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## College students should learn from the Supreme Court: Free speech protects everyone

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Pay very close attention to what today's college students think and do because today's college students will become tomorrow's lawyers and the next generation's politicians and judges. This is especially true for the First Amendment. If students are taught that offensive speech should be censored and controversial speakers should be heckled, then the freedom of expression for the future stands on very shaky grounds. This ominous future can be avoided. Students must be taught that speech ought to be protected, no matter offensive it is. The answer to unpopular speakers is not interruption, but interaction. Use arguments to respond and counterprotest, but do not stop a speech in its tracks. All of these sentiments are easy enough to articulate, but teachers and professors have the front-line responsibility to make sure these precepts are embraced. The Supreme Court's recent decision in *Matal v. Tam* provides a case study of how these lessons can be taught.

An Asian-American dance-rock band sought to trademark its name, "The Slants." The lead singer of the band, Simon Tam, chose this name to "reclaim" and "take ownership" of racial stereotypes. Nonetheless, the government rejected the application because the term "slants" was a derogatory term for persons of Asian descent. The Patent & Trademark Office justified its decision, in part, because "several bloggers and commenters to articles on the band have indicated that they find the term and the applied-for mark offensive." While this sort of reasoning would pass for standard operating procedures on many college campuses — shut down speech that is deemed "offensive" — the Supreme Court disagreed. Unanimously.

All eight Justices ruled in favor of The Slants. (The case was argued before Justice Neil M. Gorsuch joined the bench.) Three decades ago, the Supreme Court ruled that a flag-burning ban is unconstitutional: "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." Justice Samuel A. Alito, Jr.'s opinion in *Matal v. Tam* reaffirmed this important maxim. The mere fact that The Slants sought a trademark does not give the government the power to pick and choose which speech is worthwhile of protection. Otherwise, Justice Alito explained, "government could silence or muffle the expression of disfavored viewpoints."

Justice Anthony M. Kennedy's opinion went even further. He explained the government cannot stifle speech because some bloggers were bothered by the name. The government, Justice

Kennedy noted, cannot tie “censorship to the reaction of the speaker’s audience.” Allowing a heckler’s veto would permit the government to “remove certain ideas or perspectives from a broader debate.” This danger is heightened, Justice Kennedy continued, “if the ideas or perspectives are ones a particular audience might think offensive, at least at first hearing.” And, in a lecture to students nationwide who heckle speakers they deem offensive, the often-swing Justice Kennedy offered this lesson: “Initial reaction may prompt further reflection, leading to a more reasoned, more tolerant position.” In other words, listen; you just might learn something. Interruption ends the debate. Interaction promotes tolerance.

Professors and students alike should embrace the Supreme Court’s unanimous decision. The First Amendment should not be a right-left issue. Everyone benefits from the robust protection of free expression.

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