



# The Harm in Hate Speech

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## **The Harm in Hate Speech** Jeremy Waldron

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.

## **The Harm in Hate Speech Details**

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# From Reader Review The Harm in Hate Speech for online ebook

## Daniel says

Fascinating exploration of the thinking around hate speech, including several compelling rebuttals to those who are opposed to regulating it. That said, the analysis of the harm in hate speech itself is a little lacking. Waldron could have used a lot more empirical evidence and case studies in order to better demonstrate the exact relationship between vilification and human dignity (or lack thereof). It should have 3.5 stars, but that's not an option here.

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## David says

Jeremy Waldron provides a subtle and thoughtful argument that hate speech should be regulated, or at least that the arguments for hate speech regulation are defensible. This runs contrary to the prevailing view in the United States, which prioritizes free speech over protection from hateful speech, but is consistent with the prevailing view in other Western liberal democracies such as Canada, New Zealand, the UK and Australia. The book contains an interesting history of speech regulation in the United States, and Waldron directly engages with the arguments of leading opponents and free speech advocates. Worth reading for anyone interested in the balance between free speech and the dignitary interests of vulnerable minorities, particularly in the United States. Australians may also be curious to read it, given the current debate over the proposed repeal of section 18C of the Racial Discrimination Act.

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## Lena says

This book argues that regulations on hate speech are justifiable in order to protect a) the public good that is a visibly inclusive society and b) the basic dignity of every individual that grants them their status as an equal and respected member of said society. I found Waldron's arguments compelling and persuasive, and I imagine that they resonate even more so in 2017 than they did in 2012 when this book was written.

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## Noor says

I would really give this 3.5 stars. While Waldron made good points, I found the majority of the book to be too focused on rebutting his critics instead of adding his own viewpoints. Granted he may have discussed this already in his other works, but even so *The Harm in Hate Speech* read too much as a book of refutations. I also thought Waldron should have used simpler language to strengthen his points, not to mention keep his reader more engaged.

As to the whole hate speech vs. freedom of speech debate, I think it's a valid conversation to have. At the end of the day, hate speech, freedom of speech, and even the general concept of justice are all byproducts of social norms (e.g. the validity of Jim Crow laws in the past, the seriousness of homophobic slurs now). We're a nation that proudly and rightfully questions all flavors of hegemony, so challenging what constitutes each category only seems like the natural thing to do.

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## **Stephen says**

Compassionate, careful, pegged to the Enlightenment and to ideals of truly civil society, this is a series of essays mostly published elsewhere. The author debates in writing with advocates of "free speech" like Anthony Lewis. Prof Waldron favors what I guess is a more European and less American view, that there should be some restrictions on speech and other expressions of opinion, when they cast fear and expresses loathing of (for example) minority groups or disdain and contempt for women. He gives a poignant account of how expressions of hate (like graffiti or posters) that might be handled by an adult can hurt that adult's child much more.

Good sidelight on the famous misquote "I disagree with what you say but will defend to the death your right to say it."

Fortunately, the author does not get into the increasingly sticky morass of on-campus "free speech," with controversies about trigger warnings or whether someone with unpopular views (e.g, calling for violence or disenfranchisement) should be banned from speaking on a campus or given an old fashioned booing and shouting-down, itself free speech). I personally think "trigger warnings" a terrible idea and believe that if someone respected by at least part of society, let's say a very right wing politician, has been invited to a college campus by a recognized campus organization, that person should be allowed to speak and not shouted down. That person's speaking does not mean that the college endorses what he or she says.

The argument about limits of free speech will have no resolution soon, but Prof Waldron's book brings a high-minded and gently-written tone to it. He envisions a truly civil society. Are we there yet?

My own detestation of "free speech" went into orbit when the U.S. Supreme Court declared that underground movies of small animals being smashed underfoot (so-called "crush videos") are a form of free speech, artistic expression. <http://www.washingtonpost.com/wp-...>

Citizens United was bad enough, with its foundation belief that money talks and has a right to free speech. This was worse.

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## **Chad Montabon says**

Mostly name dropping and semantics.

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## **Raymond says**

Jeremy Waldron attempts to defend the position that we should regulate hate speech, due to its harms. Hate speech, for him, undermines a person's dignity, and undermines the social good of feeling included in the society that you live in. He rightly criticizes other legal approaches, like those in the US, that understand freedom of expression as an inalienable right, and the shortsightedness of these views. He also praises approaches that do leave legal room in their constitution for regulating hate speech, like those in Canada. While Waldron has a point, I thought his arguments were rather elementary and one-sided; and the

arguments themselves are not new or novel. I also find appeals to so called "dignity" incredibly abstract and confusing, to the point where you wonder what philosophical work it does for him. To me, appeals to dignity tend to just cloud issues that we should be more reflective about. Overall, this is a very philosophical and accessible read, that details the harms of hate speech, and, despite the uncharitable amazon reviews, Waldron makes a plausible case that hate speech should be regulated. It is a necessary read for anyone interested in these issues.

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### **Silvio Ribeiro Junior says**

Jeremy Waldron starts the book presenting a well-rounded definition of Hate Speech and its potential and real harms. However, he gets lost and too narrow as he starts focusing on defending himself from previous attacks he suffered due to his ideas, specifically in USA. I was expecting to read more about implemented policies and perspectives in diverse countries around the globe instead of focusing on arguments about why USA is not right on not regulating hate speech and why Waldron should not be called pro-censorship. This is not to say that the book is bad, just the title and description can be misleading. I loved reading about the the freedom of speech history in USA, its current and historical implications and how it can be interpreted to still allow USA to regulate and/or prohibit harmful and hate speech.

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### **Steve says**

Really liked this book, although I'm not naturally sympathetic with the writer's viewpoint. But his arguments are very well put and he is principled and generous with his opponents. My opinion has definitely shifted a bit in his direction. Well done!

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### **Massimo Monteverdi says**

E' difficile spiegare a un americano (uno contemporaneo, almeno) che ci possono essere buone ragioni per limitare il diritto a parlare. L'autore tenta l'impopolare strada pur sapendo che il primo emendamento è praticamente intoccabile. Certo, gli argomenti per sostenere una legge contro l'*hate speech* ci sarebbero. Quelli giuridici sono ben sviscerati soprattutto a confronto dei cavillosi contrari.

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### **Scott Wood says**

This is a well written, carefully argued, and astoundingly, even frighteningly given the author's position as an NYU Law Professor, misguided argument for the criminalization of what he defines as "hate speech."

"Hate Speech" is here defined as speech intended to demean the dignity of an individual, "dignity" being the sense that a person is a "citizen in good standing" which itself is a phrase used to indicate whether or not a person can expect the government (or "society"...Waldren is, typically, vague on the subject) to defend the rights of the recipient of the supposed "hate speech."

Racist posters depicting black people as gorillas are the prototypical examples of hate speech used throughout the book, with one or two Islamophobic posters shouting "Muslims go home" thrown in for good measure.

How often do you suppose Professor Waldren has encountered such things around his Greenwich Village digs? I don't know, but I bet the number is somewhat south of one, and herein lies the rub. Such speech is essentially non-existent in 2016 America. The chance that a father, mother, and innocent children strolling down the street will turn the corner only to be confronted with a poster depicting people looking suspiciously like themselves as cockroaches is vanishingly small.

I honestly have no idea what a realistic example of speech that would run afoul of the Jeremy Waldren Hate Speech Police would look like because no modern examples (as opposed to 250 year old examples) are given. Surely he isn't angling to radically rewrite First Amendment jurisprudence simply to squelch speech that almost never happens.

Waldren's explication of the full argument for free speech is missing one of the key tenets. He almost stumbles into it when quoting part of Geoffrey Stone's argument that failing to protect free speech "shows that the government does not trust its citizens to make wise decisions if they are exposed to the expression." Turning Stone around fills in the argument: free speech is necessary because the citizens can't trust the government to make wise decisions when deciding what speech to squelch.

The argument for unfettered free speech is in its essence an argument for the unfettered search for truth. The lurid hypotheticals that Waldren tries to scare us with are surely not the truth. But they are also vanishingly rare. The government is a very blunt instrument. It is not capable of identifying speech that is simultaneously common enough to present a genuine threat to the type of dignity he defends and not, at least, debatable. I find it disturbing that a law professor doesn't quite get this.

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### **Amaury A. Reyes-Torres says**

After a new comprehensive reading of this book, I'm ready to review it.

The book is fantastic. Waldron takes a different approach on the subject: explaining his main lines or arguments and also focusing - maybe too much - on his critics against hate speech legislations. however, this was a perfect approach, because maybe we are too clear or peacefully on why a society should consider restrict hate speech and must of the times we avoid the reasons against hate speech regulations. the aim was that: from a political philosophy point of view, Waldron exposes the weakness of american jurisprudence on free speech. Beautifly, maybe going around the bush many times, draw important distinctions, for example, offenses and hate speech per se. also he devoted a time to express the main lines of the dignity argument, as a matter of justification to limit hate speech. You can actually see some influence by Rawls on this matter. dignity as a status, makes a big difference and without a doubt the ground is more clear to engage in a better debate about this topic. Even more, without setting himself that goal, Waldron contributed to a political scenario where a deep debate on speech can be taken, specially its scope and possible restrictions.

A debate cannot take place on this matter without having considered Waldron's arguments.

Believe it or not, Waldron brough the 'sexy' back into political philosophy.

I recommend this book.

Best chapters: 3,4, 7 and 8.

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### **Stephen says**

Very good and very rewarding to read.

Regulation of hate speech is an unpopular idea in the United States, but Jeremy Waldron has written a very persuasive book that might change your opinion on the issue. His arguments are not only clear and easy to follow, but enjoyable to read as well.

For those who haven't given much thought on the issue of hate speech, there will be new arguments and insights in Waldron's book that will keep you engaged and interested throughout the book. This is a good place to start if you want to learn more about the harm in hate speech.

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### **Justin Holiman says**

Definitely the most compelling and well-articulated argument for the need for hate speech regulation I have read. While my views have not entirely been revolutionized by Waldron, I definitely must reconsider my stances and more importantly, the reasoning behind why those stances exist in my mind.

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### **Vincent Li says**

An interesting piece on the ethics of hate speech legislation. The US is somewhat unique in the Western world for having such robust freedom of expression principles- in that hate speech restrictions are generally unconstitutional. Waldron, a legal scholar trained outside the US takes aim at what he calls American exceptionalism by laying down the best argument in favor of hate speech legislation.

As a threshold matter, Waldron is openly making a policy argument, and as a result avoids dealing with the complexities of First Amendment law (other than few references to the marketplace of ideas, seditious libel, Sullivan and Beauharnais). By doing so Waldron presents a more clear philosophical argument but at the expense of being less relevant to the legal conversation. By engaging mostly with the normative instead of the descriptive, Waldron dodges the constraints of precedent and doctrine that control law. In a sense, it is easier to present what one thinks the law ought to look like, instead of engaging in it wholesale.

However, the book read as a piece of political philosophy/ethics is still worth reading. Waldron looks at the hate speech legislation of non-US countries and tries to articulate the best philosophical foundations for them. Instead of simple appeals to emotions of the ugliness of hate speech (which regardless are still sprinkled throughout the book), Waldron roots his arguments in the philosophical concepts of dignity and assurance. Waldron argues that everyone has the right to a certain kind of ordinary standing and expectations of being treated as a person with dignity. He interestingly conceptualizes this as a public good, an assurance

to all that when they engage in society, others will treat them as equals in the dignitarian sense. He believes that speech that attempts to undermine a person's individual dignity and assurance by focusing on a characteristic they share with a group can rightfully be banned. Additionally, Waldron thinks prefers the term "group libel", since his ideal restrictions would target more permanent expression (posters, pamphlets) that deface a well ordered society, by undermining dignity and assurance (especially a society that until very recently did not treat vulnerable groups well).

In a sense, Waldron makes "hate speech" legislation more palpable by limiting the ambit of it. First, he limits the restrictions to more permanent forms of expression. Second, he limits it to expression that would undermine the dignity of individuals. He is careful to draw a line between speech that does this and would be banned, and speech criticizing ideas or that cause offense (which would both be fair game). For Waldron, offense is a subjective reaction that frequently accompanies undermining of dignity (which is objective) but is analytically separate. To Waldron, the harm of hate speech isn't offense to an individual, but the harm to that individual's standing in society (he draws an interesting analogy to the purpose of old laws meant to protect the reputations of the aristocracy, now extended to all citizens). Hate speech, as Waldron defines it, seeks to replace the public good of assurance by threatening vulnerable groups and establishing a rival public good, that of assurance to other bigots that they are not alone.

Waldron then addresses two powerful counterarguments to his position. He discusses Baker's argument that hate speech, and all speech are extensions of autonomy as self-disclosure and it would be wrong to limit one's autonomy. Waldron essentially responds to Baker by arguing that the instrumental/self-disclosure distinction that Baker draws is blurred here, and that while Baker argues that all harm of speech can be mitigated by a thick-skinned listener, vulnerable groups shouldn't have to mitigate in the first place. Waldron then responds to Dworkin's argument that limiting hate speech would undermine the legitimacy of anti-discrimination laws (since the debate that preceded the discrimination laws was limited by the laws) by arguing that the restrictions on hate speech would not limit debate of ideas only expressions targeted at undermining the dignity of individuals. Waldron also makes an absurdity argument, that Dworkin's legitimacy argument carried to its full extent would nonsensical. Waldron also pulls in an interesting argument from Mill's *On Liberty*, in that debate is not needed to maintain a living truth since there has emerged a consensus over the equality of people.

The book is clearly a few essays threaded together with some transitions. That's a little annoying because parts of the book gets very repetitive (because of redundancy) and there are parts of the book that do not fit as well (the last chapter seems to be a tangential piece entirely that discusses the Enlightenment philosophers' views on toleration and how that extends beyond physical safety to engagement and mutual respect). However, I think this can be forgiven given the interesting tangents that this approach opened up. In particular, I found the discussion of old English cases including one that seemed to refer to a concept of "blood libel" interesting, along with Waldron's engagement with various critiques and counterarguments (he argues that hate speech legislation is not an example of majoritarian abuse, but majoritarian disabling that does not justify the typical first amendment distrust of government).

Despite some organizational problems, and repetition, the book has an interesting thesis and enough interesting responses to be worth a read, even for those hew closely to the first amendment orthodoxies.

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