

On the Limits of Protest

This discussion was organized as an opportunity to examine our current views on what is considered a legally acceptable protest. We are here to discuss the limits – to define the line between what is free speech and illegal activity.

Now, I recognize the importance of understanding protests within the current standards of law, but I also believe that it is critically necessary to identify these standards within the broader context of power and interest.

The law is the subjective product of people – people who carry their own perspectives, associations, interests, expertise, and most importantly – it is the product of people who have the power to define and declare what is acceptable. In most cases, these people are held accountable to the stakeholders for their definitions of legality. On the state and federal level, citizens have the power to vote lawmakers in and out of office. However, on our campus, the mechanisms of accountability between those who make the law and those who must follow it – the student – remain broken at best.

So if we look at this panel, we see that this will be a discussion in which the people who hold the power to make and enforce the legal line governing protest on campus will attempt to justify where and why they have drawn that line. It will not, however, be a balanced dialogue between those who enforce the law and those who are ruled by it.

I was asked to speak and Thomas was asked to join the panel to offset this imbalance of power and opinion, and hence legitimize the discussion. But until the panel is made up of an equal number of authorities and stakeholders, it will not be a legitimate dialogue. Therefore, I encourage everyone, and especially the future lawyers out there, to think critically about the interests of member on this

panel. Why are they here, who do they represent, and what separates them from being a legal stakeholder on this campus. Eventually you will be representing clients, and for their sake I hope you look at the background of money and power before swallowing everything a police representative or administrator might say.

In addition, as they discuss what is or should be considered a legally acceptable protest, I would also encourage everyone to question how our administration has upheld and enforced our current code of conduct, and what consequences it has on students and the Berkeley community as a whole.

A protest is an objection – a recognition that something once considered acceptable is no longer ok. To prove this, a protest must do something that is normally considered unacceptable – walking out of class, refusing to work, marching down Telegraph or locking oneself in a building. Now people may argue that eventually a line of acceptability must be drawn, and I whole-heartedly agree. But I think that if this is to be a real discussion about our current legal framework as it relates to student action, we must first recognize that the line walked by the vast majority of recent protests has been much more civil and much more non-violent than the administrative response.

As we have seen on this campus and campuses across the state, the laws that govern what is an acceptable protest are routinely enforced by a different standard, one of direct and overwhelming violence, one that allows police to shoot students with rubber bullets, to beat students on the ground, to smash student hands to the point of needing surgical reconstruction. We must recognize this double standard as a precondition to the discussion, and a product of the discrepancy between the administrators who make the laws and the students to whom they are accountable.

In thinking about what can be accomplished at this forum, I understand the

necessity of looking at what's an acceptable protest within our current legal structure.

But at some point I feel like we're asking the wrong question.

Considering the excessive force repeatedly authorized by those who claim to be our educational leaders, maybe we should first focus on why they feel the need to beat the students who pay their salaries. What are we actually learning when we allow their representatives to sit on this panel and justify the laws that criminalize certain methods of public expression while upholding direct violence as a means of control?

And so I encourage the panel members to ask questions that challenge each other to recognize and understand the powers they represent and the consequences their justifications have on the overall wellbeing of the UC Berkeley community. Only by starting with this understanding can we begin to formulate a collaborative vision of what is legally acceptable behavior for all parties present at a protest.