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| Text  Description automatically generatedMarch 24, 2023 |
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| Author Headshot | **By**[**David Leonhardt**](https://nl.nytimes.com/f/newsletter/Y-ODOx13akmkGtWJ01mGGg~~/AAAAAQA~/RgRmAAIAP0TAaHR0cHM6Ly93d3cubnl0aW1lcy5jb20vYnkvZGF2aWQtbGVvbmhhcmR0P2NhbXBhaWduX2lkPTkmZW1jPWVkaXRfbm5fMjAyMzAzMjQmaW5zdGFuY2VfaWQ9ODg1NDAmbmw9dGhlLW1vcm5pbmcmcmVnaV9pZD0xOTA2OTE4NjQmc2VnbWVudF9pZD0xMjg2MzAmdGU9MSZ1c2VyX2lkPWI5NDFlNTljYjNmNjM1MmY0MjQ2OWUyODE5MTM1NDQ1VwNueXRCCmQIAH0dZNyy23ZSFXRjbWl0Y2gxOTUxQGdtYWlsLmNvbVgEAAAAAA~~) |

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| **Good morning. A federal judge spoke at Stanford Law School. Chaos ensued.** |
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| Stanford University.Ben Margot/Associated Press |

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| **A heckler’s veto** |

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| Stuart Kyle Duncan — a federal appeals court judge appointed by Donald Trump — visited Stanford Law School this month to give a talk. It didn’t go well. |
| Students frequently interrupted him with heckling. One protester called for his daughters to be raped, Duncan said. When he asked Stanford administrators to calm the crowd, the associate dean for diversity, equity and inclusion walked to the lectern and instead began her remarks by criticizing him. “For many people here, your work has caused harm,” she told him. |

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| After Duncan [described his experience](https://nl.nytimes.com/f/a/E4gpIXBY4FBJBxSoG5YMmA~~/AAAAAQA~/RgRmAAIAP4QgAWh0dHBzOi8vd3d3Lndzai5jb20vYXJ0aWNsZXMvc3RydWdnbGUtc2Vzc2lvbi1hdC1zdGFuZm9yZC1sYXctc2Nob29sLWZlZGVyYWxpc3Qtc29jaWV0eS1reWxlLWR1bmNhbi1jaXJjdWl0LWNvdXJ0LWp1ZGdlLXN0ZWluYmFjaC00ZjhkYTE5ZT9jYW1wYWlnbl9pZD05JmVtYz1lZGl0X25uXzIwMjMwMzI0Jmluc3RhbmNlX2lkPTg4NTQwJm5sPXRoZS1tb3JuaW5nJnJlZ2lfaWQ9MTkwNjkxODY0JnNlZ21lbnRfaWQ9MTI4NjMwJnRlPTEmdXNlcl9pZD1iOTQxZTU5Y2IzZjYzNTJmNDI0NjllMjgxOTEzNTQ0NVcDbnl0QgpkCAB9HWTcstt2UhV0Y21pdGNoMTk1MUBnbWFpbC5jb21YBAAAAAA~) in a Wall Street Journal essay last week, the episode has received national attention and caused continuing turmoil at Stanford. The associate dean has been placed on leave. Stanford’s president, Marc Tessier-Lavigne, and its law school dean, Jenny Martinez, have apologized to Duncan. Students responded to the apology with a protest during Martinez’s class on constitutional law. On Wednesday, Martinez wrote a 10-page public memo [criticizing students’ behavior](https://nl.nytimes.com/f/a/3ahDSU8x7yEmssKHxoDgGA~~/AAAAAQA~/RgRmAAIAP4QjAWh0dHBzOi8vbGF3LnN0YW5mb3JkLmVkdS93cC1jb250ZW50L3VwbG9hZHMvMjAyMy8wMy9OZXh0LVN0ZXBzLW9uLVByb3Rlc3RzLWFuZC1GcmVlLVNwZWVjaC5wZGY_Y2FtcGFpZ25faWQ9OSZlbWM9ZWRpdF9ubl8yMDIzMDMyNCZpbnN0YW5jZV9pZD04ODU0MCZta3RfdG9rPU9EZzBMVVpUUWkwek1EY0FBQUdLcU5mbVVmejJTX1BDemtnVWpDJm5sPXRoZS1tb3JuaW5nJnJlZ2lfaWQ9MTkwNjkxODY0JnNlZ21lbnRfaWQ9MTI4NjMwJnRlPTEmdXNlcl9pZD1iOTQxZTU5Y2IzZjYzNTJmNDI0NjllMjgxOTEzNTQ0NVcDbnl0QgpkCAB9HWTcstt2UhV0Y21pdGNoMTk1MUBnbWFpbC5jb21YBAAAAAA~) at the judge’s talk and announcing a mandatory half-day session on freedom of speech for all law students. |
| The conflict is a microcosm of today’s political polarization. Duncan is a pugnacious conservative who opposed the right to same-sex marriage before becoming a judge. During his five years on the bench he has issued rulings restricting abortion, blocking Covid vaccine mandates and refusing to refer to a prisoner by her preferred pronoun. His critics see him as a bully who denies basic rights to vulnerable people. His defenders call him a good conservative judge (and emphasize that the prisoner in the pronoun dispute was convicted of child pornography). |

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| Stuart Kyle Duncan in 2019.Samuel Corum for The New York Times |

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| But even many people who disagree with Duncan’s views have been bothered by the Stanford students’ behavior. And it seems possible that the episode may affect the larger debate over free speech on campuses. |

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| **Dignity and curiosity** |
| Over the past few years, some American universities have seemed to back away from their historical support for free speech. Hamline University in Minnesota [effectively fired a teacher](https://nl.nytimes.com/f/newsletter/UxlF3-OClAHlZP0YM3ynuA~~/AAAAAQA~/RgRmAAIAP0TqaHR0cHM6Ly93d3cubnl0aW1lcy5jb20vMjAyMy8wMS8wOC91cy9oYW1saW5lLXVuaXZlcnNpdHktaXNsYW0tcHJvcGhldC1tdWhhbW1hZC5odG1sP2NhbXBhaWduX2lkPTkmZW1jPWVkaXRfbm5fMjAyMzAzMjQmaW5zdGFuY2VfaWQ9ODg1NDAmbmw9dGhlLW1vcm5pbmcmcmVnaV9pZD0xOTA2OTE4NjQmc2VnbWVudF9pZD0xMjg2MzAmdGU9MSZ1c2VyX2lkPWI5NDFlNTljYjNmNjM1MmY0MjQ2OWUyODE5MTM1NDQ1VwNueXRCCmQIAH0dZNyy23ZSFXRjbWl0Y2gxOTUxQGdtYWlsLmNvbVgEAAAAAA~~) who showed a 14th-century painting of the Prophet Muhammad in an art history class. A Princeton student lost her leadership position on a sports team after privately expressing an opinion about policing. Stanford itself allows students to file anonymous complaints against other students, including for speech. |

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| Now, though, Stanford seems to be drawing a line in defense of free speech. “The First Amendment does not give protesters a ‘heckler’s veto,’” Martinez, the law dean, wrote in her memo. Stanford, she vowed, will not become “an echo chamber that ill prepares students to go out into and act as effective advocates in a society that disagrees about many important issues.” |
| Martinez also wrote: “The cycle of degenerating discourse won’t stop if we insist that people we disagree with must first behave the way we want them to … The cycle stops when we recognize our responsibility to treat each other with the dignity with which we expect to be met. It stops when we choose to replace condemnation with curiosity, invective with inquiry.” |

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| **The latest:**Tirien Steinbach — the associate dean who rose to speak during the event and is now on leave — published an op-ed in The Wall Street Journal yesterday [explaining her position](https://nl.nytimes.com/f/a/iZOD2EJJinTOetB1Wmd-rQ~~/AAAAAQA~/RgRmAAIAP4QVAWh0dHBzOi8vd3d3Lndzai5jb20vYXJ0aWNsZXMvZGl2ZXJzaXR5LWFuZC1mcmVlLXNwZWVjaC1jYW4tY29leGlzdC1hdC1zdGFuZm9yZC1zdGVpbmJhY2gtZHVuY2FuLWxhdy1zY2hvb2wtcHJvdGVzdC1kZWktMjcxMDM4Mjk_Y2FtcGFpZ25faWQ9OSZlbWM9ZWRpdF9ubl8yMDIzMDMyNCZpbnN0YW5jZV9pZD04ODU0MCZubD10aGUtbW9ybmluZyZyZWdpX2lkPTE5MDY5MTg2NCZzZWdtZW50X2lkPTEyODYzMCZ0ZT0xJnVzZXJfaWQ9Yjk0MWU1OWNiM2Y2MzUyZjQyNDY5ZTI4MTkxMzU0NDVXA255dEIKZAgAfR1k3LLbdlIVdGNtaXRjaDE5NTFAZ21haWwuY29tWAQAAAAA). She said that she was trying to de-escalate the situation and noted that she defended Duncan’s right to speak during her remarks. “While free speech isn’t easy or comfortable, it’s necessary for democracy,” Steinbach wrote. |
| Below, my colleague Ian Prasad Philbrick has compiled a selection of commentary on the episode. |

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| **Commentary** |
| [**David French**](https://nl.nytimes.com/f/newsletter/imal-o_9pal554DC1vUgng~~/AAAAAQA~/RgRmAAIAP0TYaHR0cHM6Ly93d3cubnl0aW1lcy5jb20vMjAyMy8wMy8yMy9vcGluaW9uL2ZyZWUtc3BlZWNoLWNhbXB1cy5odG1sP2NhbXBhaWduX2lkPTkmZW1jPWVkaXRfbm5fMjAyMzAzMjQmaW5zdGFuY2VfaWQ9ODg1NDAmbmw9dGhlLW1vcm5pbmcmcmVnaV9pZD0xOTA2OTE4NjQmc2VnbWVudF9pZD0xMjg2MzAmdGU9MSZ1c2VyX2lkPWI5NDFlNTljYjNmNjM1MmY0MjQ2OWUyODE5MTM1NDQ1VwNueXRCCmQIAH0dZNyy23ZSFXRjbWl0Y2gxOTUxQGdtYWlsLmNvbVgEAAAAAA~~)**, in Times Opinion:**“It is entirely appropriate to ask any judge difficult questions during the question and answer session after a speech. But protests that go so far as to shout down or disrupt speeches or events aren’t free speech but rather mob censorship.” |

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| [**Elie Mystal**](https://nl.nytimes.com/f/a/b7qX2ca_Kc3qkDPY4kUyDQ~~/AAAAAQA~/RgRmAAIAP0T1aHR0cHM6Ly93d3cudGhlbmF0aW9uLmNvbS9hcnRpY2xlL3BvbGl0aWNzL3Byb3Rlc3RpbmctYW50aS10cmFucy1qdWRnZS1reWxlLWR1bmNhbi1pcy1hbWVyaWNhbi8_Y2FtcGFpZ25faWQ9OSZlbWM9ZWRpdF9ubl8yMDIzMDMyNCZpbnN0YW5jZV9pZD04ODU0MCZubD10aGUtbW9ybmluZyZyZWdpX2lkPTE5MDY5MTg2NCZzZWdtZW50X2lkPTEyODYzMCZ0ZT0xJnVzZXJfaWQ9Yjk0MWU1OWNiM2Y2MzUyZjQyNDY5ZTI4MTkxMzU0NDVXA255dEIKZAgAfR1k3LLbdlIVdGNtaXRjaDE5NTFAZ21haWwuY29tWAQAAAAA)**of The Nation**defended the students: “Everybody has the right to speak; nobody has the right to be heard over the din of the crowd.” Mystal also criticized Duncan for insulting the students during the event. (Duncan [said to one](https://nl.nytimes.com/f/a/rJ2I6fbseeRmG68bSQ-0qw~~/AAAAAQA~/RgRmAAIAP0T7aHR0cHM6Ly9zbGF0ZS5jb20vbmV3cy1hbmQtcG9saXRpY3MvMjAyMy8wMy90cnVtcC1qdWRnZS1reWxlLWR1bmNhbi1zdGFuZm9yZC1sYXctc2NvdHVzLWF1ZGl0aW9uLmh0bWw_Y2FtcGFpZ25faWQ9OSZlbWM9ZWRpdF9ubl8yMDIzMDMyNCZpbnN0YW5jZV9pZD04ODU0MCZubD10aGUtbW9ybmluZyZyZWdpX2lkPTE5MDY5MTg2NCZzZWdtZW50X2lkPTEyODYzMCZ0ZT0xJnVzZXJfaWQ9Yjk0MWU1OWNiM2Y2MzUyZjQyNDY5ZTI4MTkxMzU0NDVXA255dEIKZAgAfR1k3LLbdlIVdGNtaXRjaDE5NTFAZ21haWwuY29tWAQAAAAA), “You are an appalling idiot.”) |
| [**Steven Lubet**](https://nl.nytimes.com/f/a/3gFYjg-lZ9IKp8HQ4dPvTw~~/AAAAAQA~/RgRmAAIAP0TjaHR0cHM6Ly90aGVoaWxsLmNvbS9vcGluaW9uL2p1ZGljaWFyeS8zOTA5NDUyLWNoYW9zLWFuZC1ydWRlbmVzcy1hdC1zdGFuZm9yZC8_Y2FtcGFpZ25faWQ9OSZlbWM9ZWRpdF9ubl8yMDIzMDMyNCZpbnN0YW5jZV9pZD04ODU0MCZubD10aGUtbW9ybmluZyZyZWdpX2lkPTE5MDY5MTg2NCZzZWdtZW50X2lkPTEyODYzMCZ0ZT0xJnVzZXJfaWQ9Yjk0MWU1OWNiM2Y2MzUyZjQyNDY5ZTI4MTkxMzU0NDVXA255dEIKZAgAfR1k3LLbdlIVdGNtaXRjaDE5NTFAZ21haWwuY29tWAQAAAAA)**of Northwestern University’s law school, in The Hill:**“The judge, the student protesters and an on-scene administrator all played to type, exhibiting arrogance, intolerance and irresponsibility, respectively, that combined to make the afternoon a fiasco for all concerned.” |

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| [**David Lat**](https://nl.nytimes.com/f/a/ydnkDkKzsCWhBI-_juw-5w~~/AAAAAQA~/RgRmAAIAP0TcaHR0cHM6Ly9kYXZpZGxhdC5zdWJzdGFjay5jb20vcC95YWxlLWxhdy1pcy1uby1sb25nZXItMWZvci1mcmVlLXNwZWVjaD9jYW1wYWlnbl9pZD05JmVtYz1lZGl0X25uXzIwMjMwMzI0Jmluc3RhbmNlX2lkPTg4NTQwJm5sPXRoZS1tb3JuaW5nJnJlZ2lfaWQ9MTkwNjkxODY0JnNlZ21lbnRfaWQ9MTI4NjMwJnRlPTEmdXNlcl9pZD1iOTQxZTU5Y2IzZjYzNTJmNDI0NjllMjgxOTEzNTQ0NVcDbnl0QgpkCAB9HWTcstt2UhV0Y21pdGNoMTk1MUBnbWFpbC5jb21YBAAAAAA~)**, Substack:**“In hindsight, would it have been better if Judge Duncan had not lashed out at the protesters? Yes … [But] I’m not going to sit here and judge the judge for not acting more judicially in response to verbal abuse.” |
| [**Ed Whelan**](https://nl.nytimes.com/f/a/pyEYkZ1uQPuOx85cp5mrAA~~/AAAAAQA~/RgRmAAIAP0TWaHR0cHM6Ly90d2l0dGVyLmNvbS9FZFdoZWxhbkVQUEMvc3RhdHVzLzE2MzQzODEwMjUyOTA3MzU2MjA_Y2FtcGFpZ25faWQ9OSZlbWM9ZWRpdF9ubl8yMDIzMDMyNCZpbnN0YW5jZV9pZD04ODU0MCZubD10aGUtbW9ybmluZyZyZWdpX2lkPTE5MDY5MTg2NCZzPTIwJnNlZ21lbnRfaWQ9MTI4NjMwJnRlPTEmdXNlcl9pZD1iOTQxZTU5Y2IzZjYzNTJmNDI0NjllMjgxOTEzNTQ0NVcDbnl0QgpkCAB9HWTcstt2UhV0Y21pdGNoMTk1MUBnbWFpbC5jb21YBAAAAAA~)**, a conservative legal activist**, has criticized Martinez for not punishing any of the students. (In her memo, she explained that it would be difficult to determine who deserved punishment and suggested that the associate dean’s implicit support for the heckling made it difficult for the school to sanction students afterward.) |

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| [**David Bernstein**](https://nl.nytimes.com/f/a/BwcmXqtcOsELwrGLLYPc4Q~~/AAAAAQA~/RgRmAAIAP4QKAWh0dHBzOi8vcmVhc29uLmNvbS92b2xva2gvMjAyMy8wMy8yMi9zdGFuZm9yZC1kZWFuLWplbm5pZmVyLW1hcnRpbmV6cy1leGNlbGxlbnQtZGVmZW5zZS1vZi1mcmVlLXNwZWVjaC1hbmQtY2l2aWxpdHkvP2NhbXBhaWduX2lkPTkmZW1jPWVkaXRfbm5fMjAyMzAzMjQmaW5zdGFuY2VfaWQ9ODg1NDAmbmw9dGhlLW1vcm5pbmcmcmVnaV9pZD0xOTA2OTE4NjQmc2VnbWVudF9pZD0xMjg2MzAmdGU9MSZ1c2VyX2lkPWI5NDFlNTljYjNmNjM1MmY0MjQ2OWUyODE5MTM1NDQ1VwNueXRCCmQIAH0dZNyy23ZSFXRjbWl0Y2gxOTUxQGdtYWlsLmNvbVgEAAAAAA~~)**of George Mason University**called Martinez’s memo passionate and excellent but criticized Stanford for having only one known conservative among its law professors: “Intentionally or not, the Stanford faculty is sending its students the message that right-of-center views are not respectable, and not worth listening to.” |