who can be platformed and the fact that faculty members might disagree about that very question. Ideally, a school hires faculty all committed to its clearly stated mission. (And hopefully that mission includes a commitment to open inquiry.) See notes 14 and 33 above.

⁴¹ See Jon Shields and Joshua Dunn, *Passing on the Right* (Oxford University Press, 2016).

⁴² There are also cases of students seeking to silence their professors. Students at Sarah Lawrence College, for example, want to review—themselves—the tenure of Samuel Abrams, a political science professor there. (See <https://www.insidehighered.com/news/2019/03/13/students-sarah-lawrence-want-review-tenure-conservative-professor-who-criticized>.) Similarly, students at the University of the Arts want Camille Paglia fired. (See <https://www.insidehighered.com/news/2019/04/17/university-arts-rejects-calls-fire-camille-paglia>.) This again shows a lack of epistemic humility appropriate to students. Fortunately, these sorts of actions rarely lead to anything. The academy generally recognizes that students are not in a position to make the relevant judgements; this recognition accords with what I’ve said here and should be extended accordingly.

⁴³ I mean to include policies that allow student (or other) de-platforming as well as policies that do not leave platform decisions with faculty.

⁴⁴ Some might suggest we all have a second order interest in this that out not be set back.

⁴⁵ See his *Kindly Inquisitors* (University of Chicago Press, 2014), eg. 27. In my view, “In the college environment, the real harm is caused when students are not challenged” (2017b op cit, 324).