

On the Limits of "Free Speech" by Steven Jonas

April 11, 2017

In a previous column, I discussed the appearance of the self-styled "scientific racist" Charles Murray at Middlebury College, VT, the content of his earlier, widely publicized work, *The Bell Curve*, the student response to his appearance that kept him from speaking, and the issues concerning the matter of "free speech" raised by the whole episode. The bulk of the column was devoted to an abridgment (long enough in its own right!) of Appendix VI to my book *The 15% Solution: How the Republican Religious Right Took Control of the U.S., 1981-2002: A Futuristic Novel*, which used the extensive academic literature that took apart the Murray hypothesis many years ago.

At the end of that column, I dealt with the issue of "free speech," in the context of what happened to Murray at Middlebury. I said:

But what about 'free speech,' then? An editorial on *The New York Times* on the subject was entitled 'Smothering Speech at Middlebury.' Oh really? Supposing that Murray was a well-known anti-Semite (and given Breitbart, etc., in certain circles anti-Semitism is being given a certain buffing. Further, anti-Semitic violence is now occurring on a regular basis, certainly without any national outrage greeting it). If he had indeed been invited (which he almost certainly wouldn't have been because although old-fashioned racism is OK for discussion in certain 'liberal' circles, like the one inhabited by the President of Middlebury, one Laurie Patton) anti-Semitism almost certainly would not be. But wouldn't that be 'silencing free speech?'

"And then what about what happened to Milo Yiannopoulos at the recent annual Conservative Political Action Conference? At CPAC, for years, racism, Islamophobia, homophobia, and etc. have all been OK, indeed promoted by some attendees and speakers. Yiannopoulos, a gay man himself, has been particularly big on the first two. But when it came out that he had in the past condoned pederasty and spoke positively of sexual experiences he had with Roman Catholic priests while growing up, well, that earned him a dis-invitation. Of course, rightists like Bill Kristol and the Fox 'News' Channel's (or should I say the Republican Party Propaganda Channel's) Brit Hume went absolutely nuts about what happened to Murray at Middlebury. Somehow, they failed to notice that CPAC did the same thing to Yiannopoulos. But 'limiting free speech' is really all relative, as this whole episode shows.

"Racism was not OK at Middlebury. Pederasty was not OK at CPAC. So far, anti-Semitism would be not OK at either. But if students 'smother free speech' over racism, why is not CPAC's action 'smothering free speech' as well? And since in certain quarters Breitbart is considered to be anti-Semitic, when will the prevention of anti-Semitic speeches at universities and similar venues be considered 'smothering of free speech' too? One does not have to go back to the McCarthy Era to realize that 'free speech' is indeed a relative term, whether a majority of U.S. like to think of it that way or not."

Following publication of the column, I had a lengthy private exchange on the matters of "free speech," "liberty" and their limitations (or not), between me and my dear friend and long-time colleague Dr. Don Ardell, widely known as "The Dean of Wellness." He and I have much in common: professional work and writing in the Wellness arena (Don much more than I -- he was the first to broadly develop the whole concept, beginning in the 1970s), triathlon racing (Don has won many age-group World and National championships; I have finished many races); politics; a life-long interest in and promotion of atheism. We disagree on few matters, but this one of them. With Don's permission, the balance of this column is devoted to a presentation of excerpts of our discussion on the matter.

Don began:

I believe speech in a public forum should be 'free,' in the sense that any point of view, particularly a 'scholarly' (or pseudo-scholarly) argument/theory/etc., should be allowed, tolerated and/or otherwise made accessible to those who wish to avail themselves of the pros and cons of a subject -- regardless of who might choose to be offended by one unpopular side of it, however much it seems racist, prejudicial, cruel, hateful, etc. Even arguments the majority finds horrific should be tolerated, not necessarily respectfully, but tolerated for an agreed upon period of time under academic conditions wherein 'the correct' or several varied/different perspectives are available as counter-views.

"The liberal arts student at Middlebury College acted as we would expect fascists to act, obstructing free speech. Sure, conservatives, Right Wing folks are fascist in fact, not just in an isolated case, but this does not justify in my view failing to set the liberal democratic model on their own turf.

"In my view, no topic or point of view should be forbidden. If you oppose blasphemy, then you have to oppose speech codes."

To which I responded:

A) Indeed, you are skipping past the question of whether or not college campuses are required to host pederasts or anti-Semites. Suppose a 'campus group' decides to invite one. Then what? Right now there are different standards for racism and anti-Semitism in this country. But led by such publications as The Daily Stormer, which is picked up now and then by Bannon/Breitbart, since the candidacy and election of Trump, connected or not (Stormer had pics of Reagan and Trump on its mast-head -- now taken down), anti-Semitism is making a strong comeback. Suppose a campus group invites Anglin (the Stormer's editor/publisher) to give a talk? Is he protected by 'free speech' on a college campus when just as easily a community hall could be hired? That is a slippery slope, man.

"B) We can disagree on what 'free speech' means. Further, I would seriously disagree that making a strong anti-racist protest, even if so doing denies the person their 'free speech' which they could certainly have at an off-campus venue, makes the protesters 'fascist.' In that case, we have a different definition of 'fascist.' Under fascism, free speech is not allowed, anywhere. [For a recent treatment of the definitions of fascism for the 20th and 21st centuries, see the Addendum to this column.]

To which Don replied (in part):

We are much closer on prevention/wellness (it happens that Don and I have a disagreement about what that spectrum actually is, but don't worry, dear reader, I'm not going to go into that subject here!) than we are on speech and its limits/protections. Since our friendship is immune to opinion differences and we both have the intellectual discipline to consider views at odds with our own, we might consider continuing the exchange so long as it interests us both to do so.

...

"Given the definitions you provided of fascism, I guess the behavior of students and others against Charles Murray at Middlebury College does not constitute fascism. I should not have used that term and won't again. I think 'thugs' or 'Brownshirts' would be more apt. Certainly not behavior one would associate with supporters of a democratic form of government.

"Actions by thugs to suppress speech is nothing new. Fortunately, the courts (especially the Supreme Court), our leaders past, the ACLU and other Constitutional 1st Amendment supporters and the citizenry at large (most of the time) have saved the day for tolerance of dissent. ...

"One writer refers to the American campus as having been caught up in 'creeping McCarthyism for years.' That is, students acting to repress ideas and silence speech with which they disagree.

"Alas, you seem to be standing with these forces. Steve -- say it isn't so! Where am I wrong? Too many liberals are silent as speakers on the Right are subjected to the kind of treatment accorded Charles Murray."

To which I responded further:

Thanks for continuing to pursue this matter, as between friends. I am delighted to know that we are not as far apart on prevention/wellness as we are on what 'free speech' means. (BTW, although it is often said, 'free speech' per se is not guaranteed by the First Amendment. All it says is that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech...") And so, let me say that I am going to go no further on this one. Our respective positions have been laid out (and many, many people do share yours).

"I will only add a comment on the use of the term 'McCarthyism' to describe what the students at Middlebury did to Murray. (By the way, I would have suggested a rather different form of protest: a) urge people not to attend; b) set up an alternate anti-racism session to run at the same time.) As someone who grew up through the period and knew many people who were directly affected by it -- even to going to prison for 'contempt of Congress,' I can say -- hardly.

"McCarthyism on the macro scale was designed to whip up national anti-Communist hysteria in support of the post-war US violent turn against the Soviet Union, making our erstwhile ally enemy no. 1. On an individual basis, it was aimed mainly at true left-wingers who did nothing other than hold to their beliefs while promoting alternate theories of political economy and promoting alternate government policies, both foreign and domestic. It then proceeded to attempt to deprive them of their livelihoods by black-listing, an endeavor in which it was highly successful. A small number of persons were sent to prison for holding certain political beliefs but would not rat on their friends when asked by Congress about them. THAT's McCarthyism."

"And then, further, I am giving myself the last word. (After all, it is my column.) Don had sent me a lengthy statement on the subject of free speech co-written by the esteemed civil rights academic and activist Prof. Cornel West. The statement is a strong endorsement of a very broad definition/interpretation of "free speech." It begins with the following sentence: "The pursuit of knowledge and the maintenance of a free and democratic society require the cultivation and practice of

the virtues of intellectual humility, openness of mind, and, above all, love of truth."

To which I responded, to Don:

I did start to read Prof. West's statement below, but stopped after the first sentence. Why does not the promotion of racism, which is based on the Doctrine of White Supremacy, deserve 'full and free discussion' in places of academic inquiry, like college campuses (other than in halls hired by the racism-promoters for the purpose of doing so)? It's there in the first sentence, which suggests the promotion of: 'intellectual humility, openness of mind, and, above all, love of truth.' Racism and racists are hardly humble, they of all people are not of open minds (otherwise racism would have disappeared in this country many decades ago), and since racism is based on the fundamental lie of the Doctrine of White Supremacy, it is hardly embraced by 'the love of truth.'

"No, for me, observing what has gone on historically, 'liberty' is not limitless and never has been. Just wait until the anti-Semites come out even more publicly than they already are -- and let's say that the anti-Semites we are talking about are those who postulate that the solution to all of the nation's problems and those of any other nation they happen to occupy, is their extermination. This is of course what the anti-Semitic leadership of a major nation undertook not so long ago.

"And take a look at The Daily Stormer, (named after one of the two leading Nazi newspapers, by the way, Der Sturmer, whose publisher, Julius Streicher, in the eyes of the Nuremberg Court was not covered by any concept of 'liberty' even though he was just a publisher -- he was executed). They are not too far away from that. And just suppose that they begin demanding open access to college campuses, with the support of their administrations. Or suppose that we have speakers demanding unlimited access to college campuses who advocate registering Muslims and forcing all of them to wear Yellow Crescents.

"Or what about the 'pastor' in North Carolina who, in 2012, advocated rounding up all gays and lesbians and putting them into open camps surrounded by barbed wire and leaving them there? Does 'liberty' cover him? Not in my book. Anymore, ending this one for now, than a condoner of pederasty (with 'consent' of course), was dis-invited by CPAC, even though when he promoted racism and Islamophobia, that was OK."

And then, a final word or two, not part of my correspondence with my dear friend Don. "Free speech" has never been an absolute in the United States, even for the American Civil Liberties Union. When during the 1940s the US Communist Party came under attack for violating the Smith Act (later found to be unconstitutional) by supposedly "advocating the overthrow of the US government through the use of force and violence," the ACLU refused to come to their defense. Which was odd. First of all, the law made "advocacy" a crime.

Commission of violent acts would of course be criminal, but this Act criminalized speech. Second of all, the CPUSA did NOT advocate violent revolution but supported the concept of the "parliamentary road to socialism," in its constitution no less -- for which it was roundly, if quietly, criticized by Leninists outside the Party. (That did not prevent many members of the CPUSA national and local leaderships from being sent to prison, but that's another matter.) That particular abandonment of "free speech" by the ACLU led to the establishment of the Emergency Civil Liberties Committee by one of the wealthiest men in the United States, Corliss Lamont.

As for academic institutions, I think that they are within their rights to their own institutional free speech to deny access to their campuses by persons upholding unscientific/non-academic/hate-promoting positions, such as racism, homophobia, Islamophobia, and anti-Semitism. But then there is nothing stopping such persons from hiring a nearby private hall to

offer their perspectives to the public, promoting their appearances through paid advertising.

Addendum -- Definitions of Fascism:

I. A classic definition of fascism, based on the 20th century models of Italy, Germany, Spain, Portugal, Chile, Argentina, and Brazil, can be defined as:

A politico-economic system in which there is: total executive branch control of both the legislative and administrative powers of government; no independent judiciary; no Constitution that embodies the Rule of Law standing above the people who run the government; no inherent personal rights or liberties; a single national ideology that first demonizes and then criminalizes all political, religious, and ideological opposition to it; the massive and regular use of hate, fear, racial and religious prejudice, the Big Lie technique, mob psychology, mob actions and ultimately individual and collective violence to achieve political and economic ends; a capitalist/corporate economy; with the ruling economic class' domination of economic, fiscal, and regulatory policy."

II. A 21st century definition of fascism, using the Trumpian model for the United States:

A politico-economic system in which the Executive Branch of the Government: regards the Constitution as in place only on paper; disregards the Judiciary as a co-equal branch of government and accepts the Legislative Branch as a co-equal only when Executive Branch policies are supported by it; demonizes and then criminalizes all political, religious, and ideological opposition to its policies and programs; redefines the words "truth," "science," "data," "fact," and "reality" through the use of the Big Lie technique; regularly uses the Doctrine of White Supremacy/racism, xenophobia in general and Islamophobia in particular, and homophobia, to achieve political ends; suppresses the free vote by challenging the legitimacy of the electoral system; casts "the media" as a principal enemy, with the aim of suppressing dissent and promoting distrust in it and its reporting; all in service of creating and maintaining the control of State Power by the economically dominant sector of the capitalist ruling class: manufacturing, fossil fuels, agriculture/food, pharma/health services, retail, transportation, and banking/investment/financial services."

III. A shorter 21st century definition of fascism, using the Trumpian model for the United States:

A politico-economic system in which the Racist Reactionary Religious Right controls both the Executive and Legislative Branches of government and the former dominates it; to the extent possible the Judiciary is ignored; the non-right-wing media are cast as "the enemy"; all political, religious, and ideological opposition to its policies and programs are demonized and then criminalized; the use of the Big Lie technique dominates Executive and Legislative Branch discourse and propaganda; the Doctrine of White Supremacy/racism, xenophobia, Islamophobia, and homophobia, are used to achieve political ends; the free vote is suppressed; all to create and maintain the control of State Power by the economically dominant sectors of the capitalist ruling class."

