

Does Georgetown University Respect Free Speech?

by Joan Frawley Desmond

WASHINGTON — Georgetown Law reinstated a faculty member after his controversial social-media posts prompted university officials to suspend him and launch an investigation. But after Ilya Shapiro was cleared and allowed to return to his new position as a senior lecturer and executive director at Georgetown University's Center for the Constitution, he tendered his resignation instead.

Noting that he had been cleared on a "technicality," and that the university's policing of speech on campus "set me up for discipline the next time I transgress progressive orthodoxy," Shapiro decided to leave the Jesuit-run university, as he explained in a June 6 column for The Wall Street Journal opinion page.

Shapiro's story has only deepened a national debate on the policing and censorship of speech in an academic culture that generally skews left, with student activists increasingly demanding that a professor be fired for challenging progressive views on race, gender and other sensitive matters. "[M]any in the current generation of students have ... embraced the wrongheaded idea that they should try to silence people with whom they disagree and the error that someone who argues with them is attacking them," said Richard Garnett, a professor at the University of Notre Dame Law School and the director of the university's program on Church, State and Society.

"Universities need to consciously, in a focused and determined way, push back on these mistakes. Administrators and leaders should set the tone — as the dean of the Notre Dame Law School, Marcus Cole, does — and model good academic and civic values and practices. They should not empower or endorse efforts to censor, and they should make sure that all university policies respect due process," Garnett told the Register.

Threat of 'Cancellation'

The threat of "cancellation" has helped to suppress the free exchange of ideas in classroom discussions and fueled viewpoint discrimination as students graduate and move on with their careers in law and media, according to researchers that track these developments. When Georgetown's Shapiro tweeted his critique of President Joe Biden's plan to nominate a Black woman to the Supreme Court, the posts were attacked as "racist" by students at the law school.

"Objectively best pick for Biden is Sri Srinivasan, who is solid prog & v smart," Shapiro tweeted. "Even has identity politics benefit of being first Asian (Indian) American. But alas doesn't fit into the latest intersectionality hierarchy so we'll get lesser black woman. Thank heaven for small favors?"

He quickly apologized for the posts, but Georgetown's Black Law Students Association repeatedly demanded that Shapiro be dismissed, and university officials stepped in. Georgetown officials defended their response to the legal scholar's social-media posts and continued to challenge his judgment after his reinstatement.

"As I wrote at the time, Mr. Shapiro's tweets are antithetical to the work that we do at Georgetown Law to build inclusion, belonging and respect for diversity," read a statement issued by the dean of the law school, William Treanor, following Shapiro's reinstatement. "They have been harmful to many in the Georgetown Law community and beyond."

Georgetown's 'Failure'

But Georgetown Law Center's Conservative and Libertarian Student Association disagreed with that judgment. And some legal experts and Catholic public intellectuals, including Princeton University professor Robert George, backed Shapiro's right to express his views.

“Absent strong protections of, and a robust culture of, free speech, education — especially in law — cannot happen,” wrote George in a series of tweets reacting to Shapiro’s resignation. “The case of Ilya Shapiro ... demonstrates more than a failure of the Georgetown Law Center’s administration to honor free speech; it reveals truly appalling — indeed grotesque — ideological double standards,” added George, in an apparent reference to Georgetown’s failure to discipline faculty member Carol Christine Fair, a professor in the School of Foreign Service who employed inflammatory, vulgar language in tweets attacking the U.S. Senate’s confirmation of Supreme Court Associate Justice Brett Kavanaugh, amid allegations that he engaged in sexual misconduct during high school.

Professor Fair, for her part, told The New York Times that she was among a small number of Georgetown faculty who signed a petition protesting Shapiro’s treatment. But student complaints are “the death knell,” Fair told the Times. No doubt, the national reckoning on race that followed the 2020 murder of George Floyd, a Black man, while in police custody has made students more vigilant about scrutinizing language that appears insensitive or bigoted.

And as students demand action, many universities have established offices that oversee the implementation of diversity, equity and inclusion programs that bar discrimination based on race, gender or sexual orientation but are also sensitive to speech that can be perceived as offensive by vulnerable students.

In his column for The Wall Street Journal, Shapiro contended that Georgetown’s Office of Institutional Diversity, Equity and Affirmative Action, or IDEAA, did not rely solely on objective standards or examine intent when it judged speech to be offensive or discriminatory. “Instead, the Policy requires consideration of the ‘purpose or effect’ of a respondent’s conduct,” he noted in his analysis of the investigative report into his tweet. “That people were offended ... is enough for me to have broken the rules.”

In an email exchange with the Register, Shapiro urged other U.S. law schools to both adopt a “strong free speech/expression policy (as Georgetown does)” and then “actually enforce it. Shut down the mob calling for action against wrongspeak at the outset by saying that you’re not in the business of policing speech or remedying speech that offends,” Shapiro advised. “Cull your administrative staff until the faculty:administrator ratio is what it was 50 years ago. So many academic institutions’ problems stem from weak, spineless leaders who placate diversicrats’ every whim.”

Concerted Attacks

Frederick Hess, an expert on education policy at the American Enterprise Institute, a Washington research center, told the Register that university faculty members across the country were facing concerted attacks on their right to speak out and conduct research if their positions or findings didn’t square with progressive positions. “The double standard at Georgetown,” said Hess, “is both remarkable and telling.”

In another recent, closely watched development, Princeton University fired Joshua Katz, a tenured professor of classics who had previously criticized student and faculty proposals to counter racism on campus in a 2020 article in the small but influential online journal Quillette.

Katz’s article, “A Declaration of Independence by a Princeton Professor,” described a now-defunct student group, the “Black Justice League,” as “a small local terrorist organization” because of the aggressive tactics it had allegedly employed to advance its agenda. The article was condemned by Princeton’s president, Christopher Eisgruber.

“By ignoring the critical distinction between lawful protest and unlawful violence, Dr. Katz has unfairly disparaged members of the Black Justice League, students who protested and spoke about controversial topics but neither threatened nor committed any violent acts,” Eisgruber charged.

But while the university insisted that Katz’s inappropriate relationship with a student in the mid-2000s had prompted the disciplinary action, the professor’s supporters noted that he had already completed a one-year suspension without pay for that transgression. They contended that the improper relationship had been dredged up as an excuse for punishing his critique of the anti-racism proposals. And a group of faculty members concerned about

Princeton's handling of Katz's case later flagged a freshman training program that used a bowdlerized portion of Katz's article as evidence of systemic racism at Princeton. Filing a formal complaint, the eight faculty members asserted that "unnamed officials had violated University regulations in using the website to discredit Professor Katz, by smearing him as a racist." They demanded that Princeton immediately address the smear, punish the individuals involved, and provide the facts to students who received the training.

Sounding the Alarm

But if many elite universities appear ready to accommodate demands that they impose heavy penalties on contested speech, a small number of liberal and conservative professors are sounding the alarm, worried that censorship will extinguish the vibrant intellectual discourse that once defined their institutions. Last year, a group of current and former Harvard professors helped establish the University of Austin, a private liberal arts school in Texas, with a homepage that affirms its dedication to the "Fearless Pursuit of Truth."

Former Harvard president Lawrence Summers, Kennedy School professor Arthur Brooks and psychology professor Steven Pinker have joined the new university's board of advisers. Panayiotis "Pano" Kanelos, the former president of St. John's College in Annapolis, Maryland, will serve as its first president.

"The reality is that many universities no longer have an incentive to create an environment where intellectual dissent is protected and fashionable opinions are scrutinized," Kanelos wrote in a column announcing the founding of the new university. "We are done waiting for the legacy universities to right themselves. And so we are building anew." Meanwhile, the University of Chicago has emerged as a beacon of hope for academics and students who want more freedom of speech.

Seven years ago, the university issued a landmark statement affirming its commitment to "free, robust, and uninhibited debate and deliberation." The following year, in 2016, incoming freshmen received a letter that prepared its students for what lay ahead: "We do not support so-called trigger warnings, we do not cancel invited speakers because their topics might prove controversial and we do not condone the creation of intellectual safe spaces where individuals can retreat from ideas and perspectives at odds with their own."

'An Excellent Model'

Plenty of students at the University of Chicago welcome this bracing message. "We demand not to be coddled," read the mission statement for Chicago Thinker, a new online journal founded by conservative and libertarian students. Notre Dame's Garnett described the University of Chicago's free-speech statement as "an excellent model." And he suggested that Catholic universities were well positioned to chart a similarly principled course amid a politically polarized culture.

"Catholic universities are, of course, the original universities, and so it's reasonable to expect them to best exemplify the university ideal," said Garnett. "The Church is committed to the knowability of reality, and Catholic universities — if they are truly Catholic — believe the search for truth matters."

John Garvey, the outgoing president of The Catholic University of America and an expert on the Constitution, echoed this point. "Being a Catholic university, we try to teach our students not only civility but care and reverence for one another," Garvey told the Register. He suggested that the political composition of CUA's student body, with "about equal numbers of students on left and right," and very few on the fringes of the "political and religious spectrum," also contributed to the civil tone of campus debates. "You see speakers shut down when 95% of the population thinks the same way," he suggested.

Abortion Politics

Asked why disputes over speech have become so combative and punitive, with students demanding the heads of tenured professors, Garvey pointed to the U.S. Supreme Court's pending decision in the Mississippi abortion case *Dobbs v. Jackson Women's Health Organization*, which could overturn *Roe v. Wade*, and observed that "abortion politics" had challenged and even weakened religious-freedom and free-speech protections. "Only in the case of abortion would we have rules permitting a city to prevent people from expressing their minds on a public sidewalk

on an issue of public importance,” he said, in a reference to laws that have restricted pro-life outreach to women visiting abortion businesses. “When rights collide with one another there has been a tendency to bend and shape the law to fit these kinds of preferences.”

Now, as he completes his tenure at CUA, Garvey believes it is essential for universities like his to “encourage a freedom in civic discourse” that teaches students to be respectful of opposing views and to assume that the person they are speaking with is “sincere” in their views. “It’s not a personal attack,” he emphasized. It is a case of two people “engaged in a common enterprise, but beginning from different starting places.”

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