

Should our democracy limit hateful speech?

DEBATING DEMOCRATIC PRINCIPLES

In recent years, there has been an effort to punish those who express views motivated by bigotry or racism. Such speech is called *hate speech*. Some states and cities have passed laws prohibiting the display of symbols that are hateful on the basis of race, gender, or religion. Others have enacted laws that increase criminal punishments for bias-motivated violence and intimidation. Sometimes, these laws come into conflict with the First Amendment's protection of free speech. Some laws have been ruled unconstitutional, while others have been upheld.

YES

TEAM A Hate Speech Should Be Outlawed

Hate speech should be outlawed. Certain symbols and expressions are clearly hateful and have no meaningful social benefit. Our freedom of speech is important, but it is not an absolute guarantee. The government should balance freedom of expression with other democratic values, such as respect, equality, and tolerance.

Hateful speech is particularly dangerous when it is directed against minority groups. Such people already lack power in our society. Prohibiting hateful speech against these groups prevents hateful ideas from turning into discriminatory actions. History shows us that the first act of persecution of minorities is frequently speech that condemns or abuses those minorities.

NO

TEAM B Hate Speech Should Be Protected

Hate speech is regretful and upsetting, but it should not be illegal. Exposure to offensive speech is one small price to pay to ensure our freedom to speak. It is better to counter hate speech with positive speech, or to ignore it, than to make it illegal. In an open "marketplace of ideas," hateful and offensive ideas will be denounced by other speech.

Additionally, hate speech laws are unworkable. They require the government to determine the intent of the speaker. Once we give the government the power to punish some forms of expression based on the speaker's intent, the government will soon be able to punish other speech as well. The government should only ban actions, not what people say or believe.

EXPLORING THE ESSENTIAL QUESTION

Analyzing Americans disagree about whether our democracy should limit hateful speech. Read the evidence provided, and prepare to debate one side or the other.

1. Identify the best reasons to support your side of the debate question.
2. Draft a compelling opening statement that sets out your position in the debate and summarizes your argument.
3. Anticipate the strongest arguments to support the other position. How could you respond to those points?

LAW Around the World

International Forum on Hate Speech

Individuals from many different countries have gathered to discuss whether all countries should enact criminal laws against hate speech. The following speakers give their views.

A German: "Because of the experience of our country under Hitler, we are worried about how speech can be used to condemn and abuse millions of people. If there had been laws forbidding anti-Semitic speech, perhaps the Holocaust could have been prevented. Today, we see strong antiforeigner feeling. We are thankful that we have laws prohibiting 'incitement to hatred' and believe they are needed in all countries."

An American: "Our history includes a revolution that was at least partially a reaction to government censorship. We think it is dangerous to allow government to decide what speech will be allowed. It is true that racism is a serious problem in our country and that racist speech can have a very negative impact on the victims. However, it may be overly paternalistic for the government to try to protect people from such speech. Would it not be better to let the marketplace of ideas condemn the racists?"

An Israeli: "The continual conflict between Arabs and Jews in our region led the government to pass a criminal law governing incitement to racism. However, this law has done nothing but create the illusion of progress against racism. There have been few prosecutions, and the ones that have occurred have been against Arabs. Although the law has symbolic value, it may be better not to have prosecutions, because these just give racists on both sides a platform from which to speak."

A South African: "With its history of ethnic and racial division, my country seems a likely candidate for a law against hate speech. In fact, for many years there has been such a



South Africa's Nelson Mandela

law, which prohibited 'bringing any section of inhabitants of the country into ridicule or contempt.' This law was used principally by the white government to prosecute blacks. But many in my country think that the violence can be stopped only if people aren't allowed to promote racial hatred. My view is that while we work to undo racial injustice, it makes sense to ban racist speech."

Problem 37.6

- Which of the speakers favor laws against hate speech? Why?
- Which of the speakers oppose such laws? Why?
- How do you think the history of each speaker's country affects the viewpoints expressed?
- What are the pros and cons of encouraging countries to enact their own criminal laws against hate speech? What is your position? Give your reasons.