

ACADEMIC FREEDOM

By Joel Seligman
Remarks at the Jewish Community Center
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There is a story that Harvard Law Professor Alan Dershowitz likes to tell that captures the spirit of many recent debates concerning academic freedom. In 1977, Dershowitz was a member of the Americans for Civil Liberties board and supported its position that neo-Nazis should be allowed to march through the heavily Jewish Chicago village of Skokie, Illinois. He was well aware that Skokie was the home to many Holocaust survivors and that the march would cause enormous pain, particularly for those who had personally experienced the Nazi atrocities. But, as Dershowitz put it: “I issued a challenge to my critics: draft a constitutional law that could be applied against neo-Nazis... that couldn’t also be applied against Martin Luther King marching through Birmingham. No one came up with such a law. ... Censorship laws are blunt instruments, not sharp scalpels. Once enacted, they are easily misapplied to merely unpopular or only marginally dangerous speech.” Well and good, but back in 1977, his mother soon called and pointedly asked: “Alan, whose side are you on? The Nazis or the Jews?”¹

¹ Alan Dershowitz, *Finding Jefferson: A Lost Letter, a Remarkable Discovery, and the First Amendment in an Age of Terrorism* 32, 115, 191 (John Wiley & Sons, Inc. 2008). The Skokie case itself, *Collin v. Smith*, 578 F.2d 1197 (7th Cir. 1978), cert. denied, 439 U.S. 916 (1978), struck down the attempt by Skokie to prevent the march on several grounds including, “there is no justifiable substantial privacy interest to save [the ordinance] from constitutional infirmity, when it attempts by fiat, to declare the entire village a privacy zone” as well as on substantial overbreadth and vagueness grounds.

Dershowitz's principled fear that censorship laws cannot be bounded and inevitably run the risk of doing more harm than good and his mother's more emotional response that it is about "whose side are you on" are the polestars of much of the public debate about freedom of expression in this country, including the ongoing debate concerning academic freedom.

I believe a broad protection of academic freedom is essential to our great universities. This is not because I believe that all that is written or taught at universities is wise, accurate or fair, but because once we permit censorship in any form inside our universities, our ability to base decisions on the merits, to resist political pressures, to avoid intellectual orthodoxy is subverted.

The term "academic freedom" is a catchall, but let me define this term to include a faculty member's freedom in research and publication, freedom in the classroom, and freedom as a citizen to speak or write.² It has always been understood that academic freedom is earned by faculty members through selection processes and often the tenure process and it comes with responsibilities, for example, not to falsify data. Academic freedom is not limited to faculty members, but extends to students and guest speakers invited to the University. I want to explore with you why this freedom should be as broad as it is and the challenges of harmonizing academic freedom with other fundamental values of the University.

The case noted that the ordinance could be applied to criminalize dissemination of *The Merchant of Venice*.

² This articulation paraphrases the much followed American Association of University Professors 1915 Declaration of Principles, 1 AAUP Bull. 17 (1915) and subsequent AAUP statements.

Let me frame this analysis with a discussion of the First Amendment of the United States Constitution as it applies to “mere speech” in contrast to overt acts such as a crime of violence or sexual harassment. The First Amendment states in relevant part: “Congress shall make no law ... abridging the freedom of speech, or of the press...” As the Supreme Court often has reminded us, “[i]f there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”³

The First Amendment applies generally to government and public institutions, including public universities such as those in the State University of New York, but not to private universities like the University of Rochester. All members of the university community are protected from government regulation that violates the First Amendment whether they work for a public or private university. Internal decisions by school administrators at a public university remain subject to the First Amendment, but not those at a private university. By contract, however, the University of Rochester and virtually every leading private university have adopted concepts of academic freedom similar to those developed by the courts under the First Amendment. Over time the distinction between public and private universities with respect to academic freedom has diminished. Many leading universities, public and private, support the American Association of University Professors principles of academic freedom.

The First Amendment, however, is not an absolute right. There was no serious doubt when it was adopted or since then, for

³ Texas v. Johnson, 491 U.S. 397 (1989).

example, that the First Amendment does not prohibit laws that make it illegal to commit fraud⁴ or engage in libel or slander.⁵

Indeed, until well into the 20th century, much of the history of the First Amendment was the history of a law which seemed to have much less effect in limiting state or federal laws that abridged free speech than is popularly believed today. This history powerfully teaches why the broad protections that today are associated with the First Amendment are so necessary.

In 1798, just seven years after the enactment of the First Amendment, Congress adopted the Alien and Sedition Acts,⁶ which made it a crime to “write, print, utter or publish... any false, scandalous, and malicious writing or writings against the government of the United States, or either house of the Congress...or the President... with intent to defame... or to bring them, or either of them, into contempt or disrepute.” There was a defense of truth, but the law was broadly condemned by future Presidents Jefferson and Madison for its exclusive enforcement against members of their political party.⁷

During the Civil War, Abraham Lincoln suspended the writ of habeas corpus during the emergency of the early days of the Civil War, as he explained: “Are all the laws, but one, to go unexecuted, and the government itself to go to pieces, lest that one

⁴ See generally, Louis Loss & Joel Seligman, *Fundamentals of Securities Regulation* (5th ed. Aspen 2004).

⁵ Cf. *New York Times v. Sullivan*, 376 U.S. 254 (1964) (A public official may only recover damages from a defamatory falsehood related to his official conduct when he proves that the statement was made with “actual malice,” that is, with the knowledge that it was false or with reckless disregard of whether it was false).

⁶ 1 Stat. 596.

⁷ See, e.g., *New York Times v. Sullivan*, 376 U.S. 254 (1964).

be violated.”⁸ It proved impossible to limit the suspension purely to a wartime emergency. Between August 8 and September 8, 1862, for example, 354 civilians became prisoners of war, without due process of law, for conduct including publishing newspapers that discouraged enlistment or saying that Abraham Lincoln was a “damned fool.”⁹

At the time of the First World War and later, there were numerous deportations and arrests made to prevent the expression of unpopular opinions. On January 2, 1920, for example, approximately 10,000 citizens and immigrants were rounded up in a “Palmer Raid” named for then Attorney General A. Mitchell Palmer. Many were Russians and East Europeans who were active in labor unions and at the time viewed as threats to national security.¹⁰

It was against the backdrop of the Palmer Raids that modern formulations of the core protections of the First Amendment emerged from a series of judicial decisions and dissents written by Justices Oliver Wendell Holmes, Jr. and Louis Brandeis.

In *Schenck v. United States*,¹¹ Justice Holmes, writing for the majority, upheld a conviction under the Espionage Act of June 15, 1917, which proscribed causing insubordination in the military services, when a defendant circulated a pamphlet opposing World War I to persons called and accepted for military service. Memorably, Holmes wrote: “The question in every case is whether the words used are used in such circumstances and are of

⁸ See William H. Rehnquist, *All the Laws But One: Civil Liberties in Wartime* (Alfred A. Knopf 1998).

⁹ See Mark E. Neely, Jr., *The Fate of Liberty: Abraham Lincoln and Civil Liberties* (1991).

¹⁰ Dersowitz, *supra* n. 1, at 99-100.

¹¹ 249 U.S. 47 (1919).

such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent.” He offered a famous illustration of this point: “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic.”

Soon Holmes and Brandeis became “the great dissenters” because of their unwillingness in subsequent cases to allow imprisonment or sanction for mere belief.

In *Abrams v. United States*,¹² Holmes dissented from a 20 year sentence for the author of two leaflets that accused the President of cowardly silence about the intervention in Russia which was said to reveal the hypocrisy of the plutocratic gang in Washington. Holmes memorably wrote:

But when men have realized that time has upset many fighting faiths, they may come to believe... that the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get accepted in the competition of the market... That at any rate is the theory of our Constitution. ...I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country.

In *Whitney v. California*,¹³ Justice Brandeis dramatically amplified this theme:

¹² 250 U.S. 616 (1919).

¹³ 274 U.S. 357 (1927).

Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. ... To justify suppression of free speech there must be reasonable ground to fear that serious evil will result if free speech is practiced. There must be a reasonable ground to believe that the danger apprehended is imminent. There must be a reasonable ground to believe that the evil to be prevented is a serious one. ... even advocacy of violence, however reprehensible morally, is not a justification for denying free speech where the advocacy falls short of incitement and there is nothing to indicate that the advocacy would be immediately acted upon.

From this line of cases evolved fundamental principles of the modern First Amendment – that the Amendment applies to the states as well as the Federal government;¹⁴ “that the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;”¹⁵ that the First Amendment itself must be content neutral and generally not discriminate on the basis of the substance of what is communicated.¹⁶ The Fourteenth Amendment further provides that there must be equal protection of the laws. Our concepts of freedom of expression cannot favor or disfavor any race, any gender or any nationality.

The Supreme Court subsequently has addressed how this broad protection of speech can be harmonized with hate speech or hateful conduct.

¹⁴ *Gitlow v. New York*, 268 U.S. 652 (1925).

¹⁵ *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

¹⁶ *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992); *Virginia v. Black*, 538 U.S. 343 (2003).

In *R.A.V. v. City of St. Paul*,¹⁷ a 1992 decision involving a public cross burning, the Court held unconstitutional a municipal ordinance which provided: “Whoever places on public or private property a symbol, object, appellation, characterization or graffiti including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender commits disorderly conduct and shall be guilty of a misdemeanor.” The Court majority emphasized: “The First Amendment does not permit St. Paul to impose special prohibitions on those speakers who express views on disfavored subjects.”

Three years earlier, in *Texas v. Johnson*,¹⁸ a narrow majority of the Court reversed a conviction for burning the United States flag during a protest at the 1984 Republican National Convention. Justice Brennan wrote for the Court:

[O]ur toleration of criticism such as Johnson’s is a sign and source of our strength. ... The way to preserve the flag’s special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong. ... We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom this cherished emblem represents.

Will foolish and wrong-headed ideas be communicated under this broad conception of freedom in our country? Inevitably. Will there be insensitive and belligerent assertions? There should be no doubt. Our First Amendment protects words and images that some will consider obscene, vicious, or immoral.

¹⁷ 505 U.S. 377 (1992).

¹⁸ 491 U.S. 397 (1989)

But the freedom that the First Amendment guarantees is among our most powerful bulwarks against tyranny, against enforced belief, against limitations on multiple party democracy. In this country, there is no national party line or national religion. The First Amendment ensures that all viewpoints are welcome. Once censorship is permitted, this bulwark is eroded. It has proven impossible as a matter of history to prevent unpopular beliefs from becoming illegal ones. Few people have far more familiarity with this tragic inevitability than those of the Jewish faith. Freedom of expression protects all of us.

In protecting freedom of expression, the University has a special place. As New York University President John Sexton has written, “our universities are modern sanctuaries, the sacred spaces sustaining scholarship, creativity and learning. ... What makes these sanctuaries special is the core commitment to free, unbridled and ideologically unconstrained discourse in which claims of knowledge are examined, confirmed, deepened or replaced.”¹⁹

It was in this spirit that academics from 15 leading universities met in 1915 after a number of professors had been fired from their universities because of their beliefs on such issues as free silver. In adopting the Declaration of Principles that have been the foundation of academic freedom since then, their Report urged: “An inviolable refuge from ... tyranny should be found in the university. It should be an intellectual experiment station, where new ideas may germinate and where their fruit, though distasteful to the community as a whole, may be allowed to ripen until finally, perchance, it may become part of the accepted intellectual food of the nation or of the world.”²⁰

¹⁹ John Sexton, *The University as Sanctuary*, remarks at Fordham University, Feb. 17, 2004.

²⁰ AAUP, 1915 Declaration of Principles, 1 AAUP Bull. 17.

Today the ability of the university to engage in largely unfettered teaching, research, and scholarship is all the more important in a culture so often lacking in nuanced dialogue, where public discourse frequently dissolves to sound bites and contentious commentators. The university, in contrast, provides a space for tolerance, for discussion, for learning, even from those with whom we most ardently disagree.

Academic freedom is the most unfettered with respect to our faculty in the classroom and in their research and writing. With very few limits, they must be assured that their right to teach, including on matters of controversy, to research and to publish, is not restricted. A university fails if it adopts concepts of orthodoxy or of party line that it attempts to impose on its faculty, or for that matter, its students or staff. Not just the Supreme Court, but the very purpose of the university requires that faculty be allowed to have the broadest possible freedom to join or not join associations or political parties and to hold whatever political views or beliefs they choose.²¹ In 1967, the United States Supreme Court wrote:

²¹ See, e.g., *Branti v. Finkel*, 445 U.S. 507 (1980). The United States Supreme Court has emphasized this theme repeatedly. See *Sweezy v. New Hampshire*, 354 U.S. 234 (1957) (reversing a contempt judgment against a professor who refused to answer the state Attorney General's questions concerning a lecture that he delivered at a state university); *Shelton v. Tucker*, 364 U.S. 479 (1960) (invalidating a state statute that compelled public school and college teachers to reveal all organizational affiliations or contributions for the previous five years); *Griswold v. Connecticut*, 381 U.S. 479 (1965) (characterizing as penumbral constitutional rights "the right to read and the freedom of inquiry, freedom of thought and freedom to teach – indeed the freedom of the entire university community").

Our nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. The freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. The classroom is peculiarly the “marketplace of ideas.” The Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth “out of a multitude of tongues, [rather] than through any kind of authoritative selection.”²²

As recently as June 2007 when the Supreme Court struck down the ability of K-12 public schools to take race into account in designing voluntarily adopted school assignment plans, Chief Justice Roberts recognized that universities could continue to do so, referring to “considerations unique to institutions of higher education,” specifically “the expansive freedoms of speech and thought associated with the university environment,” and concluding that “universities occupy a special niche in our constitutional tradition.”²³

Difficult cases, however, have pitted a professor’s academic freedom against the academic freedom of the university itself. Recent decisions, for example, have rejected a professor’s claimed right only to teach certain classes²⁴ or disciplined a professor for

²² *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

²³ *Parents Involved in Community Schools v. Seattle Sch. Dist. No. 1*, 127 S. Ct. 2738 (2007). Earlier in *Grutter v. Bollinger*, 539 U.S. 306 (2003), Justice O’Connor used these principles as the basis for her holdings that a law school could take diversity into account because of “the educational benefits that diversity is designed to produce.”

²⁴ *Webb v. Board of Trustees of Ball St. Univ.*, 167 F.2d 1146 (7th Cir. 1999).

using profane and vulgar language that the university characterized as creating a “hostile learning environment.” The court agreed: “Plaintiff may have a constitutional right to use [such] words, but he does not have a constitutional right to use them in a classroom setting where they are not germane to the subject matter.”²⁵

But when a professor has challenged a university’s right to discipline her or him for the type of thought typically protected by the First Amendment, the courts have remained highly protective. In 1990, in *Dube v. State University of New York*,²⁶ for example, a former assistant professor alleged that he was denied tenure in part because he taught a course that discussed three forms of racism: Nazism in Germany; Apartheid in South Africa; and Zionism in Israel. The court held that Dube was entitled to his day in court to attempt to prove that was the basis for his failure to earn tenure and not as SUNY claimed, his academic record. “We... conclude that, assuming the defendants retaliated against Dube based upon the content of his classroom discourse, such conduct was, as a matter of law, objectively unreasonable.”

Similarly, in *Starsky v. Williams*,²⁷ an Arizona State University faculty member who appeared on television to criticize the state board of regents was held not to be subject to sanction by the University because “plaintiff spoke or wrote as a private citizen on a public issue, and in a context apart from his role as faculty member.”

The protection of faculty members in their role as private citizens generally extends also to students and university administrators and staff. In *Tinker v. Des Moines Independent*

²⁵ *Bonnell v. Lorenzo*, 241 F.2d 800 (6th Cir. 2001).

²⁶ 900 F.2d 587 (2d Cir. 1990).

²⁷ 353 F. Supp. 900 (D. Ariz. 1972, aff’d in relevant part, 512 F.2d 109 (9th Cir. 1975).

School District,²⁸ for example, the United States Supreme Court in 1969 held that high school students could not be suspended from their school for wearing black armbands to protest the government's Vietnam War policy. The Court explained that: "First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students" and that students "are possessed of fundamental rights which the state must respect..."²⁹ On several occasions, lower courts have struck down campus hate speech codes directed in part at students who engage in behavior that "stigmatizes or victimizes an individual on the basis of race, ethnicity, religion, sex, sexual orientation, creed, national origin, ancestry, age, marital status [or] handicap."²⁹ It has proven difficult to design such codes without the risk of overbreadth or vagueness that can lead to stifling unpopular speech or views. To be sure, student freedom is not unbounded. In a 2007 United States Supreme Court case, again involving high school students, the Court upheld the suspension of a student who displayed and refused to take down at a school approved event a banner reading "Bong Hits 4 Jesus" on the ground that it violated school policy against displaying material that advertises or promotes use of illegal drugs.³⁰

Not everyone in the university community enjoys the same protection as the faculty. A university president does not have

²⁸ 393 U.S. 503 (1969).

²⁹ Quoting *Doe v. University of Michigan*, 721 F. Supp. 852 (E.D. Mich. 1989). See also *UWM Post, Inc. v. Board of Regents of Univ. of Wis. Sys.*, 774 F. Supp. 1163 (E.D. Wis. 1991) (striking down campus hate speech regulation on overbreadth and vagueness grounds); *Iota Xi Chapter of Sigma Chi Fraternity v. George Mason Univ.*, 993 F.2d 386 (4th Cir. 1993) (prohibiting University from imposing sanctions on a fraternity that staged a racist "ugly woman contest").

³⁰ *Morse v. Frederick*, 127 S. Ct. 2618 (2007).

tenure in her or his role as president and reasonably can be expected not to articulate views at odds with the core values of the university. At the University of Rochester, these include commitments to academic excellence, academic freedom, diversity, and the community. As a private citizen, a university president enjoys the right to disagree with these values and even as a faculty member is protected in making provocative or controversial statements inconsistent with core values. But a Board of Trustees is not required to continue the employment of a university president as president who takes positions fundamentally at odds with the values on which the university operates. New York University president John Sexton urges circumscription that goes further. “I believe,” he has written, “it is essential for the University’s leader generally to refrain from expressing views publicly on any issue that is not centrally related to the core mission of the institution; to do otherwise... would compromise the moral authority of the presidency in the forum and undermine the credibility of the leader’s commitment to the role as guardian of that dialogic space.”³¹

Sexton recognizes, as do I, that some of the most difficult issues concerning the University involve who should be invited to speak as guests at the University. In one illustration, Sexton hypothesized that a faculty member or club invites a panel to discuss a controversial issue such as the Arab-Israeli conflict and includes a speaker “who contends that Arabs and Palestinians have turned to violence to empower themselves and that, in this context, the attacks of September 11 are at least explainable.”³² Predictably the university president would receive thousands of phone calls and e mails protesting the invitation and urging that the speaker be banned. I agree with Sexton that banning the speaker would be wrong. To be sure there would be threats of withdrawal of

³¹ Sexton, *supra* n.19, at 10.

³² *Id.* at 13.

financial support and many would be understandably hurt or alienated by these views. But the core principle of the university must be adherence to being a forum for inclusion in this type of discussion. To censor any one speaker, we would begin a process which would inevitably weaken our ability to be a forum for civil discourse and lead us down a path of censorship in which the risk of intellectual orthodoxy is real and potentially could lead to the heavy hand of political or other pressures deteriorating over time a faculty member or student's ability to think, teach, or learn.

Sexton provides a counter-hypothetical. The university president is sponsoring a program and a member of a steering committee has proposed the same controversial speaker. Here the issue is not one of censorship, but of selection. In this context, where the university's imprimatur is implied, "judiciously refraining from being provocative at times will be appropriate."³³ When the university president sends out an invitation to speakers, there is typically an expectation that the program will be balanced.

I would go further. There is a reasonable expectation that a university president should not align herself or himself with a political party but work to build a community in which representatives of political parties generally feel welcome. This same communitarian concept underlies the university's commitment to diversity. Given the fundamental values of the University of Rochester, I have a personal responsibility not only to protect academic freedom but simultaneously to protect our community's ability to welcome all regardless of race, gender, national origin, sexual orientation, or disability.

At times, there will be tension between academic freedom and supporting a diverse and inclusive community.

³³ Id. at 14-15.

Recently, the University of Rochester confronted an unusual case where this tension was strikingly evident. On January 7 of this year, Arun Gandhi published on the *Washington Post* internet site, “On Faith,” a statement that criticized Jewish identity as being “locked into the holocaust experience” and concluded that “[w]e have created a culture of violence (Israel and the Jews are the biggest players) and that Culture of Violence is eventually going to destroy humanity.”

When he wrote these words, Gandhi was not a member of the University of Rochester faculty or an employee. He was president of the M.K. Gandhi Institute for Non-Violence that the University had supported for several months by providing space in our library and paying the part-time salaries of its two employees.

On January 10, the *Washington Post* published Gandhi’s apology for what he termed his poorly worded post. He stated in part that “I do not believe and should not have implied that the policies of the Israeli government are reflective of the views of all Jewish people.” He further noted that the “suffering of the Jewish people, particularly in the Holocaust, was historic in its proportions.”

I wrote to the University community the next day that “I was surprised and deeply disappointed by Arun Gandhi’s recent opinion piece. ... I believe that his subsequent apology inadequately explains his stated views, which seem fundamentally inconsistent with the core values of the University of Rochester.” In particular, I vehemently disagreed with his singling out of Israel and of the Jewish people as being the “biggest players” responsible for the “Culture of Violence” that he believes is eventually going to destroy humanity. “This kind of stereotyping is inconsistent with our core values and would be inappropriate when applied to any race, any religion, any nationality, or either gender.”

I subsequently issued a statement after Arun Gandhi resigned from the Institute on January 24 indicating that I believed his resignation was “appropriate.”

The question can be fairly put, how can I harmonize that position with my commitment to academic freedom?

I do so on two grounds. First, if Gandhi had not resigned from the M.K. Gandhi Institute, the Institute in all likelihood could not have functioned at our University. A few days before Arun Gandhi resigned, our Faculty Senate had unanimously adopted a resolution that stated: “We find the religious, ethnic, racial, and cultural stereotyping fundamental to his statements offensive, aggressive, and in direct conflict with our core values and those of the University, and therefore unacceptable.” It was by then clear that several faculty members who previously had indicated an interest in working with the Institute had no intent to do so if Arun Gandhi remained associated with it. I received several hundred e mails and letters, some from students who previously had expressed interest in the Institute, who now also would not continue to participate.

The Institute itself then and now involves University staff, some faculty and students who did not support the statements uttered by Arun Gandhi that were the cause of the controversy. I was aware that when he resigned there would be the opportunity for the M.K. Gandhi Institute to continue and this struck me as appropriate given the historical significance of M.K. Gandhi and the reality that no one associated with the Institute bore responsibility for the statements in question other than Arun Gandhi.

For me, however, the fundamental reason I expressed the view that his resignation was “appropriate” was one of principle. There is a reasonable expectation that when a faculty member

speaks, he or she is speaking as a faculty member and not for the entire University. Her or his academic freedom will not be compromised even when the professor makes provocative or outrageous statements.

The position of the president of an institute supported by the University, however, is different than that of a faculty member. An institute president no more has tenure in that role than the president of the university itself. There is a reasonable expectation that a university will only provide support to institutes or centers that are consistent with its core values. Clearly I viewed the M.K. Gandhi Institute in that vein. Its mission was represented to me as being to “promote harmony in our communities.” The statements of Arun Gandhi, far from promoting harmony, stigmatized an important part of our community, eroded respect and support for the University itself, and created the appearance that the University supported these statements.

Does this mean that Arun Gandhi has lost his freedom of speech or academic freedom at the University of Rochester? Clearly, as a citizen in this country, he has the right to speak on any issue of his choosing and this right is not affected by his resignation.

Equally clearly, he can be invited by students or faculty to participate in events at the University as I would generally support the right of virtually any guest. He recently, in fact, did participate in a student run event at the University and on April 24 will participate in a forum at the University that I will host on “How People of Differing Faiths and Across Differing Cultures Can Discuss Issues with Potential for Misunderstanding and Hurt” that will also include panelists Bishop Matthew Clark, Larry Fine, Imam Muhammad Shafiq and Reverend Dr. Denise Yarborough.

Justice or academic principle can not favor one side or another but must be applied equally to all. Equal protection of academic freedom is the ultimate protection we afford to all points of view. Within the university, the broadest possible freedom of expression must be protected, even when experience and principle teach us that this protection can not be absolute. To be sure, universities, like all social institutions, are imperfect, but they endure as a great hope for all of us that by preserving a space for the wisest thought, open dialogue, and reasoned debate, society itself will progress.