

Here is my statement. PRINT IT IN FULL, but don't quote it selectively. I do NOT give you permission to quote it selectively – print it or not: your choice:

With due respect, Dean Ruger just does not get it. He totally misses the point. “Free speech” includes “racist,” “xenophobe,” yuck, ick, ugh. All sorts of name-calling and blanket condemnations are included in this category. These are of no value whatever. Free speech is too low a standard for an academic institution and a law school. I will repeat that: free speech is not the standard we should live by. Considered arguments on the merits is the standard.

I do not question that the DP open letter is “free speech,” and do not seek to “block” the DP open letter. It is there, it got published. I just believe that it is pointless, divisive, and destructive of dissent. It serves no useful, constructive purpose whatsoever – none at all. The DP open letter clearly conveys to those who take unpopular positions that there is a price to be paid, in the form of unsupported public condemnation, and potentially even more of a price if they don't have tenure. It is designed to intimidate, and it has that effect. Therefore, the DP open letter should NOT have been written or published. As I often say to my children, the fact that you have a right to do something does not make it the right thing to do. Some things we have a “right” to do simply should NOT be done.

What is the critical defect of the DP open letter? It is the total lack of any explanation or justification for the signatories' condemnation and “categorical rejection” of my views. The message is clear: no explanation or argument is needed. It's all simply beyond the pale. What she wrote or said is unworthy of consideration or debate. It deserves outright rejection, nothing more. And what kind of message does that send to students? That reasons are not necessary. Just condemn, just denounce! They learn that unpopular dissent gets called out by public condemnation – without any stated reasons at all.

I find it interesting that the ordinary citizens who comment in places like the Wall Street Journal, or even our school newspaper, have no trouble whatsoever “getting” this point. My hope is that Dean Ruger and my fellow faculty will get it as well, and soon.

If I were the Dean of our law school, I would ask the signatories of the DP letter to write a retraction. Actually, I would have done my utmost to persuade law professor Professor Jonah Gelbach, the zealous instigator of the letter (and, in my view, a bully pure and simple) not to publish such a letter of unsupported condemnation of a colleague, and one that contained nefarious insinuations of “bias” and “stereotyping.” To me, those steps would be leadership, and the leadership we need. That is the leadership we are lacking in academic institutions today.

Amy Wax