

Newsweek

Is Hate Speech Protected By The First Amendment? What About This?

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December 6, 2017

The outrage du jour is a newspaper column entitled “Your DNA is an Abomination” published by a student newspaper at Texas State University.

The case is no doubt difficult politically and practically for the people involved.

But it really is not an interesting case concerning free speech. As Nancy Reagan said, we should “Just say no.”

The column was taken down from the newspaper’s website. It should not have been. How can the rest of us assess its arguments absent an authoritative version of the writing?

The student body president has called for defunding the student newspaper. He should not be advocating punishing speech he does not like. A few hundred people have signed an online petition calling for the paper to be defunded.

But let’s say I proposed an online petition to take away the right to petition the government “for redress of grievances.” If several hundred people sign my petition, would it be right? No, it would deeply offend the First Amendment.

Texas State President Denise M. Trauth has said the column was “racist” and said its themes were “abhorrent.” So far so good. She is responding to speech with more speech.

But she also said, “I expect student editors to exercise good judgment in determining the content that they print.” That is a sensible view but also could be taken as a threat.

The president adds, “The *Star*’s editors have apologized for the column and are examining their editorial process.” But what exactly went wrong in the editorial process? And what precisely are the editors apologizing for? The main issue seems to be that the essay offended or angered people.

Of course, Paul Robert Cohen's jacket that said "F— the Draft" angered and offended people. It was protected speech.

Gregory Lee Johnson offended many people (including a couple Supreme Court justices) by burning an American flag. His symbolic speech was also protected by the First Amendment. Living in a free society means you risk occasionally being angered or offended. The important thing is that we can have a reasoned debate about whatever the content of this essay was. Now imagine there was a "hate speech" exception to the First Amendment. Would such an exception allow public officials to censor "Your DNA is an Abomination?"

The author apparently wrote:

Ontologically speaking, white death will mean liberation for all. To you good-hearted liberals, apathetic nihilists and right-wing extremists: accept this death as the first step toward defining yourself as something other than the oppressor.

Until then, remember this: I hate you because you shouldn't exist. You are both the dominant apparatus on the planet and the void in which all other cultures, upon meeting you, die.

So does using the verb "hate" in regard to a group of people constitute "hate speech?" Or are such statements only subject to censorship if the speaker is an "oppressor" but not if they are one of "the oppressed?"

Who decides which speakers belong in which categories and thus who can use the verb and who cannot? The courts? Legislatures?

We do know this. Absent a hate speech exception to the First Amendment, this essay has been pulled from a website, its editors have apologized, and the highest-ranking public official involved seems to be obliquely threatening the newspaper and the author of the essay. If "hate speech" were not protected by the Constitution, what would have happened?

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