

# FREEDOM OF SPEECH ON COLLEGE CAMPUSES

## Do Universities Need Choreographed Disagreement?

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### ABSTRACT

*Alarmed by a supposed decline in civil debate and increased polarization on campus, colleges and universities are establishing programs committed to the promotion of “choreographed disagreement.” This is a highly stylized and rule-based form of disagreement, one that proponents believe will help students to better engage in civil and constructive debate. However, these programs come with apparent risks that are rarely acknowledged, let alone discussed. This article considers these risks and argues that choreographed disagreement is ill-suited to accomplish the objectives it is meant to secure.*

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## I. INTRODUCTION

The purpose of this article is to describe and offer some critical thoughts on a phenomenon I call “choreographed disagreement.” Simply defined (a fuller definition is offered below), choreographed disagreement is a type of amicable disagreement whose expression is structured according to highly rigid and often explicitly stated rules. The general function of these rules is to make disagreement clearer, more civil, and more evidence-based. Choreographed disagreement has many goals (e.g., developing critical thinking skills and promoting tolerance), but above all, it is a response to a perceived increase in political polarization and decline in civil discourse and viewpoint diversity, especially within colleges and universities. Typically, it is also quite public in nature, performed in front of and for the enjoyment of an audience. Because choreographed disagreement presumes and even welcomes disagreement, it differs from other structured forms of expression common on university campuses, such as political correctness. But because it is amicable and collaborative, it is also distinct from the structured disagreement found in a courtroom or presidential debate.

Some examples of what I have in mind:

1. As part of Civil Discourse Week, a college organizes and hosts a public debate between two well-known political activists. A moderator is on hand to referee the debate and steer it in productive directions. Afterward, members of the audience have an opportunity to ask questions or issue challenges to the speakers.
2. The student chapter of a Free Speech Society meets monthly for civil discussion on controversial topics. Students begin by reciting a brief pledge to treat one another with respect and courtesy, after which they break into small groups. With help from their faculty advisor, they run through a series of exercises and trainings intended to promote fruitful disagreement.
3. At a small liberal arts college, all incoming students are assigned two books offering contrasting views on American race relations. As part of their Freshman Orientation, the students are divided into groups and asked to discuss each book’s argument. The purpose of the exercise is both to generate respectful discourse and to foster feelings of camaraderie and friendship.

None of these sorts of events is new to the American college campus, but in recent years they have exploded in popularity. It is no secret why. For at least the past decade, a growing chorus of voices has been raising alarm over a supposed decline in support for free speech and civil discourse, especially in higher education.<sup>1</sup> College students are accused of seeking to prohibit the expression of certain

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1. BRADLEY CAMPBELL & JASON MANNING, *THE RISE OF VICTIMHOOD CULTURE: MICROAGGRESSIONS, SAFE SPACES, AND THE NEW CULTURE WARS* (2018); GREG LUKIANOFF & JONATHAN HAIDT, *THE CODDLING OF THE AMERICAN MIND: HOW GOOD INTENTIONS AND BAD IDEAS ARE SETTING UP A GENERATION FOR FAILURE* (2018); UNSAFE SPACE: *THE CRISIS OF FREE SPEECH ON CAMPUS* (Tom Slater ed., 2016); ROBBY SOAVE, *PANIC ATTACK: YOUNG RADICALS IN THE AGE OF TRUMP* (2019).

ideas and limit the academic freedom of faculty. Surveys are cited to suggest that large numbers of students, especially those who are politically conservative, self-censor in order to avoid causing offense. University bureaucrats, often employed in campus diversity and inclusion offices, are accused of punishing anybody who strays from liberal orthodoxy. And amidst it all, an atmosphere of anger, mistrust, and polarization is thought to pervade the university experience.

Choreographed disagreement claims to offer a solution. To its proponents, it is a kind of training program for civil discourse, a place where habits of respectful and productive disagreement can be instilled. Through a battery of lectures, exercises, instruction manuals, and public exhibitions, participants learn how to confront and deal with disagreeable or controversial ideas in a healthy way. These lessons are then put into use off campus or after graduation, gradually reintroducing habits of civil disagreement into places where they have fallen out of fashion. In this way, both higher education and society in general will benefit; the former by easing the “free speech crisis” threatening academia, the latter through an influx of graduates capable of leading the charge against polarization and mistrust.

That is the idea, at any rate. My goal in this article is not to evaluate whether this solution will work. Nor do I intend to argue that choreographed disagreement is overall a “good” or “bad” thing. But I do wish to voice some serious reservations about the effect that choreographed disagreement may be having on university students. Given its stated purpose, my fear is that many aspects of choreographed disagreement are counter-productive and possibly even dangerous. And given the sheer amount of energy and financial resources behind its promotion (to be described in a moment), the theory behind it is in desperate need of review.

## II. LEARNING TO DISAGREE

There is a battle being waged right now over disagreement in higher education. At least, this is what you might conclude based on the dizzying proliferation of programs, institutes, centers, lecture and debate series, academic departments, reading groups, and student clubs focused on promoting civil and amicable disagreement. The sheer number and diversity of these sites preclude a comprehensive survey, but a small selection may offer a general lay of the land.

The Project on Civil Discourse at American University is a typical example. Started in 2017, its mission is to promote “productive, useful,” and “truthful” discourse on campus. In addition to hosting events and talks on free speech issues, it trains students to be “peer facilitators” who help their classmates engage in difficult conversations. According to the Project, the eventual goal is for students “to move from thinking only about what they have a right to say and consider why and how they engage in conversations as speakers, listeners, and readers.”<sup>2</sup> To

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2. *Project on Civil Discourse: About the Project*, AM. UNIV., <https://www.american.edu/spa/civildiscourse/about.cfm> [<https://perma.cc/ZP9Q-8WQW>].

that end, it offers students a “tool kit” with tips, exercises, and guidelines for how to have respectful and productive conversations. Similar academic programs exist at Arizona State University,<sup>3</sup> the University of North Carolina at Chapel Hill,<sup>4</sup> the University of Nebraska–Lincoln,<sup>5</sup> the University of Akron,<sup>6</sup> Clemson University,<sup>7</sup> the University of Arizona,<sup>8</sup> the University of New Hampshire,<sup>9</sup> Johns Hopkins University,<sup>10</sup> the University of Delaware,<sup>11</sup> the University of California,<sup>12</sup> and many more. Student groups have proliferated as well in recent years. BridgeUSA, a national organization founded in 2016 to combat “polarization and division” on campuses, has forty-three student chapters in colleges and universities across the country, organizes roundtables on controversial issues, and hosts semi-annual summits to train student leaders.<sup>13</sup>

Private charities and foundations are charting a similar path. The Heterodox Academy, an organization founded in 2015 to promote viewpoint diversity in academia, encourages students to adopt what it calls “The HxA Way.” Participants are told to avoid “sarcasm, contempt, hostility and snark,” and to not “attribute negative motives to people you disagree with as an attempt at dismissing or discrediting their views.” Instead, they should “[l]ook for reasons why the beliefs others hold may be compelling, under the assumption that others are roughly as reasonable, informed, and intelligent as oneself.”<sup>14</sup> The Foundation for Individual Rights and Expression (FIRE) helps students to set up chapters of its “Let’s Talk Civil Discourse Society,” where members are asked to recite a civil discourse oath before each meeting, pledging to “share my own views and make my own case, but I will not attack others personally, insult them, call them

3. *The Civic Discourse Project*, ARIZ. STATE UNIV., <https://scetl.asu.edu/civic-discourse-project> [<https://perma.cc/CE8F-YSJL>].

4. *UNC Program for Public Discourse Serves as Resource in Student-led Civil Discourse Project*, UNIV. OF N.C. CHAPEL HILL (May 28, 2021), <https://college.unc.edu/2021/05/ppd-outreach> [<https://perma.cc/4UXN-6MRR>].

5. *UNL Peace + Civility Project*, UNIV. OF NEB.-LINCOLN, <https://studentaffairs.unl.edu/peace-and-civility> [<https://perma.cc/GCZ4-8QXD>].

6. *Ohio Civility Project*, UNIV. OF AKRON, <https://www.uakron.edu/bliss/civility-project.dot> [<https://perma.cc/9L6Y-9QBZ>].

7. *Hayek Center: Civil Discourse Project*, CLEMSON UNIV., <https://www.clemson.edu/centers-institutes/hayek/students.html> [<https://perma.cc/P2ZK-NCZ6>].

8. *National Institute for Civil Discourse*, UNIV. OF ARIZ., <https://nicd.arizona.edu/> [<https://perma.cc/8H5Q-K8DG>].

9. *The Civil Discourse Lab*, UNIV. OF N.H., <https://mypages.unh.edu/civildiscourselab/what-we-do> [<https://perma.cc/4LAJ-KUFS>].

10. *\$150 Million Gift to Foster Civil Discourse*, ARTS & SCI. MAG. (2017), <https://magazine.krieger.jhu.edu/2017/11/150-million-gift-to-foster-civil-discourse/> [<https://perma.cc/PY5D-C9QQ>].

11. *Stavros Niarchos Foundation Ithaca Initiative*, UNIV. OF DEL., <https://www.bidenschool.udel.edu/research-public-service/stavros-niarchos-foundation-ithaca-initiative> [<https://perma.cc/T7XL-H9AW>].

12. *National Center for Free Speech and Civic Engagement*, UNIV. OF CAL., <https://free-speechcenter.universityofcalifornia.edu/> [<https://perma.cc/8C4L-K4R3>].

13. BRIDGEUSA, <https://www.bridgeusa.org/> [<https://perma.cc/FCN5-9GKZ>].

14. *The HxA Way*, HETERODOX ACAD., <https://heterodoxacademy.org/library/the-hxa-way/> [<https://perma.cc/UD7Z-9F9M>].

names, or otherwise impugn their character.”<sup>15</sup> And the Foundation Against Intolerance and Racism launched a “FAIR at School” high school club program, where students learn “how to engage in academic discourse while displaying civility and kind-heartedness.”<sup>16</sup> Organizations and philanthropies with more general mandates—like the Charles Koch Institute,<sup>17</sup> the Institute for Humane Studies,<sup>18</sup> IDEAL,<sup>19</sup> Braver Angels,<sup>20</sup> and the Better Arguments Project<sup>21</sup>—have launched similar programs as well. The amount of money involved can sometimes be immense. In 2017, Johns Hopkins’s SNF Agora Institute, dedicated to “strengthening global democracy through powerful civic engagement and informed, inclusive dialogue,” was founded with a gift of \$150 million from the Stavros Niarchos Foundation.<sup>22</sup>

All of these organizations, institutes, programs, and projects share a few common features. First, they either were established or refocused their energies in direct response to what they see as a decline in civil discourse in American education. Most were created after 2015 and cite as their impetus some controversial campus event. Second, they publish a series of reports, studies, or surveys on the state of free speech on campus, often with very negative findings. Third, they organize various outreach events on college and university campuses (e.g., speaker series, debates, roundtables) where people with potentially controversial ideas, or who disagree on some important matter, can safely and comfortably speak their minds.

Lastly, with very few exceptions, they all assert that the ability to engage in civil, amicable, and productive disagreement is *unnatural*, and is therefore, something that must be actively acquired. Usually, the techniques for acquiring this ability are conveyed in the form of a rulebook or toolbox that participants can use for more civil speech. By following these rules, participants can gradually transform themselves into better speakers, listeners, and readers—and ultimately, into better citizens. For example, the Project on Civil Discourse at American University calls on students to be “wise and mindful architects” of their speech

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15. *Let’s Talk Start Up Guide*, FOUND. FOR INDIVIDUAL RTS. & EXPRESSION (FIRE), <https://www.thefire.org/get-involved/lets-talk/lets-talk-start-up-guide/> [https://perma.cc/7VCK-EFRK].

16. *FAIR High School Clubs*, FOUND. AGAINST INTOLERANCE & RACISM, <https://www.fairforall.org/fair-high-school-clubs/> [https://perma.cc/DG35-ZX9B].

17. *Free Speech and Peace*, CHARLES KOCH INST., <https://charleskochinstitute.org/issue-areas/free-speech-and-peace/> [https://perma.cc/7WMD-ALFQ].

18. *IHS Grant for Free Speech & Open Inquiry*, INST. FOR HUMANE STUD., <https://theihs.org/ihs-grant-for-free-speech-open-inquiry/> [https://perma.cc/RAR3-5QQJ].

19. *IDEAL Campus*, IDEAL, <https://www.idealtogether.org/campus> [https://perma.cc/FX7P-SKQ7].

20. BRAVER ANGELS, <https://braverangels.org/> [https://perma.cc/MCK3-42KC].

21. BETTER ARGUMENTS PROJECT, <https://betterarguments.org/> [https://perma.cc/TC3G-DSYH].

22. *Supra* note 10.

and offers a how-to guide called “Building My Voice.”<sup>23</sup> Braver Angels provides workshops where participants acquire “[t]one setting skills” and “[l]istening skills,” and learn how to handle “difficult moments.”<sup>24</sup> Members of FIRE’s Civil Discourse Societies receive a pamphlet called “Using Cognitive Behavioral Insights in Group Discussions,” which promises to help students counter “[c]ognitive distortions” like “[o]vergeneralization” and “[j]umping to [c]onclusions.”<sup>25</sup> And the Better Arguments Project runs a series of practical exercises on everything from “[e]motional [i]ntelligence” and “[r]ecognizing [p]ower” to how to “[t]ake [w]inning off the [t]able.”<sup>26</sup>

### III. WHAT IS CHOREOGRAPHED DISAGREEMENT?

These programs are training people to engage in what I call *choreographed disagreement*, disagreement that is carefully arranged to comport with specific rules and procedures. Of course, virtually all disagreement, so long as it is conveyed from one person to another, is choreographed to some extent. Whenever two people engage in argument they invariably follow certain rules of grammar, linguistic conventions, and modes of address. All of these are necessary to make the fact of their disagreement, if not its underlying substance, intelligible to one another.

But the phenomenon I have in mind is different. First, this is disagreement with *rules*; rules that are typically highly rigid and explicitly stated. These include rules about *conduct*, which describe the mode in which participants are permitted to disagree (e.g., avoid yelling, speak calmly, and make eye contact); rules about *expression*, which define what sorts of statements are considered appropriate or valid (e.g., no ad hominem attacks, insults, or sarcasm); and rules about *reasoning*, which determine when an argument is persuasive, whether it is logical, and whether it has been rebutted. Again, any conversation possesses some form of these rules, but the difference here is one of rigidity and degree. In choreographed disagreement, rules about speech are self-consciously adopted and scrupulously followed. Failure to do so is viewed as a sign that the conversation is in some way defective.

A related feature is that in choreographed disagreement, these rules tend to be explicitly stated. Recall the pledge that members of FIRE’s Let’s Talk Civil Discourse societies recite before each meeting. Or Heterodox Academy’s “HxA

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23. *Building My Voice: American University Project on Civil Discourse*, AMER. UNIV. (2018), [https://www.american.edu/spa/civildiscourse/upload/final\\_building-myvoice-8-27-2021.pdf](https://www.american.edu/spa/civildiscourse/upload/final_building-myvoice-8-27-2021.pdf) [<https://perma.cc/ER2F-RCZN>].

24. *Skills for Bridging the Divide*, BRAVER ANGELS, <https://braverangels.org/what-we-do/skills-bridging-divide/> [<https://perma.cc/P5TV-X5DQ>].

25. *Using Cognitive Behavioral Insights in Group Discussions*, FIRE, <https://www.thefire.org/get-involved/lets-talk/spicy-tips-for-leading-a-group-discussion/cognitive-behavioral-theory-for-civil-discourse/> [<https://perma.cc/38Y5-SD2A>].

26. *Our Approach*, BETTER ARGUMENTS PROJECT, <https://betterarguments.org/our-approach/> [<https://perma.cc/3VU5-3RH2>].



Way,” which members are encouraged to print out and display in their offices or classrooms. Statements to similar effect often precede and follow public debates and speaker events. For example, those in the audience might be asked to refrain from heckling and disrupting the speakers, to keep their questions short and direct, and to avoid offensive or disrespectful comments. Very little is left to chance. Though premised on the existence of a disagreement—including passionate disagreement on issues of paramount importance—the entire affair is meant to unfold according to carefully constructed and explicitly stated rules. Everyone assumes a specific role and is expected to adhere to that role for the duration of the episode.

This brings us to the second feature of choreographed disagreement: it is performative. I mean this in the very literal sense that it is performed in front of and for the enjoyment of both the participants and audience. This distinguishes choreographed disagreement from other rule-bound forms of disagreement, such as the ones that we might find in a courtroom. Imagine, for instance, a debate between two speakers, each representing an opposing side of an issue. The event is advertised as a sort of competition, a showdown to determine which of the two sides is correct. This is a spectator sport, one where all parties are expected to leave feeling satisfied. The appropriate attitude for the loser is one of rueful good-naturedness; and for the winner, magnanimity. In cases where there is only one speaker, the audience itself assumes the position of interlocutor, posing challenging questions and objections during the Question & Answer session. Regardless, the presence and enjoyment of both the speakers and audience members is key. The audience members are simultaneously the prize to be won (through persuasion) and spectators to be entertained (by delivering an enjoyable experience). Occasionally, this dynamic is pushed to almost comical extremes, as is the case with Ohio University’s Challenging Dialogues lecture series. Developed in 2018 with a mandate to promote “civil discourse,” the lectures blend education, entertainment, and audience participation.<sup>27</sup> For example, 2018’s lecture on US immigration courts was immediately followed by a townhall debate. Twelve members of the audience were then randomly selected to serve as a jury, deliberating over a hypothetical immigration case on stage. Afterwards, the larger audience reflected on the jury members’ arguments and rendered a verdict.<sup>28</sup> Votes, simulations, audience participation—few university debates are so elaborate, but many come close.

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27. 3 A&S Faculty Named to Challenging Dialogues for Contemporary Issues Task Force, OHIO UNIV. COLL. OF ARTS & SCIS. F. (May 7, 2018, 8:59 AM), <https://www.ohio-forum.com/2018/05/three-as-faculty-named-to-challenging-dialogues-for-contemporary-issues-task-force/> [<https://perma.cc/6RA8-W325>].

28. Alaina Bartel, *Third OHIO ‘Challenging Dialogues’ Lecture Featuring Alumnus Kyle Browser Will Focus on Deportation*, OHIO UNIV. (Sept. 5, 2019), <https://www.ohio.edu/news/2019/09/third-ohio-challenging-dialogues-lecture-featuring-alumnus-kyle-browser-will-focus> [<https://perma.cc/RNT3-DSZP>].

Debates and public lectures are ubiquitous on university campuses, and everywhere they are held up as the acme of civil discourse and free speech. So much so, in fact, that where they are absent, legislation has been proposed to impose them. The Campus Intellectual Diversity Act, developed in 2019 by Stanley Kurtz, a Senior Fellow at the Ethics and Public Policy Center, would require public universities to create an office charged with “[o]rganizing, publicizing, and staging debates, group forums, and individual lectures that address from multiple, divergent, and opposing perspectives an extensive range of public policy issues widely-discussed and debated in society at large.”<sup>29</sup> The purpose of this bill, Kurtz explains, is to strengthen intellectual diversity and “[restore] a culture of respectful discussion and debate” that will “bolster civility, safeguard liberty, strengthen citizenship, and deepen knowledge.”<sup>30</sup> While not yet passed into law, bills modeled on the Act have been introduced in Kansas,<sup>31</sup> Missouri,<sup>32</sup> South Carolina,<sup>33</sup> Arizona,<sup>34</sup> and Iowa.<sup>35</sup>

The final characteristic of choreographed disagreement is that, typically, it is institutionalized. Everything I have described thus far—the explicit rules, their enforcement, the public performance of disagreement—requires an organization capable of foresight, planning, and deployment of resources. Obviously, the institution at issue in this article is the university, but there are others, such as philanthropies, political organizations, K-12 schools, and the media. I do not attempt to demonstrate here the astounding spread of choreographed disagreement within higher education. Some may find the litany of examples recounted above insufficient or unrepresentative, and empirical research on this trend is sorely lacking. But it is my strong suspicion that universities are already devoting significant resources to fostering choreographed disagreement and that amount seems likely to increase even further going forward.

#### IV. THE CASE FOR CHOREOGRAPHED DISAGREEMENT

My intention in this article is to raise some objections to choreographed disagreement. But before doing so, what are the strongest arguments in its favor? Three stand out in particular: that it promotes tolerance and social peace, that it

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29. Stanley Kurtz, *The Campus Intellectual Diversity Act*, NAT’L ASS’N OF SCHOLARS (Feb. 12, 2019), [https://www.nas.org/blogs/article/the\\_campus\\_intellectual\\_diversity\\_act](https://www.nas.org/blogs/article/the_campus_intellectual_diversity_act) [https://perma.cc/EK5Y-EXKY]. Kurtz explains that his Act was inspired by George R. La Noue, who in a 2019 book surveyed the academic events calendars for a selection of US colleges and universities. Stanley Kurtz, *The Campus Intellectual Diversity Act: A Proposal*, NAT’L REV. (Feb. 12, 2019, 10:21 AM), <https://www.nationalreview.com/corner/the-campus-intellectual-diversity-act-a-proposal/> [https://perma.cc/M9CL-FYS2]. Finding few examples of genuine debates between opposing political sides, he called on administrators to form a new campus bureaucracy charged with organizing such events. GEORGE R. LANOUE, *SILENCED STAGES: THE LOSS OF ACADEMIC FREEDOM AND CAMPUS POLICY DEBATES* (2019).

30. Kurtz, *The Campus Intellectual Diversity Act: A Proposal*, *supra* note 29.

31. H.R. 2286, 2021 Leg., Reg. Sess. (Kan. 2021).

32. H.R. 2177, 100th Gen. Assemb., 2d Reg. Sess. (Mo. 2020).

33. S. 641, 123rd Gen. Assemb., 2019 Sess. (S.C. 2019).

34. H.R. 2238, 54th Leg., 2d Reg. Sess. (Ariz. 2020).

35. H.R. 2185, 88th Gen. Assemb., 2020 Sess. (Iowa 2020).



sharpens critical thinking and speaking skills, and that it aids in the identification of truth. Let us take each in turn.

The tolerance and social peace argument runs something like the following. When two people participate in choreographed disagreement, they are experiencing the disagreement differently than how they would under “normal” circumstances. Instead of personal and offensive, their opponent’s argument is objective and civil. Instead of jumbled and unfocused, it is clear and well-defined. As a result, each participant is more likely to recognize his or her opponent as a rational individual who has reasonable grounds for holding the beliefs that they do. This recognition leads to tolerance in two ways: first, it generates a feeling of respect for the opponent’s equal status in the political community; and second, it holds forth the potential (if not necessarily the likelihood) that the opponent *might* be persuaded by the force of a good argument.

Of course, rarely is it so simple. Many of the beliefs we hold, including invariably some of the most important ones, do not have reasonable grounds. They might be a product of our religious upbringing, moral intuitions, or some cultural bias. For instance, a person might oppose her country’s immigration laws because of an irrational dislike of foreigners. This is not a position she can be argued out of, at least not through any reasonable argument. As a result, we have grounds to fear that any disagreement she has on the subject “must either come to blows, or be undecided.”<sup>36</sup> This is obviously not a new problem. In response, Rawls famously imposed a “duty to civility” on such citizens, whereby they must develop a second argument, independent from the first, that can support the same position through appeals to the political values of public reason.<sup>37</sup>

Choreographed disagreement acknowledges the same problem but flips the solution on its head. Rather than impose a duty on the holder of unreasonable beliefs, it places the onus on that person’s audience. This is called “intellectual charity.” Intellectual charity is a strategy for conducting a disagreement as if it were based on reasonable grounds, regardless of the actual grounds on which it is based. Here is how Heterodox Academy describes it:

Viewpoint diversity is not incompatible with moral or intellectual rigor—in fact it actually enhances moral and intellectual agility. However, one should always try to engage with the strongest form of a position one disagrees with (that is, “steel-man” opponents rather than “straw-manning” them). One should be able to describe their interlocutor’s position in a manner they would, themselves, agree with. . . . Try to acknowledge, when possible, the ways in which the actor or idea you are criticizing may be right—be it in part or in full. Look for reasons why the beliefs others hold may be compelling, under the assumption that others are roughly as reasonable, informed, and intelligent as oneself.<sup>38</sup>

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36. THOMAS HOBBS, *LEVIATHAN* 23 (Edwin Curley ed., Hackett Publishing 1994) (1651).

37. JOHN RAWLS, *POLITICAL LIBERALISM* 241–42 (2005).

38. *The HxA Way*, HETERODOX ACAD., <https://heterodoxacademy.org/library/the-hxa-way/> [https://perma.cc/EZZ6-NESU].

In other words, proponents of intellectual charity urge us to conduct our arguments *as if* our interlocutor were a reasonable person with reasonable grounds for holding the beliefs that he or she or she does. This pretense is to be maintained even when that person offers no obvious cause for reaching that conclusion. To do this, we detach the *position* that the person holds from the *argument* he or she has used to justify it. Then, we substitute that argument with a stronger and more persuasive one (to us) and engage with that one instead. This is what is meant by “steel-manning.” Obviously, this second argument may bear little resemblance to the original one; it may not even be an argument that our interlocutor would endorse. But by working backwards from position to argument, we are more likely to believe that our disagreement has a reasonable grounding.

The critical thinking and speaking skills argument can also be summarized relatively briefly. As previously stated, choreographed disagreement unfolds according to certain rules, like “present evidence for your claims” and “avoid bullying speech or ad hominem attacks.” Insofar as these rules force participants to avoid logical fallacies, intimidation, emotional appeals, and so forth, they will push participants to adopt stronger arguments. Participants will also learn how to evaluate their opponent’s argument and identify its weak points. Without these skills, they run the grave risk of being swept away or silenced by the rhetorical power of another’s words. A clever orator has the power “to move men like machines to a judgment,” bringing them to conclusions they would otherwise never accept.<sup>39</sup> Choreographed disagreement offers a defense against these dark arts. It is like a bootcamp for critical thinking and speech. Participants are furnished with a “toolbox” of argumentative techniques, trained in their use via a series of exercise modules or mock debates, and then let loose to deploy their skills in non-choreographed spaces.

This is all very familiar. Fear of rhetoric has a long and distinguished history in political thought, as does the importance of defending oneself against it.<sup>40</sup> If the current set of programs and institutes promoting choreographed disagreement has anything unique to offer, it is the idea of critical thinking and speaking as *skills*. Ironically, they owe a debt in this regard to Cicero and the classical orators, whose modern heirs many now believe pose a threat to civil discourse.<sup>41</sup> Like the

39. IMMANUEL KANT, *CRITIQUE OF PURE JUDGMENT* 168 n.63 (Werner Pluhar trans., Hackett Publishing 2002) (1987).

40. This history is recounted—and critiqued—in BRYAN GARSTEN, *SAVING PERSUASION: A DEFENSE OF RHETORIC AND JUDGMENT* (Harvard Univ. Press ed. 2009) (2006); IRIS MARION YOUNG, *INCLUSION AND DEMOCRACY* (Oxford Univ. Press ed. 2002) (2000); John S. Dryzek, *Rhetoric in Democracy: A Systemic Appreciation*, 38 *POL. THEORY* 319 (2010); Bernard Yack, *Rhetoric and Public Reasoning: An Aristotelian Understanding of Political Deliberation*, 34 *POL. THEORY* 417 (2006); Arash Abizadeh, *Banishing the Particular: Rousseau on Rhetoric, Patrie, and the Passions*, 29 *POL. THEORY* 556 (2001).

41. Proponents of choreographed disagreement have a further debt to Cicero. Classical rhetoric identified three main categories of speech: deliberative, judicial, and demonstrative. But Cicero adds a fourth: *sermo*, or conversation. Where public oratory is unidirectional, elides all nuance, and is focused on public action, conversation is calmer, dialogical, and more reflective. Oratory plays on people’s emotions and biases. Conversation, by contrast, appeals to their reason. And where orators divide their

orators, proponents of choreographed disagreement see the ability to *argue* properly as being just as important as the ability to *think* properly. It is not enough to discern the truth—one must be able to propagate it as well. Again, training in this skill begins in tightly choreographed environments, but once mastered can be brought to bear in everyday life.

Lastly, proponents of choreographed disagreement argue that their approach helps participants to identify the truth. This argument works in two ways. First, there is always the chance that one of the parties in a disagreement will have the truth of the matter, which the other participants should be able to recognize using the skills described above. The disagreement then dissolves and the truth spreads. But oftentimes, nobody involved will have the truth. In which case, simply being exposed to a different viewpoint, however mistaken, can lead to productive self-reflection. “If my interlocutor can wrongly believe X to be true, what might I be wrong about?” Recognition of others’ wrongness will induce in us a feeling of intellectual humility, leading us to re-examine our own beliefs for faulty information or biases. Intellectual humility is a primary objective of choreographed disagreement organizations. For example, Heterodox Academy proposes a scale for measuring intellectual humility and offers a \$30,000 research grant to support interventions shown to increase it in higher education.<sup>42</sup>

Tightly connected to this idea of intellectual humility is the argument that we should want to know about others’ ideas *even if* those ideas are demonstrably wrong. Awareness of others’ mistaken ideas can obviously be useful for understanding the cause of social problems or predicting how they will respond to policy interventions. The problem is that many mistaken ideas are unpopular, giving those who hold them a strong reason to conceal them from view. Consequently, people with mistaken beliefs will be incentivized to lie, those beliefs will go unchallenged, and problems that might otherwise be solvable will go unaddressed. Choreographed disagreement, proponents argue, offers a solution. It creates a “safe space” where those ideas may be shared without fear of mockery or reprisal. It coaxes the ideas out into the open, offering us an opportunity to properly gauge their nature and the extent of their popularity. Or, as FIRE president Greg Lukianoff puts it, it gives us “a fighting chance to know the world as it really is.”<sup>43</sup>

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audience into either enemies to be vanquished or subjects to be controlled, conversation flourishes best among friends. The similarities with choreographed disagreement are striking. See Gary Remer, *Political Oratory and Conversation: Cicero Versus Deliberative Democracy*, 27 *POL. THEORY* 39 (1999).

42. *Increasing Open Inquiry on College Campuses Research Grant*, HETERODOX ACAD., <https://heterodoxacademy.org/research-funding/> [<https://perma.cc/Y62X-V3PW>].

43. Greg Lukianoff, *Coronavirus and the Failure of ‘The Marketplace of Ideas’*, FIRE (Mar. 13, 2020), <https://www.thefire.org/coronavirus-and-the-failure-of-the-marketplace-of-ideas/> [<https://perma.cc/72N6-Q4DK>]. A similar, albeit abbreviated, argument is made by J.S. Mill in reference to the court doctrine against admitting testimony from atheists on the grounds that such individuals are inherently untrustworthy. To this, Mill replies: “The rule, besides, is suicidal and cuts away its own foundation. Under pretense that atheists must be liars, it admits the testimony of all atheists who are willing to lie,

Summarizing these three arguments, the case for choreographed disagreement advances along three lines. First, by exposing us to the reasoning of those with whom we disagree, it helps us to see them as reasonable people worthy of toleration and respect. Second, it trains us on how to critically evaluate and respond to the arguments of others, furnishing us with the tools we need to avoid manipulative or intimidating speech. And third, it creates the conditions necessary to seek and identify the truth.

## V. AGAINST CHOREOGRAPHED DISAGREEMENT

So much for the case for choreographed disagreement. What can be said against it? Quite a lot, I think. But before doing so, I want to re-state the scope of my claim. I am not declaring that choreographed disagreement is, on net, a “bad thing.” It is far too early to evaluate what impact, if any, these programs, institutes, and initiatives will have on the way students think or speak, though given the scale of resources being committed, some effect is likely. Still, the response thus far has been so uncritical and self-congratulatory that a healthy dose of skepticism seems in order. That is what I hope to offer here.

### A. *Rules of the Game: The Challenge to Student Autonomy*

Let us begin by thinking about choreographed disagreement as a game. This analogy is by no means far-fetched. Participants in a choreographed disagreement operate as “players” representing opposing teams in a competition. The game has rules, which collectively determine acceptable modes of play (rules about conduct, comportment, what constitutes a permissible act or argument, etc.) and victory (rules about when an argument has been rebutted). Being a competition, both sides strive to win, but their competition is a friendly one. Neither is seeking to shame or humiliate the other, nor are they seeking simply to dominate. Rather, their relationship is in some important sense collaborative, reflecting the belief that each side’s enjoyment relies on the sincere effort of the other. A victory achieved via an opponent’s lack of preparation or failure of nerve is no victory. Without sincere striving, the truth will be harder to identify, ignorance more difficult to vanquish, and the spectacle (both for the participants and their audience) less entertaining.

On the contemporary American university campus, choreographed disagreement is not just like a game. It *is* a game. It reaches its apotheosis in competitive debate tournaments, but the basic structure is replicated in nearly every institute, program, project, and initiative mentioned so far in this article. This game-ification of argument is central to choreographed disagreement’s appeal and goes a long way toward explaining its remarkable spread throughout the academy. It is

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and rejects only those who brave the obloquy of publicly confessing a detested creed rather than affirm a falsehood. A rule thus self-convicted of absurdity so far as regards its professed purpose can be kept in force only as a badge of hatred, a relic of persecution; a persecution, too, having the peculiarity, that the qualification for undergoing it, is the being clearly proved not to deserve it.” JOHN STUART MILL, ON LIBERTY 29 (1978).

seen as necessary for attracting students long enough to inculcate the desired critical thinking/speaking skills and for generating the feelings of sympathy and respect needed to promote tolerance. There is nothing incidental about it.

There is much to be said for this game-based approach toward disagreement, but it has two significant drawbacks. The first concerns its effect on the player's *autonomy*. Philosophers of games distinguish between games and play.<sup>44</sup> Play is free and disruptive. It breaks apart the normal order of a space, taking things out of their intended use or context and refashions them into something new. As an example, imagine the way a toddler plays, moving about and transforming space in spontaneous and anarchic ways. Games, on the other hand, are structured. They limit the possibility of creative action with rules, steering players in specific directions or toward desired ends. Where play is free, open, and malleable, games are rigid and enclosed. Choreographed disagreement is a game. Instead of engaging in the free and unfettered expression of, say, 4Chan, our menu of permissible speech is constrained by rules and habits instilled through training and exercise.<sup>45</sup> Participants are encouraged to engage openly in controversial speech and to explore ideas perceived as off-limits on college campuses. Yet, the way they do so is sharply limited and carefully policed. As a result, participants are not free to explore the issue as they wish. They have simply replaced one set of restrictions (e.g. those imposed by their censorious classmates) with another.

The response to this objection is that it reflects a blinkered view of autonomy. Just because a game has rules does not mean that it inhibits our freedom. For instance, when a chess player consents to constrain her game play according to the rules of chess, can we genuinely say she is *less* free as a result? In one sense, clearly she is, at least in so far as there are certain moves she is not permitted to make. But in another, she is now free to engage in and develop her chess-playing ability in a way that would otherwise be impossible. According to C. Thi Nguyen, this is because rules in a game communicate “alternate modes of agency”—they help us to develop certain ways of interacting with the world that would otherwise be unavailable. Games therefore ultimately serve as “librar[ies] of agencies, in which we may discover and familiarize ourselves with new modes of agency.”<sup>46</sup> Similarly, while participants in choreographed disagreement constrain their speech according to the rules, these constraints free them to explore new ideas and develop their capacity for civility and critical thinking. Thus, there need not be any tension between autonomy and the voluntary submission to the constraints of a game. Indeed, constraints may be what allow us to cultivate ourselves as autonomous, purposeful agents.<sup>47</sup>

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44. MIGUEL SICART, *PLAY MATTERS* (2014).

45. 4Chan is a particularly noxious corner of the internet where bigots of all stripes gather to converse in a space where anything goes.

46. C. THI NGUYEN, *GAMES: AGENCY AS ART* 76 (2020).

47. Jon Elster, *Ulysses and the Sirens: A Theory of Imperfect Rationality*, 16 *SOC. SCI. INFO.* 469 (1977).

I do not deny that this sort of autonomy *can* be found in choreographed disagreement. However, I am skeptical that it is typically the case or that the balance is properly struck. Often, the rules serve to stifle forms of speech that we have good grounds to allow. For example, Jeremy Waldron cites the prohibition of heckling at some campus events.<sup>48</sup> This is a rule that, on its surface, seems designed to prevent the unwelcome disruption of a debate or lecture. By preventing some “fool” in the audience from hollering mid-debate, the invited speakers on the stage are free to carry out their conversation according to their original plan. The prohibition may also help to protect the ability of an audience to encounter new ideas and assess their value. Yet as Waldron notes, there is no escaping the fact that something potentially important gets lost. Yes, it is true that heckling, if carried out to an excessive degree, can drown out all debate and sabotage the event.<sup>49</sup> But very often, the speaker’s speech is simply disrupted and redirected. She would prefer to discuss X, but the heckler’s comment has forced her to address Y instead. This can open up new vistas of thought, prising open a conversation that was heretofore narrow and circumscribed. Obviously from the heckler’s point of view, the prohibition is a constraint on his speech. But even from the point of view of the audience and the invited speaker, it constitutes a potential limit on the ideas or ways of thinking to which they are being exposed.<sup>50</sup>

You may consider that a somewhat naive view of heckling,<sup>51</sup> but it reflects a widespread concern over the structured way many of our debates over public matters are conducted today.<sup>52</sup> And even if a disruption *is* intended to cut off debate instead of augment or redirect it, very often we are not given the opportunity to know. In recent years, multiple universities have considered or adopted “zero-tolerance” rules for campus hecklers.<sup>53</sup> A single disruption, however brief

48. Jeremy Waldron, *To Heckle: To Disconcert with Questions, Challenges, or Gibes*, 2017 SUP. CT. REV. 1.

49. This is the colloquial version of a “heckler’s veto,” as distinct from a true heckler’s veto, in which the threat of disruption prompts the event’s cancellation.

50. “Disorderliness is an important tool of critical communication aimed at calling attention to the unreasonableness of others – their domination over the terms of debate, their use of their power to cut off debate, their reliance on stereotypes and mere derision.” IRIS MARION YOUNG, *INCLUSION AND DEMOCRACY* 49 (Oxford Univ. Press ed. 2002) (2000).

51. For a less sanguine take on contemporary campus heckling, see Josh Blackman, *#Heckled*, 18 FIRST AMEND. L. REV. 1 (2019).

52. Kevin Francis O’Neill, *Privatizing Public Forums to Eliminate Dissent*, 5 FIRST AMEND. L. REV. 201 (2007); TIMOTHY ZICK, *SPEECH OUT OF DOORS: PRESERVING FIRST AMENDMENT LIBERTIES IN PUBLIC PLACES* (2008); BONNIE HONIG, *PUBLIC THINGS: DEMOCRACY IN DISREPAIR* (2017); ELIZABETH ANDERSON, *PRIVATE GOVERNMENT: HOW EMPLOYERS RULE OUR LIVES (AND WHY WE DON’T TALK ABOUT IT)* (2017).

53. The University of Iowa’s policy on student demonstrations permits students to protest an invited speaker, but states that they “must not disrupt or interfere with a speaker’s presentation.” *University of Iowa Free Speech Policy: Frequently Asked Questions*, UNIV. OF IOWA, <https://freespeech.uiowa.edu/frequently-asked-questions> [<https://perma.cc/8KCJ-X7W9>]. In 2016, North Carolina’s lieutenant governor proposed a legislative ban on hecklers at state universities, arguing that “If a speaker has been invited by a student group, another in the university community does not have the right to interrupt that speech, shout over the speaker, or otherwise prevent others from listening to the speech.” *North Carolina May Ban Hecklers on College Campuses*, CBS NEWS (Apr. 27, 2016, 10:09 AM),



or constructive, can result in removal from the event and possible disciplinary action.<sup>54</sup> And at least seventeen states have adopted so-called Campus Free Speech Acts, which prohibit students from engaging in any protest or demonstration that “infringes on the rights of others to engage in or listen to” another’s expressive activity.<sup>55</sup> In other words, the rules of choreographed disagreement can impose a significant and potentially harmful barrier on how disagreement gets expressed. Yes, a rule against heckling or any other disruptive or uncivil form of speech can ease the way for certain types of conversation. Nevertheless, Waldron warns, “the suppression of heckling in the name of free speech presages a sad spectacle of lifeless discourse, where we take free speech—an *inherently interactive idea*—and do our best to minimize the lively and immediate confrontation that interactions between speaker and members of the audience used to involve.”<sup>56</sup>

A second reason for concern over the game-ification of disagreement has to do with its effect on a player’s *identity*. In a video or table-top game, players begin by assuming a role, for example, an explorer or general. This is no less true of choreographed disagreement. What sort of role? There is no single type, but a few characteristics seem salient. First, the role entails adopting a certain neutrality toward the topic under discussion. This might appear like a peculiar claim, but it is a common feature of the events and programs I have been describing. For instance, participants are encouraged to “take winning off the table”<sup>57</sup> and to

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<https://www.cbsnews.com/news/north-carolina-may-ban-hecklers-on-college-campuses/> [https://perma.cc/8ZE3-TMSV]. In 2019, a similar proposal was adopted (but eventually abandoned) by Marquette University. See Megan Zahneis, ‘I Don’t Think We Should Be Afraid of Protests’: Marquette Faculty Members Speak Out Against Policy Requiring Approval for Demonstrations, CHRON. HIGHER EDUC. (Aug. 29, 2019), <https://www.chronicle.com/article/i-dont-think-we-should-be-afraid-of-protests-marquette-faculty-members-speak-out-against-policy-requiring-approval-for-demonstrations/> [https://perma.cc/G8AM-XJ7R].

54. For example, in 2019, two Utah State University students were ejected from campus and detained by police officers for silently holding a sign reading “Down w/ Koch Influence” during the closing minutes of an address by a Koch representative. See Carter Moore, *Students Detained and Questioned for Protesting Koch Speaker*, UTAH STATESMAN (Mar. 22, 2019, 3:58 PM), <https://usustatesman.com/students-detained-and-questioned-for-protesting-koch-speaker/> [https://perma.cc/H4TC-N3M9].

55. See e.g., H.B. 527, 2017 Gen. Assemb. (N.C. 2017). Following its passage in 2017, public colleges and universities in the state revised their speech policies to prohibit many forms of “disruptive speech” that had heretofore been tolerated. See *Policy on Free Speech and Free Expression Within the University of North Carolina System*, UNIV. OF N.C. (Aug. 19, 2019), <https://www.northcarolina.edu/apps/policy/doc.php?type=pdf&id=139> [https://perma.cc/TX83-4SRV]. See also, Assemb. B. 440, 2017–2018 Leg. (Wis. 2017); S.B. 350, 2017 Leg. (Mich. 2017); H.B. 2423, 99th Gen. Assemb., 2d Reg. Sess. (Mo. 2017); 2939 H.B., 100th Gen. Assemb. (Ill. 2017). A separate piece of Wisconsin legislation, which ultimately died in the state senate, would have gone further, requiring public universities to punish anyone who “engages in violent, abusive, indecent, profane, boisterous, obscene, unreasonably loud, or other disorderly conduct that interferes with the free expression of others.” Assemb. B. 299, 2017–2018 Leg. (Wis. 2017).

56. Waldron, *supra* note 48, at 24.

57. *Our Approach*, THE BETTER ARGUMENTS PROJECT, <https://betterarguments.org/our-approach/> [https://perma.cc/MWQ6-Z5RV].

respond to aggressive statements by saying “Tell me more.”<sup>58</sup> Participants may of course be passionate, but that passion must be leavened by professionalism. Even when the parties are disagreeing on a matter of enormous personal consequence, they are expected to conduct themselves civilly and end the conversation on amicable terms. All of this requires a degree of distance from the topic itself and the nature of the debate. Regardless of their actual attitudes, participants must act as if they were people for whom very little is personally at stake.

Sometimes, there is an additional element to the role: the adoption of a position one does not hold. For example, participants in a campus debate might argue as if they held diametrically opposite views on an issue, when each actually holds a more nuanced or ambivalent position. This sort of distortion happens often and for many reasons. Sometimes it is at the direction of a debate moderator looking to throw the contrasting positions into sharper relief. Other times it is part of the performance, a strategy for heightening the enjoyment of the audience. Finally, it can be part of an argumentative exercise (e.g., devil’s advocate).

What is so wrong with playing a role? First, it excludes. It is simply not the case that everybody can achieve, or can achieve with the same ease, the requisite distance from a topic. Perhaps it affects them intimately, or maybe they have had a personal experience that they do not wish to ignore. A rule of civil, friendly disagreement can represent a heavy burden on such people, even as others feel its weight only lightly.<sup>59</sup> Imagine, as an example, a victim of sexual assault tasked with debating a proposed policy on that topic. Civil and friendly engagement with her interlocutor, who views the policy more abstractly and thinks nothing of posing sharp questions or speculating recklessly, might only be possible at significant personal cost. But it is not quite the *engagement* that is the obstacle. Rather, it is the requirement that she assume a role while doing so: the role of a friendly, objective, and receptive player.<sup>60</sup>

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58. *How to Respectfully Disagree*, UP WITH PEOPLE (Feb. 08, 2018), <https://upwithpeople.org/uwp-blog/how-to-respectfully-disagree/> [https://perma.cc/5FD2-DAWX].

59. Note that the kind of civil disagreement I am describing in this article—calm, receptive, rule-bound, and amicable—is much more elaborate than the spare “mere civility” that Teresa M. Bejan finds in the thought of Roger Williams. What Bejan refers to as mere civility does not demand that we be friendly or intellectually charitable toward our fellow citizens. Rather, it requires only that we adhere to the minimal rules of respectful behavior necessary to live together—to “hold one’s nose” and get on with the business of being neighbors. Choreographed disagreement asks of us considerably more, and as such resembles what Bejan describes as “a Lockean hope for *concordia* that is willing to sacrifice diversity for the sake of harmonious disagreement.” As a result, the danger of excluding or disproportionately burdening some individuals more than others is very real. See TERESA M. BEJAN, *MERE CIVILITY: DISAGREEMENT AND THE LIMITS OF TOLERATION* 158 (2017).

60. This is akin to the agonistic critique of deliberative democracy. By imposing an obligation to engage amicably and in a civil manner with those of opposing views, some theories of deliberative democracy are accused of excluding those with different identities or political commitments. See CHANTAL MOUFFE, *THE DEMOCRATIC PARADOX* (2000); WILLIAM E. CONNOLLY, *IDENTITY/DIFFERENCE: DEMOCRATIC NEGOTIATIONS OF POLITICAL PARADOX* (1991); BONNIE HONIG, *POLITICAL THEORY AND THE DISPLACEMENT OF POLITICS* (1993).

Second, a role once taken up may not be so easily put down. This is the danger posed by the “narrowed agential states of games,” which can often linger long after play has stopped and distort our non-game motivations.<sup>61</sup> This may not seem like much of a problem; after all, one of the points of choreographed disagreements is to cultivate certain habits of thinking and speaking that the individual carries with them into the outside world. But more alarming outcomes are possible too. For example, receptivity to contrary views can, over time, become simple contrariness. Playing devil’s advocate may be welcome on the debate stage but is not appropriate when comforting a friend in distress. Games, especially those that reward players who abandon themselves in their roles, can dramatically affect how those players interact in the world after play has come to an end. That is why players must know when and how to extract themselves from their roles. Unfortunately, these are not skills that proponents of choreographed disagreement appear to prize.

### *B. The Outside World: The Challenge of Student Safety*

The second principal problem with choreographed disagreement occurs after the participants have exited the choreographed space and re-enter “the real world.” The challenge here is in applying the lessons learned in the former to the disagreements of the latter. Preparation for this transition is of course one of the primary goals of these centers, institutes, and programs, but there is good reason to doubt their efficacy. What they offer is a safe space for challenging received wisdoms, exploring controversial ideas, and exchanging points of view. What if that is a mistake?

Consider the Chicago Statement on Free Speech. Produced by the Committee on Freedom of Expression at the University of Chicago in 2015, the statement articulates a robust commitment to free speech and academic freedom on campus.<sup>62</sup> By one reckoning, it has been adopted by over eighty different universities and colleges in the United States<sup>63</sup> and has been heralded as a “ringing statement”<sup>64</sup> and the “gold standard”<sup>65</sup> for institutions wishing to show their commitment to free speech. But more than a simple expression of values, it is a *pre-commitment*, a tool for administrators to raise the cost to themselves of violating free speech. Having declared themselves so publicly to be in favor of free

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61. NGUYEN, *supra* note 46, at 217.

62. *Report of the Committee on Freedom of Expression*, UNIV. OF CHI. (Jan. 2015), <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf> [<https://perma.cc/58J5-PP7F>].

63. *Chicago Statement: University and Faculty Body Support*, FIRE (Dec. 2, 2021), <https://www.thefire.org/chicago-statement-university-and-faculty-body-support/> [<https://perma.cc/XFY8-TFGS>].

64. Editorials, *Freeing Up Free Speech on Campuses Nationwide*, N.Y. DAILY NEWS (Aug. 24, 2015), <https://www.nydailynews.com/opinion/editorial-freeing-free-speech-article-1.2333906> [<https://perma.cc/85XD-PH7W>].

65. Michael Poliakoff, *In Defense of the Chicago Principles*, INSIDE HIGHER ED. (Dec. 21, 2018), <https://www.insidehighered.com/views/2018/12/21/chicago-principles-are-gold-standard-freedom-expression-campuses-opinion> [<https://perma.cc/CP24-C47G>].

speech, any compromise or retreat by administrators will carry with it a severe reputational risk. As a result, should they ever face a student mob or angry donor in the future, they will be less likely to cave.

This pre-commitment is necessary because university administrators have shown that they *will* cave. Again and again, they have proven themselves all too ready to back down when confronted with public outrage—and not just university administrators, but employers, public officials, religious leaders, and members of the public, as well. The problem, many insist, is not one of knowledge—the people in charge are well aware that the mob is being unreasonable. They are quite capable of recognizing that their faculty member, employee, or business associate has done nothing wrong. Rather, the problem is *cowardice*. When confronted with bullying speech, angry speech, self-righteous or emotional speech, they collapse. It is not that they are incapable, in the privacy of their homes or their own minds, of mounting a credible defense. It is simply that they feel unable to do so publicly.<sup>66</sup>

This is where choreographed disagreement seems counterproductive. In fact, not only will it fail to prepare students to withstand these sorts of pressures, it makes it more likely that they will succumb to them. After all, outrage, insults, and scorn are precisely what choreographed disagreement *avoids* training students to endure. Due both to self-selection and the rules they agree to follow, participants in choreographed disagreement are unlikely to encounter genuinely angry, intimidating, or repulsive speech. The absence of such speech is exactly what makes these spaces *safe* for the sorts of amicable disagreement proponents seek to model. But while the critical thinking skills students learn may help them to identify *why* a demagogue's argument is wrong, what good is such knowledge if they are too fearful to respond? They may know how to be persuasive to a friendly and reasonable debate partner, but what can they say to sway a social media mob? Far easier to fall silent—which is precisely what many students and members of the public do.<sup>67</sup>

Theorists of deliberative democracy are no strangers to this problem. Researchers of citizen deliberation have found that, often, those most willing to

66. See, e.g., Bari Weiss, *We Got Here Because of Cowardice. We Get Out with Courage*, COMMENTARY (Nov. 2021), <https://www.commentary.org/articles/bari-weiss/resist-woke-revolution/> [<https://perma.cc/KZ2F-54CN>]; James Lindsay, *How Your Organization Can Resist Woke Social Pressure*, NEW DISCOURSES (Aug. 7, 2020), <https://newdiscourses.com/2020/08/how-your-organization-can-resist-woke-social-pressure/> [<https://perma.cc/FC3F-KJPL>]; Zaid Jilani, *A Better Remedy for Cancel Culture*, PERSUASION (July 6, 2020), <https://www.persuasion.community/p/a-better-remedy-for-cancel-culture?s=r> [<https://perma.cc/6TN8-BNYL>].

67. Maria Carrasco, *Survey: Most Students Self-Censor on Campus and Online*, INSIDE HIGHER ED. (Sept. 23, 2021), <https://www.insidehighered.com/quicktakes/2021/09/23/survey-most-students-self-censor-campus-and-online> [<https://perma.cc/HB5W-CC9Q>]; Kelsey Ann Noughton, *Speaking Freely: Measuring Students' Reactions to Peer Expression*, FIRE (Nov. 13, 2017), <https://www.thefire.org/speaking-freely-measuring-students-reactions-to-peer-expression/> [<https://perma.cc/9MG5-RS6G>]; Emily Ekins, *Poll: 62% of Americans Say They Have Political Views They're Afraid to Share*, CATO INST. (July 22, 2020), <https://www.cato.org/survey-reports/poll-62-americans-say-they-have-political-views-theyre-afraid-share> [<https://perma.cc/6ATR-LYTF>].

engage in good-faith discussion are those most likely to self-censor. The very qualities that lead them to *want* to engage in good-faith discussion are the ones that render them unable to become active political participants.<sup>68</sup> Consequently, the type of deliberation that theorists desire may only be possible in the ideal speech conditions of a seminar room or controlled experiment. The moment that real world dynamics enter the arena, people who were previously moderate and agreeable in their positions can spiral into anger, silence, or extremism.<sup>69</sup>

One way of thinking about this issue is as a problem of critical mass. Choreographed disagreement programs seem best suited for training people to engage in productive disagreement with other people who have received similar training or have similar values. In groups where such people are in sufficient quantity, they will have little reason to self-censor. Moreover, where they are concentrated, those who have had no training (and who might otherwise engage in bullying or offensive speech) will be more likely to imitate those who have. Thus, once a critical mass of people committed to the proper discursive techniques is reached, objectionable forms of disagreement should retreat. The problem is reaching that point of critical mass. Up until that threshold, those habituated into norms of respectful and amicable disagreement will be most likely to self-censor. And because they self-censor, the threshold will be harder and harder to reach. The overwhelming majority may disagree with the unreasonable minority, but it will be that minority that sets the tenor of debate.<sup>70</sup>

### *C. Intellectual Charity: The Challenge to Student Knowledge*

My final concern with choreographed disagreement is with how it impacts the ability of students to accurately assess the beliefs of others.

Suppose I engage a classmate in debate. We each present our evidence, pose questions and challenges, and offer responses to one another's objections. By the end, it is clear to each of us that according to the accepted criteria of choreographed disagreement, my opponent is the winner. His evidence is stronger, and his reasoning is more coherent. I no longer have good grounds for retaining my original belief. I have been persuaded! Except, of course, I have not. I am far too stubborn to let something like a better argument change my mind. While I may concede that I can no longer defend my position, I mutter something about the

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68. See, e.g., DIANA C. MUTZ, *HEARING THE OTHER SIDE: DELIBERATIVE VS. PARTICIPATORY DEMOCRACY* (2006). There is empirical research on deliberative democracy. See, e.g., Dennis F. Thompson, *Deliberative Democratic Theory and Empirical Political Science*, 11 ANN. REV. POL. SCI. 497 (2008); JÜRIG STEINER, *THE FOUNDATIONS OF DELIBERATIVE DEMOCRACY: EMPIRICAL RESEARCH AND NORMATIVE IMPLICATIONS* (2012).

69. Cass Sunstein, *The Law of Group Polarization*, 10 J. POL. PHIL. 175 (2017); Shawn W. Rosenberg, *Rethinking Democratic Deliberation: The Limits and Potential of Citizen Participation*, 39 POLITY 335 (2007); Hugo Mercier & Hélène Landemore, *Reasoning Is for Arguing: Understanding the Successes and Failures of Deliberation*, 33 POL. PSYCH. 243 (2012).

70. See also TIMUR KURAN, *PUBLIC LIES, PRIVATE TRUTHS: THE SOCIAL CONSEQUENCES OF PREFERENCE FALSIFICATION* (1995).

jury still being out and that I guess we will just have to wait until more evidence is available.

This outcome is depressingly common. We have all experienced occasions where, despite knocking down every reason for a person's position, that individual still refuses to change their mind, especially on important questions that touch on personal or politically charged topics. Social psychologists have amassed a disturbingly large body of evidence detailing the cognitive tricks we use to justify continued belief in something we have no reasonable grounds to believe. We attack the credibility of the messenger, focus on some minute and irrelevant flaw in their argument, magnify the importance of countervailing evidence, or insist that further research is (and always will be!) needed.<sup>71</sup>

Of course, this is precisely the sort of thinking that choreographed disagreement, with its mental exercises and toolboxes, is supposed to overcome. But even if we successfully overcome it in ourselves, what about our interlocutor? The difficulty arises when we mistakenly conclude that because we have defeated a person's argument according to the rules of choreographed disagreement, we have changed that person's mind. To return to our game-based conceptualization of the phenomenon, we have defeated our opponent *within* the game and then falsely conclude that we have defeated them *outside* of it as well.

I do not know how often this mistake is made, but my sense is that it is a common one. Moreover, I suspect that it is most common among people who prize reasoned and respectful disagreement highly and surround themselves with people who feel similarly. These are individuals who go through life under a serious misapprehension about what their interlocutors believe. They feel they are persuasive; their interlocutors may even concede that they are persuasive, this being the appropriate and expected response according to the rules of the game. But what the winner does not know, and what the loser is hesitant to disclose, is that each person holds the exact same position after the argument as they held before it. Thus, the winner will walk away with an inaccurate understanding of the world. Worse still, the loser has discovered an incentive to lie. Without any legitimate grounds for rejecting the winner's argument, she must now conceal that her views have not changed, or else risk being seen as unreasonable.

We see another side to this problem with the concept of intellectual charity. Recall: when confronted with an argument we regard as unreasonable, we are supposed to set that argument aside and replace it with a reasonable one that can support the same position (i.e., steel-manning our opponent's argument). We then address that second argument instead. But again, what is being asked of us is that we respond to an inaccurate view of what our interlocutor believes. The

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71. Julia Zuwerink Jacks & Kimberly A. Cameron, *Strategies for Resisting Persuasion*, 25 BASIC & APPLIED SOC. PSYCH. 145 (2003); Brad J. Sagarin et al., *Dispelling the Illusion of Invulnerability: The Motivations and Mechanisms of Resistance to Persuasion*, 83 J. PERSONALITY & SOC. PSYCH. 526 (2002); Marieke L. Franssen et al., *Strategies and Motives for Resistance to Persuasion: An Integrative Framework*, 6 FRONTIERS PSYCH. 1 (2015).



second argument is more persuasive *to us*, and therefore we conclude that any response that rebuts it will necessarily rebut the original argument as well. Unfortunately, very often this is not the case. Frequently, we fail to appreciate what made the original argument so convincing to our interlocutor and do a poor job of constructing a replacement. In fact, the method of intellectual charity makes failure likely. Rather than undertake the hard work of discovering *why* a person feels that the justifications for their beliefs are reasonable, we simply ignore those justifications and replace them with new ones we like better. Once more, the result is that we walk away with a mistaken sense of what our interlocutor believes.

## VI. CONCLUSION AND SUMMARY

Returning again to the three primary arguments in favor of choreographed disagreement, we see there are serious reasons to doubt the efficacy of the approach. First, choreographed disagreement is supposed to promote tolerance and social peace by demonstrating that those with whom we disagree nevertheless have reasonable grounds for their beliefs. But to the extent that this dynamic occurs, it is undercut by the potentially exclusionary rules under which the game of choreographed disagreement is played. Participants are expected to take on a specific role, and some will find that role more burdensome than others. They may also find that role hard to slough off once play has ended. The values and practices that promote social peace within the game can be viewed as abrasive or hostile outside of it. Thus, tolerance and social peace may be put further at risk.

Second, choreographed disagreement claims to instill critical thinking and speaking skills. However, the methods used to cultivate these skills may inhibit their deployment in “the real world.” By creating a safe space where controversial ideas can be openly, amicably, and civilly expressed, choreographed disagreement fails to prepare participants to respond to angry, intimidating, and manipulative speech. All too often, participants’ response will be to self-censor. They may very well be able to use their critical thinking skills to identify why their interlocutor’s argument is wrong, but they are unwilling to publicly explain why. The concern, then, is that choreographed disagreement is producing a cadre of highly perceptive individuals with nothing to say.

Lastly, choreographed disagreement places a high value on the truth and purports to furnish participants with tools needed to find it. In some cases, however, those tools create incentives to disguise or misidentify the truth, particularly the truth about the beliefs of others.

I want to close by reiterating that I am not claiming that choreographed disagreement is a bad development overall, either for the university or society in general. Whatever problems they create may be more than balanced by the ones they solve. But I do want to sound a note of caution, especially given the exceptional speed with which choreographed disagreement has marched through institutions of higher learning. The energy and resources committed to its spread are remarkable, especially in such a brief period of time. Little thought has been

given to whether these interventions will be successful, let alone whether they will ultimately help produce their desired social outcomes.

What would it look like for proponents of choreographed disagreement to take these concerns seriously? For one thing, it might mean building into their repertoire of exercises greater space for aggressive and even bullying talk, if only to train people to withstand it. It might also mean an emphasis on developing rhetorical skills that students can use to sway audiences immune to more rational modes of address. And it would almost certainly require a much greater appreciation for the limitations of debate as a means of conveying ideas or resolving disputes, especially when the topic is controversial. Ultimately, choreographed disagreement must be regarded as one mode of expression among many, appropriate for some contexts but not for others. And for that reason, no student should be sent out into the world without a second arrow in their quiver.