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Boutique Multiculturalism, or Why Liberals Are Incapable of Thinking about Hate Speech

Stanley Fish

1. *Multiculturalism Does Not Exist*

Multiculturalism comes in at least two versions, boutique multiculturalism and strong multiculturalism. Boutique multiculturalism is the multiculturalism of ethnic restaurants, weekend festivals, and high profile flirtations with the other in the manner satirized by Tom Wolfe under the rubric of “radical chic.”¹ Boutique multiculturalism is characterized by its superficial or cosmetic relationship to the objects of its affection. Boutique multiculturalists admire or appreciate or enjoy or sympathize with or (at the very least) “recognize the legitimacy of” the traditions of cultures other than their own; but boutique multiculturalists will always stop short of approving other cultures at a point where some value at their center generates an act that offends against the canons of civilized decency as they have been either declared or assumed. The death sentence under which Salman Rushdie now lives is an obvious and perspicuous example, although it is an example so extreme that it might be better to begin with a few that are less dramatic. A boutique multiculturalist may find something of value in rap music and patronize (pun intended) soul-food restaurants, but he will be uneasy about affirmative action and downright hostile to an afrocentrist curriculum. A boutique multiculturalist may enjoy watching Native American religious ceremonies and insist

1. See Tom Wolfe, *Radical Chic and Mau-mauing the Flak Catchers* (New York, 1970).

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that they be freely allowed to occur, but he will balk if those ceremonies include animal sacrifice or the use of a controlled substance.² A boutique multiculturalist may acknowledge the diversity of opinions about abortion, but he is likely to find something illegitimate in the actions of abortion opponents who block the entrance to clinics and subject the women who approach them to verbal assaults. A boutique multiculturalist may honor the tenets of religions other than his own, but he will draw the line when the adherents of a religion engage in the practice of polygamy.

In each of these cases (and in the many analogous cases that could be instanced) the boutique multiculturalist resists the force of culture he appreciates at precisely the point at which it matters most to its strongly committed members, the point at which the African American tries to make the content of his culture the content of his children's education, the point at which a Native American wants to practice his religion as its ancient rituals direct him to, the point at which antiabortionists directly confront the evil that they believe is destroying the moral fiber of the country, the point at which Mormons seek to be faithful to the word and practices of their prophets and elders.

Another way to put this is to say that a boutique multiculturalist does not and cannot take seriously the core values of the cultures he tolerates. The reason he cannot is that he does not see those values as truly "core" but as overlays on a substratum of essential humanity. That is the true core, and the differences that mark us externally—differences in language, clothing, religious practices, race, gender, class, and so on—are for the boutique multiculturalist no more than what Milton calls in his *Areopagitica* "moderat varieties and brotherly dissimilitudes that are not vastly disproportionall."³ We may dress differently, speak differently, woo differently, worship or not worship differently, but underneath (or so the argument goes) there is something we all share (or that shares us) and that something constitutes the core of our identities. Those who follow the practices of their local culture to the point of failing to respect the practices of other cultures—by calling for the death of an author whose

2. See *Employment Division, Department of Human Resources of Oregon et al. v. Smith et al.*, 494 U.S. 872 (1990), in which Native Americans were denied exception for the religious use of peyote.

3. John Milton, *Areopagitica*, in *The Prose of John Milton*, ed. J. Max Patrick (1644; Garden City, N.Y., 1967), p. 322.

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writings denigrate a religion or by seeking to suppress pornography because it is offensive to a gender—have simply mistaken who they are by identifying with what is finally only an *accidental* aspect of their beings.

The essential boutique multiculturalist point is articulated concisely by Steven C. Rockefeller: “Our universal identity as human beings is our primary identity and is more fundamental than any particular identity, whether it be a matter of citizenship, gender, race, or ethnic origin.”⁴ Taking pleasure in one’s “particular identity” is perfectly all right so long as when the pinch comes, and a question of basic allegiance arises, it is one’s universal identity that is affirmed, for as “important as respect for diversity is in multicultural democratic societies, ethnic identity is not the foundation of recognition of equal value and the related idea of equal rights” (“C,” p. 88). That is to say, we have rights, not as men or women or Jews or Christians or blacks or Asians, but as human beings, and what makes a human being a human being is not the particular choices he or she makes but the capacity for choice itself, and it is this capacity rather than any of its actualizations that must be protected.

It follows then that while any particular choice can be pursued at the individual’s pleasure, it cannot be pursued to the point at which it interferes with or prescribes or proscribes the choices of other individuals. (This is of course a reformulation of J. S. Mill’s “harm principle” in *On Liberty*.) One may practice one’s religion, even if it is devil worship, in any manner one likes, but one may not practice one’s religion to the extent of seeking to prevent others from practicing theirs by, say, suppressing their sacred texts, or jailing their ministers. Women may rightly insist that they receive equal pay for equal work, but they cannot rightfully insist that they be given extra compensation or preferential treatment just because they are women. One may choose either to read or to disdain pornography, but one who believes in pornography’s liberatory effects cannot compel others to read it, and one who believes that pornography corrupts cannot forbid others to publish it.

Of course it is just those two actions (or some versions of them) that pro- and antipornography forces will most want to take since they flow logically from the beliefs of the respective parties and will be seen by those parties as positive moral requirements. This is what I meant earlier when I pointed out that the boutique multiculturalist will withhold approval of a particular culture’s practices at the point at which they matter most to its strongly committed members: a deeply religious person is precisely that, *deeply* religious, and the survival and propagation of his faith is not for him an incidental (and bracketable) matter, but an essential matter, and essential too in his view for those who have fallen under the sway of false faiths. To tell such a person that while his convictions may

4. Steven C. Rockefeller, “Comment,” in *Multiculturalism and “The Politics of Recognition”*: An Essay, ed. Amy Gutmann (Princeton, N.J., 1992), p. 88; hereafter abbreviated “C.”

be held he must stop short of fully implementing them is to tell him that his vision of the good is either something he must keep to himself or something he must offer, with a diffidence that might characterize his offer of canapés at a cocktail party.⁵ Rockefeller might say that “respect for the individual is understood to involve not only respect for . . . universal human potential . . . but also respect for . . . the different cultural forms in and through which individuals actualize their humanity” (“C,” p. 87), but it is clear from his commentary that the latter respect will be superficial precisely in the measure that the cultural forms that are its object have themselves been judged to be superficial, that is, not intrinsic to universal identity.

The politics generated by views like Rockefeller’s has been called by Charles Taylor “a politics of equal dignity.” The politics of equal dignity, Taylor explains, ascribes to everyone “an identical basket of rights and immunities,” identical because it is limited to that aspect of everyone that is assumed to be universally the same, namely, “our status as rational agents,” agents defined by a shared potential for deliberative reason.⁶ The idea is that so long as that potential is protected by law, particular forms of its realization—cultural traditions, religious dogmas, ethnic allegiances—can be left to make their way or fail to make their way in the to-and-fro of marketplace debate. A tradition may die, a religion may languish, an ethnic community may fail to secure representation in the classroom or the boardroom, but these consequences are of less moment and concern than the integrity of the process that generates them, a process that values deliberation over the results of deliberation, results that are, from the perspective of this politics, indifferent.⁷

Results or outcomes are not at all indifferent in another politics, named by Taylor, the “politics of difference” (“PR,” p. 38). The politics of difference, as Taylor explains it, does not merely allow traditions a run for their money; it is committed to their flourishing. If the politics of equal dignity subordinates local cultural values to the universal value of free rational choice, the politics of difference names as its preferred value

5. Some political theorists go so far as to insist, not merely that religious reasons be disallowed in the public forum, but that citizens should not advocate or vote for any position unless their motives are “adequately secular” (Robert Audi, “The Separation of Church and State and the Obligations of Citizenship,” *Philosophy and Public Affairs* 18 [Summer 1989]: 280). See also the full discussion of the question in Kent Greenawalt, *Private Consciences and Public Reasons* (Oxford, 1995).

6. Charles Taylor, “The Politics of Recognition,” in *Multiculturalism and “The Politics of Recognition,”* pp. 38, 41; hereafter abbreviated “PR.”

7. John Rawls puts it this way: “The state is not to do anything that makes it more likely that individuals accept any particular conception rather than another” (John Rawls, *Political Liberalism* [New York, 1993], p. 193). Rawls acknowledges that “some conceptions will die out and others survive only barely,” but this, he says, is inevitable because “no society can include within itself all forms of life” (p. 197). (A statement made with all the complacency of someone who knows that his form of life will certainly be included in his society.)

the active fostering of the unique distinctiveness of particular cultures. It is that distinctiveness rather than any general capacity of which it is an actualization that is cherished and protected by this politics. Whereas the politics of equal dignity “focuses on what is the same in all” and regards particularity as icing on a basically homogeneous cake, the politics of difference asks us “to recognize and even foster particularity” as a first principle (“PR,” p. 43).

In practical terms, fostering particularity requires that we make special adjustments to the special requirements of distinctive groups, for if we refuse such adjustments in the name of some baseline measure of rational potential, we weaken the distinctiveness whose recognition is our chief obligation. “Where the politics of universal dignity fought for forms of nondiscrimination that were quite ‘blind’ to the ways in which citizens differ, the politics of difference often redefines nondiscrimination as requiring that we make these distinctions the basis of differential treatment” (“PR,” p. 39). It is the politics of difference that gives us campus speech codes (like Stanford’s before it was struck down) that judicialize racist epithets directed against minorities but do not consider epithets (honkey, redneck, whitey) directed against Caucasian males a form of racism (on the reasoning that racism is defined as hostility plus power rather than as mere hostility). It is the politics of difference that leads to the establishment of schools for young black males in our inner cities (on the reasoning that the maintenance of cultural and gender homogeneity will bolster confidence and stimulate learning). It is the politics of difference that produces demands by blacks, Asians, and Native Americans that they be portrayed in films and plays by actors who are themselves blacks, Asians, and Native Americans. It is the politics of difference that asks for proportional representation of various cultural traditions in the classroom and in faculty hiring. The politics of difference is the equivalent of an endangered species act for human beings, where the species to be protected are not owls and snail darters, but Arabs, Jews, homosexuals, Chicanos, Italian Americans, and on and on and on.

The politics of difference is what I mean by strong multiculturalism. It is strong because it values difference in and for itself rather than as a manifestation of something more basically constitutive. Whereas the boutique multiculturalist will accord a superficial respect to cultures other than his own, a respect he will withdraw when he finds the practices of a culture irrational or inhumane, a strong multiculturalist will want to accord a *deep* respect to all cultures at their core, for he believes that each has the right to form its own identity and nourish its own sense of what is rational and humane. For the strong multiculturalist the first principle is not rationality or some other supracultural universal, but tolerance.

But the trouble with stipulating tolerance as your first principle is that you cannot possibly be faithful to it because sooner or later the culture whose core values you are tolerating will reveal itself to be intolerant

at that same core; that is, the distinctiveness that marks it as unique and self-defining will resist the appeal of moderation or incorporation into a larger whole. Confronted with a demand that it surrender its viewpoint or enlarge it to include the practices of its natural enemies—other religions, other races, other genders, other classes—a beleaguered culture will fight back with everything from discriminatory legislation to violence.

At this point the strong multiculturalist faces a dilemma: either he stretches his toleration so that it extends to the intolerance residing at the heart of a culture he would honor, in which case tolerance is no longer his guiding principle, or he condemns the core intolerance of that culture (recoiling in horror when Khomeini calls for the death of Rushdie), in which case he is no longer according it respect at the point where its distinctiveness is most obviously at stake. Typically, the strong multiculturalist will grab the second handle of this dilemma (usually in the name of some supracultural universal now seen to have been hiding up his sleeve from the beginning) and thereby reveal himself not to be a strong multiculturalist at all. Indeed it turns out that strong multiculturalism is not a distinct position but a somewhat deeper instance of the shallow category of boutique multiculturalism.

To be sure, there will still be a difference, but it will be a difference in degree. When the novelist Paul Theroux encounters a Pakistani with an advanced degree in science who nevertheless declares “Rushdie must die,” he responds in true boutique multiculturalist fashion by setting him “straight” and informing him (as if he were a child) that his are “ignorant and barbarous sentiments.”⁸ (I bet that really convinced him!) Contrast this with M. M. Slaughter, a strong multiculturalist who, in the place of name calling, offers an explanation of why an educated Muslim whose sense of identity “is inseparable from the community of believers” might think himself mortally wounded by something written in a book. For Slaughter, the issue is properly understood, not as a simple contrast between civilization and barbarity, but as a tension between “essentialist ideologies that inevitably and irreconcilably conflict. . . . The concept of the autonomous self requires the free speech principle; the socially situated self of Islamic society necessarily rejects free speech in favor of prohibitions against insult and defamation.” Yet even while she elaborates the point, Slaughter declines to extend her act of sympathetic understanding into a statement of approval, and she is careful to declare at the beginning of her essay that “the placing of a bounty on Rushdie’s head” is “a terroristic act.”⁹ Slaughter’s judgement, in short, is finally not all that different from Theroux’s, although it comes accompanied by an analysis the novel-

8. Paul Theroux, letter to Salman Rushdie, in *The Rushdie Letters: Freedom to Speak, Freedom to Write*, ed. Steve MacDonogh (Lincoln, Nebr., 1993), p. 33.

9. M. M. Slaughter, “The Salman Rushdie Affair: Apostasy, Honor, and Freedom of Speech,” *Virginia Law Review* 79 (Feb. 1993): 198, 156, 155, 154.

ist has no interest in making. Both Theroux and Slaughter—who either sees the *fatwa* as an instance of fanaticism bordering on insanity or who pushes through to a comprehension of the system of thought in which the *fatwa* might constitute a moral obligation—stop far short of going all the way, that is, of saying, with Theroux’s Pakistani, “Rushdie must die.”

In the end neither the boutique multiculturalist nor the strong multiculturalist is able to come to terms with difference, although their inabilities are asymmetrical. The boutique multiculturalist does not take difference seriously because its marks (quaint clothing, atonal music, curious table manners) are for him matters of lifestyle, and as such they should not be allowed to overwhelm the substratum of rationality that makes us all brothers under the skin. The strong multiculturalist takes difference so seriously as a general principle that he cannot take any *particular* difference seriously, cannot allow its imperatives their full realization in a political program, for their full realization would inevitably involve the suppression of difference. The only way out for the would-be strong multiculturalist is to speak not for difference in general but for *a* difference, that is for the imperatives of a distinctive culture even when they impinge on the freedom of some other distinctive culture.

But if he did that the strong multiculturalist would no longer be faithful to his general principle. Instead he would have become a “really strong” multiculturalist, someone whose commitment to respecting a culture was so strong that he will stay its course no matter what; but that would mean that he wasn’t a multiculturalist at all since if he sticks with the distinctiveness of a culture even at the point where it expresses itself in a determination to stamp out the distinctiveness of some other culture, he will have become (what I think every one of us always is) a uniculturalist. It may at first seem counterintuitive, but given the alternative modes of multiculturalism—boutique multiculturalism, which honors diversity only in its most superficial aspects because its deeper loyalty is to a universal potential for rational choice; strong multiculturalism, which honors diversity in general but cannot honor a particular instance of diversity insofar as it refuses (as it always will) to be generous in its turn; and really strong multiculturalism, which goes to the wall with a particular instance of diversity and is therefore not multiculturalism at all—no one could possibly *be* a multiculturalist in any interesting and coherent sense.¹⁰

10. For evidence I might point to *Multiculturalism: A Critical Reader*, ed. David Theo Goldberg (Cambridge, Mass., 1994), a volume in which the contributors wrestle unsuccessfully with the conundrums I have been explicating. Some of the essays urge something called critical multiculturalism, which Peter McLaren glosses as the “task of transforming the social, cultural, and institutional relations in which meanings are generated” (Peter McLaren, “White Terror and Oppositional Agency: Towards a Critical Multiculturalism,” p. 53). This is to be done in the service and name of heterogeneity (see Goldberg, “Introduction: Multicultural Conditions,” pp. 25–31), but just where is heterogeneity to be located?

2. Multiculturalism as Demographic Fact

The reason that this will sound counterintuitive is that multiculturalism and its discontents are all people are talking about these days. Is everyone arguing about something that doesn't exist? An answer to that question will require a fresh beginning to our analysis and the introduction of a new distinction between multiculturalism as a philosophical problem and multiculturalism as a demographic fact. Multiculturalism as a philosophical problem is what we've been wrestling with in the preceding passages with results not unlike those achieved (if that is the word) by Milton's fallen angels who try to reason about fate, foreknowledge, and free will and find themselves "in wandering mazes lost."¹¹ We too become lost in mazes if we think of multiculturalism as an abstract concept that we are called upon either to affirm or reject. But if we think of multiculturalism as a demographic fact—the fact that in the United States today many cultural traditions flourish and make claims on those who identify with them—the impulse either to affirm or reject it begins to look rather silly; saying yes or no to multiculturalism seems to make about as much sense as saying yes or no to history, which will keep on rolling along irrespective of the judgement you pass on it.

Not that there is nothing to say once you have recognized that multiculturalism is a demographic fact; it is just that what you say will have more to do with the defusing of potential crises than the solving of conceptual puzzles. We may never be able to reconcile the claims of difference and community in a satisfactory formula, but we may be able to figure out a way for *these* differences to occupy the civic and political space of *this* community without coming to blows. "All societies," Taylor observes, "are becoming increasingly multicultural"; as a result, "substantial numbers of people who are citizens" of a particular country are also members of a culture "that calls into question" that country's "philosophical boundaries" ("PR," p. 63). What we "are going to need . . . in years to

Whose heterogeneity (read "difference") is it? If it is located somewhere, then it is not heterogeneity. If it is located everywhere, then it is universalist liberalism all over again, and the supposed enemy has been embraced.

The Chicago Cultural Studies Group tries to finesse this dilemma by urging full disclosure. One should "indicate the goal of one's knowledge production" and thereby "disrupt one's claim to academic authority and authorial self-mastery" (Chicago Cultural Studies Group, "Critical Multiculturalism," *Critical Inquiry* 18 [Spring 1992]: 549; rpt. in *Multiculturalism*, pp. 114–39). But by now this gesture is a claim to authority and signifies mastery and control even as they are disowned in search of a "better standpoint for substantive critique" (p. 549). The authors can only conclude that "a genuinely critical multiculturalism cannot be brought about by good will or by theory, but requires institutions, genres, and media that do not yet exist" (p. 553). They never will.

11. Milton, *Paradise Lost*, in *John Milton*, ed. Stephen Orgel and Jonathan Goldberg (Oxford, 1990), bk. 2, l. 561, p. 389.

come,” Taylor predicts, is some “inspired adhocery.”¹²

I want to take the phrase “inspired adhocery” seriously. What it means is that the solutions to particular problems will be found by regarding each situation-of-crisis as an opportunity for improvisation and not as an occasion for the application of rules and principles (although the invoking and the recharacterizing of rules and principles will often be components of the improvisation). Any solution devised in this manner is likely to be temporary—that is what *ad hoc* means—and when a new set of problems has outstripped its efficacy, it will be time to improvise again. It follows then that definitions of multiculturalism will be beside the point, for multiculturalism will not be one thing, but many things, and the many things it will be will weigh differently in different sectors of the society. In some sectors multiculturalism will take care of itself, in others its problematic will hardly register, and in others it will be a “problem” that must be confronted.

It will not, however, typically be a philosophical or theoretical problem. Multiculturalism in the workforce? Projections of demographic patterns indicate that in the foreseeable future the workforce will be largely made up of women and minorities; accordingly, corporations have already begun to change their recruiting patterns. It is clear, Corning CEO James Houghton has said, that no company can afford a predominantly white, male workforce. Neither can a company afford a workplace driven by racial and ethnic tensions; and therefore the same bottom line consideration that is altering hiring and promotion policies is also mandating sensitivity programs, a more consultative organizational structure, and decentered management. In short, for the business world it’s multiculturalism or die.

The same formula applies for different reasons to colleges and universities. When the college population was relatively small and homogeneous it was a matter of neither concern nor surprise that the range of cultural materials studied was restricted to the books produced by earlier generations of that same homogeneous population; but when the GI bill brought many to college who would otherwise not have thought to go, and when some of those newly introduced to the academy found that they liked it and decided to stay on as faculty members, and when the rising tide of feminist consciousness led women to no longer be willing to sacrifice their careers to the ambitions of their husbands, and when a college degree became a prerequisite for employment opportunities previously open to high school graduates, and when immigration after the Korean and Vietnam Wars added large numbers of motivated students to a growing cultural mix, and when pride in ethnic traditions (stimulated in part by the extraordinary impact of the television miniseries *Roots*)

12. Taylor, “The Rushdie Controversy,” *Public Culture* 2 (Fall 1989): 121.

weakened the appeal of the “melting pot” ideal, the pressures to include new materials in the classroom and to ask that they be taught by members of the cultures or subcultures from which they were drawn seemed to come from all directions. Although multiculturalism is sometimes characterized as a conscious strategy devised by insurgent political groups desirous of capturing America’s cultural space so that it can be turned over to alien ideas, in fact it is a development that was planned by no one. As an effect it was decidedly overdetermined, and now that it is here those who wish to turn the clock back will find themselves increasingly frustrated.

To be sure there will always remain a few colleges (like Hillsdale in Michigan) that set themselves up as the brave defenders of the beachheads others have ignominiously abandoned, but by and large, at least in the world of education, multiculturalism is a baseline condition rather than an option one can be either for or against. Indeed in many facets of American life there is no multiculturalism issue despite the fact that it is endlessly debated by pundits who pronounce on the meaning of democracy, the content of universal rights, the nature of community, the primacy of the individual, and so on. These mind-numbing abstractions may be the official currency of academic discussion, but they do not point us to what is really at stake in the large social and economic dislocations to which they are an inadequate (and even irrelevant) response. In and of themselves they do no genuine work and insofar as they do any work it is in the service of the adhocery to which they are rhetorically opposed.

I would not be misunderstood as recommending adhocery; my point, rather, is that adhocery will be what is going on despite the fact that the issues will be framed as if they were matters of principle and were available to a principled resolution. As we have seen, there are principles aplenty—autonomy, respect, toleration, equality—but when they are put into play by sophisticated intelligences the result is not resolution but a sharpened sense of the blind alleys into which they lead us. Here, for example, is Amy Gutmann asking a series of questions to which she apparently thinks there are answers:

Should a liberal democratic society respect those cultures whose attitudes of ethnic or racial superiority . . . are antagonistic to other cultures? If so, how can respect for a culture of ethnic or racial superiority be reconciled with the commitment to treating all people as equals? If a liberal democracy need not or should not respect such “supremacist” cultures, even if those cultures are highly valued by many among the disadvantaged, what precisely are the moral limits on the legitimate demand for political recognition of particular cultures?¹³

13. Gutmann, introduction, *Multiculturalism and “The Politics of Recognition,”* p. 5; hereafter abbreviated “I.”

You will recognize in these questions the interlocking quandaries that led me to conclude that multiculturalism is an incoherent concept that cannot be meaningfully either affirmed or rejected. But this is not Gutmann's conclusion. In good liberal-rationalist fashion, she regards the difficulties she uncovers as spurs to a greater conceptual effort, and she sets herself the task of coming up with a formulation that will rescue us from a world of entrenched "political battlefields" and point the way to "mutually respectful communities of substantial, sometimes even fundamental, intellectual disagreement" ("I," p. 20). What is remarkable about this statement is its reproduction of the dilemmas it claims to resolve and the determined (if unintentional) evasion of the difficulties these dilemmas present. The vocabulary will not stand up to even the most obvious lines of interrogation. How respectful can one be of "fundamental" differences? If the difference is fundamental—that is, touches basic beliefs and commitments—how can you respect it without *disrespecting* your own beliefs and commitments? And on the other side, do you really show respect for a view by tolerating it, as you might tolerate the buzzing of a fly? Or do you show respect when you take it seriously enough to oppose it, root and branch?

It is these and related questions that Gutmann begs and even hides from herself by inserting the word "intellectual" between "fundamental" and "disagreement." What "intellectual" does is limit disagreement to matters that can be debated within the decorums of Enlightenment rationalism. Fiercer disagreements, disagreements marked by the refusal of either party to listen to reason, are placed beyond the pale where, presumably, they occupy the status of monstrosities, both above and below our notice (above our notice when they are disagreements over matters of religion, below our notice when they are disagreements between groups that want, not to talk to one another, but to exterminate one another). As a result, the category of the fundamental has been reconfigured—indeed, stood on its head—so as to exclude conflicts between deeply antithetical positions; that is, to exclude conflicts that are, in fact, fundamental.

The sleight of hand involved here is nicely illustrated by Gutmann's example of a disagreement that she says can be pursued in the context of mutual respect, the disagreement between the pro-choice and pro-life parties in the abortion debate. It is an example that tells against the principle it supposedly supports; for as everyone knows strong pro-life advocates regard pro-choicers as either murderers or supporters of murderers, while in the eyes of pro-choicers, pro-life advocates are determined to deprive women of the right to control their own bodies. The disagreement between them is anything but intellectual because it is so obviously fundamental. In an intellectual disagreement the parties can talk to one another because they share a set of basic assumptions; but in a fundamental disagreement, basic assumptions are precisely what is in dispute. You

can either have fundamental or you can have intellectual, but you can't have both, and if, like Gutmann, you privilege intellectual, you have not honored the level of fundamental disagreement, you have evaded it.

3. Hate Speech

Gutmann does it again when she turns to the vexed issue of campus hate speech. Here the question is, How can we have a community of mutually respectful cultures when it is a practice in some cultures to vilify the members of others?¹⁴ It looks like an intractable problem, but Gutmann solves it, she thinks, by distinguishing between differences one merely tolerates and differences one respects. You respect a difference when you see it as a candidate for serious moral debate; it has a point even though it is not your point; but some differences are asserted so irrationally that debate is foreclosed, and those differences, while they must be tolerated in a free society, must also be denounced by all right-thinking persons. Hate speech—speech directed against women, Jews, blacks, and gays—falls into the second category; it is “indefensible on moral and empirical grounds” (“I,” p. 23).

This seems neat and satisfying until one realizes that the “moral and empirical grounds” on the basis of which the arguments of certain speakers are judged “indefensible” have not been elaborated. Rather, they are simply presupposed, and presupposed too is their normative status. In effect Gutmann is saying, “well, everybody knows that some assertions just aren't worth taking seriously.” This is the result of withdrawing the offending opinions from the circle of rationality: a blind eye is turned toward the impact they might have on the world by assuming—without any empirical evidence whatsoever—that they will have none, that only

14. This is a standard question in discussions of multiculturalism from a liberal perspective. Will Kymlicka asks it in *Multicultural Citizenship* (Oxford, 1995): “How should liberals respond to illiberal cultures?” (p. 94). His answer is that since liberals should eschew illiberal practices, they “should not prevent illiberal nations from maintaining their societal culture, but should promote the liberalization of these cultures” (pp. 94–95). In other words, respect the culture by trying to change it. In his inability to see the contradiction between maintaining a tradition and setting out to soften it and blur its edges, Kymlicka enacts the dilemmas traced out in the first part of this essay. He is trying to be a strong multiculturalist but turns boutique when the going gets tough. He would reply that by “promote” he means persuade rather than impose and that rational persuasion is always an appropriate decorum. “Hence liberal reformers inside the culture should seek to promote their liberal principles through reason or example, and liberals outside should lend their support to any efforts the group makes to liberalize their culture” (p. 168). The key word is “reason,” which for Kymlicka, as for Rockefeller, is a standard that crosses cultural boundaries and will be recognized by all parties (except those that are nuts). But reasons of the kind liberals recognize—abstract, universal, transhistorical—are precisely what the members of many so-called illiberal cultures reject. The application of “reason” in an effort to persuade is not the opposite of imposition but a version of it.

crazy people will listen to crazy talk. With that assumption in place—and it is in place before she begins—the community of mutually respectful disputants has been safely constituted by the simple strategy of exiling anything that might disturb it. No wonder that within its confines disputants exercise mutual respect, since mutuality (of an extremely pallid kind) has been guaranteed in advance, as problems are solved by being defined out of existence.¹⁵ Once hate speech—a designation its producers would resist—has been labelled “radically implausible” (“I,” p. 22) (and plausibility is added to the abstractions whose essentialist shape Gutmann blithely assumes), it is no more threatening than a belch or a fart: something disagreeable, to be sure, but something we can live with, especially since the category of the “we” has been restricted to those who already see things as Gutmann does.

In the end, the distinction between what is to be respected and what is tolerated turns out to be a device for elevating the decorum of academic dinner parties to the status of discourse universals while consigning alternate decorums to the dustbin of the hopelessly vulgar. In the expanded edition of the volume she edits, Gutmann is joined by Jürgen Habermas, who declines to admit religious fundamentalists into his constitutional republic because they “claim *exclusiveness* for a privileged way of life” and are therefore unfit for entry into “a civilized debate . . . in which one party can recognize the other parties as co-combatants in the

15. Rawls makes essentially the same move in *Political Liberalism* when he acknowledges that “prejudice and bias, self and group interest, blindness and willfulness, play their all too familiar part in political life,” but he insists that these “sources of unreasonable disagreement stand in marked contrast to those compatible with everyone’s being fully reasonable” (p. 58). One must ask how the contrast gets marked. And the answer is from the perspective of a predecision to confine reasonable disagreements to those engaged in by coolly deliberative persons. The irony is that “prejudice,” “bias,” “blindness,” and “willfulness” are instances of name calling, just the kind of activity Rawls wants to avoid. These words stigmatize certain kinds of argument in advance and remove them peremptorily from the arena of appropriate conversation. Susan Mendus neatly illustrates the strategy in a single brief sentence: “Prejudice and bigotry, not moral disapproval, are the hallmarks of racism” (Susan Mendus, *Tolerance and the Limits of Liberalism* [Atlantic Highlands, N.J., 1989], p. 15). The assertion is that racists (another instance of name calling) have no arguments, only primitive biases. The assertion works if you accept its first (unstated) premise: only arguments that are abstract and universal are really arguments; all others are mere prejudice. This leaves the field of “moral disputation” to those who have already rejected as accidental or regrettable any affiliations or commitments based on race or ethnicity. Moral dispute will then go on in the same sanitized forum marked out by Gutmann’s distinction between views you tolerate (but don’t deign to argue with) and views you respect. The alternative would be to see that prejudice—that is, partiality—is a feature of any moral position, including the liberal one championed by Gutmann, Rawls, and Mendus, and that what you want to say about those who devalue persons on the basis of race is not that they are outside the arena of moral debate but that theirs is a morality you think wrong, evil, and dangerous (provided of course that that is what you think).

search for authentic truths.”¹⁶ Of course, religious fundamentalists begin with the conclusion that the truths they hold are already authentic, but that is precisely why they will be denied entry to the ideal-speech seminar when it is convened. (I hear you knocking but you can’t come in.) Fundamentalists and hate speakers might seem an odd couple; what links them and makes them candidates for peremptory exclusion is a refusal to respect the boundaries between what one can and cannot say in the liberal public forum. (You can’t say kike and you can’t say God.) Although the enemies named by Gutmann and Habermas are different, they are dispatched in the same way, not by being defeated in combat, but by being declared ineligible before the fight begins.

The result is the kind of “civilized” conversation dear to the hearts of academic liberals who believe, on the model of the world-as-philosophy-seminar, that any differences between “rational” persons can be talked through. It is finally a faith in talk—in what liberals call open and inclusive dialogue—that underwrites a program like Gutmann’s. But the dialogue is not really open at all, as we can see when she sets down the requirements for entry:

Mutual respect requires a widespread willingness and ability to articulate our disagreements, to defend them before people with whom we disagree, to discern the difference between respectable and disrespecktable agreement, and to be open to changing our own minds when faced with well-reasoned criticism. [“I,” p. 24]

Words like “widespread” and “open” suggest a forensic table to which all are invited, but between them is the clause that gives the lie to the apparent liberality—“to discern the difference between respectable and disrespecktable disagreement”—which means of course to decide in advance which views will be heard and which will be dismissed. It is a strange openness indeed that is defined by what it peremptorily excludes.

It is not my intention, however, to fault Gutmann for not being open enough. Quite the reverse. It is her desire to be open that is the problem because it prevents her from taking the true measure of what she recognizes as an evil. If you wish to strike a blow against beliefs you think

16. Jürgen Habermas, “Struggles for Recognition in the Democratic Constitutional State,” in *Multiculturalism: Examining the Politics of Recognition*, ed. Gutmann (Princeton, N.J., 1994), p. 133; emphasis mine. As Larry Alexander points out, “An actual dialogue test is, in effect, a requirement of unanimity.” That is, participants must already agree as to what is appropriate and what is not; but agreement is supposedly the goal of the dialogue and if it is made a requirement for entry (in the manner of Gutmann and Habermas) the goal has been reached in advance by rigging the context. Success is then assured, but it is empty because impediments to it have been exiled in advance even though they surely exist in the world (Larry Alexander, “Liberalism, Religion, and the Unity of Epistemology,” *San Diego Law Review* 30 [Fall 1993]: 782).

pernicious and “fraught with death” (the phrase is Oliver Wendell Holmes’s in *Abrams v. United States*)¹⁷ you will have to do something more than exclaim, “I exclude you from my community of mutual respect.” That kind of exclusion will be no blow to an agenda whose proponents are not interested in being respected but in triumphing. Banishing hate speakers from your little conversation leaves them all the freer to pursue their deadly work in the dark corners from which you have averted your fastidious eyes. Gutmann’s instinct to exclude is the right one; it is just that her gesture of exclusion is too tame—it amounts to little more than holding her nose in disgust—and falls far short of wounding the enemy at its heart. A deeper wound will only be inflicted by methods and weapons her liberalism disdains: by acts of ungenerosity, intolerance, perhaps even repression, by acts that respond to evil not by tolerating it—in the hope that its energies will simply dissipate in the face of scorn—but by trying to stamp it out. This is a lesson liberalism will never learn; it is the lesson liberalism is *pledged* never to learn because underlying liberal thought is the assumption that, given world enough and time (and so long as embarrassing “outlaws” have been discounted in advance), difference and conflict can always be resolved by rational deliberation, defined of course by those who have been excluded from it.

I remarked earlier that producers of what is called hate speech would not accept that description of their words, words they would hear as both rational and true. In arguments like Gutmann’s and Habermas’s, rationality is a single thing whose protocols can be recognized and accepted by persons of varying and opposing beliefs. In this model (as in Rockefeller’s) differences are superficial, and those who base political and social judgements on them are labeled irrational. But if rationality is always differential, always an engine of exclusion and boundary making, the opposition is never between the rational and the irrational but between opposing rationalities, each of which is equally, but differently, intolerant. This leads to the perhaps startling but inevitable conclusion that hate speech is rational and that its nature as a problem must be rethought. Indeed, it is only when hate speech is characterized as irrational that the label “problem” seems appropriate to it, and also comforting, because a problem is something that can be treated, either by benign neglect (don’t worry, it’s a fringe phenomenon that will never catch on), or by education and dialogue (the answer to hate speech is more speech: remember Theroux and the Pakistani), or, in a darker view of the matter, by quarantine and excommunication (you have a disease and while we won’t exterminate you, neither will we have anything to do with you). This is the entire spectrum of remedies in the liberal pharmacy, which can only regard hate speech as something we can live with or something

17. *Abrams v. United States*, 250 U.S. 616 (1919).

we can cure or something we can't cure but can avoid by refusing to join a militia.

It is in relation to this spectrum that speech codes seem obviously counterproductive, either because they are an overstrong response to a minor irritant, or because they stand in the way of the dialogue that will lead to health, or because they will only reinforce the paranoia that produced the problem in the first place. Everything changes, however, once hate speech is seen, not as evidence of some cognitive confusion or as a moral anomaly, but as the expression of a morality you despise, that is, as what *your* enemy (not the universal enemy) says.¹⁸ If you think of hate speech as evidence of moral or cognitive confusion you will try to clean the confusion up by the application of good reasons; but if you think that hate speakers rather than being confused are simply wrong—they reason well enough but their reasons are anchored in beliefs (about racial characteristics, sexual norms, and so on) you abhor—you will not place your faith in argument but look for something stronger.¹⁹ The difference between seeing hate speech as a problem and seeing it as what your enemy says is that in response to a “problem” you think in terms of therapy and ask of any proposal, Will it eliminate the pathology? whereas in response to what your enemy says you think in terms of strategy and ask of any proposal, Will it retard the growth of the evil I loathe and fear?

The advantage of this shift is that it asks a real question to which there can be a variety of nuanced answers. When you ask, as liberals always do, Will speech codes dispel racism and remove prejudice from the hearts of those who now display it? the answer can only be no, which, I would say, points not to the inadequacy of speech codes but to the inadequacy of the question. The demand that speech codes dispel racism trades on the knowledge (which I share with antiregulation liberals) that

18. Liberalism requires a universal enemy so that its procedures of inclusion and exclusion can be implemented in the name of everyone. If, however, there is no universal enemy but only enemies (mine or yours), procedures will always be invoked in the name of some and against some others. The unavailability of a universal enemy is something liberal thinkers are always running up against. They respond typically either by just stipulating someone's enemy as universal (as Gutmann does) or by giving up the attempt to identify an enemy and regarding everyone as potentially persuadable to the appropriate liberal views. (This might be thought of as sentimental or sappy multiculturalism.) See on these points Ellen Rooney, *Seductive Reasoning: Pluralism as the Problematic of Contemporary Literary Theory* (Ithaca, N.Y., 1989), especially her discussion of the theoretical dream of general persuasion.

19. Since Gutmann identifies virtue with the capacity for rational deliberation, she will assume that hate speakers are deficient reasoners, but in fact they will often have cognitive abilities as strong as anyone's, and they will be able to answer reason with reason. As Richard Rorty has put it in the context of the familiar demand that we be able to prove to a Nazi that he is wrong, “attempts at showing the philosophically sophisticated Nazi that he is caught in a logical . . . self-contradiction will simply impel him to construct . . . redescrptions of the presuppositions of the charge of contradiction” (Richard Rorty, “Truth and Freedom: A Reply to Thomas McCarthy,” *Critical Inquiry* 16 [Spring 1990]: 637).

racism cannot be altered by external forces; it is not that kind of thing. But the fact that it is not that kind of thing does not mean that there is nothing to be done; it merely means that whatever we do will stop short of rooting out racism at its source (as we might succeed in doing if it were a disease and not a way of thinking) and that the best we can hope for is a succession of tactical victories in which the enemy is weakened, discomfited, embarrassed, deprived of political power, and on occasion routed. (My phrase “the enemy” might suggest that I was referring to everyone’s enemy and slipping back into a liberal universalism in which anomalous monsters are clearly labeled and known to everyone; but my use of the phrase marks the point at which I come out behind the arras of analysis and declare my own position, which rests not on the judgement that racism doesn’t make any sense [it makes perfect sense if that’s the way you think] but that it makes a sense I despise. I am now reaching out to readers who are on my side and saying if you want to win—and who doesn’t?—do this.)

This, however, is not a small basket of hopes, and what’s more the hopes are realizable. If you think of speech codes, not as a magic bullet capable of definitive resolution, but as a possible component of a provisional strategy, you no longer have to debate them in all-or-nothing terms. You can ask if in this situation, at this time and in this place, it would be reasonable to deploy them in the service of your agenda (which, again, is not to eliminate racism but to harass and discomfort racists). The answer will often be no, and, in fact, that is my usual answer; for in most cases speech codes will cause more problems than they solve, and, all things considered, it will often be the better part of wisdom to tolerate the sound of hate and murmur something about sticks and stones and the value of free expression. At that moment you will be talking like a liberal, but there’s nothing wrong with that as long as you don’t take your liberalism too seriously and don’t hew to it as a matter of principle.²⁰ Just

20. One way of characterizing this essay would be as an attack on principle, or, more precisely, “neutral principle” as it is commonly sought in legal and social contexts. A neutral principle is one you would be willing to apply no matter what the circumstances or the interests involved. It is an extrapolation from historical situations in which partisan agendas contend in a philosophical space where large abstractions are adjusted to one another in various logical relationships of fit and/or contradiction. The trouble with a neutral principle is that either so much content has been eliminated on the way to formulating it that it is empty, or that it retains the content of an agenda that will now be able to present itself politically and rhetorically as universal. Liberalism of the kind urged by Gutmann, Rawls, Kymlicka, Rockefeller, and Mendus displays both these liabilities, liabilities that are really advantages to a position that will not or cannot face its contradictions.

The alternative to the neutral principle is a real principle, a principle rooted in a moral conviction (of which racism, sexism, and homophobia would be examples) that you either accept or reject. From the vantage point of a real principle, you don’t say to your enemy, “you’re not respecting the decorum of enlightened argument”; you say, “you are wrong.” Lauren Berlant and Michael Warner report that there is “no rhetoric available in

as speech codes become thinkable once they are no longer asked to do impossible things, so do liberal platitudes become usable when all you want from them is a way of marking time between the battles you think you can win. Switching back and forth between talking like a liberal and engaging in distinctly illiberal actions is something we all do anyway; it is the essence of adhocery. Perhaps if we did it with less anxiety, we might do it better. We might even be inspired.

the national media to throw the right into a . . . defensive ambivalence” (Lauren Berlant and Michael Warner, “Introduction to ‘Critical Multiculturalism,’” in *Multiculturalism*, p. 111). If this is true it is because Berlant and Warner, like other liberals and leftists, agree to play in the arena of principle marked out by universals like “free inquiry, open intellectual discussion, and respect for individuals” (ibid.). In this arena they will always lose because those words, as currently deployed, rule out in advance the agendas they might wish to promote. What they should do is not fight over title to that vocabulary, but just drop it and say that those who currently wrap themselves in it are wrong and dangerous.

On the question of principle and what I term its immorality, see Stanley Fish, “At the Federalist Society,” *Howard Law Journal* 39 (Spring 1996), and the excellent discussion in Alexander and Ken Kress, “Against Legal Principles,” *Law and Interpretation: Essays in Legal Philosophy*, ed. Andrei Marmor (Oxford, 1995), pp. 279–327. See especially page 325, where the authors observe that since arguments of principle require officials systematically to disregard both their own moral convictions and the moral convictions of those they disagree with, “they must do what is unjust from everyone’s perspective.” Their conclusion is mine: “Surely this is a perverse requirement.”