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Foundation for Individual Rights in Education Chairman Harvey Silverglate spoke last Wednesday. Photo by David Sheppard-Brick/the Justice

Free speech 'dead' on campuses

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Harvey Silverglate, founder and chairman of the Foundation for Individual Rights in Education, gave a lecture titled "The Death of Free Speech, Parody, and Vigorous Debate on Campus: Why Has It Happened, and What Is to Be Done?" last Wednesday in the Shapiro Campus Center Multipurpose room.

FIRE is a nonprofit organization that examines issues of free speech in higher education. Silverglate started his speech by saying that free speech, parody and vigorous debate have died in American higher education and are "worth fighting [for]." He explained that liberal arts campuses should be devoted to academic freedom, vigorous debate and questions "unto their innermost parts," but are actually the least free places in our society.

Silverglate said he could not comment much on the case of Prof. Donald Hindley (POL), on which FIRE issued a report last January admonishing the University's handling of the situation, because of conflicting reports and the fact that Hindley never had a hearing. Hindley received word from Provost Marty Krauss last October that he had violated the University's nondiscrimination policy for allegedly using the term "wetback" in a Latin American politics course. Silverglate said that whether Hindley used the term wetback did not matter as long as it was germane to the context of his course.

"One may not say in Harvard Yard what one may say in Harvard Square," Silverglate said, adding that this was not the way it used to be.

He said the problem of censorship began in the 1980s, when colleges began accepting a more diverse student body. Afraid of offending the students and causing them to leave the schools, the administrations sought to "restrict unpleasant speech."

Silverglate then gave an example from 1989, when a male sophomore at Tufts University sold T-shirts on campus that read "Why beer is better than women at Tufts," with a list of 15 demeaning reasons. After a woman complained, the student was held on probation and given 50 hours of community service.

He said this kind of behavior is 100 percent protected by the United States constitution, but not on campuses.

After the University set up "speech zones" as the only places where it was permitted to say anything offensive, students chalked the campus with "free speech" and "no speech" zones. The school repealed the speech zones and adopted a code to prevent harassment, but not specifically speech.

Silverglate criticized these codes, which almost all campuses now have and which he said are very similar to speech codes. He is working to have the codes repealed.

He said that when incidents such as these occur, FIRE works with the administration, which almost always backs down, realizing its error.

Silverglate then jumped to 2007, when students accused Brandeis student publication Gravity magazine of racism for an advertisement spoofing the Blackberry personal digital assistant, calling it a "blackjerry."

"I assume Justice Brandeis flipped over at least once or twice over this one," Silverglate said, in response to an apology and diversity training the magazine staff had to undergo.

Silverglate then brought up the case *Hustler v. Falwell*, in which Hustler magazine parodied Rev. Jerry Falwell in an advertisement. The Supreme Court decided that the parody was protected under the constitution, Silverglate said, explaining the protection of free speech in arenas other than college campuses.

"[Hindley's case] is in the hands of the students. Take up the cause," Silverglate concluded.

Silverglate responded to a question from Jordan Rothman '09 about how he defined free speech, saying that it is "not convenient. Free speech is hurtful," and the response can be, too. "I do draw a line, I'm not without scruples," he said.

In response to this remark, Chair of the Faculty Senate Prof. Marc Brettler (NEJS) asked Silverglate how he defines professionalism, which Silverglate said was the "single hardest question." Silverglate said there is a problem with professors who use profanities directly to students and that professionalism can be enforced.

Following the speech, Hindley said FIRE and other faculty gave him a lot of support and that the Committee for Faculty Rights and Responsibilities did a wonderful job with his case. The committee rebuked the provost's punishments of Hindley. I was so crushed inside," Hindley said about finding out about the accusation. He said Silverglate did not answer the question about professionalism well and that to him, there need to be limits in the classroom.

Hindley questioned who defines professionalism and what should be punished. He said that were the administration able to title something "not professional," it could use this as an excuse to accuse someone.

President of the Brandeis Democrats David Emer '09 said Hindley was wronged by the provost and that professors have the right to use epithets but shouldn't. He requested that both Hindley and Silverglate apologize for their use of epithets, Hindley during class and Silverglate during his speech, and by apologizing they would elicit an apology from the administration.

When Emer turned to the audience and asked whether they thought he was right in this request, the only audible response was "no."

Silverglate responded by saying that Emer turned Silverglate's "words into weapons" and that his use of epithets was "entirely germane to [his] talk."

FIRE recently put Brandeis on its "red list," meaning its policies and practices are dangerous to basic freedoms, according to Adam Kissel, director of FIRE's Individual Rights Defense program. FIRE is currently writing up the Brandeis case for publication, he said.

Claire Moses contributed reporting.