



April 10, 2024

Dov Waxman
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Sent via U.S. Mail and Electronic Mail (dovwaxman@ucla.edu)

Dear Professor Waxman:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned by reports that UCLA's Younes and Soraya Nazarian Center for Israel Studies chose to move a recent lecture online in response to planned protests. While FIRE understands the desire to ensure events proceed without disruption, giving in to a hecklers' veto only encourages future attempts by those who disagree with speech to see it censored. UCLA must accordingly provide the necessary security to allow invited speakers to appear without sustained disruption. We urge the Nazarian Center to hold UCLA to its constitutional duty to secure future events rather than allowing objectors to dictate what speech others on campus may hear.

Based on public reporting, it is our understanding the Nazarian Center planned to host the in-person lecture "Israel and the Middle East after the October 7 Massacre: Threats, Challenges, and Hopes" featuring former Israeli foreign minister Tzipi Livni on February 27 in Royce Hall.² The day before the event, UCLA's chapter of Students for Justice in Palestine announced its plan to protest the event on Instagram: "Join us outside Royce Hall this Tuesday at 4:45 PM in making sure war criminals are NOT welcome on our campus!"³ You subsequently moved the

¹ For more than 20 years, FIRE has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our recently expanded mission and activities at thefire.org.

² Michael Starr, *Tzipi Livni UCLA talk moved online after anti-Israel protest*, THE JERUSALEM POST (Feb. 28, 2024, 10:16 PM), <https://www.jpost.com/diaspora/antisemitism/article-789482>.

³ SJP AT UCLA (@sjpatucla), INSTAGRAM (Feb. 25, 2024), <https://www.instagram.com/p/C3ygNJSvTHe/>. The post continued: "On Tuesday 2/27 at 5:30pm Israel's former foreign minister Tziporah Livni is speaking at an event hosted by UCLA's Center for Israel Studies and sponsored by the UCLA Political Science department. There is a warrant out for Livni's arrest in the United Kingdom for her role in overseeing war crimes against Palestinians. In Israel's most recent bombing campaign against Gaza, Livni justified further war crimes and

event to Zoom “in order to avoid any disruptions.”⁴ As a result, SJP cancelled the protest but vowed future action, stating:⁵

Tzipi Livni was shown she is not physically welcome on our campus, but this is not over. ... The political science department, which sponsored this event, will not get away with this. Our eyes are on every department and corner of campus. We will not rest until the UC cuts all ties with the Zionist state.

We understand you may have additional information, and we invite you to share it with us if our account here is at all inaccurate or incomplete. But based on the facts as we understand them, we cannot help but underscore that restricting expressive activity in response to threatened disruption is a “heckler’s veto,”⁶ which violates UCLA’s constitutional obligation to protect student and faculty expressive rights.⁷

Public universities like UCLA, which are bound by the First Amendment,⁸ must ensure faculty and students can exercise their expressive rights by hosting speakers.⁹ When those opposed to speakers or their message target such events for disruption, universities must respond not by canceling events or moving them online, but rather by making “bona fide efforts” to protect expressive rights “by other, less restrictive means.”¹⁰

Of course, universities must act if there are credible threats of violence. But in situations that implicate expressive rights, they must do so in a way that maximally protects free speech rights. That means their actions must be the “least restrictive with respect to the speaker’s First Amendment rights”—and shutting down an event will rarely, if ever, be the least restrictive

exonerated Israel to Western audiences. Join us in committing to the academic boycott, putting an end to normalization, and showing that war criminals are not welcome here!”

⁴ Starr, *supra* note 2.

⁵ SJP AT UCLA (@sjpatucla), INSTAGRAM (Feb. 27, 2024), <https://www.instagram.com/p/C33q84QvInw/>.

⁶ See *First Amendment Glossary*, Heckler’s veto, FIRE, <https://www.thefire.org/research-learn/first-amendment-glossary> (last visited Apr. 3, 2024).

⁷ See *Berger v. Battaglia*, 779 F.2d 992, 1001 (4th Cir. 1985) (“Historically, one of the most persistent and insidious threats to first amendment rights has been that posed by the ‘heckler’s veto,’ imposed by the successful importuning of government to curtail ‘offensive speech’ at peril of suffering disruptions of public order.”); see also Zach Greenberg, *Rejecting the ‘heckler’s veto,’* FIRE (June 14, 2017), <https://www.thefire.org/news/rejecting-hecklers-veto>.

⁸ *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

⁹ *Jones v. Bd. of Regents of Univ. of Ariz.*, 436 F.2d 618, 621 (9th Cir. 1970) (holding state officials have an obligation to “prevent the infringement of [plaintiff’s] constitutional right by those bent on stifling, even by violence, the peaceful expression of ideas or views with which they disagreed”); *Brooks v. Auburn Univ.*, 412 F.2d 1171, 1172–73 (5th Cir. 1969).

¹⁰ *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 255 (6th Cir. 2018); *Rock for Life-UMBC v. Hrabowski*, 411 F. App’x 541, 554 (4th Cir. 2010).

means of addressing potential disruptions.¹¹ Otherwise, universities would have broad authority to limit speech under dubious security rationales, as actions taken to limit speech for content-based reasons “will nearly always be susceptible to being reimagined and repackaged as a means for protecting the public, or the speaker himself, from actual or impending harm.”¹²

Moving in-person events online because a speaker wishes to air “views unpopular with bottle throwers” only invites more threats to both speakers’ and attendees’ safety and expressive rights.¹³ For evidence, look no farther than SJP’s own statements in response to the cancellation, expressing regret that Livni was able to speak online undisrupted, vowing the “political science department ... will not get away with this,” and promising SJP will watch “every department and every corner of campus.”¹⁴ This is why the only “proper response to potential and actual violence is for the government to ensure an adequate police presence, and to arrest those who actually engage in such conduct, rather than to suppress legitimate First Amendment conduct as a prophylactic measure.”¹⁵

When Nazarian Center-affiliated faculty host speakers, you have the authority to cancel, reschedule, or relocate events online—but to do so based on a heckler’s veto is to cede that authority to the mob. We strongly urge you to reconsider capitulating to those threatening disruption in the future. Instead, hold UCLA to its constitutional obligation to provide necessary security to ensure invited speakers may safely speak without sustained disruption. Don’t deprive students the opportunity to hear speakers with different or controversial perspectives, or to learn what healthy disagreement looks like in practice. We request a substantive response to this letter no later than April 24, 2024, committing to pursue the course of free speech.

Sincerely,



Jessie Appleby
Program Officer, Campus Rights Advocacy

Cc: Michael V. Drake, President
C. Cindy Fan, Vice Provost for International Studies and Global Engagement
Davide Panagia, Chair, Department of Political Science
Abel Valenzuela, Interim Dean of Social Sciences
Maura Kleeman Resnick, Executive Director, Y&S Nazarian Center for Israel Studies

¹¹ *Bible Believers*, 805 F.3d at 248, 253.

¹² *Id.* at 255; *see also Cox v. Louisiana*, 379 U.S. 536, 557 (1965).

¹³ *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 134 (1992).

¹⁴ SJP AT UCLA, *supra* note 5.

¹⁵ *Collins v. Jordan*, 110 F.3d 1363, 1371–72 (9th Cir. 1996) (internal citation omitted).