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The Harm In Hate Speech (Oliver Wendell Holmes Lectures)



Synopsis

Every liberal democracy has laws or codes against hate speech except the United States. For constitutionalists, regulation of hate speech violates the First Amendment and damages a free society. Against this absolutist view, Jeremy Waldron argues powerfully that hate speech should be regulated as part of our commitment to human dignity and to inclusion and respect for members of vulnerable minorities. Causing offense by depicting a religious leader as a terrorist in a newspaper cartoon, for example is not the same as launching a libelous attack on a group's dignity, according to Waldron, and it lies outside the reach of law. But defamation of a minority group, through hate speech, undermines a public good that can and should be protected: the basic assurance of inclusion in society for all members. A social environment polluted by anti-gay leaflets, Nazi banners, and burning crosses sends an implicit message to the targets of such hatred: your security is uncertain and you can expect to face humiliation and discrimination when you leave your home. Free-speech advocates boast of despising what racists say but defending to the death their right to say it. Waldron finds this emphasis on intellectual resilience misguided and points instead to the threat hate speech poses to the lives, dignity, and reputations of minority members. Finding support for his view among philosophers of the Enlightenment, Waldron asks us to move beyond knee-jerk American exceptionalism in our debates over the serious consequences of hateful speech."

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Customer Reviews

[Waldron's] book sheds light on a number of difficult issues, and occasionally exposes the

difference between historical fact and fiction...He elegantly and convincingly advocates that our leaders should not only avoid the use of hate speech themselves, but also condemn its use by others...We should all do our best to preserve President Ford's conception of America as a place where we can disagree without being disagreeable. An understanding of the arguments in Waldron's book may help us to do so.--John Paul Stevens"New York Review of Books" (06/07/2012)This is a wonderful book. It conveys complex ideas in an accessible and convincing way...Jeremy Waldron has put together a clear and compelling rationale for hate-speech laws--the harm that it causes to human dignity.--Katharine Gelber"Times Higher Education" (05/31/2012)To the (mostly white) liberals who say they hate the content of hate speech, but defend its right to exist under the First Amendment (often while patting themselves on the back for their tolerance), Waldron replies, in essence: easy for you to say. In this brief, eloquent book, he urges readers (at a bare minimum) to think about how hate speech feels from the point of view of its targets...From key court battles Waldron teases out the ideas that matter in deciding how to balance free expression with a free society, one in which everybody can "know that when they leave home in the morning, they can count on not being discriminated against or humiliated or terrorized."--Kate Tuttle"Boston Globe" (05/27/2012)Waldron...challenges society and its legal system to do something about [the harm done by hate speech]. But the likelihood that something will be done is slim if Waldron is right about the state of First Amendment discourse: "[I]n the American debate, the philosophical arguments about hate speech are knee-jerk, impulsive and thoughtless." Not the arguments of this book, however; they hit the mark every time.--Stanley Fish"New York Times" (06/04/2012)The Harm in Hate Speech is the fullest embodiment of arguments that Waldron has been developing for years...Waldron's treatise is primarily a philosophical defense of hate-speech regulation. He argues that hate speech is an "environmental" problem that pollutes the atmosphere of security and dignity that society should provide to all its members...Speech intended to intimidate or malign destroys this assurance...While we should continue to protect the free speech of those we disagree with, The Harm in Hate Speech makes a compelling case that they are not the only ones who need defending.--Daniel Townshend"American Prospect" (06/15/2012)We have plenty of free speech in this country, but not nearly enough free speech about free speech itself. In this elegantly written, fair minded, and carefully reasoned book, Jeremy Waldron raises important issues about the real harm caused by certain kinds of speech. His argument is certain to give even free speech absolutists pause.--Louis Michael Seidman, Georgetown UniversityThis book develops a theory of hate speech that challenges existing U.S. legal rubrics. U.S. courts have repeatedly held that the First Amendment forbids criminalization of hate speech, but Waldron advances a broader view of the link

between free expression and important social values such as tolerance and inclusiveness...If dignity is a concept that is valued by a polity, Waldron argues, then there are important reasons to distinguish hate speech from other forms of expression that merit legal protection. An elegant synthesis of modern legal philosophy and leading cases, as well as a critique of the positions of prominent legal theorists such as Ronald Dworkin and C. Edwin Baker, the book is a readable, thought-provoking contribution to the literature.--S. B. Lichtman"Choice" (12/01/2012)Waldron is firmly on the side of the hate speech legislators. He wants free speech dogmatists to think again, and presents a series of challenges to the prevailing view in the U.S.--Nigel Warburton"Times Literary Supplement" (01/04/2013)Jeremy Waldron's vigorous defense of restricting hate speech will benefit those who agree with him and those who do not. The book is clearly written, both subtle and inventive in its arguments, continuously stimulating, and shows a remarkable generosity of spirit. This is quite an achievement.--George Kateb, author of "Human Dignity"Waldron is a legal and political thinker at the height of his powers. Even, or perhaps especially, for someone who disagrees with his position on hate speech legislation, this book conveys a subtle, rich, rigorous and deeply challenging argument.--Timothy Garton Ash, St Antony's College, University of Oxford

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Jeremy delivers a true lesson in this book and after you are done reading it you can't help but love thy neighbor... and drop the hate speech we have become so accustomed to see on our social media daily chats.

The author makes an argument against the broad traditional American view of Speech rights. He wants to create a legal and constitutional window for the censoring and suppression of certain speech which he groups under the catch-all title of "hate speech". He invents a "group" right: the right to "dignity" which he then balances off against the right to speech in the system he describes. He tries to define his proposals as a positive (withdrawing a protection) rather than negative (banning something) but I really wonder if that sort of difference means anything at all?Waldron is good at showing the reality of speech today. Of showing the limits under the current American system of law that already exist and how the preceptions of many don't quite line up with the reality of the system. While the arguments in that respect are well made and potentially educational, I don't think that they help his case much. The limits of free speech under the current system do not themselves say anything about the wisdom of new limits on speech.What concerns me about the

book is that he is hiding a broad set of concepts and changes to what speech rights means behind a "straw man" called hate speech. His straw man gives him easy examples which are difficult to argue against and at the same time allows him to avoid nearly all the broad consequences of his proposals. The idea of dignity he presents both goes beyond just the issue of "hate speech" and raises difficult questions as a general principle. The book edges toward the logical consequences of applying "dignity" to images of women. Various advertising images and most especially pornography could well be argued as acting against the right to "dignity" of women. Waldron isn't really very effective in terms of drawing the lines of where "dignity" ends. Political speech, by its very nature, often leads to speech that impacts the dignity of one group or another. What is to be done when two groups (lets say Palestinians and Israelis) attack each others dignity as part of their politics? People on both sides of the gun issue assault each others dignity all the time. Was the campaign against the Koch brothers in recent years an attack on their dignity? The problem with "hate speech" is that while its easy to find examples that it would be good to suppress, coming up with a legal framework that touches only those easy examples and nothing else is not so simple. Waldron's "dignity" approach didn't do it as far as I'm concerned. If it is applied as a principle, its reach is far too broad. If it is applied in the exception, it becomes a very arbitrary sort of law which will be selectively enforced based on politics. Where are the limits of "dignity"? Arbitrary enforcement has often been the problem with these laws in France. If the hate speech laws were uniformly applied, the outcome would have been many results which would be considered unacceptable. But in practice, the French courts have simply nullified the law's effects when it would produce an unacceptable result in terms of constraining speech. What is hate speech in France very much depends on who is making the speech and what the political majority thinks of them. Thus an unpopular minority comedian can be banned from performing. But a person considered a serious novelist or the producers of a film or the publishers of a popular satirical magazine will not be found guilty. The French courts have also said that while attacking an entire group (Muslims) is unacceptable hate speech, qualified attacks on minorities within the muslim community is acceptable speech. Therefore while words said against "muslims" are hate, to say the same words against "fundamentalist muslims" or "terrorist muslims" are not hate. The great problem in France is that while those who favor these laws talk about protecting groups, what is empowered by these laws is the political majority. What the majority does with the laws is favor or punish speech according to their views and prejudices. The actual views and social status of the protected groups is incidental to the entire process. Another matter I would note is the ugly modern history of the British Libel laws. In my opinion, exceptions created to open speech inevitably don't work to the

good. They are as often as not a means by which the powerful can crush the weak through the law. I personally think that hate speech should be dealt with through the concepts of individual harm and individual damage. I don't think that inventing metaphysical "group" rights into the law as regards speech is a workable idea. Damages have to be measurable and cannot be abstracted. In particular, nobody in an open society has a right to be protected from having their feelings hurt. Waldon tries somewhat to deal the hurt feelings issue by trying to wrap his ideas in an idea of social standing. That it's ok to hurt feelings, but not social standing. But rather than a solid principle, that only seems to lead to arbitrary enforcement based on whatever groups the majority in society deems worthy of protection. In the end, I am left less than convinced of any justification for these changes to the law. The harm done by trying to regulate hate speech seems as if it will be far worse than the status quo. I also find it difficult to credit the idea that European countries are more advanced in their thinking on these subjects. I've mentioned before the atrocity of the British Libel laws. France is just as bad in that the system seems completely arbitrary if not outright political in restricting speech. In Germany, a comedian is arrested for mocking the President of Turkey. And even more recently Facebook, Twitter, Google and Microsoft have agreed to speech restrictions in Europe. The new innovation is that the actual censorship is to be outsourced to a large degree to non-governmental organizations. The organizations will be considered "trusted reporters" of what speech is to be banned. This will in essence allow the companies to create a process where speech can be censored by third parties with no real possibility of appeal even to the companies themselves. The censored will lack the knowledge of who is responsible for the censorship decisions. Worse yet, the "code of conduct" suggests a role for both the companies and the governments to identify and promote "counter narratives" through their services. Propaganda always being the sibling of censorship. Closer ties to law enforcement is of course also in the agreement.

I weep for the future. The future that is the Orwellian nightmare of children in universities needing "safe" spaces because someone chalked Trump on the sidewalk of Emory University. When police and DA's get to add on years to a sentence because someone yelled an ethnic slur while kicking the out of you. As if the physical pain is somehow worse (don't bother the so called psychological pain is in your head). When scum like Bobby Kennedy wants to charge you under the RICO act because you don't agree with his views on global warming. Big brother is winning and this book is just another brick in the wall

A lucid counterargument against the dominant theories on free speech in America.

The author took on a subject that most avoid, and for that I congratulate him. At the same time, his arguments are almost always based on false premises. Early on, the author says the publisher of hate speech wants to exclude, beat, and drive out the object of his attacks. Exclusion is NOT the same as beat, the latter being clearly against the law. "Drive out" is tricky, for unless the publisher causes harm to the persons and/or their properties - both clearly against the law separate and apart from hate speech legislation - then the persons may have left (or not left) for any number of other reasons. The liberal links exclusion and beaten because, for the liberal, they are one and the same. For the rest of us, there is a world of difference. Over the past Jewish holidays, I had any number of guests to my home, every one of them Jewish. Clearly I knowingly "excluded" all other peoples, but I certainly didn't and wouldn't beat those peoples. Should I be arrested? The author spends a lot of time extolling and defining a "well-ordered society". Well, the really well-ordered societies are the most homogeneous ones - small towns in which everyone is white and Christian, Orthodox Jewish neighborhoods, Japan, etc. The beloved diversity is the enemy of a well-ordered society, so the author avoids this inconvenient truth. Hate speech is a slippery slope, starting with defining hate speech. The author says that anything that affects the "dignity" of another individual is hate. Better build more law schools and prisons because we are ALL in trouble by this definition. Is 'NO SHARIA LAW' hate speech or a valid opinion? If I look at someone and smirk, is that hate thought? If a black person smirks at me, is that NOT hate thought by virtue of his melanin? If, as happened this week, a viewer emailed a female tv personality and called her fat, would he face hate speech charges under the author's definition? And if that newscaster responded that the emailer was stupid, does she go to jail too? What about those that write letters to the editor - should the newspapers report any and all who opposed any and all? The author keeps returning to his prime concern about inflammatory signage which is a red herring - no one puts out inflammatory signs against ANYONE because it is simply not acceptable to society as a whole. Today, hate speech legislation is aimed at appeasing certain groups to the exclusion of other groups. Recently, in NJ, a young man was sent to prison for making a gay person unhappy. No physical attack to the person or property, in fact no derogatory language. The young gay got upset by a prank and killed himself. This is where hate speech legislation leads. Someday, someone will decide that pedaphiles are an endangered class. Or those engaged in bestiality. And according to the author, ALL groups are entitled to dignity - "all" would therefore include groups like the aforementioned that are now despised. Yes, a very slippery slope. Finally, the major flaw throughout this book is that the author sees hate flowing in only one

direction - from the (white, straight) majority at the (dark-skinned, gay) minority. Anyone with access to the news knows that this simply isn't the case. These days, black hatred towards whites, manifested as verbal and physical attacks, far outweighs white hatred of blacks. Anti-whites editorials predominate in black-owned newspapers and websites that would never be tolerated in even the most conservative white newspapers. And this is where hate speech laws fall apart. I hit a black person and I am charged with assault AND a hate crime; the black hits me and he is charged with assault only.

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