

PHIL 484.01 Freedom of Speech and Hate Speech

Boğaziçi Summer Term 2020

Instructor: Zübeyde Karadağ Thorpe
Monday 13:00-15:00
Thursday 15:00-17:00
Friday 15:00- 17:00
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Description:

This course will examine the topic of freedom of speech and hate speech from the philosophical perspective. The discussion will focus on the role of the protection of freedom of speech in a democratic society, and how such societies should deal with hate speech. Among the questions we will examine are: What is hate speech? Can we make a meaningful distinction between harmful and offensive speech? Does hate speech legislation undermines democratic legitimacy? Should laws protecting speech only protect content or should insulting speech also be protected as well? What do we mean when we say that freedom of speech should be absolute? Should laws protecting freedom of speech also protect obscene speech?

Among the authors we will discuss are: John Stuart Mill, Anthony Lewis, Jeremy Waldron, Catharine MacKinnon and Ronald Dworkin. In addition to reading the works of these philosophers, we will also discuss a number of court cases involving freedom of speech. For some classes Lucas Thorpe will be a guest lecturer.

Readings:

I will provide all readings on the website and/or by e-mail. I may also send additional reading assignments as .pdf email attachments.

Evaluation:

In this class students will have to do a midterm and a short final paper. The midterm paper will be a short (3-5 pages) response paper about a court case related to the course topic. The final paper (4-6 pages) will be a response paper concerning the philosophical questions that are related to the course materials. Each paper will be graded 50%.

Requirements:

Please read all the reading materials before the class. Students are supposed to be actively engaged in the discussions, and pre-reading the reading materials is quite crucial to have better discussion. In order to have a better discussion students will be expected to keep their cameras on (unless they have a good reason not to).

WEEKLY SCHEDULE

Week 1: Freedom of Speech

John Stuart Mill, *On Liberty* (1869), Chapter 1-2.

Week 2: Freedom of the Thought that We Hate and Harm in Hate Speech

Anthony Lewis, *Freedom of the Thought that We Hate* (2007). Selections.
Jeremy Waldron, *The Harm in Hate Speech*, (2012). Pg. 18-34.

Week 3: Harm in Hate Speech, Group Libel, Dignity and Offence

Jeremy Waldron, *The Harm in Hate Speech*, (2012). Pg.1-18, 34-144, 204- 235.

Week 4: C. Edwin Baker and the Autonomy Argument

C. Edwin Baker, "Autonomy and Hate Speech," in Hare and Weinstein, eds., *Extreme Speech and Democracy*.
Jeremy Waldron, *The Harm in Hate Speech*, (2012). Pg. 144- 173

Week 5: Ronald Dworkin and the Legitimacy Argument

Ronald Dworkin, Foreword, in *Extreme Speech and Democracy*, ed. Ivan Hare and James Weinstein (Oxford University Press, 2009).
Jeremy Waldron, *The Harm in Hate Speech*, (2012). Pg. 173- 204

Week 6: Catherina MacKinnon: Is Pornography a Form of Hate Speech?

Catharine A. MacKinnon, "Pornography as Defamation and Discrimination," *Boston University Law Review* 71 (1991).
Nadine Strossen, "Balancing the Rights to Freedom of Expression and Equality," in Colliver, ed., *Striking a Balance*.
Reviews on Jeremy Waldron, *The Harm in Hate Speech*, (2012). Selections.

Court Cases:

Students will be expected to write a short response paper about a court case for the mid-term take-home. For this assignment students should: (1) explain the circumstances of the case, (2) explain the decision made by the judges in the case, and (3) explain their opinion about the decision made. Students can choose any cases they wish. But the following cases are ones that will be discussed in our readings and information about these cases will be made available to students if they wish to write about one of these cases.

Abrams v. United States, 250 U.S. 616 (1919). [Anti-war pamphlets]
WV Board of Education v. Barnette, 319 U.S. 624 (1943) ["Pledge of allegiance at school"]
Kunz v. New York, 340 U.S. 290, 299 (1951) [Religious speech without permit]
Beauharnais v. Illinois, 343 U.S. 250 (1952). ["Group libel"]
New York Times Co. v. Sullivan 376 U.S. 254, at 270 (1964). [Defamation of public figures]
United States v. O'Brien, 391 U.S. 367 (1968) ["Burning draft card"]
Brandenburg v. Ohio, 395 U.S. 444 (1969). ["Ku Klux Klan speech"]

Cohen v. California, 403 U.S. 15 (1971) [“Fuck the draft”]
Miller v. California, 413 U.S. 15 (1973) [“Pornography”]
National Socialist Party vs Skokie 432 U.S. 43 (1977) [“Neo-Nazi March”]
Hustler v. Falwell, 485 U.S. 46 (1988) [“Insulting public figure”]
Texas v. Johnson, 491 U.S. 397 (1989) [“Flag Burning”]
R.A.V. v. City of St. Paul, 505 U.S. 377 (1992). [“Cross burning”]
Virginia v. Black, 538 U.S. 343 (2003). [KKK “cross burning”]

Possible additional reading for students who are interested.

James Weinstein, “Extreme Speech, Public Order and Democracy,” in Hare and Weinstein, eds., *Extreme Speech and Democracy*.

Joseph Tanenhaus, “Group Libel and Free Speech,” *Phylon* 13 (1952).
Joseph Tanenhaus, “Group Libel,” *Cornell Law Quarterly* 35 (1949– 1950).

Stephen L. Darwall, “Two Kinds of Respect,” *Ethics* 88 (1977)
Stephen L. Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Harvard University Press, 2006).

Ronald Dworkin, *Law’s Empire* (Harvard University Press, 1986).
Ronald Dworkin, *Freedom’s Law: The Moral Reading of the American Constitution* (Harvard University Press, 1996).
Ronald Dworkin, “A New Map of Censorship,” *Index on Censorship* 35 (2006).

Jeremy Waldron, “The Dignity of Groups,” *Acta Juridica* (Cape Town, 2008).
“General Introduction: Free Speech, Democracy, and the Suppression of Extreme Speech Past and Present,” in *Extreme Speech and Democracy*, ed. Ivan Hare and James Weinstein (Oxford University Press, 2009).

Edwin Baker, *Human Liberty and Freedom of Speech* (Oxford University Press, 1989).
C. Edwin Baker, “Autonomy and Informational Privacy, or Gossip: The Central Meaning of the First Amendment,” *Social Philosophy and Policy* 21 (2004).
C. Edwin Baker, “Harm, Liberty, and Free Speech,” *Southern California Law Review* 70 (1997).

Catherina MacKinnon, *Only Words*, (1993).