

COLUMBIA UNIVERSITY

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PROVOST-DEAN OF FACULTIES

“Defending the Idea of the University in Troubled Times”

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Over the past several weeks, President Bollinger and others have received a substantial number of e-mails and letters demanding that the University dismiss Professor Tom Paulin who is visiting Columbia from his position at Oxford. A more limited number of e-mails and letters have arrived calling for the University to abandon its recruitment of Professor Rashid Khalidi, a distinguished professor at the University of Chicago's Middle Eastern Studies program. Professor Paulin has been accused of strong and hurtful speech about Middle East politics. Professor Khalidi has also been accused of holding offensive political views. President Bollinger has asked me to respond because although the cases in question involve individuals, the principles involved go to the heart of the role of the University.

We should not forget our own history and look to it for guidance. Periodically, in times of actual or perceived national crisis, Americans have been asked to consider the appropriate balance between the rights of individuals and the need for national security. The Alien and Sedition Acts of 1789, President Lincoln's suspension of the writ of habeas corpus during the Civil War, the Espionage Act of 1917, the internment of Japanese-Americans after Pearl Harbor, and the Smith and McCarren Acts during the McCarthy period all stripped Americans (or some Americans) of some of their most basic civil liberties in the attempt to ensure national security.¹ In each instance, the curtailment of freedoms, which may have seemed necessary at the time, became in very short order almost universally adjudged by the courts, by legislators, by subsequent American Presidents, and by historians and legal scholars to have been excessive and overreaching, unnecessary if not futile, a subject ultimately of national shame and regret.

Universities themselves have certainly succumbed from time to time to these moods of the nation. During the Cold War years of the 1950s, some universities dismissed faculty members for their political beliefs, for their past political affiliations, and for “offensive” speech and publications. And even at

¹ The distinguished constitutional law professor, Geoffrey R. Stone, has recently written on the history of the tension between civil liberties and national security needs and has reviewed the specific history of the cases mentioned here.

universities such as Columbia where professors were not fired, the possibility that universities would bend to external pressures and make political beliefs a litmus test for academic employment had a chilling effect on discussion and research. Today, we are facing similar pressures to silence or influence speech by those who are offended or frightened by its content.

We are all aware of the due process issues raised by the arrest and detention of citizens and non-citizens who have been detained for more than a year without access to legal counsel and, in some cases, without their names appearing in any public record. However, in its effort to increase national security the government has gone well beyond those high-profile cases and has begun to put into place measures that may affect our conduct at universities.

New federal regulations and Congressional legislation, including the USA PATRIOT Act, allow increased surveillance of faculty and students and increased government intrusion into the substance and conduct of research at universities. Here are only three instances. First, on account of their national origin and without any showing that they are risks to national security, foreign students from certain nations must now be denied access to scientific research laboratories that use "selective agents" (biological agents and toxins). Second, in addition to classified research (which most universities refuse to accept), the government has created a new category of research, "sensitive research." There is concern that government-funded research so designated may be subject to government scrutiny and publication of research findings may be impeded or prevented. Finally, new national security legislation gives police and federal agents access to information about faculty and students and permits without prior court order the monitoring and capturing of faculty and student computer records and e-mail.

If these new laws and regulations stand up to judicial review, university faculty and students will have lost some of the degrees of personal privacy and intellectual liberty we now enjoy. Are we prepared to relinquish personal privacy and academic freedom to secure national security? Do these new laws and regulations accomplish that? What effect will they have on the growth of knowledge and on the intellectual environment at universities? These are questions that must be considered by us as individuals and as members of one of the great American universities. At the least, the academic community should not allow these measures to be put into place in silence.

In fact, at moments such as this, debate and other forms of civil conversation should increase rather than decrease. Intellectuals and scholars must engage each other and broader audiences, whether or not they happen to be experts in national affairs, foreign policy, or constitutional law. When the national toleration of dissent and discourse is at its lowest ebb, the voices at universities must be heard, especially the voices of those who have been given special protection to speak without fear of reprisal - the tenured faculty. If I have been struck by anything in the aftermath of 9/11, it is the paucity of public debate

within academic communities over questions of war, of peace, of our responses to terrorism and their effects on our civil liberties.

Universities are unique institutions at which unfettered speech is not only tolerated but also encouraged. When there is civil, yet tough-minded, debate over conflicting ideas, it becomes a critical part of the education of students and faculty in the university community; it becomes a model for discourse in other institutions; and it promotes a true democratic order. For some time now the Supreme Court of the United States has limited the territory of impermissible speech. In *Gertz* (1974), the Court held that “under the First Amendment there is no such thing as a false idea.” The Court explained its position in terms consistent with John Stuart Mill’s views in *On Liberty*. The Court said, “‘however pernicious an opinion may seem, we depend for its correction not on the conscience’ of legislators or judges or voters, ‘but on the competition of other ideas.’”² I don’t think that there is any question that current Supreme Court doctrine protects the speech and writings of Professors Paulin and Khalidi. What is at issue here is perhaps less about “rights” than about the right thing to do in responding as individuals to the ideas of others, and in responding as an institution of higher education endowed with power, not unlike that of government, to reward and punish members of its community.

The mission of a great university in our society is to create and disseminate new knowledge through research and teaching – and to lead debates that have broader implications for people’s values, ethics and behavior. Without freedom of expression, we are doomed to accept received wisdom and current dogma. In our society, the high calling of intellectuals and scholars is to challenge received wisdom, political correctness, and intellectual complacency; to be skeptical about claims of “fact” and “truth”; to question presuppositions and biases of others as well as their own. The growth of knowledge, insight, and understanding is better served through the clash of ideas than through the blind acceptance of dominant ideologies and the silencing of criticism. In fact, without free exchange we cannot distinguish between truth and falsity. Those who believe they can define what speech is “good” or “evil,” what speech is “true” or “false,” and what speech is causally related to specific violent acts taken in other parts of the world are mistaken about their own enterprise. Truth rests less in product and more in process.

Some topics of debate are straight-forward; others are complex and full of emotions, ideologies and fears that are derived from the past, but often reinforced by an unwillingness and anxiety about opening the subject and one’s own mind to the possibilities of alternative explanations. The university is one of the only places in our society that is constructed with these kinds of clashes of

² This quotes an observation made by Geoffrey R. Stone (p. 29) in “Dialogue,” which is a discussion of the history of the First Amendment in Lee C. Bollinger & Geoffrey R. Stone, *Eternally Vigilant. Free Speech in the Modern Era* Chicago, Illinois: University of Chicago Press, 2002.

ideas at the center of its discourse – even though they may cause hurt and hostility. And these clashes are not limited to political and social activities. They extend to scientific and humanistic debate as well. One of the functions of a university is to teach its students the value of tolerating sharply divergent points of view – a lesson that cannot be learned if differences of opinion are not permitted to coexist.

Of course, professors who enjoy the liberty of free and unfettered inquiry and speech also have responsibilities. As the Columbia University Faculty Handbook notes, “they must bear in mind the special obligations arising from their position in the academic community.” These norms enjoin members of the faculty to use the classroom for open discussion and not for purposes of proselytizing or for lectures or discussions in which the power and authority of the professoriate is used to limit discussion to a single point of view.

People who would have us fire or censure professors because of their political opinions and remarks often fail to understand that they are the current beneficiaries of a predominant point of view. But if content and ideology become the basis for hiring and firing decisions at universities, the tables can turn quickly. The moment has never yet failed to arrive when the prosecutors become the prosecuted. People must be able to imagine that their thoughts, beliefs and speech might make them the victims of the unbridled power of the government of a university or of a nation.

In the past, even as many other national institutions gave way, Columbia withstood pressures both from without and within to sanction speech, to enact speech codes or to dismiss professors who expressed controversial political views. Columbia’s defense of its faculty and students is, after all, a defense of its own mission, a mission that we will not abandon today any more than we did yesterday. Columbia’s history of steadfast defense of thought and speech is a source of pride to us today. We trust that in years to come faculty, students, alumni and even those who now find fault will look back on our University’s history of tolerance for difference with that same pride.

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