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Free Speech Conflict: What We Learned at Middlebury College

Dr. Baishakhi Taylor¹

Middlebury College is a private, selective residential liberal arts college located in Middlebury, Vermont.² Founded in 1800, it is one of the first institutions of higher learning in the state of Vermont. Throughout its history, the College has been on the leading edge of social change. It is the first American institution of higher learning to grant a bachelor's degree to an African-American man,³ and one of the first to adopt a coeducation model for men and women.⁴ The College has been a seat of entrepreneurial innovation throughout its history.

When many small colleges in New England were forced to close during the religious upheaval of the 1830s followed by the American Civil war in the 1860s, Middlebury College was able to continue its educational mission with support from the town and people from the neighboring region. Over the last century, the College has been recognized globally for its language instruction. Each summer, through its graduate Language Schools, Middlebury offers immersive programs in 11 languages—Arabic, Chinese, French, German, Hebrew, Italian, Japanese, Korean, Portuguese, Russian, and Spanish. Further, the Middlebury Bread Loaf School of English offers intensive summer courses in literature, writing, and theater, and the College operates 34 study abroad programs in seventeen countries around the world. In its more recent years, Middlebury acquired a graduate school for international studies—the Middlebury Institute of International Studies—in Monterey, California,⁵ thus creating a unique educational ecosystem that is rooted in Vermont and truly global in scope. The beautiful Vermont campus is home to about 2,500 students, over sixty percent of whom do some kind of study-away program. With a rural setting complimented by international opportunities, the students are encouraged to act and think both locally and globally.

This background is needed to frame what happened on March 2, 2017 on the Vermont campus. On February 16, Middlebury's President, Dr. Laurie L. Patton,⁶ received an invitation from a student group called the American Enterprise Institute

1. Vice President for Student Affairs (Interim) and Dean of Students, Middlebury College. The author expresses her thanks to Professor Rafael Gely for his transcription of her remarks at the Symposium and to Professor Robert Jerry for his edits on that transcript.

2. *About Middlebury*, MIDDLEBURY, <http://www.middlebury.edu/about>.

3. Alexander Twilight graduated in the class of 1823. *Alexander Lucius Twilight Biography*, BIOGRAPHY, <https://www.biography.com/people/alexander-lucius-twilight-213035> (last updated Apr. 1, 2014).

4. The trustees of the College made this decision in 1883, and May Belle Chellis was the first woman to graduate (as valedictorian) in 1886. *First Females on Campus*, A PEOPLE'S HISTORY OF MIDDLEBURY COLLEGE, <http://sites.middlebury.edu/peopleshistory/people/herstory-of-women-at-middlebury/r/> (last visited Mar. 5, 2018).

5. *Middlebury Institute of International Studies*, MIDDLEBURY, <http://www.middlebury.edu/student-life/creativity-innovation-exploration/engagement-careers/careers-and-internships/resources/graduate-school/middlebury-institute-of-international-studies> (last visited Mar. 5, 2018).

6. See generally *Laurie L. Patton*, MIDDLEBURY, <http://www.middlebury.edu/about/president/bio> (last visited Mar. 5, 2018).

Club⁷ (AEI) to give opening remarks at a lecture by a speaker they had invited to campus. The Club was Middlebury's student chapter of the AEI,⁸ a conservative think-tank based in Washington, D.C., which has student clubs all across the country. The speaker was Dr. Charles Murray, an American political scientist who is now an AEI emeritus scholar.⁹ This was not Dr. Murray's first visit to the College. He had previously visited the campus for a lecture in 2007, and in 2017 the AEI club invited him to talk about his book *Coming Apart*, "which explores the roots of class division in white America."¹⁰ In 1994, Charles Murray co-authored the book *The Bell Curve* with Richard Herrnstein "which linked race with IQ and has long been the focus of controversy and served as the backdrop for how many on campus saw the event."

On March 2, as soon as Charles Murray took the podium, many students started protesting. After about 20 minutes, the lecture was moved to a location where it could be livestreamed. The student protest continued during the livestream broadcast. The recording of the event is easily available through a search on YouTube. It is important to note here that in her opening remarks, President Patton made it explicit that the College was not endorsing the opinions and views of Dr. Murray.

President Patton's remarks both recognize and reflect the national climate of free speech conflict, and the complexities of the critical, ongoing conversation about its dimensions. President Patton made it very clear that Middlebury College is committed to creating a robust public sphere and to inclusion, and to making an effort to show and actualize that everybody belongs. Those two goals are not dichotomous and are not at odds with each other.

Prior to the event, we recognized that there was disagreement about bringing Charles Murray to campus, but we also had a strong sense of community and civic engagement at Middlebury. In addition, when Charles Murray came to Middlebury in 2007, the recollections of those present then were that very few people showed up. Our expectations and preparation for the March 2 event was based on this information. Three days before Murray's lecture, we were informed of the possibility of a protest being organized and that many people from the area, including the city of Burlington which is an hour away, were interested in coming. We decided to move the venue to a larger auditorium, and to restrict admission to the campus community, *i.e.*, faculty, staff, and students. This meant that everyone would need a Middlebury College ID to get into the event. We did not anticipate the need for any extraordinary measures. As a small campus, we do not have campus police. We have a small team of public safety officers, but they do not have police power. Thus, for this lecture, we planned in the same way we do when we have a big concert or similar event; we hire from a local agency, the Green Mountain Concert Service, to provide additional people for crowd management.

7. *American Enterprise Institute Club*, MIDDLEBURY, <https://middlebury.campuslabs.com/engage/organization/AEI> (last visited Mar. 5, 2018).

8. *Id.*

9. *Charles Murray*, AMERICAN ENTERPRISE INSTITUTE, <http://www.aei.org/scholar/charles-murray/> (last visited Mar. 5, 2018).

¹⁰ Laurie L. Patton, *The Right Way to Protect Free Speech on Campus*, WALL STREET J. (June 9, 2017, 10:46 AM), <https://www.wsj.com/articles/the-right-way-to-protect-free-speech-on-campus-1497019583>.

After the event, Professor Allison Stanger,¹¹ who was going to interview Murray on stage after his lecture, escorted Dr. Murray to the car of Bill Burger, Vice President for Communications at Middlebury. Dr. Stanger and Dr. Murray were surrounded by a large group of people. Though many wore black ski masks, making them hard to identify, it was later determined that most were persons with no affiliation to Middlebury College or the town. (We were later advised that many of these persons were members of an anarchist group that came from some distance). This group was never inside the actual auditorium but waited outside. To set the scene, it is important to know that in the month of March in Vermont, it gets dark very early in the evening. In this confrontation outside the venue, Dr. Stanger was injured—she was later diagnosed with whiplash and a concussion—and it was difficult to extricate her and Dr. Murray from the situation with so many people surrounding them. The public safety officers did their best to get people away from Bill Burger’s car, and eventually Dr. Stanger and Dr. Murray were able to get into the car, and Mr. Burger was able to drive away. In other words, as the evening unfolded, its dynamics changed. At the outset, it was a situation where students had prevented a lecturer from speaking, which gave rise to a violation of a College policy about demonstrations in such a setting. This, of course, was a serious matter. But the evening took on an entirely different meaning when Dr. Stanger was injured outside the auditorium.

The College immediately retained independent investigators to provide an account of what happened. Part of the reason for outsourcing the investigation was to ensure its neutrality. The investigators reviewed photographic and video evidence, interviewed a number of eyewitnesses, and gathered statements and accounts. Their work provided the basis for disciplinary proceedings against a number of students under the College’s long-established community-based judicial procedures. The College charged a number of students with violating policies that prohibit disruptive behavior at community events, call on students to respect the dignity, freedom, and the rights of others, and forbid violence or the use of physical force. The remainder of that spring was spent on providing resolution to the College discipline process. Over 65 students went through the conduct process and received some kind of formal sanctions by the end of the semester. Those students who took an especially prominent role in this particular event received “College Discipline,” which results in the placement of a letter in the students’ permanent files noting their infraction. Because students often must disclose such information in applications to graduate school and employers, students consider this a very serious penalty, with potentially long-term consequences. In addition to the College process, the Middlebury Police Department investigated the events outside the hall and found no evidence to support criminal charges.¹²

With the benefit of hindsight comes the ability to understand what we did not know before March 2, 2017. What is it that we did not know?

We did not know how much the events of and following March 2 would matter to our external constituencies. We received hundreds of passionate calls, letters,

11. Allison Stanger, MIDDLEBURY, <http://www.middlebury.edu/academics/ps/faculty/node/25611> (last visited Mar. 5, 2018).

12. Laurie L. Patton, *supra* note 10.

and emails from alumni, parents, and community members and other individuals with no ties to the College. These messages came down on both sides of the question. Some said, “You did not do enough, find the students involved, and expel them immediately.” Others said, “These students stood up for their rights, and they stood up for what they believe is right. Do not do anything. Cease all disciplinary action and drop all charges against the students.” We did not know how important the institution’s response to this instance of free speech conflict, manifested in both disruption and violence, would be to countless observers.

We did not know how divided our campus was on what free speech and expression means. We always took much pride in the belief that, as a small community, we have a strong sense of who we are, what we believe, and what we value. The experience of March 2 exposes a reality that we did not appreciate—we are not as unified or cohesive, as a community as we had previously thought. We are fractured. We have always encouraged students to develop beliefs, stand up for them, and protest when challenged. We actually have a very good protest and demonstration policy. We encourage students to engage in civic and civil disobedience, but in lawful ways that respect the rights and dignity of others. We did not know that we need to do more in educating our students about those values. We learned that we have not taught them how to fully and appropriately engage civically, and what civic disobedience actually means. We learned that we need to do better.

We did not know the sense of hurt and alienation that many in our Middlebury community—students, faculty, staff, and members of the town—felt before March 2. Because we are located in a rural setting, the town and the college campus are intertwined. In a sense, we are all sort of one—or so we thought. In the wake of March 2, for the first time we realized how deeply hurt many members of our community were, how frustrated they were, and how much many of them perceived that the College’s administration, the people with authority and power, were not listening to them, or were not listening enough. We learned that our communications and relationships need to be better—and that improvements are always possible.

We also learned that we were not ready to deal with free speech conflict. We now know that free speech conflict, if it did not always exist, is now the new normal. And we learned that we were not ready for this, and that we now need to prepare for the inevitable future encounter with this kind of conflict.

With the benefit of hindsight also comes the opportunity to reflect and to learn. What is it that we have learned?

We have learned that to be ready to deal with conflict effectively, we have to build trust first—especially on a small campus where the existence of trust is easily presumed. We have to find better ways to ensure a widely held respect for and embracing of diversity of opinion. Middlebury College is a left-leaning campus community, as the President recognized in her opening statement on March 2. But whether a campus community is left, right, or center, we have to learn to respect diversity of opinion, value it, engage it, and live with it. That respect is one of the most important values embedded in a liberal arts education.

We have learned that free speech and inclusion are frequently pitched as opposing ideas, but they are really more like rights and responsibilities, and we need both. The College’s leadership has made it very clear to both the entire Campus, the surrounding community, and our external constituencies that “committed

speech, reasoned speech, courageous speech, speech countering other speech—all of these are essential to higher education and sound democratic politics. It is simply not acceptable to shout down speakers and interfere with the rights of others to hear them, learn from them, and challenge them. Only when we are able to listen to each other across many differences can we begin to discover for our own times what we are still capable of loving in common.”¹³

We have learned that how we plan for future free speech conflict is vital. As we were working through the implications of our own experiences at Middlebury College, the tragic events of August 11-12, 2017 in Charlottesville, Virginia occurred. Mindful of the potential for free speech conflict to escalate into tragedy, we have put an interim protocol in place under which any student organization, faculty, or staff who wants to bring a speaker to Campus must make a request, three weeks before the event, so that we can be more intentional and mindful. In the past, we did not believe that we needed this protocol; last year, as the events in the Middlebury narrative show, a student organization could make the request within the week before the planned speaker. This interim protocol allows us an appropriate amount of time to review the plans for hosting an outside speaker and make sure that we are ready.

We have talked to the Middlebury Police Department about planning for future events, and we now understand the implications of being located in Vermont, which, although a wonderful place, is a really small state. We also learned from the examples of Auburn University, UC Berkeley, or Florida State where students and other groups brought speakers like Richard Spencer which lead to protests and disruptions. As a small liberal arts college, our infrastructures are limited in scope compared to the larger state schools when supporting these types of events. Our students’ health and safety are our primary focus, and three weeks’ advance notice of a campus event is necessary for our preparation to ensure that. We want to allow speakers to speak irrespective of their viewpoint, but there are limits evolving from our obligation to protect health and safety. At the least, we must institute procedures that give us the benefit of the time needed to make accurate assessments of the boundary between permitting free speech and expression, and protecting health and safety.

We have learned that it is important to educate our campus community about free speech. We have formed a Committee on Free Speech and Inclusion led by our Provost, Dr. Susan Baldrige, which has diverse campus representation—four faculty, four staff, and four students. This Committee is set up as our focal point to discuss where we, the Middlebury College campus community, go from here. In this Committee, we are engaging the currently dichotomized, polarized ideas of speech and inclusion.¹⁴ We have also started a series called “Critical Conversations.”¹⁵ In this series, Middlebury College is hosting many events—symposia; panels; individual speakers; performances; exhibitions; and more—designed to spur discussion and debate across our campus on critical issues. This series will feature

13. Laurie L. Patton, *supra* note 10.

14. The Middlebury Committee on Speech and Inclusion submitted their final report in January 2018. *Final Report: Committee on Speech and Inclusion Middlebury College*, MIDDLEBURY (2018), <http://www.middlebury.edu/system/files/media/Middlebury%20Committee%20on%20Speech%20and%20Inclusion%20Report%20Jan%202018.pdf>.

15. *Critical Conversations: Advancing a Culture of Freedom and Inclusivity*, MIDDLEBURY, <http://www.middlebury.edu/critical-conversations/>.

different viewpoints and opposing ideas, thereby emphasizing the importance of free expression, critical inquiry, and respectful dialogue. In addition, we are bringing experts to campus to help train members of the campus community—nearly fifty faculty, staff, and students—in the process of “Restorative Practice,” with the intention of instituting a pilot restorative practice framework in the fall of 2018.¹⁶ In addition, education with regard to free speech conflict is now a part of the College’s strategic planning process, “Envisioning Middlebury.”¹⁷

Last but not least, we have learned that how we manage free speech conflict must be harmonized with and embedded inside the vision and mission of our College. At Middlebury, we have a new vision statement: “Our vision is a world with a robust and inclusive public sphere where ethical citizens work across intellectual, geographical and cultural borders.”¹⁸ Our goal is to operationalize that vision on our campus. Free speech and inclusivity are values that must be furthered if that is to happen, and our success in managing conflict with respect to those values is essential if our goal is to be achieved.

16. Elaine Velie, *College Holds Restorative Practices*, MIDDLEBURY CAMPUS (Jan. 24, 2018), <https://middleburycampus.com/37505/news/college-holds-restorative-practices-training/>.

17. *The Framework*, MIDDLEBURY, <http://envisioning.middlebury.edu/framework/> (last visited Mar. 5, 2018).

18. *Id.*