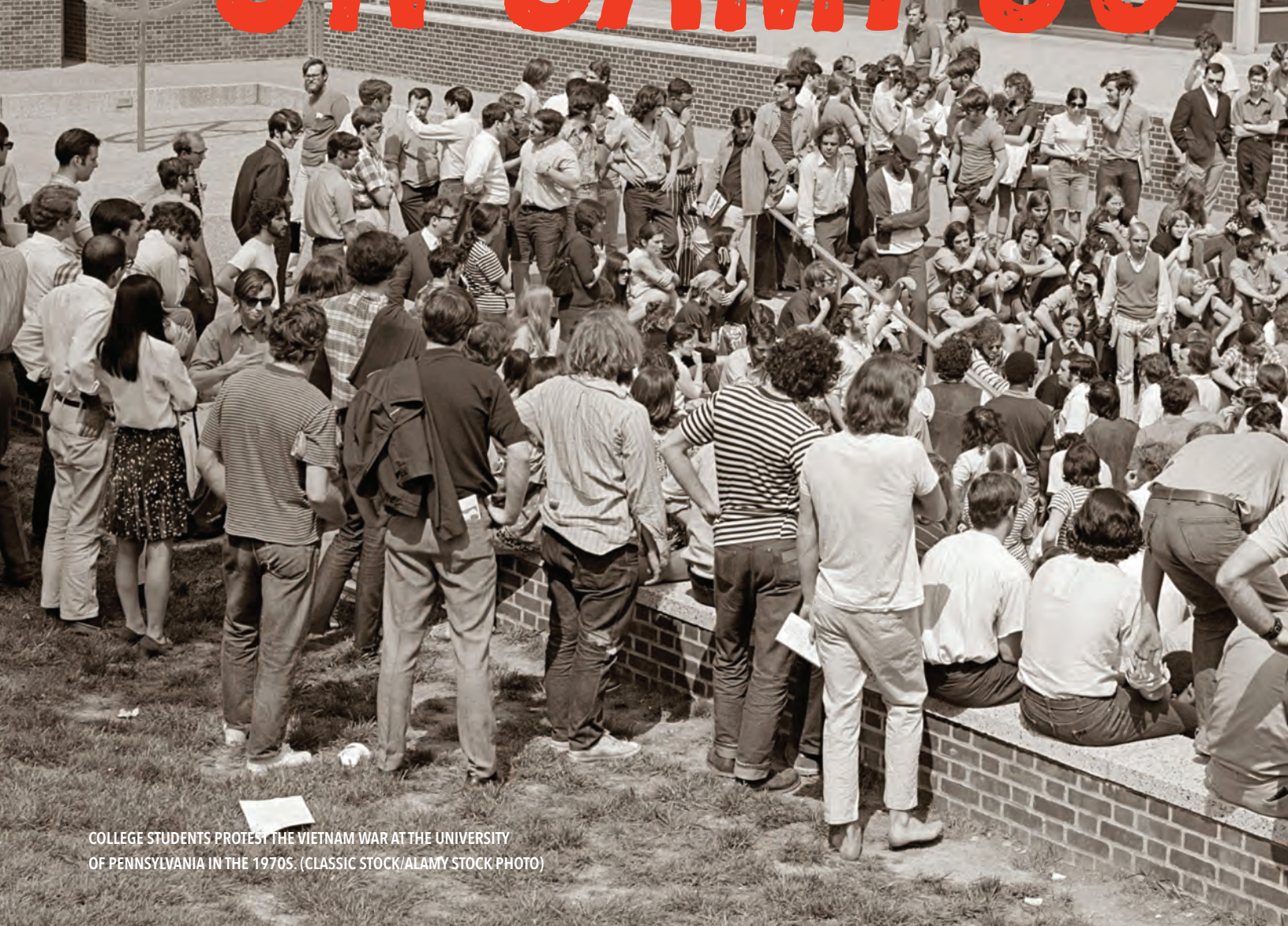


FREE SPEECH ON CAMPUS



COLLEGE STUDENTS PROTEST THE VIETNAM WAR AT THE UNIVERSITY OF PENNSYLVANIA IN THE 1970S. (CLASSIC STOCK/ALAMY-STOCK PHOTO)

Examining the campus speech debate through a First Amendment lens

FREE SPEECH ENJOYS AN INTERESTING DUALITY ON COLLEGE CAMPUSES: It is both abstractly academic, forming the basis of numerous classes (especially in law schools), as well as practically concrete, coming to life in campus discourse and university policies. The topic has recently made headlines well beyond campus as students across the country have mounted vigorous protests about controversial speakers and the war in Gaza. And universities have been increasingly under fire for their handling of protests.

Drawing the boundaries of free speech — for students and for faculty — is difficult but necessary, given the unique responsibility of an academic institution to expose students to new ideas while striving to create a welcoming environment for those of all backgrounds, beliefs, and identities. To better understand the challenges universities face and the role of the First Amendment on campus, **DAVID F.**

LEVI, president of the American Law Institute (ALI) and founding director of the Bolch Judicial Institute at Duke Law School, spoke with constitutional law expert **GEOFFREY R. STONE**, the Edward H. Levi Distinguished Service Professor of Law at the University of Chicago Law School, who was previously provost to the university and dean of the law school. Their talk, recorded in early January 2024, was featured on an episode of *Reasonably Speaking*, a podcast hosted by the ALI. It has been edited here for brevity. A partial reprint of *The Chicago Principles*, which they reference below, appears at the end of the discussion. — *Editors*

LEVI: There is no one better to discuss the difficult topic of free speech on campus than Professor Geoffrey Stone. He has written numerous books and articles on free speech. He chaired the University of Chicago's Freedom of Expression Committee, appointed in

2014 by the president of the university to draft a statement articulating the university's overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the university's community. The report, variously known as the Chicago Statement or the Chicago Principles, has had significant influence, not just at Chicago but in many other universities and colleges.

I think Chicago is a standout among universities for the job it has done in defending First Amendment principles on campus. And you've been an important part of that history, as have several others. Can you talk about that history?

STONE: From its very founding, the University of Chicago has been committed to free, open discourse and to academic freedom. That was quite clear in statements from early presidents, including William Rainey ►

“[FREE SPEECH ON CAMPUS] WAS NOT THE NORM IN THE FIRST HALF OF THE 19TH CENTURY AND EVEN INTO THE MIDDLE AND LATE 19TH CENTURY. AT MOST UNIVERSITIES, THE IDEA WAS THAT ‘OUR JOB IS TO TEACH YOU WHAT IS RIGHT.’”

Harper, who declared that the university is dedicated to the protection of free speech and ideas that are to be discussed and debated. And that’s fundamental. This was not the norm in the first half of the 19th century and even into the middle and late 19th century. At most universities, the idea was that “our job is to teach you what is right.” That was very much the norm of university and college culture then. It was really only Darwin and the evolution issue that began to call that philosophy into question. But Chicago, from its very founding, made very clear that it is dedicated to free speech.

As an illustration, in the 1930s, when communism was viewed increasingly negatively, almost all universities prohibited any speaker or student organization that would advocate communism. But Chicago at that time had a student organization that advocated and believed in communism, and William Foster, leader of the American Communist Party, was invited to campus. This led to widespread protests around the city, state — and even around the country. But the university president, Robert Maynard Hutchins, permitted Foster to come and give a speech. Afterward, the Illinois state legislature summoned Hutchins to testify before a hearing about how he could possibly have done that. Some 3,000 students from Chicago came down to Springfield and marched in support of Hutchins. That exemplifies the kind of

commitment that the university has maintained from the very beginning.

The Kalven Report was adopted in 1967. Harry Kalven was one of the nation’s leading First Amendment scholars. He was actually the person who taught me the First Amendment when I was a student, and he was a colleague of mine for a short time. He was asked to draft a report that addressed the question of whether the university should take positions on public issues. This was during the Vietnam War, and there was a lot of pressure on universities, particularly by students, to condemn the war.

The report basically says that the University of Chicago does not take positions as an institution. Its goal is to create an environment in which faculty, students, and others can debate and discuss issues and not be told what the right answer is. That has been a central element of the university’s culture at Chicago ever since. The university has not taken positions on public issues, and instead has basically said, “This is not for us to say, because if we say this, then that’s going to silence faculty and students who disagree.” And the idea is to encourage that disagreement and have free and open debate.

LEVI: How do the Chicago Principles differ from the Kalven Report?

STONE: The Chicago Principles dealt with slightly different issues. In 2014,

University of Chicago President Robert Zimmer appointed a committee that I chaired and asked us to draft a report on the university’s commitment to free speech. It was not so much focused on the university itself speaking, but on the university allowing and encouraging free speech on campus by students, faculty, and others. That had always been a tradition, but we didn’t have a formal statement articulating that. We wrote a relatively short report that essentially said that free speech on campus by students, faculty, guest speakers, and others is essential to the goals and values of the university, and that they should be free to do this in almost all circumstances — and that although there can be some regulations, obviously, fundamentally the goal is to allow students in particular to invite speakers and to speak themselves and to debate issues, however controversial and provocative they may be.

It’s since been adopted by about 100 other colleges and universities, which is amazing. That was not our goal. We wrote it explicitly just for us. It basically takes a very strong position on the rights of faculty and students to say what they want. It also says there are circumstances where speech can be limited, but that they’re very narrow. And this is essential to the university.

LEVI: With the two reports, you cover most of the landscape of what comes

up or what has been so controversial. But my sense from what you just said is that maybe the Chicago Principles have been more influential than the Kalven Report. It seems that universities — or their presidents — are taking positions on a multitude of matters, from political topics to earthquakes to all sorts of things. They express what they would say are the values of the university in relation to an event.

STONE: Right. And, again, that clearly would violate the Kalven Report insofar as they're speaking for the university as opposed to speaking for themselves as individuals. And yes, the Kalven Report has not been adopted nearly as widely as the free speech principles. Part of the reason is that it basically says that universities can't take positions — and universities want to take positions. But the problem with that, which the Kalven Report fully addresses, is that it has a powerful chilling effect on the willingness of students, faculty, and others to take a different position. And that's not consistent with the goals and values of the university.

LEVI: We recently saw three prominent university presidents from Penn, Harvard, and MIT called to testify before Congress. Congresswoman Elise Stefanik asked if calling for the genocide of Jews would violate their respective university's code of conduct or rules regarding bullying and harassment.

And although their answers were somewhat different, the presidents said, in sum, that calling for the genocide of Jews might violate the university's code of conduct, but it depended on the context. And by context, it appears that the presidents meant whether the statement was targeted at an indi-

vidual, whether the speech was so pervasive and severe as to amount to harassment, and whether the speech in some sense became conduct by crossing into intimidation, bullying, harassment, or perhaps a threat of violence. It seems that the presidents were trying to summarize what they took to be the First Amendment law regarding speech on campus or maybe speech in other public forums.

Putting aside whether the question is one that called for a First Amendment answer, did they get the First Amendment right? Was that a fair statement of what First Amendment law is in this context?

STONE: I think a right answer would be to say that a university or any other government entity governed by the First Amendment prohibits its harassment or threats. But that rule basically pertains to one-on-one situations; it doesn't cover public discourse. Therefore, if somebody goes to another person and says, "If you don't support my organization, I'm going to punch you," that would obviously be a threat that would be punishable, even consistent with the First Amendment and the Chicago Principles. And continuing to follow someone around and arguing with them and telling them they're wrong over and over and over again would be harassment, which also could be restricted as inappropriate behavior.

They're right to say that certain types of threats, harassment, and bullying could be restricted, consistent with the First Amendment, but the question is what does that mean in this context? The clear answer is it does not include public discourse, and therefore they should have been more definitive about saying that what people are upset about, for the most part,

are these public statements and protests. And those are not harassment or bullying or even threats to any particular individual. They're right to say that threats and harassment can be restricted, but they left a little ambiguity in terms of what exactly they meant by a threat and harassment.

LEVI: The congresswoman said, "It's a yes or no. I want a yes or no." And you could say, "Yes, but," or you could say, "No, but," or "Yes. May I explain?," or "No. May I explain?" But it sounds like your thought would be "no," not in that context — although that was not the answer the congresswoman was looking for.

With that in mind, let's say that one of those presidents had come to you and said: "Look, you're the First Amendment expert, and you've also been a provost and dean of a law school, and I'm anticipating an ambush on the First Amendment. And I'd like to keep my job. What advice can you give me? How should I handle what I am expecting to be a very provocative question?"

STONE: The advice I would give in terms of fulfilling the values of a university would be to say that public discourse of this sort may be disturbing, it may be upsetting to many people, but that's part of free speech. And the Civil Rights Movement was like that, the anti-war movement was like that during Vietnam. Lots of speech is controversial and provocative. You can't prohibit that speech just because it upsets people. What you need to do as a university is inculcate in your students and faculty the values of free speech and academic freedom — why it is that we allow ideas to be expressed that you may hate, that you may be offended by. Because if we don't do that, then ideas you have can ►

later be suppressed. Therefore, I think the important part is to make students and faculty understand, first of all, that this kind of openness is essential to the values and aspirations of a university and, second, that it'll come back and haunt them later. It's a two-way street.

LEVI: I think people need to understand that just because somebody is speaking at a university doesn't mean they carry its imprimatur. The university is not vouching for the substance of their speech. We need to do a better job of making that clear. The person who undertakes to defend the First Amendment from withering attack has a difficult brief to carry. Do you have thoughts on that?

STONE: It is challenging — particularly if you are being cut off and not able to give a full explanation. But I do think that it's fundamentally important for universities to make clear that they do not, and should not, prohibit speech because it is offensive to others. That's a core principle of the First Amendment. Now, of course the universities involved here were private universities, so they're not governed by the First Amendment, but they should follow the same principle in this respect and say that the fact that this upsets or angers people is not dispositive.

LEVI: Bullying and harassment can be discrimination under Title VI and Title IX. And then we have the First Amendment. Private universities aren't governed by it, although some private universities are governed by state laws that apply the First Amendment to them. That's true in California, via the Leonard Act. But there's a tension, I think, between bullying and harass-

ment and free speech. Can you explain this framework?

STONE: The basic assumption is that bullying and harassment are not protected by the First Amendment or by university speech policies, but they're defined relatively narrowly. And public discourse does not constitute either of those. I think the reality is that, again, if somebody goes to another person and says, "If you don't do what I want you to do, I'm going shoot you," then that's a threat, and it could be restricted. But public discourse is not understood and should not be understood as bullying or harassment within the meaning of either the First Amendment or the federal laws.

LEVI: There are going to be some gray areas. Many times people may sense a threat or that they're being discriminated against — or even bullied — even though they're in a public forum or around a lot of people. It is what you would call public discourse, but they perceive it as personal to them.

STONE: But if you allow suppression of speech because someone says, "I perceive that speech as threatening to me, or as harassment," that simply invites people to say, "That speech that I don't like, I perceived as threatening, or I perceived as harassment." And that would give potentially very little protection to free speech of that sort. So one of the reasons why these concepts are defined fairly narrowly, particularly from a First Amendment perspective, is that if you define them broadly, they will essentially allow people who don't like what you're saying to accuse you of these things. And that's not what we want to do. Basically, harassments and threats and so on have to be pretty explicit to be

deemed harassment, threats, or bullying. Typically, they occur one on one, so it's not public speech that is upsetting to people.

Even if somebody says, "If you don't change your laws, we're going to overthrow the government," that's protected speech, even though one could perceive it as a threat. Again, the problem here is finding the right line between allowing aggressive free speech and protecting individuals. And what the Court has done over the past century is to realize that you need to give broad protection to free speech to enable it to exist in a robust manner. Now, if the speaker says, "If any of you Jews don't do what I want, then we will come and get you," that would be an explicit threat. But nothing that I saw given as an example in the hearing constituted a threat of that sort.

LEVI: What is hate speech? How does that figure in?

STONE: Hate speech does not exist as a concept under the First Amendment. The Supreme Court has unanimously held that something called hate speech, whatever it is, is not unprotected by the First Amendment. Why? First, there has not historically been a concept of hate speech — unlike, say, obscenity or libel or commercial advertising, which have been routinely regulated over a long period of time. Second, it's incredibly ambiguous. How do you define what hate speech is? The Supreme Court has taken the view that there is no concept of hate speech in the First Amendment. It would simply be too problematic.

I think the Court is correct that this is not a concept we want to get into. It's too vague, too ambiguous, and opens itself up to too much abuse by courts, prosecutors, and universities in defin-

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ing what it is — when it has no remotely clear definition.

LEVI: You hear a lot about safety and safe spaces. Do you get a safe space on a university campus?

STONE: I think a safe space would be permissible for a group. If a group of people have a sense that they need to be able to talk to one another in confidence and in private, a university can create a safe space for them, not based on the particular viewpoint that they’re expressing but on some other basis. I don’t think that would be deemed unconstitutional because it’s not restricting anyone else’s speech.

LEVI: What about speech in a classroom? Should the classroom be seen as a safe space? What sort of limits can there be in that setting?

STONE: The basic principles of free speech — the broad, open, and free concept of being able to express views — is basically about public speech. And in a classroom, for example, the rules can be different. Even at the University of Chicago, if a student in a classroom insists on talking about Israel in a class on physics, they could be told, “No, this is not what this class is about. Stop talking about that.” And if they refuse to do that, they could be punished. A professor who insists on talking about something outside the boundaries of

the course subject could also be punished. Inside the classroom, there are regulations that are appropriate to deal with the purpose of the classroom.

Now, regulations like that are not based on viewpoint. They simply say that in the classroom you have to talk about what the subject of the course is. The more complicated question comes if there are insults or the use of offensive words in the classroom. I think universities can probably regulate that speech. But if students use a word in a context relevant to the course and the materials being taught, I think that would be regarded as permissible.

LEVI: Is there a difference between academic freedom and freedom of speech?

STONE: That depends on whose definition of academic freedom you support. Basically, Chicago’s views on this are very similar to the First Amendment in terms of the basic principles. But again, it’s true that in the university setting there are appropriate limitations. For example, we deny people tenure because we think their ideas are not persuasive. Those are arguably “violations” of freedom of speech. But in the university setting, they’re clearly not.

My own view is that academic freedom and the guarantees of the First Amendment in the context of universities should be pretty similar. Now, that’s not to say that the Supreme Court’s jurisprudence on these issues

is perfect. And universities can do better when they understand more fully what it is that they are attempting to achieve. A private university doesn’t have to abide by the First Amendment. It’s perfectly free to adopt policies that are completely incompatible with the First Amendment if they think that’s the best way to have an educational system. But in my view, private universities should aspire to at least meet the expectations of the First Amendment and, when necessary, to exceed them.

LEVI: Suppose as part of its DEI [diversity, equity, and inclusion] commitments, the university develops a code of conduct that forbids bigotry or racism and says that things that promote bigotry or racism are at odds with the fundamental values of the university. What happens to bigoted or racist speech? Does that then violate the university’s code of conduct?

STONE: That depends, of course, on whether it’s a public or private university, and it depends on what they adopt as their code of conduct. But if they’re trying to be viewpoint-neutral across the board, and to say that, “It is not for us to say certain points of view are right or wrong and not for us to punish certain points of view as right or wrong,” or if they’re a public university and subject to the First Amendment, then I think one has to be careful about how one implements this. ►

“AS THE CHICAGO PRINCIPLES SAY, STUDENTS OR FACULTY ARE NOT PERMITTED TO IMPAIR THE ABILITY OF INDIVIDUALS TO HAVE A DISCUSSION DEDICATED TO A PARTICULAR ISSUE. THEREFORE, YOU CAN PROTEST WHAT YOU THINK THE SPEAKER HAS DONE — BUT NOT IN A WAY THAT INTERFERES WITH THE SPEAKING EVENT ITSELF. AGAIN, THIS IS A CONTENT-NEUTRAL RULE.”

A reality on campuses and in society generally, of course, is that minority groups and women have been discriminated against for a long time and can be made to feel especially uncomfortable when certain things are said about them or about their category. And universities should encourage people to be conscious of that and not to be irresponsibly insulting or reckless — but not necessarily punish people for that. Part of the point of education, and of academic freedom, is to encourage people to be responsible citizens.

To the extent DEI is used to punish students or faculty for saying things that upset minority students or faculty or women students or faculty, or whatever, I think that’s inconsistent with the First Amendment and with the ultimate values of a university. But educating people about intolerance is consistent. Now, that’s not to say that there aren’t examples of DEI behavior that aren’t about speech that can be restricted, but in terms of speech, I think the reality is that universities should not be punishing such speech unless it’s literally a threat.

LEVI: Let’s suppose that one student made an antisemitic remark to another student who was Jewish. And the recipient of this comment believes that it violates the university’s code of con-

duct and DEI principles. Let’s further suppose we were in a courtroom and one lawyer in the heat of battle made an antisemitic comment to opposing counsel. I could imagine a judge sanctioning that lawyer right there on the spot because it violates the standards of civility that we maintain in our courts. Different or the same?

STONE: That’s simply inappropriate behavior in the classroom by the employee or student of the university, especially if it’s not directly relevant to the material being taught or discussed, so I think punishing that behavior would be appropriate. But outside-the-classroom interactions — that’s where free speech applies. Calling someone a nasty name may be inappropriate, but once you open the door to punishing that, you then have to ask, “Well, what other names would be punishable?” Do you have to say it face to face, or just say it out loud, or say it to a group? And we all agree that using those kinds of words is insulting, but it’s also a way of being — I hate to say this — effective. It’s a way of expressing one’s views in a way that is, in fact, powerful. And you don’t want to take that away from people.

In other words, I think the proper response outside of the classroom is to disagree and explain why you think

that person is wrong and being unfair, sexist, racist, or whatever, but not to punish the person for making the statement, which is a statement that is a potential belief.

LEVI: Okay, let’s take on some hypotheticals based in the real world. Let’s say a United States Court of Appeals judge was invited by the local student chapter of the Federalist Society to come and speak on a particular topic. The topic was the way in which cases during the COVID period had been going from the Court of Appeals up to the Supreme Court and back again. But some students viewed him — as a judge and as a lawyer before becoming a judge — as someone who was hostile to the rights of LGBTQ people and to others, and therefore students showed up in the classroom where he was speaking and heckled him so much that he had to stop speaking. That’s a pretty classic kind of unfortunate interaction that sometimes happens on a campus. How do you analyze that?

STONE: As the Chicago Principles say, students or faculty are not permitted to impair the ability of individuals to have a discussion dedicated to a particular issue. Therefore, you can protest what you think the speaker has done — but not in a way that interferes with

the speaking event itself. Again, this is a content-neutral rule. It applies regardless of what side of the debate you're on and what position you have relative to the other person.

LEVI: Let's take up student demonstrations on campus. Let's say a demonstration calling for the abolition of the state of Israel occurs in the main reading room of the main library on campus, but it occurs quietly. People have signs on their laptops, and they put a banner on the wall to this effect. And Jewish students say that they feel threatened — they feel unsafe or unwanted going into the reading room and using it in the normal way.

STONE: A university reading room is not a public space in the sense that main quadrangles would be. I think it would be perfectly reasonable for the university to say that students may not engage in expressive activity in the reading room that would interfere with the ability of students to do their work, regardless of the message being communicated. It doesn't matter whether it's pro-Israel, anti-Israel, whatever. That, I think, would be perfectly appropriate. However, if they generally allowed students to do these things, to protest in the reading room — which is unlikely — and they only picked out this one, then that would be a viewpoint-based rule and should not be permissible.

There's a better way to solve the problem, which is just to say you can't have these kinds of demonstrations in a library or reading room or whatever, regardless of what the message is. Otherwise, you have to decide which speech and messages are okay and which are not. And the possibilities are endless.

LEVI: Now let's take the case of interactions within a school or a classroom. A student tells her dean, who is Jewish, that what would make her feel safe in the school would be to "get rid of the Zionists." And a professor at a university tweets in celebration of the Hamas attack, calling it "an extraordinary day" and Israel a "murderous, genocidal settler state."

STONE: I think they can say those things because, again, if you say that they can't, you've got to start asking what other points of view could be punished? And that's an endless inquiry. Once you say that the professor can be punished for tweeting a certain thing because it's offensive, then there's an endless array of tweets that people could say offend them. And that becomes an impossible thing to administer in any kind of appropriate way.

Now, you could say, "No professor can tweet," but that probably would be a terrible idea and unconstitutional. To pick and choose which messages are punishable opens the door to endless discrimination against certain viewpoints rather than other viewpoints. That's not what universities should be doing, and it's not what our government should be doing. There are lots of viewpoints that people find offensive.

For example, 50 years ago, the idea of same-sex marriage would've been regarded as horrendous, and advocating for it would've been terribly disturbing to people. In the civil rights era, anyone in the South who advocated for equal rights for Blacks would've been offending people terribly. And the question is: Could they be punished, consistent with the First Amendment, for advocating for civil rights? And the examples go on and on. The reality is you don't want to go there, and that's partly what the Supreme Court has

learned. The Court, in the beginning, was not very thoughtful about this and allowed the suppression of particular points of view with potentially negative consequences. But over time, the Court realized that creates insanity.

LEVI: Many top law firms in this country signed on to a statement expressing alarm at antisemitic activities on campus and asked law deans to take an "unequivocal stand against these activities" and "to ensure that students understand that this kind of activity and advocacy is not tolerated in the law firm workplace." Some firms have gone so far as to withdraw offers of employment from students who made or endorsed statements that the firm considered antisemitic and presumably would be upsetting to clients or to other members of the firm. What are your thoughts on this?

STONE: Well, law firms have their own First Amendment rights. And they are perfectly free to say whatever they want, including, "We will not hire people who advocate for certain viewpoints" — unless that's prohibited by federal or state law. But that is not the same thing as law firms saying "We won't hire a Jew or a Palestinian." Law firms have the right not to hire based on viewpoint, but they should understand that doing that is not healthy for our society, for academia, or for their firms. And they should, therefore, be much more open-minded about these issues.

Now, one of the problems is the pressure this puts on universities, which are dependent upon outside funding. Donors, whether they be law firms or individuals, may say, "If you do not do what I want, I'm going to stop giving you money." Then the question is to what extent universities should accept that and change their policies to sat- ►

“YOU DON’T WANT TO CREATE AN ENVIRONMENT IN WHICH THERE ARE INSTITUTIONAL BIASES AGAINST CERTAIN POSITIONS BASED UPON SOMETHING OTHER THAN THE MERITS OF THOSE POSITIONS. THAT’S SOMETHING UNIVERSITIES NEED TO TALK ABOUT.”

isfy those donors. That’s a legitimate problem for a university president or a law school dean who doesn’t want to lose that money. But on the other hand, you don’t want donors dictating what you can teach or what you and your students can say. Therefore, it’s important to stand up for that.

This began, really, at the end of the 19th century, when universities began looking for outside funding to a much greater degree than ever before. Outside funders began saying, “I’ll only give you money if you agree not to teach this or not to allow students to say these things.” And that became very problematic. In part it led to the 1915 report of the American Association of University Professors, which strongly, for the first time, advocated for free expression by professors on campuses.

If universities don’t stand up to this, they lose their core goals and values. Part of it, again, is educating people. You want law firms and donors to understand that, if they can pull this off, then so can other people — and in other ways.

LEVI: I think it would be easier to go to a donor and say, “You don’t want to try to exert this kind of pressure because the university houses many points of view.” I think that would be important to a donor. But a lot of donors think that universities have adopted a kind of uniform progressive ideology. Now, that may be a bit — but not be entirely —

unfair. We may be in a period where, for whatever reason, elite universities are more monochromatic in their points of view on politics and policy. And that may put a conservative donor in a pickle because they don’t want to support that ideology. I wonder whether that’s part of the problem here.

STONE: Obviously, donors are free to decide whether or not to give money to a particular institution. I think, again, part of the necessity here is that education is about the importance of allowing free and open discourse. To the extent there is a cancel culture, universities need to resist it and say: “No, that’s not who we are. That’s not what we do.” You don’t want to create an environment in which there are institutional biases against certain positions based upon something other than the merits of those positions. That’s something universities need to talk about. Chicago is very good at this. We spend a significant amount of time with prospective and incoming students, and with incoming faculty, making clear to them who we are, what our values are, and why we think this is the right place to come if you are willing to be completely open-minded and listen to all different points of view.

LEVI: These are difficult topics. As you recognize, some groups have borne an unfair, disproportionate burden of biased or hateful speech. And I think

we would agree that all groups and individuals must be treated the same by the university in its response to such speech. Demonstrating neutrality in divisive times will be a challenge for the university. Further, when this kind of offensive speech is directed at groups and individuals simply because of their membership in those groups, the line-drawing between public discourse and individual threats becomes difficult. We’re so fortunate to have you as a thinker and administrator and scholar. Maybe you’ll help lead us through this thicket to the better place that we need to get to. Thank you.



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The Chicago Principles

IN JULY 2014, the president and provost of the University of Chicago appointed a Committee on Freedom of Expression to articulate “the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.” What follows is the core of the committee’s statement, now widely known as The Chicago Principles.¹ According to the Foundation for Individual Rights in Education, more than 100 universities and colleges have adopted the principles or substantively similar statements. See the full text at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>.

... Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or dis-

agreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.

In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seek-

ing to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.

As a corollary to the University’s commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who

are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago’s long-standing commitment to this principle lies at the very core of our University’s greatness. That is our inheritance, and it is our promise to the future.

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¹ THE COMMITTEE ON FREEDOM OF EXPRESSION AT THE UNIVERSITY OF CHICAGO, REPORT OF THE COMMITTEE ON FREEDOM OF EXPRESSION (2015).