

Practicing What We Preach



ONE OF THE HARDEST challenges for a free-speech advocate is to hold to your principles when speech you encounter hurts you to your core. That's where the rubber meets the road. As an observant Jew and a committed supporter of Israel, I personally struggle the most with my own reflexive "hey, you can't say that!" reaction when it comes to antisemitic and anti-Israel speech, which often overlap. Those are the moments when I most understand the urge to cancel speech and speakers whose odious ideas feel, in real ways, to be personally threatening.

Ultimately, though, I believe deeply in the right to free speech — including deeply offensive speech — because I believe that it promotes freedom and tolerance. Censoring words and ideas because they are hateful gives them far more power than allowing them to be aired in the marketplace of ideas. No one captures this idea

more eloquently than author and scholar Jonathan Rauch, who argues, "The answer to bias and prejudice is not to try to legislate bias and prejudice out of existence or to drive them underground, but to pit biases and prejudices against each other and make them fight in the open. That is how, in the crucible of rational criticism, superstition and moral error are burned away."

While Rauch focuses on the importance of unfettered debate and discussion, including hate speech, to the struggle for gay rights, we can apply the same ideas to antisemitic and anti-Israel speech. Punishing such speech can have the unintended consequence of strengthening its impact.

Aryeh Neier, whose family fled from Nazi Germany to England when he was an infant, was the executive director of the ACLU when that organization defended the right of a Nazi group to hold a demonstration in Skokie, Illinois, which at the time was home to a large number of Holocaust survivors. In a 2016 interview, Neier explained that the efforts to censor the Nazis' planned demonstration gave them much more publicity than the march itself: "When they finally were permitted to march in Skokie, they never turned up.... And then the little group of Chicago Nazis seemed to dissolve and wasn't heard from again."

As for why he believed that the Chicago Nazis were entitled to free speech, Neier wrote: "It is dangerous to let the Nazis have their say. But it is more dangerous by far to destroy the laws that deny anyone the power to silence Jews if Jews should need to cry out to each other and the world for succor."

Research illuminates a clear gap between support for the idea of free speech and support for its reality, which requires individuals to contend with speech that may personally offend them. This seems to be increasingly true among college students. A recent Knight Foundation study found that 84 percent of college students agreed that "free speech rights are critical in our democracy," yet only 59 percent of them agreed that "college campuses should allow students to be exposed to all types of speech even if they may find

it offensive or biased.” Between 2016 and 2022, the percentage of students who felt that free-speech rights in America were secure declined from 73 to 47 percent, while the percentage of those saying that their institution stifled free speech rose to 65 percent from 54. Without a culture that robustly supports the right to speak freely and even offensively, the principle will wither away.

An important corollary of free speech on college campuses is academic freedom, which the American Association of University Professors (AAUP) defines as “the freedom of a teacher or researcher in higher education to investigate and discuss the issues in his or her academic field, and to teach or publish findings without interference from political figures, boards of trustees, donors, or other entities.” Most universities — even private institutions not legally bound by the First Amendment — have policies guaranteeing faculty members the right to academic freedom.

Despite these alleged protections, faculty face an increasing risk of punishment for speech and even for research that conflicts with the dominant ideology at their institutions. A March 2022 report from the Foundation for Individual Rights and Expression found that in 2021 there were 111 attempts to target faculty for their constitutionally protected speech and research, compared with just 30 such attempts in 2015. And these are just the efforts that were public enough to document. My experience as an attorney who defends free speech in higher education leads me to suspect that the actual number is much higher than that, since many of these cases are resolved quietly before they become public.



Students voicing support for Israel on campus are suffering mightily in the current environment, as the frequent targets of efforts to shut speech down. Rather than responding by engaging in similar tactics to prohibit anti-Israel speech, it is precisely these students who should be standing up for the principle of free speech. They,

Research illuminates a clear gap between support for the idea of free speech and support for its reality, which requires individuals to contend with speech that may personally offend them.

and we, must resist the hypocrisy of “free speech for me, but not for thee.”

Attempts to shut these students down are by now well known. Supporters of Israel are demonized and marginalized, sometimes banished from membership in campus organizations. Those who serve in student government have been harassed and even impeached. The U.S. Department of Education is currently investigating a complaint from Rose Ritch, a Jewish student at the University of Southern California, that the school ignored hostility toward Jewish students in violation of federal anti-discrimination laws. Ritch had resigned as vice president of USC’s student government, citing health and safety concerns after relentless bullying over her support for Israel. Similarly, in 2021, a Jewish member of the student government at Tufts University faced an impeachment campaign over his support for Israel, while other university student governments have refused to recognize pro-Israel student organizations. Events featuring pro-Israel speakers or viewpoints are routinely disrupted at universities around the country, including the University of Virginia, the University of Texas, the University of Chicago, UC Irvine, and many more.

Defenders of illiberal and disruptive efforts like these often justify their behavior with the principle of “anti-normalization,” which argues that even engaging in debate and discussion with

There simply is no principled way to support pro-Israel speech without also tolerating anti-Israel speech.

supporters of Israel should be disallowed because it legitimizes pro-Israel positions. This type of principle is simply incompatible with a free society.

Those of us who believe in freedom and who defend the right of pro-Israel students to express their views must take the difficult tack of also arguing for the very same rights for those who criticize and even condemn Israel. If the principle of free speech is to survive, it has to be authentically applied to all sides. Unfortunately, several high-profile incidents in recent years suggest that pro-Israel students and their allies are failing the free-speech test, calling for censorship and cancellation of ideas they find offensive and dehumanizing.

One of the most high-profile cases was that of Professor Steven Salaita. In 2014, the University of Illinois Urbana-Champaign (UIUC) withdrew its job offer to Salaita after he posted offensive tweets about Israel that drew the attention of UIUC donors, students, and parents. UIUC's justification for withdrawing Salaita's job offer—after he had already given up his previous job and moved his family—was that the school could not tolerate “personal and disrespectful words or actions that demean and abuse either viewpoints themselves or those who express them.” Salaita sued the university and ultimately obtained a large settlement. This did not, however, prompt UIUC to distance itself from the broader, illiberal speech policy it had established in order to rescind Salaita's job offer.

Some prominent supporters of Israel in academia supported

UIUC's decision. Among the most surprising was Cary Nelson, the former president of the AAUP, one of the principle defenders of professors' academic freedom. Critics accused Nelson of hypocrisy, arguing that “he would not say the same thing about an Israeli making statements that were hyperbolic about Palestinians.” (In fairness to Nelson, the AAUP itself has also been accused of hypocrisy on issues of academic freedom at times.)

Supporters of Israel have continued to demand that Salaita be treated as a pariah. This past spring, Jewish students at Virginia Tech demanded that the university rescind a speaking invitation to him, claiming that the university “failed to provide a safe and inclusive environment for minority students by inviting that speaker.”

This approach is a mistake. Pro-Israel students (and the organizations and funders who often support their efforts) must avoid falling into the same censorship traps that are so often used to try to silence and deplatform them. If they want their own views to be safely expressed and heard, they must stand up for the principle of free speech itself. Once a policy like UIUC's is in place, it's only a matter of time before it is used to silence pro-Israel voices, which will be accused of being disrespectful of the Palestinian perspective. There simply is no principled way to support pro-Israel speech without also tolerating anti-Israel speech.

While many Jewish students and their supporters were outraged when schools such as Tufts and Williams refused to recognize pro-Israel student groups, too many of them stood silent—or even cheered—when Fordham University refused to recognize a chapter of Students for Justice in Palestine (SJP). While Fordham's student government had voted to approve the group, the dean of students reversed the decision, stating that he “cannot support an organization whose sole purpose is advocating political goals of a specific group, and against a specific country” and that “the Israeli-Palestinian conflict... often leads to polarization rather than dialogue.”

The dean of students' decision led to a lengthy legal battle. SJP sued, and a New York State trial court ordered Fordham to

recognize the group; this was then overturned by an appellate court. During that legal battle, attorneys from some Jewish groups, including the Zionist Organization of America and StandWithUs, filed amicus briefs in support of Fordham.

Distress over the prevalence of antisemitic speech (and much anti-Zionist speech is also antisemitic) on campus is completely understandable. But it's also the case that the Fordham dean's rationale for refusing to recognize SJP—"an organization whose sole purpose is advocating political goals of a specific group, and against a specific country"—could just as easily be used to deny recognition to certain pro-Israel student groups.

So why this blind spot? In part, the impulse to demand that antisemitic speech be shut down comes from an appropriate sense that universities tolerate awful speech about Jews and Israel that they would never tolerate about other minority groups—and that this itself is a symptom of antisemitism. Defending the firing of Salaita, for example, Liel Leibovitz wrote in *Tablet* that "anyone still wondering whether Salaita ought to have a teaching job should play the parlor game of reading his tweets and replacing references to Jews and Israelis with blacks, gays, or women."

I think Leibovitz's hunch is right—that those who rushed to Salaita's defense would likely have been the first to call for his ouster if his speech had been about any minority group other than Jews. Professor Judith Butler, for example, signed a letter demanding that UIUC reinstate Salaita, but she has been on the record elsewhere as suggesting that the right to free speech should take a back seat to "Title IX, the Equal Protection Clause," and even "the Berkeley Principles of Community."

There may very well be a double standard at play. But even this cannot allow us to stray from our principles. We must oppose and call out double standards while calling for *more* speech to be permissible, not less—in other words, standing up loudly in defense of the right to free speech for ourselves, and for those who criticize and even insult us. If we cannot stand on principle,

then we lose credibility when we ask others to do so. And we erode the very values that will ensure our own rights are there when we most need them. *