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America's Many Divides Over Free Speech

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Would you say that people should be allowed to express unpopular opinions in public, even those that are deeply offensive to other people; or that government should prevent people from engaging in hate speech against certain groups in public?

That choice kicked off a lengthy survey on free speech and tolerance that will be released later this month by The Cato Institute, which collaborated with YouGov, the market research firm, to collect responses. The final data set was drawn from answers to scores of questions provided by 2,300 people. I got an early look at the survey this month when the institute invited me to Washington, D.C., for a panel discussion on the results. (Cato paid my travel expenses as part of my appearance on the panel. My decision to write about the survey's findings was not part of our agreement.)

To see what the public believes is always disorienting, for it is always rife with contradictions; but many of the results are of interest to anyone invested in civic life in America.

For starters, 59 percent of Americans say people should be able to express even deeply offensive views, while 40 percent said government should prevent people from engaging in hate speech, with partisan and racial divides characterizing the results.

Hate Speech

An overwhelming majority of Americans believe that “it would be hard to ban hate speech because people can’t agree what speech is hateful,” including 78 percent of Democrats, 77 percent of Latinos, and 59 percent of African Americans. And the notion that “freedom of speech ensures the truth will ultimately win out” was shared by 70 percent of Latinos, 68 percent of African Americans, and 63 percent of Democrats.

Yet a majority of Americans and a supermajority of African Americans believe that “society can prohibit hate speech and still protect free speech.” (To complicate matters, a quarter of Americans, 38 percent of African Americans, and 45 percent of Latinos erroneously believe it is already illegal to make a racist statement in public.)

Who should get protection against hate speech? 46 percent would support a law making it illegal to say offensive things about African Americans; there is less support for banning insults against other groups (41 percent for Jews, 40 percent for immigrants and military service members, 39 percent for Hispanics, 37 percent for Muslims, 36 percent for gays, lesbians, and transgender people, 35 percent for Christians).

47 percent of Latinos, 41 percent of African Americans, and 26 percent of whites would favor a law making it illegal to say offensive things about white people in public.

Should there be a law making it illegal to say offensive or disrespectful things in public about the police? 51 percent of Latinos say yes. So do 40 percent of African Americans, 38 percent of Democrats, and 36 percent of both independents and Republicans.

51 percent of Democrats would favor a law “requiring people to refer to a transgender person by their preferred gender pronouns and not according to their biological sex.” Majorities of African Americans, Latinos, whites, and Republicans disagreed.

The Flag

Republicans were most intolerant of speech and most likely to favor authoritarian laws to punish it on the subject of burning or desecrating the American flag: 72 percent of Republicans believe that should be illegal (along with 46 percent of Democrats). Most shocking to me, 53 percent of Republicans and 49 percent of Latinos favor “stripping a person of their U.S. citizenship if they burn the American flag.” To protect the flag at the expense of the U.S. Constitution rather misses the point.

What Ought to Get People Fired?

On the whole, Americans were averse to firing people from their jobs for holding an offensive belief. Should a business executive be fired if he believes African Americans are genetically inferior? 53 percent of Americans, and 51 percent of African Americans, said no. And that was the belief *most* likely to be seen as termination-worthy (except among Republicans: more Republicans were inclined to fire an NFL player who refused to stand for the national anthem than a racist executive).

Large majorities oppose firing an executive who believes that transgender people have a mental disorder, or that homosexuality is a sin, or that all white people are racist, or that men are better at math than women; 74 percent oppose firing an executive who believes, *pace* James Damore, the fired Google engineer, that psychological differences help to explain why there are more male than female engineers.

Stuff White People Like Most: Nazi-Punching

Is it morally acceptable to punch a Nazi?

68 percent say no—and contrary to those who argue that opposition to punching Nazis is rooted in white privilege, it turns out that Latinos are most averse to Nazi-punching, with 80 percent calling it unacceptable; African Americans are next, with 73 percent calling it unacceptable; and white people are last, with just 56 percent agreeing. Republicans are slightly more likely to find Nazi-punching acceptable than Democrats, 35 percent to 28 percent. 45 percent of independents say it's acceptable.

Political Correctness and Campus Speech

Large majorities agree that “a big problem this country has is being politically correct,” including 70 percent of Latinos, 62 percent of African Americans, and 72 percent of whites.

Across partisan and racial divides, large majorities agreed that colleges and universities are not doing enough to teach young Americans about the value of free speech, and not doing enough to ensure students are exposed to a variety of viewpoints—though a small majority believes colleges “have an obligation to protect students from offensive speech and ideas that could create a difficult learning environment.”

When asked, “suppose the following people were invited to speak at your college, should they be allowed to speak?” respondents who were college students or had college experience answered “no,” various viewpoints should *not* be allowed, as follows:

- A speaker who advocates for violent protests (81 percent)
- A speaker who plans to publicly reveal the names of illegal immigrants attending the college (65 percent)
- A speaker who says the Holocaust did not occur (57 percent)
- A speaker who says all white people are racist (51 percent)
- A speaker who says Muslims shouldn’t be allowed to come to the U.S. (50 percent)
- A speaker who advocates conversion therapy for gays and lesbians (50 percent)
- A speaker who says transgender people have a mental disorder (50 percent)
- A speaker who publicly criticizes and disrespects the police (49 percent)
- A speaker who says that all Christians are backwards and brainwashed (49 percent)
- A speaker who says the average IQ of whites and Asians is higher than African Americans and Hispanics (48 percent)
- A speaker who says the police are justified in stopping African Americans at higher rates than other groups (48 percent)
- A person who says all illegal immigrants should be deported (41 percent)
- A speaker who says men on average are better at math than women (40 percent)

Conclusions

There is *much* more of interest in the survey results, and dozens of conversations the data presented could inform, but for now, I’ll conclude with just one observation from 10,000 feet. An under-appreciated feature of the First Amendment is that even as it assures that almost everyone will hear that which offends them, it spares the country lots thorny policy fights over speech and expression that would divide an already-polarized country deeply along partisan and racial lines.

At the end of those fights a new order would emerge. It would almost certainly be less stable, as well as more punitive, giving police and prosecutors broad new powers. But there is neither a guarantee nor a likelihood that it would be a more just order; and its injustices would almost certainly be born most heavily by the relatively powerless. The Bill of Rights is a gift that will keep on giving if we can keep it.