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FIRE President on the Death of Parody

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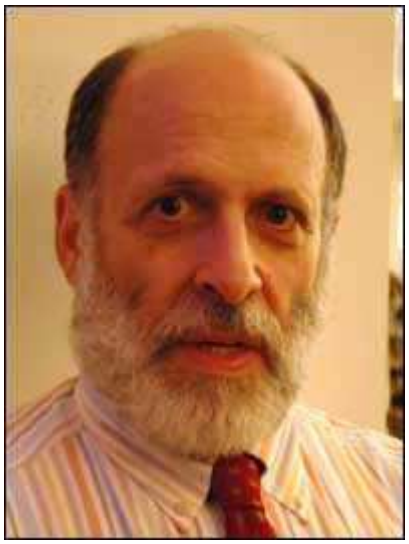
Harvey Silverglate, '67 graduate of HLS and co-founder of the Foundation for Individual Rights in Education, Inc (F.I.R.E.), spoke with members of the Harvard Law Republicans on the death of parody at Harvard Law School last Thursday. Silverglate's new book, The Shadow University: The Betrayal of Liberty on America's Campuses, details the rise of "self-appointed 'progressives' who seek to enforce moral and political orthodoxies through abuse and coercion rather than reason." Although Silverglate's legal work ranges from criminal defense to general civil liberties, he has specialized in student rights law since serving as counsel to students charged with taking over a Harvard University building during an anti-war demonstration in 1969.



FIRE president Harvey Silverglate.

In his speech, Silverglate highlighted the problem with university harassment codes. Referring to them as Orwellian-named speech codes, he differentiated those rules that would actually protect students from harassment and those meant simply to protect students from feeling "uncomfortable, unwelcome, or not sufficiently valued." Although these speech codes tend overwhelmingly to silence conservatives during the '80s and '90s, Silverglate argued that liberals will begin more and more to see the adverse effects of rules that all sides can use to punish dissenters.

Silverglate pointed to the 1992 events surrounding the Harvard Law Review's parody version of an article by murdered NESL professor Mary Joe Frug. Though tasteless and vulgar, the university's response to the incident

went too far, according to Silverglate. Professors such as David Kennedy and Lawrence Tribe condemned the students, questioning at one point whether they would be morally capable of becoming attorneys. In the end, the administration implemented a gender-based speech code that only three faculty members voted against.

The next great speech crisis also happened at Harvard Law School, when in 2002 a student posted an outline that contained an abbreviated racial slur on the HL Central outline bank. According to Silverglate, the two professors that dissented during that incident were subsequently professionally punished for failing to fall in line with the administration's response. Silverglate also argued that the restriction of speech on university campuses has broadened substantially in the last few years, pointing to cases at Amherst and Columbia.

Parodies are meant to be controversial and, at times, hurtful, argued Silverglate. This is precisely why parody is in need of protection at universities, which are meant to champion academic freedom and not the instruments of censorship. Silverglate ended his talk by applauding Dean Kagan's measured response to controversy that erupted over Lawst, the law school's annual parody last year, and urged students not to take for granted their rights to speech on campus.

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