

Freedom of Speech Limits
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Our founders proposed an experiment that was new to the world: mandating freedom of speech. Even England, which was a forerunner of this idea (with limits) did not go to the extent that the New United States did. This idea appeared as the first amendment to our constitution.

It has been our history to support debates, opposite opinions in the public forum, and encourage peaceful exchange of ideas, including some speech obnoxious to the minority. This has not been easy, but has generally worked.

Our courts have supported this amendment, even when truly obnoxious. In 1977, the ACLU (American Civil Liberties Union) of Illinois received a call from a Nazi leader complaining that his planned demonstration in Skokie had been blocked. The ensuing legal battle and the controversy around it would test commitment to the First Amendment.

Skokie was home to many Jewish survivors of the Nazi Holocaust, horrified to have Nazis parade through their town. But the ACLU prevailed in court and the Nazis marched, finding mostly empty streets to greet them. In this case, free speech prevailed over an obnoxious performance.

Free speech is being tested today after a horrific terror attack in Israel by a Palestinian cult that has ruled Gaza after winning one election and then no more for decades. Hamas, the cult, staged a sneak attack over the border with Israel and attacked young Israelis attending a peace concert, murdering many and taking others captive. They then stormed the Kibbutz villages near the border, smashing into bomb shelters and torturing and murdering Israelis ranging from babies to elders. They took a large number of hostages back to Gaza and then continued lobbing missiles into Israel.

The Israelis were enraged and went full bore into bombing Gaza and preparing for an invasion to punish Hamas and free the prisoners. The International Press, doing what it is mandated to do, covered the horrors in Gaza. Soon, the cause for this war, Hamas, was forgotten and sympathy changed understandably to the suffering Palestinian people.

Something happened to free speech at this point. Universities, always lively with debate and passionate demonstrations, erupted into a poisonous free-speech free-for-all. Jewish students were hunted down, beaten, called murderers (even though they murdered nobody). This movement went global, and demonstrators around the world demanded that Israel stop its attack on Gaza, which Israel could not do.

This is a real test case for freedom of speech with no exceptions. We already have exceptions: shouting fire (falsely) in a crowded theater, resulting in stampeding and deaths, and inciting mobs to riot. But several other issues are raised by these current hot conflicts:

Does the First Amendment permit lies that incite to violence? This question is now before the courts in trials of former president Donald Trump, who made a career out of lying and inciting.

Another issue involves one of the world's oldest, most poisonous conspiracy lies, that Jews want to take over the world and must be exterminated (Nazi Germany) or expelled (Medieval Spain, England, and Russia). Is the violent condemnation of Israel defending itself now a substitute for a revival of antisemitism everywhere? And does it presage violence?

Words and speech are not neutral. Lying about vaccinations can result in the death of naive believers. Lies from Trump that drinking cleansers can sanitize the body resulted in stupid believers nearly dying. Lying about elections resulted in an attack on Congress. Lying about government officials, judges, witnesses, can result in assassinations by violent believers. Freedom to lie is deadly.

This sort of lying speech, deliberately spawned by our former President, is no different than yelling "fire" in a crowded theater.

There are rules around freedom of speech, a freedom that also has a responsibility. When not accompanied by civility of behavior, we risk deliberate incitement to mob or

sick individual violence, based on lies and a long history of mindless hatred. We are seeing it now in the burgeoning violence against Jews, Asians, and Muslim citizens. Our history was rife with such attacks, attempts to exterminate Native Americans, Black lynchings, and exclusionary laws.

Do we really want that?

685 words

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