

Gabby ([00:00](#)):

All right. There you guys go.

Steve McGuire ([00:04](#)):

All right, thanks Gabby. Jonathan, thanks for joining us on Higher Ed Now.

Jonathan Turley ([00:12](#)):

It's my great pleasure. Thank you for having me.

Steve McGuire ([00:15](#)):

I've enjoyed reading through your new book, *The Indispensable Right: Free Speech in an Age of Rage*, and I want to get to the rage part, but the first thing that I want to ask you about is why we should defend free speech? In the book you distinguish between two general lines of defense, one that you call a functionalist approach, which seems more like the ends justify the means approach versus a more intrinsic or inherent approach where you want to argue that free speech is something to be defended because it's a fundamental part of being a human being or something along those lines. But let's hear it in your own words, how would you defend free speech and why do you think that it's important to defend it that way?

Jonathan Turley ([01:08](#)):

Well, that's a great question to begin with. This book took 30 years in the making because I didn't want to write just another free speech book. There are many fine free speech books out there, but I wanted to be able to write a book to try to deal with this struggle that we have with free speech that has gone on since the founding of the Republic, and why we are still struggling with what free speech means and when are limits on free speech appropriate. I also wanted to get to a point where I could actually suggest going forward with something that is more consistent with a view of free speech that is not functionalist as you noted. And what I mean by that is that this book looks at the periods and the personalities that have helped shape free speech in the United States, but it starts with a discussion of what free speech means.

([02:14](#)):

And that discussion takes one back to ancient Greece and two different ideas of free speech that came out. But what was interesting is that the beginning of the Republic, we had a moment of clarity that saw free speech as a natural or human right. Now that doesn't mean you necessarily have to assume that it comes from God. It can be a human right in the sense that it is quintessentially human, that it's essential to be human. And in that sense it is not a right that is derived from the government, it's derived from being human, that we have this natural need to project part of ourselves into the world around us. That's a very different view from the approach that took hold just a few years later that that moment of clarity was lost and the federal courts by default went back to a more Blackstonian view of free speech.

([03:11](#)):

And the idea is that free speech is protected because it plays this critical function in democracy. You hear this rationale often in Supreme Court cases that we need free speech because that allows all the different parts of democracy to work. It allows all the other rights to be realized. That is very true in every possible way. Free speech is indispensable because it is the prerequisite for virtually all other rights. But it is much more than its function in my view and certainly a view of this book, that the problem with a functionalist view of free speech is that it allows for endless trade-offs. That is if you say

we're protecting free speech because it's good for democracy, it means that some speech might not be quite as good for democracy. It means that there may be high-value speech and low-value speech, and that allows for a series of trade-offs.

[\(04:12\)](#):

And it puts us on this slippery slope that we have been on since the founding. The history that I lay out in the book is a rather unvarnished account of our struggle with free speech. We're really not as good as our advertisements. We are a bastion of free speech, but we have often gone through these crackdowns on free speech where we've arrested communists, socialists, unionists, feminists denying the right to free speech. And I believe it's because we never had terra firma after that initial period at our founding as to what is free speech and why it's indispensable.

Steve McGuire [\(05:01\)](#):

Why is it do you think that... It sounds like in a way you're saying we've never really quite lived up to the First Amendment, which is, as you say in the book, a pretty unique development in human history. Why is it do you think that we revert back to these functionalist arguments and have never really lived up to the promise of free speech that the First Amendment tried to enshrine?

Jonathan Turley [\(05:25\)](#):

Well, that's an awfully good question, because I chose the title, *The Indispensable Right*, in part, because it captures this struggle. It was, in fact, how Louis Brandeis described free speech in the Whitney case. This is one of the greatest civil libertarians in history who was on the court, of course, with Oliver Wendell Holmes. But what's fascinating about that description is it was used in a case where Brandeis voted to uphold the conviction of Charlotte Anita Whitney, who was a communist in California, who was arrested in a speech for denouncing lynchings. She was told that she better not make any of her inflammatory speeches, that there were police officers all around her. And to her great credit, Whitney stepped forward and gave exactly the speech she intended and she was arrested, and it went to the Supreme Court where both Brandeis and Holmes upheld her conviction.

[\(06:35\)](#):

I think that the reason that we have this inconsistency in our history is that we never really did come to a resolution after the very start of the Republic. The First Amendment was the most revolutionary part of the American Revolution. It still is. One of my colleagues is leading a movement to amend the First Amendment. She says that it is, quote, "Aggressively individualistic and needs to be curtailed." There are various books out today saying that free speech is harmful. One professor in Michigan said it's the Achilles Heel of America. Even today, the language of the First Amendment is revolutionary.

[\(07:21\)](#):

Now, obviously, I embrace that more robust view, and I celebrate in the book figures like Whitney. She was a person of great integrity and she was one of the first communists in the United States, and she was really fearless. In my view, she's one of those people George Bernard Shaw described. He said that, "Unreasonable people believe the world should conform to them. Therefore, all history is made by unreasonable people. And she's one of those wonderfully unreasonable people who simply refuse to shut up." They are anarchists and unionists and feminists. These unique people who have very little in common with each other except that they believed that their right to free speech was their own. It was not granted to them by the government.

Steve McGuire [\(08:25\)](#):

Now the subtitle of your book, *Free Speech in an Age of Rage*, could you tell us a little bit about what you mean by rage rhetoric and also give us an assessment of why we are in an age of rage and how we compare to the history of the United States going back to the founding or even before that into the colonial period?

Jonathan Turley ([08:50](#)):

Well, you really hit on the distinguishing factor. It's not entitled the age of rage. And the reason is that it's not our first. This country was born in rage. That's what the Boston Tea Party was. It was an act of rage. And rage rhetoric is a curious thing. Rage rhetoric is something that depends upon the beholder or the listener, right? For those people who are engaging in rage rhetoric, it's righteous. It is justified. These are often people who are detached from society, isolated from society, disenfranchised. But for others, it's dangerous and something that has to be curtailed. And what we've seen in history is that we have struggled with rage rhetoric for that reason. And rage rhetoric often becomes what I call state rage. That in each of these periods in the book, the government cracked down with a form of state rage arresting thousands, in some cases, of socialists and leftists who were simply opposing the war or calling for unions or calling for women to have full rights.

[\(10:08\)](#):

This relationship between rage rhetoric and state rage is a very close one. What the book suggests is that rage rhetoric is something that is part of every political system. It is the furthest extent of reason, right? When reason begins to break down, it becomes rage, but it's an extension of reason. Now, sometimes it leads to violence. Sometimes it calls for violence, but often it is an unnerving expression of anger or fear. What's fascinating about free speech is that it's much more safely held at a distance, right? If you ask people today about the McCarthy period, they're appalled. They say, "How could we have ever allowed blacklisting, censorship to occur?" And yet when you ask them about today's censorship, today's blacklisting, they say, "Well, we're facing an existential threat. This is something that is new." But it's not new. These are the same voices, the same rationales throughout history. Even the same language. One of the things that the book points out is that some of the terms used today to justify censorship were used back at the start of the Republic, like fake news. Those were always the rationales used for silencing others.

Steve McGuire ([11:38](#)):

Now, as far as what we're seeing today, you talk in the book about a contemporary anti-free speech movement. How would you characterize that? Where do you see it coming from? What do you think are some of this key manifestations of this anti-free speech movement that we've been experiencing in the last few years?

Jonathan Turley ([12:00](#)):

Well, first of all, the reason I call this the most dangerous anti-free speech period is that we have never faced an alliance of this kind. We've gone through plenty of periods of free speech crackdowns, but we've never seen this particular profile where you have the government, academia, media, and most importantly corporations, aligned in what a federal judge recently called an Orwellian system of censorship. And I believe that he was correct. It is certainly the largest system of censorship ever established in this country. It is largely privately run, but it has been coordinated. In some cases, partially funded by the government. But what is most dangerous about it is that the usual defenders of free speech are now largely their antagonists. I have long chapters on higher education. I have long chapters

on the media and how anti-free speech rhetoric is now quite common where free speech is treated as harmful or a threat.

[\(13:09\)](#):

And in some ways, I fear that we're really raising a generation of speech phobics where students believe that they should not have to be exposed to opposing views, that it is triggering, and that people should be silence as opposed to responding to those people. The anti-free speech movement really started in higher education and then it metastasized in the United States in the media and the government and corporations. There's another anti-free speech movement the book talks about which is coming from Europe. And I point to the European anti-free speech movement, not only because it is closely allied with many in the United States who have cross-pollinated with a lot of those figures, but it also is a chilling thing for people to look at as to where we could be heading. I talk about France, Germany, England, even closer allies like Canada.

[\(14:10\)](#):

Free speech is in a free fall in those countries. They have a very extensive criminalization of speech, people being arrested, ministers who denounce homosexuality or pro-life people. A great array, even comedians have been charged for offensive speech. It is something of a cautionary tale for us to understand that once you cross that Rubicon, once you start to get into the business of censoring, of regulating speech, it becomes insatiable for many people.

Steve McGuire [\(14:48\)](#):

Yes, it certainly does. You mentioned a lot of the anti-free speech efforts that we see today start in academia, and I do want to turn to that, but just before we do, in the book, towards the end, you talk about what you think we need to do in order to finally cement our commitment to free speech as outlined in the First Amendment. I'd like to give you a chance just to talk a little bit about what you think we ought to do as a country to reaffirm our commitment to freedom of speech.

Jonathan Turley [\(15:22\)](#):

Well, first of all, though it's a book, attempts to do is to suggest that we need to have a reawakening in this country as to why free speech is indispensable. Why it defines us as a people, which it very much does. Free speech was always the outstanding idea of many of the framers. Many people have been downplaying some of those early writings, which is odd to me because they're very strong writings that come out from people like James Madison. Madison referred to in 1800, "This monster that lurks within us." He was referring to sedition prosecutions, but he was referring to crackdowns on free speech. Madison was spot on and said, "This monster dwells within our country, and we have to understand that." It was clearly a reference to John Adams, but it also could have been a reference to his friend Thomas Jefferson, who denounced Adams, actually ran on free speech.

[NEW_PARAGRAPH]It's the only election that ever turned on free speech, it was the 1800 election. But then Jefferson himself fell victim to punishing others for free speech. The first thing I suggest is that we have to understand what free speech is and have this national reawakening if we're not going to go the way of our European allies. Second, I suggest a number of other measures that should be taken, and one is the passive federal law that gets the United States out of the censorship business. What we have learned from the Twitter files has been extensive coordination with the United States government. We now know that that there are millions and millions of dollars in grants that have gone to academia and to other groups to target people in the name of disinformation and other groups. We know the government has helped fund efforts to target the revenue of sites, targeting their advertisers.

[\(17:17\)](#):

All of this was unknown until Elon Musk bought Twitter, and those Twitter files confirmed what many of us had suggested. I testified in Congress for years, and many members said, "Well, where's your proof?" We did have proof. The Twitter files confirmed everything we said, but actually even for those of us who had testified for years, it was far worse than we had described. We can get the government out of that business by saying, "You can't spend federal funds to target or silence others. You can speak in your own voice." Mayorkas said Homeland can put on the website when he thinks people are saying things that are not true about him. He just can't create a disinformation governance board that's going to look for people that should be throttled or censored or banned.

Steve McGuire [\(18:12\)](#):

Right. Okay, that's great. Let's turn to Higher Ed. As you said, this anti-free speech movement seems to have begun there. You yourself work in the academy and you've been tracking developments in the academy for quite some time. What is your view on how this all got started? Where did it come from? You mentioned in the book developments like the idea that silence is violence, so it's no longer enough just to quietly dissent in your mind while other people go along with ideas that you may not agree with. We, of course, have seen the rise of the idea that speech is harmful. When did you start noticing these sorts of developments? Are those the developments that you think signal the beginning of this anti-free speech movement? How would you tell the story?

Jonathan Turley [\(19:07\)](#):

Well, quite frankly, I am surprised the degree to which higher education has become so intolerant, and the lack of intellectual diversity that we see on campuses today. I've been teaching for over 30 years. I love teaching, but I loved college. I went to University of Chicago. I grew up in Chicago to a liberal democratic family. I had never met a Republican, until I went to University of Chicago, who was under the age of 70. I think we had one Republican friend, which we would point out at parties. When I went to the University of Chicago, it was like walking into the Star Wars bar scene. It was like everyone had different views. I lived at a vegetarian cooperative. This is actually where the book *The Jungle* was written. In the basement we had the Spartacus League, a bunch of Trotskyites. Next door, we had a bunch of libertarians. Upstairs, we had militant vegans. And I loved every minute of it. I loved listening to them.

[\(20:16\)](#):

I thought most of them were absolutely insane, but I was really fascinated that they could see what I'm seeing and come to different conclusions. And I learned from them. They didn't convince me necessarily, maybe on the edges, but I learned from them. It was wonderful. Today we just don't have that diversity of thought, and partially it's because faculties have largely purged their ranks of conservatives libertarians, many dissenters. This is based on self-reported surveys. There's a lot of people that try to deny this, which is odd, because privately most academics will admit that their departments are run from the left to the far left. But in self-reported surveys at Harvard, North Carolina, some of these leading studies. One found that 42% of departments didn't even have a single Republican left.

[\(21:11\)](#):

There was a wonderful article in the *The Harvard Crimson*, where they interviewed the last known Republican on a faculty, and they did everything but poke him with sticks trying to see what a Republican looked like. He was like a 90-year-old economist or something. In the interview, you could see he was getting increasingly annoyed that he was on display. It's a serious deficit and it's changed

while I've been teaching, particularly in law schools. Law schools were always very liberal. I hold many liberal views. It's something that gets lost when you're a free speech advocate because people assume you just must support everyone you're defending because you're supporting the right to free speech. But the atmosphere today in higher education is really poisonous. It's really bothersome when I hear people say, "Well, I don't feel that. I don't feel like I can't speak."

[\(22:10\)](#):

Well, it's because 90% of faculties are usually liberal. Of course, they don't. If you look at surveys, you have a very high number of people reporting that self-censoring, but that number is much, much higher among Republicans and conservatives. They're the ones that feel that isolation. But also the cancel campaigns really are a chilling mechanism. It's not just targeted against one person. It sends a message. I have a free speech blog. It largely deals with free speech. I get messages every day from faculty around the country, around the world, and I often tell them, "Well, you write on this?" And they'll be honest and they'll say, "Look, I'm 40, I'm 50." Or, "I'm 60, I don't want to lose this job." What these campaigns do is they take away everything that means anything to an intellectual. You go through a shunning. They take away classes. Take away associations, publications, and it does not leave you much.

[\(23:21\)](#):

In some cases, that isolation can become intolerable. I write about one professor in North Carolina who had been targeted repeatedly. He had to go to court three times to keep his job. He was a very conservative individual at one of the schools in North Carolina. Then finally on the last cancel campaign, they convinced him to take a settlement, to leave. Shortly before his last day as a professor, he went home and he blew his brains out. Now there's these types of suicide cases, and there's a number of them mentioned in the book, are obviously complex. They're obviously contextual. But for an academic, a true academic, this is the only life we ever wanted. It's the only life we could ever feel totally fulfilled.

[\(24:11\)](#):

When someone takes that away, the isolation is really intolerable. What I tell my many liberal friends when they say, "I don't feel that pressure." I say, "Well, obviously you wouldn't." But if you're one of the few remaining conservatives or libertarians or dissenters on a faculty, serving on a faculty is like having a highway patrolman following you cross country on the interstate, a foot away from your bumper, looking if you ever go over one mile above the speed limit or make a bad lane change. That's what it's like for many of these professors at universities.

Steve McGuire [\(24:55\)](#):

Yeah, then the obvious question is, what impact does this have on the students and the education that they receive? Actually, we've done a few surveys of students at various schools ourselves. We did one that asked questions at about a thousand students at the University of Texas at Austin. We did another one that surveyed about 2,000 students at the Ohio State University. Going along with what you were saying, there was evident difference between the experiences of more left-leaning students and more right-leaning students. Students on the right, obviously in the minority. They were much more likely to have friends who were on the left. They were also much more likely to have lost friends over political disputes or because of sharing their views. Much more likely to self-censor. Much more likely to report a culture of intolerance on campus.

[\(26:00\)](#):

That's obviously bad in and of itself. You could argue for those students, although there was an interesting article in the Atlantic a couple of weeks ago by a Princeton professor in which he argued that this actually helps conservative students in a way because they become stronger, more fortified in their

ability to make arguments and that sort of thing, which was interesting. But the broader point for the student body as a whole is are they really getting the education they deserve in terms of hearing a variety of viewpoints, being exposed to political views that are current in American society today that are held by large groups of people, and maybe they go through college, which hopefully is supposed to prepare them for citizenship. They're not really hearing these views very much at all, and certainly they're not going through the arguments that people have for why they hold these views and that sort of thing.

Jonathan Turley ([26:57](#)):

No, I think that's true. I also don't believe it makes them stronger to be in this environment, because most of the students just self-censor. They don't make the arguments. About three years ago, I had a student come to me... The day of graduation I went to my office to get my academic robes and she saw me cross the commons. She went up to my office. She had just been in my Supreme Court class and she said, "I obviously have my grades, so this is not an effort to sway you either way." But she says, "I saw you cross the commons, and I felt like I had to say something because it's been really bothering me." She said, "Your class was my last class literally. When it ended, it was the last class that I will have in higher education." She said, "I was thinking today that that was the first class in seven years through undergrad and through law school where I felt completely comfortable talking about my views, including pro-life views."

([27:58](#)):

And she said, "When I thought that it made me angry. I was glad that I had a class like that, but it shouldn't be that way." And I shared her feelings. I was very sad to hear that because higher education is such a wonderful time for people in terms of personal growth, and part of it is taking risks, making mistakes, trial and error. You put on different cloaks, whether it's Marxism or libertarianism. You try it all out and eventually you end up like most Americans with a sort of Joseph's coat, that's composed of different philosophies in the right dimensions that they fit you. Our students, they don't really have that as much. They are largely taught by liberal to far-left faculty. It's a very real possibility some of them will not have a Republican professor or a conservative.

([29:06](#)):

This is particularly notable because this country divided right down the middle and the courts are divided right down the middle. Half the federal judges are conservative, roughly. Half the country, according to presidential races, is center to right. The question is why are faculties then so overwhelmingly liberal, to the point that some of these surveys show there's not a single Republican or conservative self-identifying faculty. That doesn't happen by accident, right? If we saw that pattern for race or gender, you say, "Come on, don't pretend that that is just because you look at each individuals and you just haven't found any conservative, any republican that is smart enough to teach on your faculty, it's obviously your bias." When you talk to your colleagues or people at other schools, usually they will admit in the end or maybe even at the beginning that there is this bias, but it's more than just a charming idiosyncrasy, right?

([30:13](#)):

We've changed higher education and it is no accident that polls show that higher education is at its lowest level of trust with the public. As with the media, and I talk about this in the book as well, we're stalling on the very branch we're sitting on. We're killing our profession. You take a look at the ABA. The ABA has lost the vast majority of its membership. It is now a relatively teeny organization in terms of membership. It used to be almost 50% of lawyers belong to the ABA. Now it's a very small percentage,

and no one is asking why. Why have people walked away from the ABA or higher education or media? You have the Washington Post, which lost \$77 million last year. I think a lot of it is because of this problem. You have people that are killing the very profession they rely upon.

Steve McGuire ([31:18](#)):

Yeah, I think with academia or with science, its authority rests on things like the scientific method, right? That you can show that you've honestly and authentically pursued an argument or an experiment or whatever it is according to the proper methodologies, and you've followed it wherever it led to the results that it gives you. And on that basis, people trust like, "Okay, here's an expert who's doing this thing that he or she's an expert in and yielding these results, so we can trust that." But it seems like what we increasingly see is just an assertion of more like a, I don't know what to call it, a credential or an institutional authority. It's like, "It's not because I've done this this way necessarily that you should respect my expertise, but it's just because I am a professor in this institution." Or something along those lines.

[\(32:14\)](#):

Another example in the media would be this pattern of fact checking claims. Often the fact checks themselves are at least disputable, right? There's this sense that, "Oh, because I'm fact checking it, you just have to take this." As if from an oracle and accept it as the truth. But anybody who's thinking for themselves and is slightly informed on the issue can look at it and say, "Well, that doesn't actually totally solve it. There's certainly at least open questions here." Or maybe even, "I think what you're saying is true is false." There's this way that institutions are undermining their own authority because they're trying to either censor other people or convince people to accept what they say just based on their position in society as opposed to actually being able to show like, "No, no, we've done the work and here's what we've found."

Jonathan Turley ([33:09](#)):

No, I think that's true. If you take a look at deplatforming on campuses, that's a good example of it. You've had groups like Antifa on campus for a long time. Antifa is one of the oldest and probably the most successful anti-free speech movement in history. It was premised on rejecting free speech principles. If you look at the Antifa handbook, which I've written about, and I also write about it in this book, it is a fervently anti-free speech movement. Many of the techniques that Antifa perfected are used on campuses including deplatforming. You saw that obviously most vividly when the conservative federal judge was shouted down at Stanford. An assistant dean stepped forward and he thought that she would be part of the solution. Then she denounced the judge and said, "Well, why would you ever come here and say those things when you know it bothers so many people?"

[\(34:09\)](#):

For many, it was a wake-up call, but that has been the situation in academia for a very long time. I've argued for years that interrupting events is not free speech. This heckler's veto approach is not an exercise of free speech. I once debated John Yoo on torture. He was one of the authors of the Torture Memos, and this was on my campus. Some students, whenever John tried to speak, would shout him down.

[\(34:43\)](#):

Finally, they were taken out. And when I went out, these students came up to me and said, "Professor, we want you to know it wasn't you. We just didn't want John Yoo to speak." I was mystified, and I said, "Do you honestly think I support what you did?" And they said, "Well, we are just exercising free

speech." I said, "You were not exercising free speech. You were keeping people from speaking. And if I had my way, it would be something that you would be suspended for, because in higher education you can't tell speakers that, 'I don't want others to hear what you have to say.' You can stand outside and protest. You can protest as loudly as you want. But in classrooms, in these events, to prevent others from hearing thoughts that you don't like is not an exercise of free speech."

[\(35:31\)](#):

The solution, of course, is obvious. It's just that administrators don't want to do it. I wrote about Northwestern of a situation where a professor had a wonderful idea. She invited an undocumented person to speak to her class, and then the next day she invited an ICE employee to speak to the class. Well, when the ice employee showed up, there was a massive protest. They wouldn't let students in the room. And the vice president of Northwestern came and said, "Look, why don't we let you in the room? Just promise me you won't disrupt it." They all promised and then went in and disrupted it and started screaming profanities. Well, they canceled the class and the ICE representative had to be escorted from campus. Then all the students gave interviews with their names. They weren't anonymous. They were very proud of this, and Northwestern did nothing. You actually had students that not only lied to university, went in and stopped an actual class and did not have a single penalty. The vice president simply said how disappointed he was in the students. That's why this anti-free speech movement is flourished on campuses.

Steve McGuire [\(36:45\)](#):

Yeah, those examples that you bring up, they lead into what I think is one of... You mentioned trade-offs at the beginning of the conversation and, of course, talk about this in the book in relation to this functionalist argument for free speech. On campuses today... Almost every campus has an office of diversity, equity, inclusion or something along those lines. I think one of the key tensions regarding free speech on campus today is between something like inclusion or belonging or maybe just generally making everybody feel welcome on campus, and then a robust commitment to free speech. And you get this idea that some speech harmful. Obviously, in cases of hate speech or something like that, people will say, "This makes me feel unwelcome." Or, "It makes this a campus that's not inclusive." I've even seen surveys of students where they'll ask them something along the lines of, "Do you think free speech is important?"

[\(37:47\)](#):

They'll say, "Yes." A high number will say yes. But then you ask them a question about whether hate speech should be restricted and a high number will say yes. Or, "Do you think people should have to hear speech that they find harmful?" And a lot of people say, "No, no, they shouldn't have to do that." There's a bit of a disconnect there. Or they're trying to somehow, in their minds, balance out two different things that they value. One of which is free speech, and the other is being inclusive and welcoming and everybody has a seat at the table and that sort of thing. I wonder what your thoughts are on that and how you would counsel university administrations to... On the one hand, create a welcoming environment on their campuses for everyone. But on the other hand, defend a robust conception and practice of commitment to free speech.

Jonathan Turley [\(38:38\)](#):

Well, of course, my default is virtually always with free speech. I've been called a free speech absolutist. It's not true because much of what people talk about free speech is actually conduct. You can punish conduct. When students go into Columbia and take over a building and trash it, that's conduct. They

should be expelled, let alone suspended. When you have Columbia students threatening a professor who is then told by Columbia, "Just don't come on campus because you're too inflammatory." That, of course, flips the answer. That is the professor should be able to walk anywhere on campus he wants, and someone who is engaging in direct threats against him is engaged in conduct, not speech. Also, we can insist upon a civil dialogue. If people are saying that one group should be exterminated, that is inimical to basically what we stand for in higher education.

[\(39:46\)](#):

So you can insist on civil discussions. Now that still allows a lot of speech that people will find offensive, grotesque, even threatening. I was very proud of my alma mater when the University of Chicago issued its famous letter many years ago when all of the accepted students at UChicago got a letter from the president saying, "Many of you may be worried about coming to college? About is there a safe space here where you can be protected from offensive ideas?" And he said, "I want you to know there is no such space at the University of Chicago. There's no place safe from ideas here. If you want safe spaces, you really should go somewhere else. We don't protect people from ideas, we don't protect them from speech." Many of us, were really quite proud of Chicago for saying that. Now that comes at a cost.

[\(40:43\)](#):

It means that you have to be able to hear things that you will find offensive or wrong, but the alternative is where we are today. One of the things that I've documented in the book is how conservatives are almost immediately put under investigation for going a mile over the speed limit. If they say something on social media, and I give all these examples of people on the left saying that white people should be killed and Republicans should be killed. There was one guy at the University of Rhode Island who said that he had no problem with a conservative protester who was murdered. In response to that, they made him one of the top people in his department. There is a difference of treatment at universities, and this goes to rage rhetoric with what I said before, is that if you agree with the rage rhetoric, then it doesn't seem threatening. It seems righteous. It seems the exercise of free speech. But if you don't agree with it, then it becomes incredibly dangerous. Something that you have to protect others from.

Steve McGuire [\(41:52\)](#):

Correct me if I'm wrong, but I think you finished writing the book before the encampments that we saw on campus.

Jonathan Turley [\(41:58\)](#):

That's correct.

Steve McGuire [\(41:59\)](#):

Yeah, okay. You mentioned Columbia, so I can guess where you might go, but I was wondering, overall, last year was such a terrible year for higher education in terms of what we saw on our campuses. I was wondering what your overall assessment from a free speech standpoint was of what took place on the campuses. Where did people cross the line? Obviously occupying a building crosses a line. But the encampments themselves, did you think that those crossed lines that wouldn't be protected under free speech? Conversely, were there things you thought maybe people don't like this. It's ugly, but it needs to be tolerated because of our commitment to free speech, or at least what it ought to be because, of course, there was also a lot of talk about the hypocrisy of some of our institutions of higher education when they suddenly rushed to say they were bastions of free expression after what we've seen them doing over the last number of years.

Jonathan Turley ([43:06](#)):

Well, there was a degree of hypocrisy when you saw so many of these facts. I heard from many of them. They would write to me on the blog, give me different accounts, which I ended up writing about. But I have to say most of them I had not heard from. For 30 years, faculty on their campuses have been pursued, punished, fired, excluded, and these faculty hadn't said a single thing. Then they found themselves being pursued. Many of them were Jewish members, but also many are liberal but are on the wrong side of one issue or the other. I criticized both sides in writing. I supported the right of some Palestinian groups that people were trying to exclude because of their views. But I also believed that these universities failed on every level. When you have people who are threatening Jewish students and faculty directly, that is conduct.

([44:11](#)):

When you had these encampments, some of these encampments wouldn't let journalists through. They threatened journalists, prevented them from coming, walking on campus. That should be an easy issue for the university. They should say, "Either you allow journalists to come in and stop harassing people who are walking through or we shut down the encampment." Also, with the encampments being located in graduation areas where the graduation would have to be postponed. The answer is clear. The encampments got to go, and to the degree to which there was graffiti and property destruction, that should not be tolerated. Universities just did the opposite. At GW, the encampment not only shut down the law school, I couldn't even go into my office because it was next to the encampment.

([45:00](#)):

The DC police shut down the entire street. You couldn't drive down the street, and they just let that happen. Now, first of all, there's a bias in all of that, right? I don't think that they would've done that with a pro-life demonstration. If those were pro-lifers who insisted on shutting down a street and encamping, I doubt the university would've been as understanding and passive. And that's part of what I get into the book, that this Hypocrisy is just overwhelming. Some of what I talk about in the book, it's almost Felliniesque.

([45:40](#)):

There was one professor out west where his university said, "This is purely optional, but we'd like you to put on your website for your course this land acknowledgement." It was this long acknowledgement of various tribes in Washington state. And this professor decided he was going to do his own land acknowledgement. And so he published this acknowledgement that said, "I don't believe that these tribes have a right to this land, and here's my historical and philosophical reasons." And the university went absolutely crazy and said, "Take it down." And he says, "Wait, you just said it was optional. I'm putting up my own land acknowledgement." And they said, "Well, there's a difference. Our land acknowledgement is optional. Yours is threatening and triggering." And he had to take it down. That's what a lot of faculty face with many of these initiatives for diversity and land acknowledgement is that they're often portrayed as optional and consensual.

([46:51](#)):

But then if you say things that are opposed to those, these faculty find themselves under investigation or suspended. That's a very hair triggered response. And by the way, there's no going back. I spoke at the University of Chicago, not that long ago. And in the front row were a bunch of professors from Harvard and Columbia and a couple of other schools who had been fired or suspended because of their views on COVID. Many of those views have been vindicated. Some of them were canceled because they subscribe to the lab theory of COVID, that now whole federal agencies subscribe to.

[\(47:33\)](#):

Some were isolated and punished because they said you don't have to shut down schools and that you can just focus on the most vulnerable population. Others said that those blue surgical masks are not magical and that, in fact, they don't do a whole heck of a lot. All of those things were vindicated ultimately. And I asked them, "How many of you have been reinstated at your faculties or at these associations?" Not one of them. After it was shown that we should have had this debate, that they were raising... You don't have to agree with their view, but that they were raising legitimate views, there was no going back. They remained persona non grata because they bucked the narrative.

Steve McGuire [\(48:20\)](#):

Right. Given how slanted the universities are ideologically and the term that they've taken against free expression, do you have hope that universities can reform themselves and recommit to free expression? Or do you think that they're going to need some, shall we say, help from external parties, maybe even legislation, either from state or the federal government?

Jonathan Turley [\(48:52\)](#):

I'm an optimist in many respects. Believing free speech is a human right, gives you a certain optimism. Because no matter what the government may do or private organizations may do, they can reduce your appetite for free speech, but they can never truly remove your taste for it. If it is a human right. If it is part of the human condition, which I believe it is. But I must say that I don't after 30 years of teaching, what I've seen has been chilling, and I would never have thought we would get to this point. I don't believe that most faculties will meaningfully add a diversity of viewpoints. You could force them to add one or two dissenting voices from the center or the right, but I've witnessed this and it is a struggle, and I just don't think that they're going to suddenly embrace a diversity of viewpoints.

[\(49:53\)](#):

That lack of diversity is beneficial to most faculty. It makes it more likely that they will get speaking opportunities, that they will not be challenged in their viewpoints, that they will have greater publication opportunities. They won't admit to that, but I think it's true. Because to be center-to-right today is they have much more limited opportunities as an academic, even if you're able to get a position on a faculty. I do think that it's going to need external help. And I'm surprised by that because I teach things like critical race theory in my class. I always have. I teach legal theory because I want my students to have an understanding of all these different viewpoints. I love teaching it, and I think I teach it enthusiastically and fairly. I love all these ideas and I want them to debate them. I want them to see if they fit for them.

[\(50:49\)](#):

I am disappointed because some of the critical legal folks and some of the hard left folks that I support in academia have become some of the loudest voices to exclude conservatives. They become the most intolerant, and I'm very disappointed by that. I do think that you were going to need external stimuli, and one of them is I've suggested other legislation that ties federal funding to a series of 10 guarantees that I discussed in the book. And I've discussed this in testimony in Congress that there should be a free speech condition for federal funding of any kind. We would never tolerate a university that refused to hire African American professors or female professors. And yet we're okay with universities uniformly purging their ranks based on people's viewpoint and ideology and to create these intolerant places. And many of these universities are state universities, and they're aghast when state legislators come in and say, "Well, where's your diversity?"

[\(51:59\)](#):

And they harumph and say, "How dare you tell us who to choose." Well, it's a very weird thing. When you have a university that has virtually no conservative viewpoints in a state that may be 50% or more conservative, and yet you want all those taxpayers to just keep on paying you to create this hostile environment for people like you. Your kids will have to go to a school where they just stay silent or they won't hear opposing views. Obviously, state legislators don't have to do that. They're not a captive audience. They can require proof, as can the federal government, that they meet some basic free speech standards.

Steve McGuire [\(52:44\)](#):

Let me close by asking you about the students. Certainly these students surveys show evidence of a strong degree of intolerance among students. There's the self-censorship problem. These things are presumably related, right? On the one hand, you've got students who are afraid to say things. On the other hand, you've got students who say that they think it's okay sometimes to disrupt a speech. I think in some surveys, even upwards of about 10% of students will say it might even be okay to use violence to stop somebody from speaking in some instances. Then you also mentioned the student who came up to you and was actually appreciative of your class where the student felt that they could finally express themselves comfortably and have a free exchange of ideas. More broadly, I wonder what your assessment of the students is. Do you see hope in the students? Do you see enough students who do want to be able to express themselves freely? That do want to hear competing views? Or have they already had that pushed out by all of the things that they've been taught, either in college or even going back into K-12?

Jonathan Turley [\(54:09\)](#):

I've seen both aspects. Polls do indicate that this movement has affected students and how they view free speech. Where a majority say, according to a recent poll, that offensive speech should not be allowed. That is the byproduct of years of being in an educational environment that treats speech as harmful and where teachers constantly regulate speech. It creates a population of speech phobics. But I still remain very optimistic because I just recently spoke on Capitol Hill [inaudible 00:54:50] summer internship program. I was talking about my book on free speech. I hope it won't be taken as bragging, I don't think it was me. They had to go to a larger room. There were hundreds of young people that showed up to hear about free speech. They were incredibly enthusiastic about supporting free speech. It was a real shot in the arm for me to see young people who felt so deeply about free speech.

[\(55:21\)](#):

Now, are they in the minority? I'm not sure. But there is, I believe, something natural innate to free speech, and young people are the most passionate about those feelings. The other thing that, I think, the book talks about comprehensively, and I hope convincingly, is that rage will always be part of our politics. What people don't like to admit about rage is that they like it. That it's addictive, and it's contagious. But people hate the thought that they're enjoying the rage when it's obvious that they are. It releases someone. It gives them license to say and do things they wouldn't ordinarily do. And part of that is license to silence others instead of responding to them. Now, in the past, our periods of rage politics, our periods of anti-free measures have been ended not by the courts or Congress. Neither Congress nor the courts have been great champions of free speech in our history, in my view.

[\(56:35\)](#):

This transcript was exported on Aug 09, 2024 - view latest version [here](#).

Those periods ended because the public said, "Enough." The thing that ended Joe McCarthy was the public seeing Joe McCarthy on television and saying they don't want that. Time and time again, it's been the American people who have said, "No." They said no to John Adams in 1800. I do think that there's hope here, and I do believe that there are enough young people out there who long for free speech. My students will often tell me even when they're quite liberal, that they felt that there was a real paucity of discussion in their undergraduate areas. That they felt that conservatives clearly were chilled, and it was hard to have these conversations. I honestly think free speech is like water. It finds a way to get out, and I'm optimistic.

Steve McGuire ([57:34](#)):

That's great. That's great. Well, that seems like a great place to stop. Thanks for being on the podcast. It's been great talking to you and loved reading the book.

Jonathan Turley ([57:44](#)):

Well, thank you so much for reading the book. And I really appreciate it. Thank you both. I really appreciate doing this.