



## Tests for Academic Freedom in a Time of War

Thursday, April 17, at 1 p.m., U.S. Eastern time

Are there any limits on what professors should say in a time of war? How should colleges respond when the unpopular views of their professors create controversy? What does the Nicholas De Genova case illustrate about the state of academic freedom?

### The Topic

During a teach-in at Columbia University last month, Nicholas De Genova, an assistant professor of anthropology and Latino studies, said that he wished for "a million Mogadishus," a reference to the 1993 battle in Somalia in which 18 American soldiers were killed. Mr. De Genova, while stating that his remarks have been distorted and taken out of context, makes no apologies. Many Columbia alumni have threatened to stop donating funds to the university unless he is dismissed. And 104 Republican members of the U.S. House of Representatives have demanded his resignation -- a demand that the university has rebuffed. In his first extensive interview since the controversy erupted, Mr. De Genova explains his views and motives. His comments prompt several questions: Are there any limits on what professors should say in a time of war? How should colleges respond when the unpopular views of their professors create controversy? What does the De Genova case illustrate about the state of academic freedom?

» [The Most Hated Professor in America](#) (4/18/2003)



Alan Charles Kors is the president and Thor L. Halvorssen is the chief executive officer of the Foundation for Individual Rights in Education. FIRE has worked on behalf of students and faculty members who feel that their academic freedom or First Amendment rights are being compromised. Mr. Kors and Mr. Halvorssen will respond to questions and comments on those issues on Thursday, April 17, at 1 p.m., U.S. Eastern time. Advance questions are encouraged and may be submitted now.

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A transcript of the chat follows.

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#### **Thomas Bartlett (Moderator):**

Hello. I am Thomas Bartlett, a reporter here at *The Chronicle*, and I will be moderating today's chat. I'd like to welcome Mr. Kors and Mr. Halvorssen and thank them for being with us. We have a lot of great questions and we'll do our best to get to as many of them as we can. So, let's get started ...

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#### Question from **Mathew Kanjirathinkal, Texas A&M University-Commerce:**

Does academic freedom protect a professor's free speech about a subject matter in which the professor has no expertise? In this case, for instance, can a Professor of Chemistry express in a teaching situation an opinion about war?

#### **Alan Charles Kors:**

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There is a categorical difference between a professor's introducing what the AAUP terms "extraneous materials" during a class, on the one hand, and, on the other, a professor's speaking on matters of public concern outside of the class. A professor has the right to teach what he or she believes true about the subject matter of a class, granting full rights to students to engage is reasoned and informed dissent and disagreement without penalty. Obviously, however, a professor teaching Latin grammar has no right to subject a captive audience---paying good money to study that subject---to his or her views for or against abortion, the war, or affirmative action. That is a terrible abuse of a classroom, and professors who say that "My teaching is an extension of my politics" should mean, ideally, that they believe critical thought and substantive knowledge to have a certain effect, in general, on society.

A professor outside of the classroom should suffer no diminution whatsoever, however, in his or her rights of protected free speech, whether or not that speech makes the university uncomfortable (on any issue, from any perspective). The notion that joining the professoriate or the academic world should lead to a restriction of one's rights of free speech, compared to other citizens, is absurd, immoral, and an invitation to a mediocre professoriate. What the academic world post 9/11 reveals, however, is how selective so many academics are in their love of free speech, and professors who have tolerated speech codes and other restrictions on expression in the name of "progressive" perspectives have suddenly discovered what FIRE has been saying all along: free speech is indispensable to a free and, in the deepest sense, adaptive society.

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Question from **William B. Watson, M.I.T.:**

What is the burden of proof and who is to bear it when limits are imposed upon speech in a society that cherishes and requires free speech for its character, indeed for its survival?

**Alan Charles Kors:**

For society under government, the Supreme Court has set very narrow exceptions to free speech: terroristic threats, libel, defamation, extortion, and the like. The burden of proof is always on those who would limit our liberties. In the academic world, we always should bend over backwards to accommodate the greatest possible freedom of expression, but that applies both to speech deemed "unpatriotic" and speech deemed "racist, sexist, or homophobic." Freedom is a way of being human, not a tactic toward a partisan political end.

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Question from **Morgan Liddick, Northwest Vista College:**

First, did Mr. De Genova ask his question in the unreasonable expectation that it would further the rational exchange of views that academia should encourage, or did he ask it a bid for fifteen minutes of fame? Second, does anyone involved grasp that vociferous opposition to Mr. De Genova and his institutional protectors is also a legitimate exercise of free speech? After all, in the free marketplace of ideas that the founders encouraged, foolishness such as that voiced by Mr. De Genova requires - indeed, cries for - the most stringent sort of criticism.

**Alan Charles Kors:**

I don't know Mr. De Genova's motives---and they are, of course, irrelevant to the issue of his rights in this matter---but it is precisely correct that vociferous opposition to his views and expression is also a necessary and legitimate exercise of free speech. Criticism is not McCarthysim. Indeed, criticism of speech that one abhors is at the very heart of free speech and a free society. Such criticism, not

coercion, is the appropriate response. Those calling for Mr. De Genova's resignation have every right to express their point of view and their objection to his speech (just as those who call for the resignation of professors who believe racial differences to be genetic have every right to express such views). In neither case should coercion enter the picture.

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**Question from Margot Willis, minister, United Church of Christ:**

Isn't the crucial question: What has history taught us about the suppression of thought and expression (short of giving away critical state secrets) in other times and places when those espousing one ideology prohibited others from expressing a differing point of view?

**Thor L. Halvorssen:**

History has taught us that a society that does not respect individual rights, freedom of conscience, and freedom of speech will not long survive as a free society in any form. Some people understand this distinction, and you clearly see the point. Others confuse criticism and passionate rebuttals with censorship. What is more important is that those who see the threats to freedom of speech speak up not only in instances in which they agree with the opinions expressed, but instead, whenever individual rights come under attack.

**Alan Charles Kors:**

The person who asked the person asks the right one. People should have been asking this question for the last 20 years, when free speech was trashed on American campuses in the name of political correctness.

**Thor L. Halvorssen:**

We sincerely hope that the threats to freedom of speech, from wherever they come, reinvigorate friends of liberty to shoulder their responsibilities.

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**Comment from Jim, Community College, Phoenix:**

The First Amendment gives this jerk the right to say any stupid thing he wants; That right also applies to me to tell him what an idiot he is. And it applies to people who may not want to associate with him, read his books, or listen to his lectures. You see, the 1st Amendment applies to ALL Americans, not the gifted and insightful leftists like this guy. There is no debate with these people, I have discovered. The only thing I think about is how to DEFEAT them.

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**Question from Jeffrey Cox, U. of Iowa Faculty Senate President:**

Should Columbia University President Lee Bollinger resign? University Presidents, especially at prestigious institutions, have special academic and professional obligations to defend freedom of speech and expression by faculty members. Lee Bollinger, in his statement to the national press club, defended the principles of free speech, but only after declaring that Professor De Genova's views went "beyond the range of normal viewpoints." He also used the words shocking, horrific, and sickening to describe Professor De Genova opinions. At a time when Professor De Genova was reported to be receiving hundreds of death threats, President Bollinger's protestations of a commitment to academic freedom ring hollow. He has, arguably, contributed to a climate that puts Professor De Genova's life in danger. I also fail to see how Columbia can fairly judge his case for tenure under these circumstances. I have no desire to restrict President Bollinger's free speech, but I believe in this case he has with his intemperate language defaulted on his professional obligations as a university president, and put academic freedom in

danger, not merely at Columbia, but everywhere in America. Should faculty members throughout the country not ask for his resignation?

**Thor L. Halvorssen:**

In the past, Lee Bollinger has demonstrated an inability to stand for free speech. In fact, Lee Bollinger was reportedly involved in 1988, in advising the University of Michigan to adopt a speech code (later struck down as flatly unconstitutional in federal court). He was dean of the University of Michigan law school. He has since claimed that he always opposed the code. Veterans of the fight against the speech code vividly remember differently.

**Alan Charles Kors:**

I think that it's absurd and dysfunctional for university administrations to criticize the political speech of their faculty. Their job is in matters of academic freedom to preserve a climate in which all individuals may express their point of view. The question with regard to Mr. Bollinger is not whether he should resign now, but why Columbia ever appointed someone as president who had been involved in the speech code at the University of Michigan in 1988. And to the questioner: Does he agree that university presidents who have restricted free speech, let alone university presidents who have inadequately defended it, should resign? If he does, the list is long.

**Thor L. Halvorssen:**

Being a university president, much like being a university professor, does not mean one loses one's free speech rights. Lee Bollinger has a right to comment in his personal capacity as a citizen of this country about Mr. De Genova's speech. University presidents must be very careful to draw that line. It is one thing to speak in a personal capacity. It is another when the power of the office can have a chilling effect. What one sees often is editorializing when public controversies arise where a university president will say "So and so said something horrific and bigoted, but we nonetheless uphold freedom of speech." But if they're going to do that, they do so in every instance. It is a breathtaking double standard to editorialize on the speech of three professors when in fact, professors offend people all the time. It is what it means to live in a free society with debate and discussion.

**Alan Charles Kors:**

I just want to reiterate that I find it absurd for university presidents to pass judgement on the political speech of individual faculty members. It does create a chilling effect. And again, the primary obligation of a university president in matters of free speech is to preserve the university as a truly open forum.

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**Question from Samuel Zaffiri, author:**

What is really disturbing about Mr. De Genova is the fact that he sees the world completely in black and white. Every actions the US takes in the world, he sees as imperialism, including our bombing in Bosnia to stop a genocide. My question: If the purpose of academic debate is to arrive at the truth, should someone like Mr. De Genova, with such a rigidly manichean view of the world, be allowed in a classroom?

**Alan Charles Kors:**

The professors at a university should be judged by the quality of their scholarship and by their teaching in a classroom. One cannot infer what happens in a classroom from what people say outside of a classroom. If a professor brought a wholly closed mind into a classroom, that indeed would be an appropriate manner

for evaluation by his peers. But what a professor says politically cannot be the basis for such judgments.

For example, I'm find Noam Chomsky's views of American foreign policy to be equality manichean. But he is one of the greatest linguists and scholars in his professional field of our time. The danger comes when professors feel they have license to introduce extraneous political matters into their classrooms. Another danger, of course, is if departments or programs only hire people who meet certain political litmus tests.

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**Comment from Peter Spitzform, University of Vermont:**

The assumption that Mr. De Genova's speech was "foolish," and otherwise worthy of criticism, is to fly in the face of the actual evidence of the Bush Administration's motives in the war on Iraq: exactly one governmental building has been protected throughout, the Ministry of Oil, as the state museums of antiquity, the library, and hospitals go unprotected. It is not even remotely abstract for Mr. De Genova to advocate a resistance to US imperialism for, as Michael Ignatieff makes clear in his recent *NYT Magazine* piece, imperialism is what the US is pursuing ("American Empire: Get Used to It" is the title of the piece.) It is crucial to make the distinction, as well, between criticism and intimidation. Many of those calling for Mr. De Genova's ouster are not merely exercising their liberty to speak, they are, in total, attempting to chill dissent by savagely attacking him without regard to the context within which he was speaking (i.e. a room of people holding similar views to his own), or by threatening to withhold money from the university unless he is fired.

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**Question from A. M. Phidd, Adjunct Professor:**

If a private university succumbs to political pressure in censoring this professor, where will it end? Who will set the limits on what is "freedom of speech" in an academic setting? What will the faith of discourse be in the future?

**Alan Charles Kors:**

I wish that this question had obsessed academics during the past twenty years, with the awful depredations of political correctness. Nonetheless, it is absolutely true that no decent university succumbs to political pressure of this sort. In this instance Columbia has acted appropriately (so far). On the other hand, neither donors nor taxpayers have an obligation to subsidize the academic enterprise. There is no right of universities to be subsidized, especially when they increasingly apply political litmus tests to hiring and promotion. Withholding of voluntary funds is not censorship. So, Columbia should resist crude political pressures, but universities also should realize that they are accountable for the climate they create and the political fiefdoms that they encourage and tolerate.

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**Question from Aaron Bauman, Columbia University FU-SEAS:**

is it possible to get people thinking about different perspectives, to get them to look at both sides of an issue, without causing so much controversy? I feel that sometimes making people mad only solidifies them in their own opinions, and does not lead to productive thought. How can the media be persuaded that 'selling' news is contrary to its abstract ideal function?

**Thor L. Halvorssen:**

Critical debate and discussion are essential for the life of the mind in the university. There are passions in our open expressions and what is most important

is that it should be left to public opinion, not to law, or in this case, to authority, to determine who is being offensive, or expressing a bigoted point of view. What is undeniable is that college and university campuses don't have enough political debate from genuinely pluralistic perspectives. It is necessary to encourage and welcome all sorts of views and opinions. Debate favors truth. And there is a demonstrable lack on the part of university administrations, most notably Columbia, of a nurturing environment.

For example, Columbia University in November of 1998 had been paid thousands of dollars to host a conservative academic conference on affirmative action that included columnist John Leo, civil rights activist Ward Connerly, and best-selling author Dinesh D'Souza. When a mob of students and protesters threatened the conference, the administration locked the conference participants from being able to enter the building where their conference was to be held. The student protesters claimed victory, and Columbia blithely stood by and took no responsibility.

**Alan Charles Kors:**

I think what universities do best is hold forums on matters of public concern with intelligent presentations of diverse points of view. Nonetheless, people have the right to hold a highly partisan meeting or teach-in as well. One of the difficulties in organizing forums that are true debates is the dreary lack of political diversity on today's campuses.

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Question from **Melissa Hasbrook, Michigan State U., large land-grant univ.:**

How do we teach on the issue of war ethically and equitably? How do we encourage dialogue (amongst differing views) while confronting discrimination (i.e. racism and subjugation embedded in war)?

**Alan Charles Kors:**

First of all, if you mean in the classroom, those are subjects that should be taught by people with scholarly expertise in those subject matters. I don't want a university in which students paying to study French grammar find themselves being lectured as captive audiences on a professor's view of war and oppression. If you mean outside the classroom, I believe that the best way to sharpen and to deepen understanding is through informed, reasoned debate among different view points.

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Comment from **William Weiss, Adirondack Community College:**

One of the questions the De Genova case brings up is whether there is any such thing as an apolitical space, including the classroom. More broadly, one might ask whether objectivity is possible, especially given the present geopolitical situation. Further, if a teacher does not challenge the status quo in the political space of the classroom, does that space belong to the status quo by default? Is it possible to facilitate the development of critical and transformative citizens if the status quo is not challenged? Does the teacher have the responsibility of providing sources that exist outside the mainstream, and is she responsible for making all of her sources available to students to critique? I face these questions everyday as an English teacher. I do not believe that the classroom is an apolitical space. I do not believe that objectivity is possible, particularly given the present circumstances. I do think that the status quo must be challenged and that alternative sources should be made available to students--that includes the teacher's own sources along with the opportunity to critique them. Mr. De Genova might have been more careful, but ultimately he is on firm ground. Demanding that he be dismissed is a misguided reaction. Dismissal would be a blow to freedom of speech, a blow to freedom.

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Question from **Terry Russell, Frostburg State University:**

Where do you draw the line between free speech and hate speech? If De Genova's remarks had been directed toward any nation or society other than America and American soldiers, would in not be globally recognized as hate speech?

**Thor L. Halvorsen:**

Yes, there is no question that this would be seen as hate speech, and it reveals the double standard that exists currently at universities. What one individual deems hateful, another person can see as a perfectly appropriate point of view. The concept that some speech should be silenced because it offends is the end of free speech and the life of the mind at the university.

The answer is not to seek to limit Mr. De Genova, but instead, for those who are offended, to meet his speech with *more* speech. Had Mr. De Genova aimed his comments at another country and then been called a racist, the answer is still the same. If you think someone is racist or bigoted, engaging in censorship is a terrible way to fight prejudice and bigotry. Coercion will drive prejudice deeper into people's souls, and then no one will have an opportunity to know what they are thinking and respond appropriately. To quote Justice Louis Brandeis, "Sunlight is the best disinfectant." So let's have free speech and no more double standards!

**Alan Charles Kors:**

When Christian students complain about the exhibition of Andres Serrano's "Piss Christ," they are rightly told that they have no right not to be offended. If anyone immersed a picture of Martin Luther King, Jr., or Malcom X in urine, heads would roll, sensitivity training would be mandatory, and the university would close for days of conscience. For 20 years, universities have been teaching people that they have a right not be offended. As we see in the De Genova case, they now are staring into the abyss that they themselves have created. And too many academics have forfeited tragically the right to appeal for free speech because they have denied that free speech to others. Nonetheless, all friends of liberty must be men and women for all seasons defending everyone's rights with equal conviction and equal fervor.

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Question from **charles ryan, Wright State Univ.:**

How does academic freedom for one's discipline align with the freedom guaranteed in the First Amendment? It seems they are two different positions requiring the professor to carefully balance his/her choice of venue for expressing controversial views.

**Alan Charles Kors:**

I believe that there are only two different venues for a professor in this matter. One is in the classroom in one's official teaching capacity. The second is in public forums outside the classroom. In the first venue, one indeed is bound by professional obligation to teach the subject one is being paid to teach. In the second venue, every place outside the classroom, a professor must have the same full, expansive rights to free speech as all other citizens. One gains certain responsibilities by entering the classroom. One should suffer no loss of one's civic freedom, however, for choosing to enter the academic world.

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Question from **William Gillespie Utah Valley State College:**

Does anyone not work for someone or some institution? Doesn't that person or institution have some control over what their employees spout off about? As rarified as a University might be isn't it still being funded by the state or individual donations?

**Alan Charles Kors:**

There are two separate questions there. With regard to the first question, universities should choose and wish to choose to hire individuals who speak their minds honestly and candidly. Who would want a professoriate not free to bear witness to what it diversely believes to be the truth?

In terms of the second part of the question, you are absolutely correct that neither the taxpayers nor donors are under any obligation whatsoever to fund universities, a fact that is doubly important in an age when many academics are willing to transform whole departments and programs into private ideological fiefdoms.

**Thor L. Halvorssen:**

The students and faculty and the university are not analogous to employees at a department store, although many administrators would like to think so. Students are the customers, and the faculty have academic freedom rights. Sears and JC Penney can limit the speech of their employees. They are free to seek employment elsewhere. They may not limit the speech of their customers.

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**Question from Stephen Good, Texas Tech Law Library:**

Jesus said that anyone can love their friends, the hard thing is loving your enemies. The Supreme Court said that burning the American flag was a form of expression worth protecting precisely because so many people love the flag - if you burn a plain tablecloth you may not cause any controversy but people will think you are odd. The same goes for academic freedom - you don't need to invoke academic freedom if someone says that Shakespeare was a great writer or Hitler was a bad person. You need academic freedom precisely when someone says something that crosses the line. The question though is if there is an upper limit to what a university should protect - what if an academic says something libellous, slanderous or along the lines of "I call on all good citizens to try to assassinate the President"? Some people might have seen the "thousand Mogadishu's" not just as an extravagant way to express an opinion but as advocating and endorsing criminal behavior (war crimes, but still criminal).

**Thor L. Halvorssen:**

Mr. Good understands that there *are* limits on freedom of speech, for example, libel, terroristic threats, extortion and so on. There is no question that on its own, Mr. De Genova's speech is rhetorical. Also, it may be considered dumb, offensive, insensitive, but it is protected. Had Mr. De Genova said on Thursday morning, on 92nd St. I will be handing out weapons starting at 9 in the morning, that is potentially felonious conduct. But his expression is protected. There is no right not to be offended. Mr. De Genova is **morally** accountable and responsible for the exercise of his freedom of speech. Individuals and groups are free to remonstrate with him, criticize him, condemn him, express outrage about him, bear moral witness against him. They are not free, however, to harm him unlawfully in his life and liberty, however great their outrage.

Academics should have seen this for 20 years in the face of political correctness. Where have they been?

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**Thomas Bartlett (Moderator):**

That's the end of today's Colloquy Live. Thanks for your questions -- sorry we couldn't get to all of them. And thanks as well to Mr. Kors and Mr. Halvorsen for joining us.

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**Alan Charles Kors:**

For people interested in our views and our consistency, please look at our Web site, which is <http://www.thefire.org>. Let me end by saying that liberty of opinion, speech, and expression is indispensable to a free and progressive society. That truth long has been ignored and betrayed on our campuses, to the peril of a free society. I hope that many academics will join FIRE in defending freedom for all times and for all seasons.

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