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What the Constitution says Berkeley can do

when controversial speakers come knocking

by Mark Tushnet

*... when a raucous crowd shouts down the speaker. A report from the Brookings Institution last week describes as troubling the fact that a narrow majority of students think that’s okay.*

*As far as I’m concerned — and, I think, as far as the First Amendment is concerned — it is okay. The jeerers are simply people attending the rally, no different from the supporters who cheer the speaker.*

Mark, so you don’t see any difference? Really?

Maybe this explanation will help make the difference clear:

When those who attend the rally “cheer,” it is not with the intention of preventing the speaker from exercising his freedom of speech. They stop cheering to let the speaker continue. Those who “jeer” usually continue their disruption with the intention of shutting down the speaker’s right to speak.

The proof that I am right and you are wrong is in the fact that the protesters are protesting the right of the speaker to even appear. So they have already exposed their true motive ... suppression of speech.

You forgot about that, didn’t you Mark?

*It just so happens that the opponents vastly outnumber, or at least outshout, the supporters.*

Mark, attendees of a speech are not there to outshout anyone. They are there to listen to the speaker. It is the protesters who are the ones shouting with the intention of denying the speaker his rights.

*The opponents aren’t the government, so even if they prevent the speaker from getting his message across, that’s just too bad*

Mark, I wonder how many of the readers would believe that if you gave a speech and a group of protesters shouted you down and your audience was forced to leave ... that you would say, “well that’s just too bad.”

Show of hands, readers ... how many of you believe that would be Mark’s reaction?

*or it’s speech countering speech.*

Mark, it isn’t speech countering speech – it’s thuggery countering speech.

I hope you are not going to try to defend the position that the protesters are exercising their rights to “peaceful” assembly. There is no way you will win that one, as you will discover when you review the definition of “peaceful.”

*I suppose you could say that the First Amendment gives the government a duty to make sure that the speaker is able to get his message across.*

Gee Mark, ya think?

No. You don’t think that. That would be correct and would ruin the streak of inanity you’ve got going.

*But that’s implausible as a general principle. I have a lot of things I’d like to have lots of people hear, but I can’t dragoon the government into helping me get my message to them.*

Mark, what evidence do you have that these speakers dragooned the government into helping them speak?

Take your time looking for it ... I’ll wait.

*Maybe you can figure out why the government has a duty in the context of demonstrations but not in the context of my political views, but I haven’t yet seen anyone do so effectively.*

Mark, why did you insert a non sequitur into this article?

The issue isn’t governmental involvement in your political views. You were discussing protesters trying to prevent unpopular speakers from appearing, and then when those speakers did appear, shouting them down.

Can you get back to the issue please?

*That’s not to say that shouting down a speaker is a good idea.*

Mark, it is a good idea from the perspective of the thugs. It often accomplishes their goal of suppressing speech that they don’t like.

It all depends on which side of the fence you are on.

The slippery slope that you are ignoring, is that someday, it will be your opinion that gets shouted down. Maybe that is what it will take for you to defend everyone’s right to free speech, and not just those with whom you agree.

Question, Mark: Do you think the intent of The Founding Fathers was to give freedom of speech to everyone? Or just those with the largest and loudest crowds, like those you have been supporting in this article?

*I think it’s sometimes worth doing, but not often,*

Mark, if shouting down a speaker is worth doing, why not often?

How many times is it worth doing before it becomes not worth doing?

More importantly, *why* is shouting down a speaker to prevent them from expressing a belief you disagree with ... worth doing?

*and maybe universities should have unenforceable “civility” guidelines counseling against it.*

Mark, think about what you just wrote. “Unenforceable?”

Then why bother? What’s the point?

*The First Amendment, though, doesn’t say anything either way about heckling.*

Mark, while true, I’m trying to imagine your reaction, and what actions you would take, if I brought a group to shout you down every time you tried to give a public speech.

Actually, I don’t have to imagine. I would be willing to bet my grandma’s secret stash that the article you just wrote ... would look very, very different.

<https://www.vox.com/the-big-idea/2017/9/22/16346330/free-speech-week-first-amendment-constitution-bannon>

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THE SCIENCE SEGMENT

The cancer death rate has dropped 25 percent

since its 1991 peak

A steady decline over more than two decades has resulted in a 25% drop in the overall cancer death rate in the United States. The drop equates to 2.1 million fewer cancer deaths between 1991 and 2014.

Researchers estimate that in 2017, there will be 1,688,780 new cancer cases and 600,920 cancer deaths in the U.S. The cancer death rate dropped from its peak of 215.1 (per 100,000 population) in 1991 to 161.2 (per 100,000 population) in 2014.

The drop is the result of steady reductions in smoking and advances in early detection and treatment. The drop is driven by decreasing death rates for the 4 major cancer sites: lung (- 43% between 1990 and 2014 among males and -17% between 2002 and 2014 among females), breast (-38% from 1989 to 2014), prostate (-51% from 1993 to 2014), and colorectal (-51% from 1976 to 2014).

Over the past decade, the overall cancer incidence rate was stable in women and declined by about 2% per year in men, while the cancer death rate declined by about 1.5% annually in both men and women.

Also, there are significant gender disparities in incidence and mortality. For all sites combined, the cancer incidence rate is 20% higher in men than in women, while the cancer death rate is 40% higher in men.

The gender gap in cancer mortality largely reflects variation in the distribution of cancers that occur in men and women, much of which is due to differences in the prevalence of cancer risk factors. For example, liver cancer, a highly fatal cancer, is three times more common in men than in women, partly reflecting higher Hepatitis C virus infection, historical smoking prevalence, and excess alcohol consumption in men. The largest sex disparities are for cancers of the esophagus, larynx, and bladder, for which incidence and death rates are about 4-fold higher in men. Melanoma incidence rates are about 60% higher in men than in women, while melanoma death rates are more than double in men compared to women.

Racial disparities in cancer death rates continue to decline. The excess risk of cancer death in black men has dropped from 47% in 1990 to 21% in 2014. The black/white disparity declined similarly in women, from a peak of 20% in 1998 to 13% in 2014. Although the cancer death rate remained 15% higher in blacks than in whites in 2014, increasing access to care as a result of Obamacare may expedite the narrowing racial gap. From 2010 to 2015, the proportion of blacks who were uninsured dropped in half, from 21% to 11%, as it did for Hispanics (31% to 16%).

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FAMOUS QUOTES

Steve Polyak

(1889-1955) 65 years

He was an American neurologist considered to be one of the most prominent neuroanatomists of the 20th century. Polyak studied the functional structure of the organs of sight and hearing, explaining the function of the retina and the cochlea, and visual and auditory pathways and centers. He also gave a new interpretation of basic visual processes.

"Before we work on artificial intelligence

why don't we do something about natural stupidity?"