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No Safe Spaces: A Distorted Image of a Clear Problem

Michael Conklin*

Abstract

This is a critical analysis of the documentary No Safe Spaces. The movie features comedian Adam Carolla and conservative talk show host Dennis Prager. Depending on the source, the movie is either the most necessary and prescient documentary ever or the most harmful. Unfortunately, the polarizing nature of the reviews largely fall along partisan political lines, with conservatives praising the movie and liberals criticizing it. This partisan result could have likely been minimized if the movie communicated a more bi-partisan tone. To further complicate things, the movie does not provide a clear thesis of what it is trying to promote. Rather, it seems to schizophrenically jump from topic to topic, some of which are not even tangentially related to each other. Regardless, it does bring to light a serious issue in a relatively entertaining format.

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I. INTRODUCTION

This is a critical analysis of the documentary *No Safe Spaces*.¹ The film features comedian Adam Carolla and conservative talk show host Dennis Prager. Depending on the source, the film is either the most necessary and prescient documentary ever, or the most harmful. Unfortunately, the polarizing nature of the reviews largely fall along partisan political lines, with conservatives praising the film and liberals criticizing it. This partisan result could have likely been minimized if the film communicated a more bipartisan tone. To further complicate things, the film does not provide a clear thesis of what it is trying to promote. Rather, it seems to jump around from topic to topic, some of which are not even tangentially related to each other. Regardless, it does bring to light a serious issue, the attack on freedom of speech in America, in a relatively entertaining format.

II. THE ODD COUPLE

The film benefits from the diversity of its two hosts. Carolla is an atheist, was raised by a mother on welfare, and has a history of raunchy comedy, such as *The Man Show* and *Crank Yankers*.² Prager is Jewish, has taught at American Jewish University and has lectured on all seven continents, and co-founded Prager University, which has over eight-hundred million views on YouTube.³ The juxtaposition of the straight-laced Prager and the witty Carolla adds levity to the film. As they describe in the film, they have common sense in common, which “should trump everything else.”⁴ Of course, defining one’s position as “common sense”—and therefore defining the position of those who disagree as anti-common sense—does nothing to substantiate the claim.

1. NO SAFE SPACES (MJM Entertainment Group 2019). Please note that the times provided in the citations to the film in this review are based on an advanced screener copy. Therefore, actual times of the commercial version may be off by up to sixty seconds.

2. *Adam Carolla Biography*, IMDB, <https://www.imdb.com/name/nm0004805/bio> (last visited Feb. 7, 2020).

3. *Biography*, DENNIS PRAGER SHOW, <https://www.dennisprager.com/dennis-prager-biography/> (last visited Feb. 7, 2020).

4. NO SAFE SPACES, *supra* note 1, at 4:00.

III. SCHIZOPHRENIC THEME

One major problem with the film is that it does not have a well-defined theme. Even the title illustrates this point. While much of the film could be summarized as “a warning of current free-speech suppression trends,” safe spaces are only tangentially related to free speech suppression. The creation of safe spaces on college campuses as a place for students to be protected from speech they perceive as offensive may be a bad idea,⁵ but it does not violate the First Amendment.

At one point in the film, Carolla lectures on the dangers of a welfare state.⁶ Elsewhere, there is an entire segment on how “white privilege” is not an accurate term.⁷ No attempt was made to relate these two issues with the other topics in the film.

IV. FIRST AMENDMENT ACCURACY

The film does not contain in-depth discussions of nuanced First Amendment issues, which is to be expected by a popular-level documentary. But even some basic free-speech principles are presented in a highly misleading manner. At one point, free speech is described as people being able to say “whatever they want” without restrictions.⁸ Courts have recognized a number of restrictions on free speech, including incitement to riot, defamation, fraud, harassment, dissemination of copyrighted material, and speech restricted by non-government actors.⁹ This last restriction, the distinguishing between government censorship of speech (generally not allowed) and private censorship (generally allowed) is not made clear in the film. Public and private censorship is conflated throughout the film. The following are examples of private,

5. Greg Lukianoff & Jonathan Haidt, *The Coddling of the American Mind*, ATLANTIC (Sept. 2015), <https://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356/> (“[V]indicative protectiveness . . . prepares [students] poorly for professional life, which often demands intellectual engagement with people and ideas one might find uncongenial or wrong. The harm may be more immediate, too. A campus culture devoted to policing speech and punishing speakers is likely to engender patterns of thought that are surprisingly similar to those long identified by cognitive behavioral therapists as causes of depression and anxiety.”).

6. NO SAFE SPACES, *supra* note 1, at 5:05.

7. *Id.* at 24:45.

8. *Id.* at 22:30.

9. *See, e.g.*, *Brandenburg v. Ohio*, 395 U.S. 444, 448-49 (1969) (holding that there is no First Amendment protection for speech that incites imminent violence); *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942) (holding that there is no First Amendment protection for “fighting words”).

constitutionally allowed censorship depicted in the film:

- Google firing an engineer for expressing a conservative opinion¹⁰
- ABC cancelling the show *Last Man Standing* despite high ratings¹¹
- Kevin Hart not allowed to host the Oscars because of an eight-year-old comment¹²
- Facebook censorship¹³
- YouTube's partial censorship of Prager University videos¹⁴
- The incident involving Yale, a private college, and a professor who expressed an opinion on Halloween costumes¹⁵

10. NO SAFE SPACES, *supra* note 1, at 41:40; *see also* Rob Copeland, *Fired by Google, a Republican Engineer Hits Back: 'There's Been a Lot of Bullying,'* WALL STREET J. (Aug. 1, 2019), <https://www.wsj.com/articles/fired-by-google-a-republican-engineer-hits-back-theres-been-a-lot-of-bullying-11564651801>.

11. NO SAFE SPACES, *supra* note 1, at 40:00 (insinuating that it was cancelled because it promoted a conservative ideology); *see also* Emily Yahr, *Tim Allen thinks conservative politics might be why 'Last Man Standing' got canceled,* WASH. POST (Sept. 27, 2017), <https://www.washingtonpost.com/news/arts-and-entertainment/wp/2017/09/27/tim-allen-thinks-conservative-politics-might-be-why-last-man-standing-got-canceled/>.

12. NO SAFE SPACES, *supra* note 1, at 37:00; *see also* Jacey Fortin, *Kevin Hart Steps Down as Oscars Host After Criticism Over Homophobic Tweets,* N.Y. TIMES (Dec. 6, 2018), <https://www.nytimes.com/2018/12/06/arts/kevin-hart-homophobic-tweets.html>.

13. NO SAFE SPACES, *supra* note 1, at 1:04:40; *see also* Marrian Zhou, *Facebook apologizes for removing conservative PragerU videos,* CNET (Aug. 21, 2018), <https://www.cnet.com/news/facebook-apologizes-for-removing-videos-from-conservative-page-prageru/>.

14. NO SAFE SPACES, *supra* note 1, at 1:05:55. Some of Prager's videos were categorized as restricted and therefore not accessible at schools and to children whose parents enabled parental controls. Not mentioned in the film is that Prager University lost the case where it claimed YouTube acts as a town square and therefore is liable for violating Prager University's free speech rights. Billy Binion, *Judge to PragerU: You Do Not Have a Free Speech Claim Against YouTube,* REASON (Nov. 4, 2019), <https://reason.com/2019/11/04/judge-to-prageru-you-do-not-have-a-free-speech-claim-against-youtube/>.

15. NO SAFE SPACES, *supra* note 1, at 9:30; *see also* Anemona Hartocollis, *Yale Lecturer Resigns After Email on Halloween Costumes,* N.Y. TIMES (Dec. 7, 2015), <https://www.nytimes.com/2015/12/08/us/yale-lecturer-resigns-after-email-on-halloween-costumes.html>.

- Comedians who do not feel free to use edgy material¹⁶

There is even an anecdote provided where after a kid says something “stupid,” his friends tell him to “shut up,” to which the kid responds, “Hey, it’s a free country, man. There’s freedom of speech here.” Prager considers this anecdote and responds, “He’s right!”¹⁷ But this is incorrect. Freedom of speech does not protect someone from having his friends tell him to “shut up.”¹⁸

V. PARTISANSHIP

The film shows glimpses of bipartisanship but ultimately promotes the view that the problem is liberals censoring conservative views. While conservative views may be censored to a greater extent than liberal views on today’s college campuses, focusing more on how censorship efforts are harmful regardless of political affiliation would likely be more productive.¹⁹

The film presents many liberals who agree that censorship has gone too far. These include Alan Dershowitz,²⁰ Dave Rubin,²¹ Bill Maher,²² Van Jones,²³ Joe Scarborough,²⁴ and President Obama, who is shown giving a speech where he mocks the notion of students being so sensitive that they cannot bear to hear a viewpoint that they disagree with.²⁵ The film also makes an effort to point out that liberals are sometimes the victims of censorship

16. NO SAFE SPACES, *supra* note 1, at 58:30; *see also* Anna Silman, *10 famous comedians on how political correctness is killing comedy: “We are addicted to the rush of being offended,”* SALON (June 11, 2015), https://www.salon.com/2015/06/10/10_famous_comedians_on_how_political_correctness_is_killing_comedy_we_are_addicted_to_the_rush_of_being_offended/.

17. NO SAFE SPACES, *supra* note 1, at 7:00.

18. *Id.* at 1:14:10. Elsewhere, Prager states that “free speech includes all speech,” which is not true. *See supra* note 9 and accompanying text. While this is likely just an oversimplification on his part, there is a lot of misinformation regarding what free speech covers. Therefore, it is important to be clear when discussing the issue.

19. A recent study found that regardless of political affiliation, people are receptive to the notion that free speech should be supported because in the future their views may be the ones that get censored. MICHAEL CONKLIN, AN UPHILL BATTLE FOR FREE SPEECH ADVOCATES: A QUANTITATIVE ANALYSIS OF THE EFFECTIVENESS OF FREE SPEECH RHETORIC (Dec. 28, 2019) (unpublished manuscript) (on file with author).

20. NO SAFE SPACES, *supra* note 1, at 30:20.

21. *Id.* at 31:55.

22. *Id.* at 14:30.

23. *Id.* at 28:50.

24. *Id.* at 29:15.

25. *Id.* at 1:30:45.

efforts. However, in all of the examples provided, the liberal was not censored for espousing liberal views. For example, the film presents the story of Lindsay Shepherd, a teaching assistant and self-identified leftist who was reprimanded for playing a video clip of a discussion between Jordan Peterson and a transgender studies professor.²⁶ But she was not reprimanded for a liberal position; she was reprimanded for exposing her students to Jordan Peterson's position—which is considerably more conservative than liberal.²⁷ Furthermore, this incident took place at Wilfrid Laurier University, a Canadian university. Another example is that of Bret Weinstein, who won a \$500,000 settlement against Evergreen College for treatment he received after sending an email that opposed a “day of absence” where white students and faculty were told not to be present on campus.²⁸ Again, while Weinstein self-identifies as liberal, he was not censored for espousing a liberal position.

The film could have embodied a more bipartisan tone by presenting examples of people being censored for their liberal views, instead of focusing almost primarily on the censorship of conservative views. Examples could include:²⁹

- The Dixie Chicks, who were boycotted after voicing opposition to then-President George W. Bush³⁰
- Kathy Griffin, who received blowback after posing with a decapitated Donald Trump head³¹
- Colin Kaepernick for his position on discriminatory law

26. *Id.* at 42:45.

27. See Paola Loriggio, *Lindsay Shepherd says she had to record meeting that spurred Jordan Peterson lawsuit*, GLOBAL NEWS (Mar. 1, 2019), <https://globalnews.ca/news/5012667/lindsay-shepherd-jordan-peterson-lawsuit/>.

28. See Nick Roll, *Evergreen Professor Receives \$500,000 Settlement*, INSIDE HIGHER ED (Sept. 18, 2017), <https://www.insidehighered.com/quicktakes/2017/09/18/evergreen-professor-receives-500000-settlement>.

29. Note that these are all examples of private censorship, which generally do not invoke free speech protection. However, since the film uses numerous examples of people censored for conservative views by private actors, these are appropriate examples.

30. See *Dixie Chicks pulled from air after bashing Bush*, CNN (Mar. 14, 2003), <https://www.cnn.com/2003/SHOWBIZ/Music/03/14/dixie.chicks.reut/>.

31. See *Kathy Griffin: Life After The Trump Severed Head Controversy*, NPR (Apr. 23, 2019), <https://www.npr.org/2019/04/23/716258113/kathy-griffin-life-after-the-trump-severed-head-controversy>.

enforcement practices³²

- Adam Smith, who was fired after posting an anti-Chick-Fil-A video³³

The tone of the film is clearly not aimed at converting anti-free speech advocates to the side of free speech. Such advocates are routinely mocked in the film.³⁴ Rather, the tone is to strengthen the view—primarily among conservatives—that they are on the right side of the issue and that they are being oppressed. But if the aim of the film was to reduce censorship efforts, more effort should have been put into convincing the people who advocate for censorship to change their mind. A more effective strategy would likely have been to point out that censorship efforts are commonly counterproductive, resulting in wider dissemination of the views the censors are trying to suppress.³⁵

VI. PRAISE

This essay has primarily focused on areas of criticism regarding the film. This is not to say that some topics are not covered well. The film does a good job highlighting the following:

- The uniqueness of free speech in America compared to other countries³⁶

32. See Alex Wayne & Justin Sink, *Trump says Nike is 'getting absolutely killed' for its Colin Kaepernick ad*, L.A. TIMES (Sept. 5, 2018), <https://www.latimes.com/business/la-fi-nike-trump-kaepernick-20180905-story.html>.

33. See Lee Moran, *Stance Against Chick-Fil-A Costs Arizona Man \$200,000-A-Year Job, Now Living in an RV on Food Stamps*, N.Y. DAILY NEWS (Mar. 31, 2015), <https://www.nydailynews.com/news/national/stance-chick-fil-a-costs-ariz-man-200-000-year-job-article-1.2167969>.

34. NO SAFE SPACES, *supra* note 1, at 31:00 (including a cartoon parody of “Social Justice Warriors,” whose rallying call is “Get triggered!” and “fight fascism, with fascism”).

35. Michael Conklin, *Walking on a Wire: The Delicate Balance of Free Speech on College Campuses*, 9 HOUS. L. REV.: OFF REC. 35, 38 (Sept. 18, 2018) (demonstrating that hate speech codes may serve to increase hate speech by allowing the purveyors to reach martyrdom status and presenting a Google trendline of alt-right provocateur Milo Yiannopoulos demonstrating that riots at Berkeley, which successfully stopped his speech, resulted in an unprecedented interest in him).

36. NO SAFE SPACES, *supra* note 1, at 16:30: see generally Robert A. Sedler, *An Essay on Freedom of Speech: The United States Versus the Rest of the World*, 2006 MICH. ST. L. REV. 377 (2006) (comparing “the very strong constitutional protection of freedom of speech in the United States with the somewhat lesser protection of freedom of speech provided under the constitutions of other democratic

- The absurdity of excluding “hate speech” from free speech protections³⁷
- Lack of viewpoint diversity on some college campuses³⁸
- How forcing student organizations to pay for the security at their events is a form of the heckler’s veto³⁹

As with much of the other content in the film, the analogies utilized range from thought-provoking to counterproductive. An example of the latter is Carolla explaining that when he was young he never wore a helmet when riding a bike. He reasons that this caused him to learn how to fall while protecting his head.⁴⁰ The connection is never explicitly made, but this is presumably supposed to support the notion that society should not protect young people from being psychologically uncomfortable. An interesting analogy made in the film is that of gravity.⁴¹ There are harmful effects to the human body for astronauts who spend time in zero gravity. Likewise, there are harmful effects to “protecting” students from opinions that they may find offensive. People need to “experience gravity,” so to speak, for their long-term health.⁴²

VII. CONCLUSION

It is unfortunate that such a pressing topic did not receive more constructive and accurate coverage. Also unfortunate is that the partisan aspects of the film are likely detrimental to reaching anti-free speech advocates. Regardless of the film’s shortcomings, it does provide insight into free speech issues on college campuses in an entertaining manner.

nations and under international human rights norms.”).

37. NO SAFE SPACES, *supra* note 1, at 22:00; *see also* Lee Rowland, *Free Speech Can Be Messy, but We Need It*, ACLU (Mar. 9, 2018), <https://www.aclu.org/blog/free-speech/free-speech-can-be-messy-we-need-it>.

38. NO SAFE SPACES, *supra* note 1, at 34:45; *see also* Christopher Freiman, *In Defense of Viewpoint Diversity*, INSIDE HIGHER ED (OCT. 8, 2018), <https://www.insidehighered.com/views/2018/10/08/why-its-vital-academe-have-more-viewpoint-diversity-opinion>.

39. NO SAFE SPACES, *supra* note 1, at 39:30; *see also* Charles S. Nary, *The New Heckler's Veto: Shouting Down Speech on University Campuses*, 21 U. PA. J. CONST. L. 305, 323 (2018).

40. *Id.* at 1:11:20.

41. *Id.* at 1:26:55.

42. Lukianoff & Haidt, *supra* note 5.