Bryan Paul:

Coming to you from the campus of George Mason University. This is Dr. Bryan Paul ACTA's College Debates and Discourse Alliance Curricular Fellow speaking with our dear friends, professor JoAnn Koob of the GMU Law School and Debi Ghate of the Voices for Liberty Initiative in the law school. JoAnn, welcome.

JoAnn Koob:

Oh, thank you, Bryan. It's so great to be here. Thanks for having me.

Bryan Paul:

And Debi, welcome to you too.

Debi Ghate:

Well, thanks. It's good to see you.

Bryan Paul:

Likewise. Always a pleasure to be with our Friends of Higher Education. And you two have been doing some wonderful work here at GMU that pertains not only to this campus, but has the potential to affect how we look at free speech, social progress, and civil rights on a national scale. And today's conversation will focus on that work, starting with how would you two describe the state of higher education including law school in the United States? Let's take a step back and look at that big picture first. So JoAnn, first with you, how would you describe the state of higher education today?

JoAnn Koob:

I think when I look at higher education today, I really think about the universities as we thought about them in the past as bastions for free speech and places where you go to hear ideas you've never heard before. To be exposed to different viewpoints, to learn from all of that. The college education has really turned away from that, and students are now being more sheltered from viewpoints they don't agree with. And now, instead of free speech, we have silencing, we have cancellation, we have shout downs rather than civil discourse. And so, it's really taken a turn in what the opposite of the former ideal of higher education looks like.

Bryan Paul:

Indeed. We at ACTA have observed similar trends and the self-censorship, the deplatforming is of serious concern to us as we see it because it robs the true mission of a university. It reduces it to nothing more than mere instrumental value or even at the heart of illiberal forces, and it's something we find very concerning. Debi, how about you? From your vantage point, what's the state of higher ed today?

Debi Ghate:

That's such a great question. There's a lot of people in higher ed today who are worried about the state of higher ed, and that to me, I think, is a signal that we're finally realizing that maybe some of the actions and the approaches that we've taken have led higher ed to a place where it now needs to take a really hard look at itself and figure out how will it be relevant and how will it contribute to society going forward. I think that JoAnn has mentioned some of the things that have actively happened on campus. I

think it's no secret that higher ed has become a bit of a monolith, and it has generally, of course, we're generalizing here. There are campuses that are exceptions.

Bryan Paul:

Of course.

Debi Ghate:

There is a sense that there is a uniform approach to how we think about higher ed policy or how we think about the ideals of higher education. And so, returning some diversity to all of this, I think is a goal that more and more people within higher education, more broadly are starting to realize they must embrace. And I think that presents big opportunity.

Bryan Paul:

Absolutely. And you, at GMU are seizing this opportunity to help us rethink what higher education could be specifically in law school by your work with the GMU Liberty and Law Center. JoAnn, what is the mission of the GMU Liberty and Law Center?

JoAnn Koob:

The Liberty and Law Center, we founded it seven years ago, I believe. It might have just hit eight.

Bryan Paul:

Happy birthday.

JoAnn Koob:

Thank you. What we've been focusing really is promoting freedom of speech, fostering civil discourse, and then also adhering to our constitutional values. We've been doing that through a variety of ways in a lot of different programs. But the core idea is that we really want to bring these ideals of civil discourse and free speech to our students and to students we've branched out to across the nation for some of our programs.

Bryan Paul:

And you speak of programs. What programming and services does the center offer students? Not to mention the legal community.

JoAnn Koob:

We actually provide training for future public interest and First Amendment advocates through our public interest litigation training program, as well as our free speech legal clinic. Both of them have students engage in hands-on activities, defending constitutional values, in particular, freedom of speech in the courtroom. So they get this experience, they learn about the values underlying those, why should we value freedom of speech? Why should we value individual liberty? Why should we uphold the rule of law? And so, then they can go out in the world and make a big impact in their careers through those programs.

And then we also have a civil discourse program, which we started with Scalia Law School students, but now, have brought to a number of other campuses as well. And that's training students to engage with

each other, specifically those who they disagree with. So, we'll have them talk about political issues. We just did one on right after the election about the election and had students talk about the outcome, their feelings going in and coming out of it and some of the issues related to it. And so, we do those at campuses across the country. And then we also have our biggest initiative is called Voices for Liberty, and that is focusing on what has free speech done or how is it related to civil rights and social progress? And what's their relationship? Are they essential to one another? And if so, what does that look like?

Bryan Paul:

Amazing. And Debi, from your vantage point working in this space for a while, why does free speech matter in our society? Why is it of such importance that we want to emphasize it to law students and other students across a university or college campus?

Debi Ghate:

That's a very deep philosophical question. I think of it this way. Without the ability to speak freely, a lot of our other ability to act gets impinged upon or restricted, right? So, speaking freely means being able to choose to express or not express my thinking. It means being able to participate or not participate in a process. It is fundamental for citizens to be able to express without fear of compulsion, their thoughts. So if free speech goes, so do a lot of other things, I guess is a way to put it in bottom line.

It's interesting to me that America is probably the only country, I think there may be one other country that has constitutionally protected free speech, but I grew up in a country that did not. And it is interesting to me how we've got this very important value that is protected here, and we use our voices to be critical of it and not realize that we are relying on our ability to speak freely in that criticism, right? It is a fundamental way for citizens to be engaged or not engage.

Bryan Paul:

I love your emphasis on that principle of engagement and how free speech undergirds a lot of the progress we have seen in the United States, the history of our country. We will definitely talk about that in the context of the Voices for Liberty Initiative. But before we get to that, I want to talk a bit more about the Center's approach for cultivating these free speech advocates. In addition to your free speech clinic, I know you also have the Center's Public Discourse Project. As one who works in the civil discourse programming space with our college debates and Discourse alliance, I for one, am very interested to learn more about how you go about teaching these principles to students and what exactly it looks like for a law student to participate in the Public Discourse Project.

JoAnn Koob:

I'm glad you asked. This is actually one of my favorite things I do. Civil discourse I think is so important as you know, working in the space yourself. Unfortunately, I actually don't think students are being taught how to do this going through their educational careers. Starting at the elementary level, I don't think that they're being taught to engage with ideas that they either haven't heard before or dislike. And then that hand in hand doesn't teach them how to defend or advocate their own ideas.

And so, what we do is we get students together. It's a workshop-style event. I'll talk to them about what civil discourse is, why it matters, but then also, spend time talking about how do you engage in civil discourse and going through tips and tricks of doing that as well. And then a lot of the time, because it's a workshop, we actually just have students practice and give them a conversation guide with prompts and questions to get them started in a productive manner and then go from there and get deeper and

deeper into the issues. And we try to put students in random groups or groups where we know that there'll be a diverse mix of viewpoints and backgrounds so that they have what I think are much more interesting conversations because there's a wide variety of things to learn about. And we've had really good success with it so far. Students love the opportunity and they're able to do something that unfortunately, some of them feel like they can't necessarily do otherwise because they do feel... Some students at least, do feel silenced these days.

Bryan Paul:

And this may seem like such a question with such an obvious answer, but it nonetheless demands that we articulate it, not least of which because of shout downs of federal judges on a campus like Stanford or Yale University and illiberal approaches to protests and demonstrations. It seems to indicate a lack of understanding how change can effectively take place in a democratic republic. And I am curious to know why you believe that this work matters so much, and specifically for law students, why does it matter for a student of the law to know how to engage civilly and constructively on controversial important topics?

JoAnn Koob:

Well, I'll start with the first part of that. It's so important to create change to have these conversations, partly because when people don't engage with viewpoints that are different than their own, when they only talk within homogeneous groups for instance, they actually tend to move to more extreme positions. And we've all seen the polarization happening and the more extreme positions are, the harder it is to work together. And working with diverse groups and diverse viewpoints actually helps people work together.

So, I think when we're looking at fostering meaningful change, we really need to think about how does that happen? And part of it is working with people often whom we disagree with. I think obviously to me, maybe because I teach at a law school, but for me, law students in particular need this skill not only to be good citizens, but more importantly, to be good at their jobs. Most of practicing law involves potentially having clients you disagree with, but definitely having opposing counsel you disagree with. If you can't actually talk to the people to work out solutions, how can you be an effective advocate? And even when you're thinking about just in the courtroom advocacy, if you don't understand the other argument or other point of view, you can't defend your own.

Bryan Paul:

It would be absolute farce for any practicing attorney in my mind, to walk into a courtroom and object to the judge that the opposite counsel should not be in the same room as them because they disagree with their opinion or that they held some contrary opinion on politics or the law or to even a law student to object to hearing certain controversial cases in a classroom because of so-called lack of trigger warnings or other things like that. How can you possibly practice law and discuss where the deficiencies are in the law if you can't talk about the things that are at the heart of it? The most heated, passionate things that make the law what it is.

Debi Ghate:

Can I add to this?

Bryan Paul:

Debi, please, of course.

Debi Ghate:

You asked about law schools in particular, and I think back to when I went to law school and how things have changed. The Stanford example is a really good one. If people haven't seen the video, they really should look at it. I can't imagine that having happened at my law school when I went to school. We might have disagreed vehemently with a judge's political orientation if we even knew what it was, right? But we would always be curious as to what any judge would have to say on any topic because these are people who have earned a certain degree of respect and decision-making in our system. And even if we come from different places and different modes of thinking, learning from somebody who has earned that place was always something that I think, was a natural orientation for my colleagues, my students, my peers.

So when I think about today, how that lack of curiosity, that lack of humility, that lack of just pausing and saying, what can I learn from this other person before I assume they're evil? First, pause and listen to what they have to say and find maybe the good part of what they're saying as opposed to focusing immediately on just blanket dismissal, right? So this is why I'm really glad that the Liberty and Law Center is doing the programs that it's doing.

Bryan Paul:

Definitely. Beautifully said, Debi. It reflects our own value and vision of the college debates and discourse alliance to want to have those kinds of conversations on college and university campuses. In fact, we recently came to GMU in the fall to have some crucial debates and dialogues, and in one of those months, we actually had... It was actually an intercollegiate debate or a dialogue with students from GMU and from George Washington University on the Israel-Palestinian conflict, no less. Should the U.S. cease aid to Israel.

And that topic alone may cause listeners here to freeze and wonder, oh my goodness, how could you possibly talk about that? What a riot must have occurred. On the contrary. There was not a single instance of incivility, or at least none that caused the conversation to stop. This was a chance for students to engage passionately, yet respectfully, on this critical topic at least. And it's a sign to me that there are great things happening here at GMU, not least to which because of the work you all are doing at the Liberty and Law Center, and that includes the Voices for Liberty Initiative. Debi, you have been one of the leading figures of this initiative. Please tell us a bit more about this initiative, what it is and how it got started?

Debi Ghate:

It is a wonderful initiative. It is something that the Liberty and Law Center identified as being a necessary gap to fill and to fill quickly. When the Liberty and Law Center took a look at the academic literature around free speech and what the benefits and upside aspects of free speech have been, the literature is lacking, and there's almost nothing out there in terms of academic scholarship that's studying what has been the upside? What has been the benefit of free speech? There's plenty of critical scholarship of free speech, but in terms of understanding why might free speech be a value and what has it accomplished? There's not a lot out there.

So this initiative set out to really help people reestablish the connection between free speech, civil rights, and social progress. Can you really have civil rights movements be successful? Can you really make social progress unless you are using your pens and your voices to advocate for the things that you think need to change? The history, it seems intuitive to all of us, that there must be some positive connection when we think about how have we advanced. Pick your civil rights movement, whether it's

one you belong to or don't belong to. Think about historically, the abolitionist movement. Think about the '60s, the African-American Civil Rights Movement. Think about today, even like the environmentalist movement. All of them rely on being able to speak and to speak freely without compulsion from the government or silencing from institutions to be able to accomplish their goals, right? So intuitively, this makes a lot of sense, but we're not studying it, we're not actually helping people understand that connection. So, this initiative is focused on that. It's reestablishing that connection between these concepts.

Bryan Paul:

That's great. I've had the opportunity to attend both of your conferences that you have held, and they have been attended by some of the top legal minds in the country today. They've come and engaged robustly and respectfully on the questions of the panels. They have reviewed papers, and it has been interesting to me to see this initiative unfold as it has and exciting, not to mention. JoAnn, why is it crucial to explore and understand the intersections of free speech, civil rights, and social progress?

JoAnn Koob:

Debi, named an important one, which is there just hasn't been enough work done showcasing this.

Bryan Paul:

Do you know why that might be?

JoAnn Koob:

I've actually thought about this, and I don't have any research to answer. It's just intuition. I do wonder if part of it is that it is intuitive that free speech has obviously helped all these various movements throughout our history, so does it really need studying? I don't know if that's correct, but that's one possibility. One thing that the initiative is trying to do is then actually start going through different movements and study them. Like how was speech used? Was it instrumental in progressing as a society?

And so, that's what the research has really been designed to do, and I think it's really important because when you want to defend free speech, it's very important that you have actual research to build a foundation of your argument. You need to be able to point to something and say, "Actually, this isn't my gut that this was helpful. We know it was helpful because someone has looked into it." And so, that's the research component, and that's why we think that's so important.

We also have a nationwide Campus Speakers' Bureau. So we've been sending speakers to colleges across the country to talk to college students about these issues. And I think that aspect is also incredibly important because today's college students grew up in a very different environment than we did. They haven't seen firsthand the impact of speech has had in their lives. Rather, when they look at it, they're seeing some of the harms or the hurts that speech can cause. And unless we can say, "Actually, it does a lot of good," and we can show that it does a lot of good, why do we expect people to believe in it? So, I think it's actually really important that we demonstrate that free speech is a positive and that's what this project does.

Debi Ghate:

Yeah, so JoAnn and I get to work on this project very closely together, and it has been fascinating to see how welcomed we have been on campuses into different discussions that normally would not be focused on free speech.

I think one of the things that has happened, and I'm picking up on what JoAnn said about why isn't the literature more robust in this area? Professor David Bernstein, who leads the center and who is involved in this project was asked that question at an event that I was at. Part of his answer was, well, the incentives within the academy are not there to actually do this work. So there isn't a welcome place for this scholarship in the academy. You have to carve it out, which is what the initiative is doing. We sponsor the papers that explore this connection.

The students that come to our campus events, I think come in very open to the idea that there is some kind of connection between free speech, civil rights, and social progress. They just haven't thought about it. So, it's what JoAnn said. They haven't really considered it, but when the evidence is presented to them, and even when you just talk to them about, well, do you believe free speech is necessary for social progress? The hands will all go up. There is a dissonance. We think that young people are concerned about speech and free speech and whether we should have it. But then when you actually engage with them in a way that allows them to think through the issue, they're actually very aligned with the concept that free speech is a necessary value for us to advance.

Bryan Paul:

Students don't know until they know.

Debi Ghate:

Yeah.

Bryan Paul:

And they may think they know, but they don't know. And they may know intuitively, but then not fully realize it until they actually discuss it and articulate it in a classroom or as part of a program of some kind. So, I applaud you for giving students those hands on immersive opportunities to engage deeply and thoughtfully on those questions. And hopefully, this will be a new breed of legal practitioner that can help redirect us on the course we are now on.

As we conclude our conversation today, and you two have been very gracious with your thoughts and your time. I would love to get your thoughts on how can colleges and universities and law schools, better prepare students for careers in the law and responsible citizenship in general? So just your thoughts. If you could give your pro-tips, and you have your soapbox moment here, microphone on. If you could give your pro-tips on what colleges and universities can do to better prepare our students for the law and responsible citizenship, what might those be?

JoAnn Koob:

I think having universities teach and train students to engage in civil discourse. To talk to one another, to be exposed to ideas that they haven't heard and that they dislike, as well as the ideas they like. I think that we need to have colleges and universities really should be cultivating that environment. But in addition to the environment, I also think there there's a need for training and programming to promote free speech and civil discourse so that students can go out in the world understanding them, but also, knowing how to engage in them and what the best practices look like.

Debi Ghate:

I agree with JoAnn. I might put it a little more bluntly to the university leaders who might be listening. I think you have an opportunity to either be part of the problem or be part of the solution. And what I

mean by that is, as university leaders, if you have a vision of a campus where students are engaged, where they are healthy, mentally and physically, where they are preparing themselves to be contributing members to society, which I think most university leaders would say, "Yes, yes, yes. Those are the things." Then what are we doing on our campuses to actually create the conditions for students to emerge that way? And I think university leaders have an opportunity to rethink some of the things that may have interfered with a student's ability to do that.

What is causing students to pull back? What is causing students to feel unsafe? What is causing students to just not engage? And it may be the things that are being done in the name of helping all of this that are actually hurting. So, I would encourage university leaders to maybe put their money where their mouth is.

Bryan Paul:

Powerful way to end our conversation. Debi, JoAnn, wonderful speaking with you both today. All the best to you in this new semester and new year.

JoAnn Koob:

Thank you. It was a pleasure.

Debi Ghate:

Thank you so much for having us.

Bryan Paul:

For more information about the Voices for Liberty Initiative and the other great things happening at the Liberty and Law Center at GMU, please google GMU Voices for liberty to find the website. You can also email JoAnn and Debi at libertya@GMU.edu. And they are happy to communicate with you and even explore ways to bring great scholars and other thinkers to your campus.

Doug Spry:

Higher Ed Now is a production of the American Council of Trustees and alumni in Washington DC. To learn more about our work in the pivotal issues of higher education, visit goacta.org, or you can email us at info@goacta.org. If you enjoy Higher Ed Now, you can subscribe and leave us a review at Apple Podcasts or Spotify. I'm Doug Spry. Thanks for listening. Stay safe. Take care of yourselves, and we'll share more episodes with you soon.