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It's good to see so many friends. We've moved around a lot, from Pennsylvania to Minnesota and Texas, and now California, and I'm seeing many friends here; it reminds me of all the congregations we've joined over the years and paid our dues in a dutiful manner. I've been a Californian officially for about 30 days now. Judy and I also went to Saudi Arabia just before that, don't ask, they had a pressing need for a Jewish speaker. I'm trying to decide whether Saudi Arabia or California is the more exotic environment in which to live.

The topic I want to discuss today is freedom of speech on university campuses. It's a matter to which I've devoted considerable attention as a law professor and legal scholar. It's also something that has occasionally come up in my work as a university official. Specifically, I was going to talk about, although we can change the parameters during the question and comment period, about invitations to outside speakers where they use campus forums to engage in hateful speech, and specifically, when they engage in anti-Semitic speech, speech that we read about all the time, people who are Holocaust deniers, people who want to erase Israel from the face of the earth, and I don't mean just politically erase it, they mean to erase the whole people of Israel. It's generally what I would describe as infuriating and discriminatory and enraging speech, usually by a small group.

I'll address this from two angles that reflect the schizophrenia of my life, first, as a Jewish man who is admittedly active in Jewish causes, married to Judy Yudof and therefore I have to be loyal to Jewish causes, and a strong defender of Israel. I've made no bones about that. And second, as a constitutional law scholar who has taught constitutional law for many, many years, and as a university president.

Now, as a Jewish man, when I hear anti-Semitic speech, it is personally abhorrent to me. But that doesn't completely capture my reaction. What I try to tell people, and maybe it's because many people don't believe anti-Semitism exists, I say, "Well, you're not upset by this speech, you think they're a bunch of lunatics engaging in anti-Semitic speech. But think if the Grand Dragon of the Ku Klux Klan showed up on a major public university campus and gave a hateful speech, a racist speech, how would African Americans feel on that campus?" They might understand all the free speech principles, and they might understand a lot, but to say, "This is terrible speech" wouldn't totally capture the emotions of African American students and faculty and staff confronted with that sort of speech.

That's sort of the way it is, I think, for me and for many of the people in this room. It's speech that has an amazingly discriminatory impact. It's speech that makes students feel less welcome. And the students are smart. If there's anything I've learned over the years, it's that you should not underestimate students' ability to learn things and to adapt and all the rest. They understand that it may just be a small group that has invited a particularly abhorrent speaker, that it doesn't represent the whole campus, all students, certainly it doesn't represent the administration. But for them, it is abhorrent; it does make their life more difficult. Again, it would be like the Ku Klux Klan speaker or perhaps some speaker with a racist orientation who wanted to seal off America's borders and the impact that would have on Latino students who are on that campus.

On the other hand, I'm also a constitutional law scholar; that means I taught it a lot and lost a couple of major cases, that's what it means to be a scholar. And the question is: How do you deal with it in those constitutional terms? The law is actually relatively clear on what

public universities, and American government as a whole, can and cannot do. The First Amendment bars us from censoring or otherwise impeding the public forums on university campuses that have been voluntarily established on the basis of the content of their remarks. So you can have "time, place, and manner." You're not entitled to have a bullhorn next to the calculus class. Someone who's engaged in a riot or insurrection, you can put that down. You may have some orderly processes that not everyone can demonstrate at once if there's not enough room. But you cannot on the whole make decisions based upon the content of the speech.

That has always been a nettlesome principle for many people. I understand that fully. If you're a taxpayer, you're saying, "My taxes helped pay for that public university. That bullhorn may have been purchased with public funds. That grass is mown by public employees. Those buildings are air-conditioned or heated at public expense." But that is the law of the land. And this is a specific context, and by the way, this is where it typically arises: normally, it's a student group that invites these speakers that are so controversial. It's not always the case. The question then is that the administration has made a decision to allow student groups to invite and sponsor outside speakers, and then all of a sudden, you have the Reverend Farrakhan or someone else who's been invited, now what does the administration do about it? It's not perhaps someone they would have invited on their own initiative.

My own view, which is not shared by all constitutional law scholars, is that the campus could decide not to allow any outside speakers to be invited by student groups. I think that's the drift of the current law. But that is really unacceptable in policy terms. When you have a campus, you really want to have a diverse marketplace of ideas. You don't want to shut it down. You understand these are young people. You understand they get exuberant. But you also understand that a campus should be a vibrant intellectual place for the students and for the faculty and the staff. When you want a thousand flowers to grow, there are always some weeds out there, and these are some of the weeds and some of the problems.

I also think, from a Jewish perspective, censorship is not the way of the people of the Book. I just say that flat out. If there's ever been a people in the history of humankind that have benefited from the First Amendment protections of free exercise of religion and of limits on an established state religion, which obviously wouldn't include Jews, and have ever benefited from freedom of the press and freedom of speech, it is the Jewish people in this country. This is not a principle that we should take lightly and should seek to undo lightly.

I should mention that private universities are not strictly bound by the Constitution. I could explain to you why, but I don't want to put you to sleep. They're not bound by the constitutional term. As Ronald Reagan once said, they pay for the microphones, and they have jurisdiction over who can use them. But I should tell you that great American private universities all abide by these same First Amendment standards. If you're looking at a place like Stanford or the University of Chicago or Columbia or Vanderbilt or Emory or countless others, you find that they have voluntarily adopted these First Amendment principles where they allow outside speakers on the campus and where they do not seek to sort them by content and to disallow some speakers from using that particular forum.

A high-profile example of that occurred at Columbia University. You might remember this episode. The Iranian president was invited to speak at Columbia University – I say "Iranian president" because I can't pronounce his name – I don't even remember who invited him. I'm pretty sure it wasn't President Bollinger. It may have actually been a dean or something, I'm not sure it was a student organization, that's my recollection. Anyhow, the president wakes up one morning, and it's like this: You're very existential as the president

of a university. When you come in in the morning, anything that can happen may happen that day, murder, arson, medical school selling body parts, Japanese gangsters getting liver transplants, you just never know, people hanging out in trees who don't want to get out of the trees. So he came in, President Bollinger, one morning to discover he had the president of Iran coming. You can understand once that invitation has been issued and accepted, it's very hard to turn around and say, "We changed our mind. We don't like you." And obviously, it is overtly content-based if you do that.

And of course, this guy, we've all kept up with him, is somewhat of a strange fellow, a dangerous strange fellow. We probably have more evidence of the Holocaust than any mass killing in history. And yet, he says, "Gee, that's really up for grabs, who knows whether that really happened?" And he's also keen on the destruction of Israel, nuclear weapons, long-range missiles, but otherwise a very congenial sort of fellow. And so President Bollinger offered to introduce the Iranian president, and many of us thought that Bollinger, whom I've known a long time, had completely gone mad over this issue that he would introduce him.

As it turned out, the introduction of the speaker eclipsed the speech itself. President Bollinger could have used the entire occasion to simply say, "Well, this is what freedom means in America that someone like this can come to our campus and speak." And he did say some of that. But he mostly denounced the Iranian leader's hatefulness from the podium. You could criticize President Bollinger, and he was criticized, for being a poor host, if you want to put it that way. You invite someone to your campus and say, "This guy is really a schlep and really a problem, but he's here, and here he is." It might have been better to issue a press release. And of course, by introducing him, it brings even more media attention.

But I think what is important was what President Bollinger had to say. By so thoroughly critiquing and repudiating the message of the speaker, President Bollinger was demonstrating something that is often forgotten: university presidents are people too; university presidents have constitutional rights. They also have freedom of expression. And they should speak freely. And they have a moral obligation, and that's where I put the linchpin of this discussion about campus speech, they have a moral obligation to speak forcefully about the bedrock values of the country and of higher education, the bedrock values of diversity and tolerance and other similar values. In my view, it may not be a constitutional obligation, but it is a moral obligation for a president of a campus that encounters these types of folks. And it may be unavoidable, they can't withdraw the invitation, they can't control the student organization. But it is their responsibility to speak out forcefully on the issues.

Now closer to home, in fact, just about 60 miles from here, our University of California Irvine campus has been roiled by anti-Israel programs hosted by a small Muslim student group. One of the things you have to remember, and you may remember your campus days, you may have 20,000 students, and it only takes 20 of them to make headlines. It only takes 20 of them to get the media out and to upset the various communities, the Jewish community or other communities; it doesn't take a heck of a lot of people. Chancellor Drake has been speaking out on both fronts, as you would expect. He has decried the anti-Semitic messages and the anti-Israel expressions. And he has also said that the UC Irvine campus will continue to allow student organizations to invite speakers and that constitutionally, he can't stand up and say, "I prefer this speaker to that speaker on the basis of the content of their messages."

I think Chancellor Drake has done some very good things to reassure the Jewish students and the greater Jewish community, although there is always more to be done. There was a federal investigation, and he collaborated and cooperated with that. The university had not engaged in discriminatory practices, and that's what the investigation showed. He went to the national Hillel summit in Washington to talk to Jewish leaders. And a UC Irvine Jewish student organization reached the conclusion, and I quote, that "Jewish students are physically safe and secure on our campus ... (and) Jewish life is thriving more than ever."

I think all that is probably true, at least that's the best that I can ascertain, and that's what the Jewish students are saying. But that doesn't mean they like it, and that doesn't mean they don't find such speech an anathema. And it doesn't mean that if they had their druthers about it, this type of activity would not take place on the campus.

Now, one of the things I should explain is that recently, Judy and I went to Israel to lead a group of chancellors and presidents there. Precisely because of these issues, we try to bring chancellors and presidents there, we either have large campuses and the president has not been to Israel, or sometimes they've had controversies on campuses, to familiarize them with the Israeli perspective and other perspectives as well. We met, for example, with Salam Fayad, the Prime Minister of the Palestinian National Authority, as well as with Israeli universities and leaders. Chancellor Drake went along on that trip, and it was very informative. It's a very important program. This is the American Jewish Committee. It's good to have people exposed to this, particularly non-Jewish people who've never been to Israel, before the controversies arrive on campus so they have some idea of what the issues are and what the sensitivities of Jewish people are. In any event, I dragged Chancellor Drake there, actually, he was very anxious to go, and the chancellor of our Santa Cruz campus, and we had a great visit.

Now I do have to say that we did have one minor problem. We decided to go to the Gaza area, obviously on the Israeli side of the Gaza line, which is a fairly horrifying experience to watch the Israelis trying to ship supplies, food and medicine and so forth, over there, and then have rockets launched at the aid workers while they're trying to do that. We learned first-hand about this when we were going to Siderot, if you've ever been there, it's the little town in Israel which gets much of the Katyusah rocket fire, and we missed a rocket by about five minutes. Our party greeted us by coming out of the bomb shelter. As someone who is a peace-loving man, it was difficult. And you know the Israelis, they just charged right on. I wouldn't say they were oblivious, but it's a little like Dr. [Leonard] Cole was saying. They know their neighborhood, and they've learned to live with it. They go about their business and do what they need to do to survive.

In any event, I think that one of the primary responsibilities of higher education in a democratic society is to produce self-controlled citizens. The remedy for bad speech is good speech. I think we have to have more confidence that when someone emerges from a university, even though there have been some horrible speakers on that campus and some terrible perspectives presented, on balance, being exposed to all these different points of view, our young people will work it through, and they will reach many of the same conclusions that we've reached. And there's some evidence to support that. I was cheered recently when I saw that the Pew Foundation had done a survey that 70 percent of those with a religious affiliation agreed that many religions can lead to an eternal life, that the measurement of religious tolerance in this country is probably as high as or higher than it has ever been. The problem is that 30 percent are intolerant. That's still a lot of people. And even a small subgroup of that can cause a lot of trouble.

The last thing I wanted to say today – I had some more First Amendment stuff, and by the way, it was Justice Brandeis, a great supporter of Hadassah, who was really the architect of the modern First Amendment, you probably already know that. The last thing I wanted to say was to give a little bit of advice. I think we can balance these freedoms, as Dr. Cole said, with this insulting speech, which really is not terrorist activity yet. But we need to make sure that we are not being defined by such people.

When we were in Israel recently, we went to the Shalom Hartman Institute in Jerusalem, a very famous scholarly place. David Hartman is a brilliant, brilliant philosopher and rabbi. And his son Donniel gave us a lecture on that occasion. Rabbi Donniel Hartman challenged the Jewish people to stay alert to anti-Semitism and to be vigilant in countering it, and that's one of the things, in my opinion, Hadassah needs to continue to do as it has always done. But at the same time, Donniel cautioned that we must not allow the character of the Jewish people to be defined by our opposition, to be defined by the anti-Semites and the bigots. It is important that they not define our agenda. We need to be alert to what they do; we need to counter their measures.

The anti-Semites do not define the Jewish people. We are what I would call an aspirational people, and as such, we should be defined by our ideals and our morality. A lot of that is embodied in Hadassah. I want the Jewish people to be defined by the ideals and morality embodied in the programs and the statements of Hadassah, not by a group of fundamentalist Islamic people who are vilifying Jews in Israel. I want Hadassah and other Jewish organizations to define that agenda. This is the genuine narrative of the Jewish people over the thousands of years of our history, and it is the essence of the philosophy of Moses Maimonides, one of our greatest thinkers.

If you think about Maimonides, an escapee from southern Spain, he finally locates outside of what is today Cairo and writes "The Guide for the Perplexed," which continues to perplex me. He's one of our greatest thinkers, and he lived his life with the most virulent form of anti-Semitism. He lived his life in the shadow of the slaughter of Jews in the Holy Land by the Crusaders. He lived in the shadow of some radical Muslim regimes that would not allow Jewish people to live their lives in peace. But he kept up a lifelong search for higher levels of truth and insight. He never let that culture of anti-Semitism and those people define his mission as a great Jewish philosopher and legal scholar.

So with that, I'd like to thank you for the opportunity to talk a little bit about freedom of expression today. I look forward to your questions, and I hope I've touched on some topics that are of interest to you. Thank you.