

Freedom Of Speech Research Paper

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Freedom of Expression Toolkit: A Guide for Students

The Human Rights Act 1998 has possibly had the biggest impact on the Scottish legal system, other than the Scotland Act itself, in recent history. This text contains an annotated copy of the Act

Media Ethics, Free Speech, and the Requirements of Democracy

State of the Union Address By Franklin D. (Franklin Delano) Roosevelt
I come before you at the opening of the Regular Session of the 73d Congress, not to make requests for special or detailed items of legislation; I come, rather, to counsel with you, who, like myself, have been selected to carry out a mandate of the whole people, in order that without partisanship you and I may cooperate to continue the restoration of our national wellbeing and, equally important, to build on the ruins of the past a new structure designed better to meet the present problems of modern civilization. We are delighted to publish this classic book as part of our extensive Classic Library collection. Many of the books in our collection have been out of print for decades, and therefore have not been accessible to the general public. The aim of our publishing program is to facilitate rapid access to this vast reservoir literature, and our view is that this is a significant literary work, which deserves to be brought back into print after many decades. The contents of the vast majority of titles in the Classic Library have been scanned from the original works. To ensure a high quality product, each title has been meticulously hand curated by our staff. Our philosophy has been guided by a desire to provide the reader with a book that is as close as possible to ownership of the original work. We hope that you will enjoy this wonderful classic work, and that for you it becomes an enriching experience.

Missiles for the Fatherland

Can free speech coexist with an inclusive campus environment? Hardly a week goes by without another controversy over free speech on college campuses. On one side, there are increased demands to censor hateful, disrespectful, and bullying expression and to ensure an inclusive and nondiscriminatory learning environment. On the other side are traditional free speech advocates who charge that recent demands for censorship coddle students and threaten free inquiry. In this clear and carefully reasoned book, a university chancellor and a law school dean—both constitutional scholars who teach a course in free speech to undergraduates—argue that campuses must provide supportive learning environments for an increasingly diverse student body but can never restrict the expression of ideas. This book provides the background necessary to understanding the importance of free speech on campus and offers clear prescriptions for what colleges can and can't do when dealing with free speech controversies.

The Free Speech Century

In his much quoted, seminal work, *On Liberty*, John Stuart Mill attempts to establish standards for the relationship between authority and liberty. He emphasizes the importance of individuality which he conceived as a prerequisite to the higher pleasures—the summum bonum of Utilitarianism. Published in 1859, *On Liberty* presents one of the most eloquent defenses of individual freedom and is perhaps the most widely-read liberal argument in support of the value of liberty.

The War on Cops

Professor Guston provides an analysis of the changing relationship between politics and science in America.

There's No Such Thing As Free Speech

An analysis of the legal status of women includes discussions of discrimination, rape, sexual harassment, and pornography

Feminism Unmodified

Speech, Media, and Ethics: The Limits of Free Expression is an interdisciplinary work that employs ethics, liberal philosophy, and legal and media studies to outline the boundaries to freedom of expression and freedom of the press, defined broadly to include the right to demonstrate and to picket, the right to compete in elections, and the right to communicate views via the written and electronic media. Moral principles are applied to analyze practical questions that deal with free expression and its limits.

Speaking Back

The institution of slavery has always depended on enforcing the boundaries

between slaveholders and the enslaved. As historical geographer Miles Ogborn reveals in *The Freedom of Speech*, across the Anglo-Caribbean world the fundamental distinction between freedom and bondage relied upon the violent policing of the spoken word. Offering a compelling new lens on transatlantic slavery, this book gathers rich historical data from Barbados, Jamaica, and Britain to delve into the complex relationships between voice, slavery, and empire. From the most quotidian encounters to formal rules of what counted as evidence in court, the battleground of slavery lay in who could speak and under what conditions. But, as Ogborn shows through keen attention to both the traces of talk and the silences in the archives, if enslavement as a legal status could be made by words, it could be unmade by them as well. A deft interrogation of the duality of domination, *The Freedom of Speech* offers a rich interpretation of oral cultures that both supported and constantly threatened to undermine the slave system.

The Freedom of Speech

Shulman asserts that the Bush administration has systematically misled Americans on a wide range of scientific issues affecting public health, foreign policy, and the environment by ignoring, suppressing, manipulating, or even distorting scientific research.

The Coddling of the American Mind

Rae Langton here draws together her ground-breaking work on pornography and objectification. She argues that pornography is a speech act that subordinates and silences women, and that, given certain liberal principles, women have rights against it. She explores the traditional Kantian idea that there is something wrong with treating a person as a thing, and highlights an additional epistemological dimension to objectification: it is through a kind of self-fulfilling projection of beliefs about women as subordinate that women are treated as things. These controversial essays include three new pieces written especially for the volume. They will make stimulating reading for anyone interested in feminism's dialogue with moral and political philosophy.

Journalism, fake news & disinformation

Between Politics and Science

Angry debates about polarizing speakers have roiled college campuses. Conservatives accuse universities of muzzling unpopular opinions, betraying their values of open inquiry; students sympathetic to the left openly advocate against completely unregulated speech, asking for "safe spaces" and protection against visiting speakers and even curricula they feel disrespects them. Some even call these students "snowflakes"-too fragile to be exposed to opinions and ideas that challenge their worldviews. How might universities resolve these debates about free speech, which pit their students' welfare against the university's commitment to free inquiry and open debate? Ulrich Baer here provides a new way of looking at this dilemma. He explains how the current dichotomy is false and is not really

about the feelings of offended students, or protecting an open marketplace of ideas. Rather, what is really at stake is our democracy's commitment to equality, and the university's critical role as an arbiter of truth. He shows how and why free speech has become the rallying cry that forges an otherwise uneasy alliance of liberals and ultra-conservatives, and why this First Amendment absolutism is untenable in law and society in general. He draws on law, philosophy, and his extensive experience as a university administrator to show that the lens of equality can resolve this impasse, and can allow the university to serve as a model for democracy that upholds both truth and equality as its founding principles.

The Right to Privacy

Traditionally, the university or college is thought to be the ultimate location for the discovery and sharing of knowledge. After all, on these campuses are some of the great minds across all fields, as well as students who are not only eager to learn, but who often contribute to our shared wisdom. For those ideals to be achieved, however, ideas require access to some kind of virtual marketplace from which people can sample and consider them, discuss and debate them. Restricting the expression of those ideas for whatever reason is the enemy of not only this process, but also of knowledge discovery. Speech freedom on our college and university campuses, like everywhere else, is fragile. There are those who wish to suppress it, more often than not when the words express ideas, opinions, and even facts that conflict with their beliefs. Why does an effort so completely at odds with the foundational values of this country happen? This topic explored in *Speech Freedom on Campus: Past, Present and Future* is multi-layered, and its analysis is best accomplished through multiple perspectives. Joseph Russomanno's edited collection does precisely that, utilizing 10 different scholars to examine various aspects and issues related to speech freedom on campus.

The Case against Free Speech

The Supreme Court's 1919 decision in *Schenck vs. the United States* is one of the most important free speech cases in American history. Written by Oliver Wendell Holmes, it is most famous for first invoking the phrase "clear and present danger." Although the decision upheld the conviction of an individual for criticizing the draft during World War I, it also laid the foundation for our nation's robust protection of free speech. Over time, the standard Holmes devised made freedom of speech in America a reality rather than merely an ideal. In *The Free Speech Century*, two of America's leading First Amendment scholars, Lee C. Bollinger and Geoffrey R. Stone, have gathered a group of the nation's leading constitutional scholars--Cass Sunstein, Lawrence Lessig, Laurence Tribe, Kathleen Sullivan, Catherine McKinnon, among others--to evaluate the evolution of free speech doctrine since Schenk and to assess where it might be headed in the future. Since 1919, First Amendment jurisprudence in America has been a signal development in the history of constitutional democracies--remarkable for its level of doctrinal refinement, remarkable for its lateness in coming (in relation to the adoption of the First Amendment), and remarkable for the scope of protection it has afforded since the 1960s. Over the course of *The First Amendment Century*, judicial engagement with these fundamental rights has grown exponentially. We now have an elaborate set of free speech laws and norms, but as Stone and Bollinger stress, the context is

always shifting. New societal threats like terrorism, and new technologies of communication continually reshape our understanding of what speech should be allowed. Publishing on the one hundredth anniversary of the decision that laid the foundation for America's free speech tradition, *The Free Speech Century* will serve as an essential resource for anyone interested in how our understanding of the First Amendment transformed over time and why it is so critical both for the United States and for the world today.

Free Speech and the Regulation of Social Media Content

Universities once believed themselves to be sacred enclaves, where students and professors could debate the issues of the day and arrive at a better understanding of the human condition. Today, sadly, this ideal of the university is being quietly betrayed from within. Universities still set themselves apart from American society, but now they do so by enforcing their own politically correct worldview through censorship, double standards, and a judicial system without due process. Faculty and students who threaten the prevailing norms may be forced to undergo "thought reform." In a surreptitious aboutface, universities have become the enemy of a free society, and the time has come to hold these institutions to account. *The Shadow University* is a stinging indictment of the covert system of justice on college campuses, exposing the widespread reliance on kangaroo courts and arbitrary punishment to coerce students and faculty into conformity. Alan Charles Kors and Harvey A. Silverglate, staunch civil libertarians and active defenders of free inquiry on campus, lay bare the totalitarian mindset that undergirds speech codes, conduct codes, and "campus life" bureaucracies, through which a cadre of deans and counselors indoctrinate students and faculty in an ideology that favors group rights over individual rights, sacrificing free speech and academic freedom to spare the sensitivities of currently favored groups. From Maine to California, at public and private universities alike, liberty and fairness are the first casualties as teachers and students find themselves in the dock, presumed guilty until proven innocent and often forbidden to cross-examine their accusers. Kors and Silverglate introduce us to many of those who have firsthand experience of the shadow university, including: The student at the center of the 1993 "Water Buffalo" case at the University of Pennsylvania, who was brought up on charges of racial harassment after calling a group of rowdy students "water buffalo" -- even though the term has no racial connotations. The Catholic residence adviser who was fired for refusing, on grounds of religious conscience, to wear a symbol of gay and lesbian causes. The professor who was investigated for sexual harassment when he disagreed with campus feminists about curriculum issues. The student who was punished for laughing at a statement deemed offensive to others and who was ordered to undergo "sensitivity training" as a result. *The Shadow University* unmask a chilling reality for parents who entrust their sons and daughters to the authority of such institutions, for thinking people who recognize that vigorous debate is the only sure path to truth, and for all Americans who realize that when even one citizen is deprived of liberty, we are all diminished.

The Republican War on Science

Something is going wrong on many college campuses in the last few years. Rates of anxiety, depression, and suicide are rising. Speakers are shouted down.

Students and professors say they are walking on eggshells and afraid to speak honestly. How did this happen? First Amendment expert Greg Lukianoff and social psychologist Jonathan Haidt show how the new problems on campus have their origins in three terrible ideas that have become increasingly woven into American childhood and education: what doesn't kill you makes you weaker; always trust your feelings; and life is a battle between good people and evil people. These three Great Untruths are incompatible with basic psychological principles, as well as ancient wisdom from many cultures. They interfere with healthy development. Anyone who embraces these untruths—and the resulting culture of safetyism—is less likely to become an autonomous adult able to navigate the bumpy road of life. Lukianoff and Haidt investigate the many social trends that have intersected to produce these untruths. They situate the conflicts on campus in the context of America's rapidly rising political polarization, including a rise in hate crimes and off-campus provocation. They explore changes in childhood including the rise of fearful parenting, the decline of unsupervised play, and the new world of social media that has engulfed teenagers in the last decade. This is a book for anyone who is confused by what is happening on college campuses today, or has children, or is concerned about the growing inability of Americans to live, work, and cooperate across party lines.

The Shadow University

Free Speech on Campus

Violent crime has been rising sharply in many American cities after two decades of decline. Homicides jumped nearly 17 percent in 2015 in the largest 50 cities, the biggest one-year increase since 1993. The reason is what Heather Mac Donald first identified nationally as the “Ferguson effect”: Since the 2014 police shooting death of Michael Brown in Ferguson, Missouri, officers have been backing off of proactive policing, and criminals are becoming emboldened. This book expands on Mac Donald's groundbreaking and controversial reporting on the Ferguson effect and the criminal-justice system. It deconstructs the central narrative of the Black Lives Matter movement: that racist cops are the greatest threat to young black males. On the contrary, it is criminals and gangbangers who are responsible for the high black homicide death rate. The War on Cops exposes the truth about officer use of force and explodes the conceit of “mass incarceration.” A rigorous analysis of data shows that crime, not race, drives police actions and prison rates. The growth of proactive policing in the 1990s, along with lengthened sentences for violent crime, saved thousands of minority lives. In fact, Mac Donald argues, no government agency is more dedicated to the proposition that “black lives matter” than today's data-driven, accountable police department. Mac Donald gives voice to the many residents of high-crime neighborhoods who want proactive policing. She warns that race-based attacks on the criminal-justice system, from the White House on down, are eroding the authority of law and putting lives at risk. This book is a call for a more honest and informed debate about policing, crime, and race.

Speech Freedom on Campus

European Convention on Human Rights – Article 10 – Freedom of expression 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. In the context of an effective democracy and respect for human rights mentioned in the Preamble to the European Convention on Human Rights, freedom of expression is not only important in its own right, but it also plays a central part in the protection of other rights under the Convention. Without a broad guarantee of the right to freedom of expression protected by independent and impartial courts, there is no free country, there is no democracy. This general proposition is undeniable. This handbook is a practical tool for legal professionals from Council of Europe member states who wish to strengthen their skills in applying the European Convention on Human Rights and the case law of the European Court of Human Rights in their daily work.

What Snowflakes Get Right

American public schools censor controversial student speech that the Constitution protects. Catherine Ross brings clarity to court rulings that define speech rights of young citizens and proposes ways to protect free expression, arguing that the failure of schools to respect civil liberties betrays their educational mission and threatens democracy.

Undermining Science

A New York Times Book Review Editors' Choice Selection A "volume of lasting significance" that illuminates how the clash between sex and religion has defined our nation's history (Lee C. Bollinger, president, Columbia University). Lauded for "bringing a bracing and much-needed dose of reality about the Founders' views of sexuality" (New York Review of Books), Geoffrey R. Stone's *Sex and the Constitution* traces the evolution of legal and moral codes that have legislated sexual behavior from America's earliest days to today's fractious political climate. This "fascinating and maddening" (Pittsburgh Post-Gazette) narrative shows how agitators, moralists, and, especially, the justices of the Supreme Court have navigated issues as divisive as abortion, homosexuality, pornography, and contraception. Overturning a raft of contemporary shibboleths, Stone reveals that at the time the Constitution was adopted there were no laws against obscenity or abortion before the midpoint of pregnancy. A pageant of historical characters, including Voltaire, Thomas Jefferson, Anthony Comstock, Margaret Sanger, and Justice Anthony Kennedy, enliven this "commanding synthesis of scholarship" (Publishers Weekly) that dramatically reveals how our laws about sex, religion, and morality reflect the cultural schisms that have cleaved our nation from its

founding.

Speech, Crime, and the Uses of Language

Sexual Solipsism

Judging Free Speech contains nine original essays by political scientists and law professors, each providing a comprehensive, yet concise and accessible overview of the free speech jurisprudence of a United States Supreme Court Justice.

Lessons in Censorship

How we understand, protect, and discharge our rights and responsibilities as citizens in a democratic society committed to the principle of political equality is intimately connected to the standards and behaviour of our media in general, and our news media in particular. However, the media does not just stand between the citizenry and their leaders, or indeed between citizens and each other. The media is often the site where individuals attempt to realise some of the most fundamental democratic liberties, including the right to free speech. Media Ethics, Free Speech, and the Requirements of Democracy explores the conflict between the rights that people exercise in, and through, the modern media and the responsibilities that accrue on account of its awesome and increasing power. The individual chapters—written by leading scholars from the US, UK, and Australia—address several recent events and controversial developments in the media, including Brexit, the rise of Trump, Lynton Crosby, Charlie Hebdo, dog-whistle politics, fake news, and political correctness. This much-needed philosophical treatment is a welcome addition to the recent literature in media ethics. It will be of interest to scholars across political and social philosophy, applied ethics, media and communication studies, and political science who are interested in the important issues surrounding the media and free speech and democracy.

Research in Education

HATE dispels misunderstandings plaguing our perennial debates about "hate speech vs. free speech," showing that the First Amendment approach promotes free speech and democracy, equality, and societal harmony. We hear too many incorrect assertions that "hate speech" -- which has no generally accepted definition -- is either absolutely unprotected or absolutely protected from censorship. Rather, U.S. law allows government to punish hateful or discriminatory speech in specific contexts when it directly causes imminent serious harm. Yet, government may not punish such speech solely because its message is disfavored, disturbing, or vaguely feared to possibly contribute to some future harm. When U.S. officials formerly wielded such broad censorship power, they suppressed dissident speech, including equal rights advocacy. Likewise, current politicians have attacked Black Lives Matter protests as "hate speech." "Hate speech" censorship proponents stress the potential harms such speech might further: discrimination, violence, and psychic injuries. However, there has been little analysis of whether censorship effectively counters the feared injuries. Citing

evidence from many countries, this book shows that "hate speech" laws are at best ineffective and at worst counterproductive. Their inevitably vague terms invest enforcing officials with broad discretion, and predictably, regular targets are minority views and speakers. Therefore, prominent social justice advocates in the U.S. and beyond maintain that the best way to resist hate and promote equality is not censorship, but rather, vigorous "counterspeech" and activism.

State of the Union Address

In this book Greenawalt explores the three-way relationship between the idea of freedom of speech, the law of crimes, and the many uses of language. He begins by considering free speech as a political principle, and after a thorough and incisive analysis of the justifications commonly advanced for freedom of speech, looks at the kinds of communications to which the principle of free speech applies. He then turns to an examination of communications for which criminal liability is fixed. Focusing on threats and solicitations to crime, Greenawalt attempts to determine whether liability for such communications seriously conflicts with freedom of speech. In the second half of the book he goes on to develop the significance of his conclusions for American constitutional law, addressing such questions as what should be considered "speech" within the meaning of the First Amendment, and what tests the courts should employ in deciding whether particular criminal statutes should be held constitutional. He concludes that the issues are too complex to yield simple solutions, and insists that the protection of the First Amendment can be reduced neither to one justification nor to one all-purpose test of coverage.

Striking a Balance

Freedom of Speech: A Comparative Law Perspective offers a wide-ranging review of free speech law in Europe, the U.S., Canada and Australia, with a special focus on hate speech and on artistic and scientific speech. It provides a great deal of information on these topics, in a single volume, which presents a considerable value to anyone who wants to study the subject. prof. Christopher Wolfe, University of Dallas The book is disturbing. It encourages to pose serious questions, in particular about the phenomenon of the persecution for expressing traditional views, which ceased to be accepted by certain political and intellectual elites. It presents the context which allows us to realize how difficult it is to address such issues. Nevertheless, searching for the answers seems absolutely necessary. The analyses of the US law could be considered a universal parable about the awareness of free speech. The analyses of the law in other countries warn us how fragile the protection of freedom of expression is. prof. Franciszek Longchamps de Brier, Jagiellonian University in Kraków The volume focuses on an important and complex theoretical question of practical value which is inscribed in the debate on the limits of freedom of speech. It is a collection of independent studies with a clearly presented central idea. Written by the authors representing not only different academic institutions and countries but even different legal cultures. Such a choice of authors offers a variety of presented evaluations, which testifies to the richness of content included in the book and is an invitation to further studies and analyses. prof. Wojciech Lis, John Paul II Catholic University of Lublin

Speech, Media and Ethics

The Price of Truth

HATE

A hard-hitting expose that shines a light on the powerful conservative forces that have waged a multi-decade battle to hijack the meaning of free speech -- and how we can reclaim it. There's a critical debate taking place in this country over one of the most fundamental pillars of our democracy: free speech. But what few realize is that this debate is less a debate than a multi-decade war waged by the rich to redefine free speech, further a conservative agenda, and silence a progressive one. The Case Against Free Speech takes readers into the battleground over this foundational concept, from the backrooms of think-tanks where the very definition of free speech is influenced by billionaires like the Koch Brothers; to "safe spaces" on college campuses; to neo-Nazi rallies protected by the police; and deep into the history of who benefits from free speech. As Moskowitz shows, the rights associated with free speech have always been reserved primarily for those in power. The Case Against Free Speech offers a new politics of speech, one that takes into account power, equality, and all our civil liberties.

Judging Free Speech

Meiklejohn, Alexander. Free Speech and Its Relation to Self Government. New York: Harper Brothers Publishers, [1948]. xiv, 107pp. Reprinted 2001 by The Lawbook Exchange, Ltd. LCCN 99-87204. ISBN 1-58477-087-2. Cloth. \$80. * "Dr. Meiklejohn [1872-1964], in a book which greatly needed writing, has thought through anew the foundations and structure of our theory of free speechhe rejects all compromise. He reexamines the fundamental principles of Justice Holmes' theory of free speech and finds it wanting because, as he views it, under the Holmes doctrine speech is not free enough. In these few pages, Holmes meets an adversary worthy of him Meiklejohn in his own way writes a prose as piercing as Holmes, and as a foremost American philosopher, the reach of his culture is as greatthis is the most dangerous assault which the Holmes position has ever borne." John P. Frank, Texas Law Review 27:405-412.

Sex and the Constitution: Sex, Religion, and Law from America's Origins to the Twenty-First Century

Free Speech and Its Relation to Self-Government

Reissued with a new foreword and introduction by the author Traditional explanations of why pornography must be defended from would-be censors have concentrated on censorship's adverse impacts on free speech and sexual autonomy. In contrast, Nadine Strossen focuses on the women's rights-centered rationale for defending pornography.

On Liberty

Missiles for the Fatherland tells the story of the scientists and engineers who built the V-2 missile in Hitler's Germany. This is the first scholarly history of the culture and society that underpinned missile development at Germany's secret missile base at Peenemünde. Using mainly primary source documents and publicly available oral history interviews, Michael Petersen examines the lives of the men and women who worked at Peenemünde and later at the underground slave labor complex called Mittelbau-Dora, where concentration camp prisoners mass-produced the V-2. His research reveals a complex interaction of professional ambition, internal cultural dynamics, military pressure, and political coercion, which coalesced in daily life at the facility. The interaction of these forces made the rapid development of the V-2 possible but also contributed to an environment in which stunning brutality could be committed against the concentration camp prisoners who manufactured the missile.

Defending Pornography

Science has never been more crucial to deciding the political issues facing the country. Yet science and scientists have less influence with the federal government than at any time since Richard Nixon fired his science advisors. In the White House and Congress today, findings are reported in a politicized manner; spun or distorted to fit the speaker's agenda; or, when they're too inconvenient, ignored entirely. On a broad array of issues-stem cell research, climate change, evolution, sex education, product safety, environmental regulation, and many others-the Bush administration's positions fly in the face of overwhelming scientific consensus. Federal science agencies-once fiercely independent under both Republican and Democratic presidents-are increasingly staffed by political appointees who know industry lobbyists and evangelical activists far better than they know the science. This is not unique to the Bush administration, but it is largely a Republican phenomenon, born of a conservative dislike of environmental, health, and safety regulation, and at the extremes, of evolution and legalized abortion. In *The Republican War on Science*, Chris Mooney ties together the disparate strands of the attack on science into a compelling and frightening account of our government's increasing unwillingness to distinguish between legitimate research and ideologically driven pseudoscience.

Human Rights Act 1998

As the Supreme Court has recognized, social media sites like Facebook and Twitter have become important venues for users to exercise free speech rights protected under the First Amendment. Commentators and legislators, however, have questioned whether these social media platforms are living up to their reputation as digital public forums. Some have expressed concern that these sites are not doing enough to counter violent or false speech. At the same time, many argue that the platforms are unfairly banning and restricting access to potentially valuable speech. Currently, federal law does not offer much recourse for social media users who seek to challenge a social media provider's decision about whether and how to present a user's content. Lawsuits predicated on these sites'

decisions to host or remove content have been largely unsuccessful, facing at least two significant barriers under existing federal law. First, while individuals have sometimes alleged that these companies violated their free speech rights by discriminating against users' content, courts have held that the First Amendment, which provides protection against state action, is not implicated by the actions of these private companies. Second, courts have concluded that many non-constitutional claims are barred by Section 230 of the Communications Decency Act, 47 U.S.C. § 230, which provides immunity to providers of interactive computer services, including social media providers, both for certain decisions to host content created by others and for actions taken "voluntarily" and "in good faith" to restrict access to "objectionable" material. Some have argued that Congress should step in to regulate social media sites. Government action regulating internet content would constitute state action that may implicate the First Amendment. In particular, social media providers may argue that government regulations impermissibly infringe on the providers' own constitutional free speech rights. Legal commentators have argued that when social media platforms decide whether and how to post users' content, these publication decisions are themselves protected under the First Amendment. There are few court decisions evaluating whether a social media site, by virtue of publishing, organizing, or even editing protected speech, is itself exercising free speech rights. Consequently, commentators have largely analyzed the question of whether the First Amendment protects a social media site's publication decisions by analogy to other types of First Amendment cases. There are at least three possible frameworks for analyzing governmental restrictions on social media sites' ability to moderate user content. Which of these three frameworks applies will depend largely on the particular action being regulated. Under existing law, social media platforms may be more likely to receive First Amendment protection when they exercise more editorial discretion in presenting user-generated content, rather than if they neutrally transmit all such content. In addition, certain types of speech receive less protection under the First Amendment. Courts may be more likely to uphold regulations targeting certain disfavored categories of speech such as obscenity or speech inciting violence. Finally, if a law targets a social media site's conduct rather than speech, it may not trigger the protections of the First Amendment at all.

Countering online hate speech

What is hate speech? How does a person suffer when they are vilified? What can public policy do to redress it? This text proposes a new type of hate speech policy - "speaking back" - providing institutional, material and educational support to enable the victims of hate speech to respond.

Freedom of Speech A Comparative Law Perspective

In an era when much of what passes for debate is merely moral posturing--traditional family values versus the cultural elite, free speech versus censorship--or reflexive name-calling--the terms "liberal" and "politically correct," are used with as much dismissive scorn by the right as "reactionary" and "fascist" are by the left--Stanley Fish would seem an unlikely lightning rod for controversy. A renowned scholar of Milton, head of the English Department of Duke University,

Fish has emerged as a brilliantly original critic of the culture at large, praised and pilloried as a vigorous debunker of the pieties of both the left and right. His mission is not to win the cultural wars that preoccupy the nation's attention, but rather to redefine the terms of battle. In *There's No Such Thing as Free Speech*, Fish takes aim at the ideological gridlock paralyzing academic and political exchange in the nineties. In his witty, accessible dissections of the swirling controversies over multiculturalism, affirmative action, canon revision, hate speech, and legal reform, he neatly eviscerates both the conservatives' claim to possession of timeless, transcendent values (the timeless transcendence of which they themselves have conveniently identified), and the intellectual left's icons of equality, tolerance, and non-discrimination. He argues that while conservative ideologues and liberal stalwarts might disagree vehemently on what is essential to a culture, or to a curriculum, both mistakenly believe that what is essential can be identified apart from the accidental circumstances (of time and history) to which the essential is ritually opposed. In the book's first section, which includes the five essays written for Fish's celebrated debates with Dinesh D'Souza (the author and former Reagan White House policy analyst), Fish turns his attention to the neoconservative backlash. In his introduction, Fish writes, "Terms that come to us wearing the label 'apolitical'--'common values', 'fairness', 'merit', 'color blind', 'free speech', 'reason'--are in fact the ideologically charged constructions of a decidedly political agenda. I make the point not in order to level an accusation, but to remove the sting of accusation from the world 'politics' and redefine it as a synonym for what everyone inevitably does." Fish maintains that the debate over political correctness is an artificial one, because it is simply not possible for any party or individual to occupy a position above or beyond politics. Regarding the controversy over the revision of the college curriculum, Fish argues that the point is not to try to insist that inclusion of ethnic and gender studies is not a political decision, but "to point out that any alternative curriculum--say a diet of exclusively Western or European texts--would be no less politically invested." In Part Two, Fish follows the implications of his arguments to a surprising rejection of the optimistic claims of the intellectual left that awareness of the historical roots of our beliefs and biases can allow us, as individuals or as a society, to escape or transcend them. Specifically, he turns to the movement for reform of legal studies, and insists that a dream of a legal culture in which no one's values are slighted or declared peripheral can no more be realized than the dream of a concept of fairness that answers to everyone's notions of equality and justice, or a yardstick of merit that is true to everyone's notions of worth and substance. Similarly, he argues that attempts to politicize the study of literature are ultimately misguided, because recharacterizations of literary works have absolutely no impact on the mainstream of political life. He concludes his critique of the academy with "The Unbearable Ugliness of Volvos," an extraordinary look at some of the more puzzling, if not out-and-out masochistic, characteristics of a life in academia. Penetrating, fearless, and brilliantly argued, *There's No Such Thing as Free Speech* captures the essential Fish. It is must reading for anyone who cares about the outcome of America's cultural wars.

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