

FIRE Intervenes at Harvard after Faculty Fires Economics Professor over Political Article Published in India

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by [Adam Kisse](#)

Today, FIRE has [asked](#) Harvard's Faculty of Arts and Sciences (FAS) to reverse its action against a controversial economics professor after it [canceled all of his courses](#) due to an [op-ed](#) he published in India in the wake of last year's Mumbai terrorist bombings. Although Harvard's administration had defended Professor Subramanian Swamy's rights after [intervention by FIRE](#), FAS blatantly and shamefully violated them in its [meeting](#) in December. Anyone reading the op-ed will have no trouble detecting why it was controversial, but this action by the Harvard faculty places speech and academic freedom in danger at Harvard.

On July 16, 2011, Swamy published an [opinion piece](#) in the Indian newspaper *Daily News & Analysis* in response to a series of terrorist bombings in Mumbai on July 13 that killed 26 people and injured 130 more. The column made several suggestions about how to "negate the political goals of Islamic terrorism in India," advocating that India "[e]nact a national law prohibiting conversion from Hinduism to any other religion," "[r]emove the masjid [mosque] in Kashi Vishwanath temple and the 300 masjids at other temple sites," and "declare India a Hindu Rashtra [nation] in which non-Hindus can vote only if they proudly acknowledge that their ancestors were Hindus."

In response, a group of Harvard students began a petition to fire Swamy, demanding that Harvard "repudiate Swamy's remarks and terminate his association with the University" on the ground that he is "a bigoted promoter of communalism in India" whose column "breaches the most basic standards of respect and tolerance." FIRE [wrote](#) President Drew Gilpin Faust on July 27, stating that Harvard is obligated to uphold the promises of free speech contained in the "[Free Speech Guidelines](#)" adopted by FAS in 1990:

Curtailment of free speech undercuts the intellectual freedom that defines our purpose. It also deprives some individuals of the right to express unpopular views and others of the right to listen to unpopular views.

Because no other community defines itself so much in terms of knowledge, few others place such a high priority on freedom of speech. As a community, we take certain risks by assigning such a high priority to free speech. ... Because we are a community united by a commitment to rational processes, we do not permit censorship of noxious ideas. We are committed to maintaining a climate in which reason and speech provide the correct response to a disagreeable idea.

Although President Faust did not respond directly to FIRE's letter, Harvard released a [statement](#) around August 1 defending free speech, and the administration took no action.

But the Harvard administration's admirable promises now stand in sharp and unflattering contrast to the action by FAS led by Professor Diana C. Eck, as [reported](#) by *The Harvard Crimson* [and Harvard](#)

[Magazine](#). The op-ed comes nowhere near the careful definition of unprotected "incitement" announced by the Supreme Court in 1969. According to the Supreme Court, for speech to be considered "incitement," it must be "directed to inciting or producing imminent lawless action and [be] likely to incite or produce such action." *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

As we state in today's letter to FAS Dean and Chief Academic Officer Michael D. Smith, while Harvard is not directly bound by First Amendment jurisprudence, such tolerant patience has much wisdom behind it. For example, former Supreme Court Justice Louis D. Brandeis, in his concurring opinion in *Whitney v. California*, 274 U.S. 357, 375-76 (1927), described the appropriate response to "dangerous" speech:

Those who won our independence believed ... that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine ...

They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that *the fitting remedy for evil counsels is good ones*.

Fear of serious injury cannot alone justify suppression of free speech and assembly... To justify suppression of free speech there must be reasonable ground to fear that serious evil will result if free speech is practiced... [N]o danger flowing from speech can be deemed clear and present unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. If there be time to expose through discussion the falsehoods and fallacies, to avert the evil by the process of education, the remedy to be applied is more speech, not enforced silence. *Only an emergency can justify repression*. [Emphases added.]

The only emergency here is the grave threat to freedom of expression caused by FAS's misguided action. I hope that FAS remedies its mistake at its next meeting. Failing that, higher-ups at Harvard must act to uphold Harvard's legal and moral obligations. As my colleague Daniel Schwartz eloquently describes in his article in FIRE's academic journal *The Lantern*, [Harvard has already embarrassed itself far too much](#) over free speech issues in recent years.