

Fall 2018

## Is the Cure Worse Than the Disease?: Censorship of Hate Speech May Well Increase Violence

Gordon Danning

*Foundation for Individual Rights in Education*

Follow this and additional works at: <https://scholars.law.unlv.edu/nljforum>



Part of the [First Amendment Commons](#), [Law and Society Commons](#), and the [Rule of Law Commons](#)

---

### Recommended Citation

Danning, Gordon (2018) "Is the Cure Worse Than the Disease?: Censorship of Hate Speech May Well Increase Violence", Nevada Law Journal Forum: Vol. 3 , Article 1. Available at: <https://scholars.law.unlv.edu/nljforum/vol3/iss1/1>

This Article is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [youngwoo.ban@unlv.edu](mailto:youngwoo.ban@unlv.edu).

# Is the Cure Worse Than the Disease?: Censorship of Hate Speech May Well Increase Violence

Gordon Danning\*

From Charlottesville to college campuses, people with odious views have been very much in the news over the past year. Responses to those people and the groups to which they belong have ranged from efforts to keep them from speaking in person,<sup>1</sup> to deleting their presence on the internet,<sup>2</sup> to efforts to have them terminated from their jobs<sup>3</sup> or evicted from their apartments,<sup>4</sup> and even to physical assault by members of such groups as Antifa.<sup>5</sup> Such efforts at censoring, ostracizing, and stigmatizing hate group members are generally justified by claims that such individuals are dangerous.<sup>6</sup>

It is true that some scholars have found an association between the existence of far-right hate groups and the occurrence of far-right ideological violence;<sup>7</sup> however, it is also true others have failed to find an association between hate groups and hate crimes,<sup>8</sup> and that the majority of hate crimes are committed not by ideologically-motivated individuals, but rather by groups of bored

---

\* Gordon Danning, J.D., is the History Research Fellow at the Foundation for Individual Rights in Education.

<sup>1</sup> Vince Cestone, *VIDEO: Right-Wing Group “No to Marxism in America” Denied Permit for Berkeley Rally*, KRON4 (Aug. 25, 2017, 4:49 PM), <http://kron4.com/2017/08/24/right-wing-group-no-to-marxism-in-america-denied-permit-for-berkeley-rally/>.

<sup>2</sup> Matthew Rozsa, *Twitter is Starting to Purge Its “Alt-Right” Users*, SALON (Dec. 18, 2017, 12:00 PM), <https://www.salon.com/2017/12/18/twitter-is-starting-to-purge-its-alt-right-users/>.

<sup>3</sup> Naomi LaChance, *More Nazis are Getting Identified and Fired After Charlottesville*, HUFFINGTON POST (Aug. 17, 2017, 1:21 PM), [https://www.huffingtonpost.com/entry/more-nazis-are-getting-identified-and-fired-after-charlottesville\\_us\\_599477d4b0eef7ad2c0318](https://www.huffingtonpost.com/entry/more-nazis-are-getting-identified-and-fired-after-charlottesville_us_599477d4b0eef7ad2c0318).

<sup>4</sup> Julia Marsh, *Landlord Trying to Evict Tenant for Hanging Confederate Flags in Windows*, N.Y. POST (Aug. 21, 2017, 11:31 AM), <https://nypost.com/2017/08/21/landlord-trying-to-evict-tenant-for-flying-confederate-flags-in-windows/>.

<sup>5</sup> Katie Bo Williams, *Antifa Activists Say Violence is Necessary*, THE HILL (Sept. 14, 2017, 6:30 AM), <http://thehill.com/policy/national-security/350524-antifa-activists-say-violence-is-necessary>.

<sup>6</sup> *Terror from the Right*, SOUTHERN POVERTY L. CTR. (Nov. 1, 2015), <https://www.splcenter.org/20151101/terror-right>.

<sup>7</sup> Amy Adamczyk et al., *The Relationship Between Hate Groups and Far-Right Ideological Violence*, 30 J. CONTEMP. CRIM. JUST. 310, 310 (2014), <http://journals.sagepub.com/doi/abs/10.1177/1043986214536659>.

<sup>8</sup> Matt E. Ryan & Peter T. Leeson, *Hate Groups and Hate Crime*, 31 INT’L REV. L. & ECON. 256, 262 (2011), <http://www.sciencedirect.com/science/article/pii/S0144818811000597>.

youths<sup>9</sup> who are often under the influence of alcohol.<sup>10</sup> Most importantly, there is substantial evidence that censorship and demonization of hate group members is counterproductive because they tend to lead to more violence, not less.

To understand why that is the case, it is essential to take a step back and consider why individuals engage in political violence in the first place. Is it because they are content, feel respected, and feel that they are treated fairly by government and society? Clearly not. Rather, individuals engage in political violence only when they have grievances.<sup>11</sup> That does not mean that they have been treated in an objectively onerous or unfair manner. Rather, individuals are “aggrieved” in a way which is likely to drive them to political violence when they have been treated in a manner which they consider unjust:

Grievances are not merely expressions of deprivation and dissatisfaction. People can be deprived, disappointed, frustrated, or dissatisfied without feeling that they have been unjustly or unfairly treated -- their unsatisfactory outcome may be “just the way things are” or the result of divine judgment, or a consequence of personal ineptitude. In contrast, a real grievance, regarded as the basis for complaint or redress, rests upon the claim that an *injustice* has been inflicted upon undeserving victims. Grievances are normative protests, *claiming violations of rights or rules*.<sup>12</sup>

The key concept here is that individuals are likely to feel aggrieved if they believe that rights or rules have been violated and, hence, that they have been treated unjustly. Indeed, as a recently published book points out, almost all violence is morally motivated in the sense that it is seen by the perpetrator as being morally permissible or even mandatory.<sup>13</sup> That is often the case even with hate crimes.<sup>14</sup>

Thus, because grievances are based on perceived violations of rights and rules and because violence is morally motivated, the circumstances that

---

<sup>9</sup> Colleen E. Mills et al., *Extreme Hatred: Revisiting the Hate Crime and Terrorism Relationship to Determine Whether They Are “Close Cousins” or “Distant Relatives”*, 10 CRIME & DELINQ. 1, 6. (2015), <http://journals.sagepub.com/doi/abs/10.1177/0011128715620626>.

<sup>10</sup> MARK WALTERS ET AL., CAUSES AND MOTIVATIONS OF HATE CRIME 34–35. (2016), <http://dera.ioe.ac.uk/27178/1/research-report-102-causes-and-motivations-of-hate-crime.pdf>.

<sup>11</sup> In other words, the existence of grievances is a necessary, but insufficient, cause of individual participation in political violence. See, e.g., Dipak K Gupta, *Toward an Integrated Behavioral Framework for Analyzing Terrorism: Individual Motivations to Group Dynamics*, 1 DEMOCRACY AND SECURITY 5 (2005).

<sup>12</sup> LARS-ERIK CEDERMAN ET AL., INEQUALITY, GRIEVANCES AND CIVIL WAR 40 (2013) (second emphasis added).

<sup>13</sup> ALAN PAGE FISKE & TAGE SHAKTI RAI, VIRTUOUS VIOLENCE: HURTING AND KILLING TO CREATE, SUSTAIN, END, AND HONOR SOCIAL RELATIONSHIPS 1 (2015).

<sup>14</sup> PAUL IGANSKI & JACK LEVIN, HATE CRIME: A GLOBAL PERSPECTIVE, at xv (2015).

prompt violence will vary from society to society since no two societies have identical ideas about morality, about the rules that govern society, or about the rights which inhere to members of society. For example, in thirteenth century France, a miller's daughter would not be aggrieved were she told that she could never be ruler because such a statement would be consistent with the rules of that society. In the contemporary United States, by contrast, children are taught from an early age that "anyone can grow up to be president." As a result, a person who is barred from running for president due to his or her class of birth would most certainly feel aggrieved because that bar would violate a commonly accepted "right or rule."

Therefore, there is no objective test for political grievance. History is full of people and groups who seem objectively oppressed but consider their circumstances to be legitimate. As a recent doctoral dissertation from the London School of Economics and Political Science notes, "in order for people to take action to address inequalities, the first step is to recognize them and to consider them unjust."<sup>15</sup> Indeed, all societies are unequal in some way. Every society tells those at the bottom of the hierarchy that their circumstances are just and, hence, that political violence is unnecessary or wrongful. Often that claim is buttressed by religious beliefs: Hinduism justifies the caste system; Buddhism tells its adherents that the solution to misery is not to attempt to supplant those who have more material goods, but rather to give up the desire for those goods; and Christianity classically taught that justice for the oppressed is not to be achieved by violence in this world, but rather will be delivered in the next, for "the meek . . . shall inherit the Earth,"<sup>16</sup> and "it is easier for a camel to go through the eye of a needle than for a rich man to enter the kingdom of God."<sup>17</sup> Even slavery is sometimes deemed morally acceptable by those enslaved.<sup>18</sup>

So, if members of hate groups are barred from expressing their views, are they likely to feel that a "right or rule" has been violated? It certainly seems so. The ideals of free speech, civil liberties, and cultural and political egalitarianism are central to what social scientists call the "American Creed," which Anatol Lieven described as "integral to American nationalism."<sup>19</sup> In other words, respect for free speech defines what it means to be a member of the American nation (i.e., an "American").

Thus, the idea that every American has the right to speak her or his mind—a right which is protected to a greater extent in the United States than in

---

<sup>15</sup> Elise Must, *When and How Does Inequality Cause Conflict?* Group Dynamics, Perceptions and Natural Resources 53 (Sept. 2016) (unpublished Ph.D. dissertation, on file with The London School of Economics and Political Science), <http://etheses.lse.ac.uk/3438/>.

<sup>16</sup> *Matthew* 5:5.

<sup>17</sup> *Matthew* 19:24.

<sup>18</sup> Elinor Burkett, *God Created Me to be a Slave*, N.Y. TIMES MAG., Oct. 12, 1997, at 56.

<sup>19</sup> ANATOL LIEVEN, *AMERICA RIGHT OR WRONG: AN ANATOMY OF AMERICAN NATIONALISM* 49 (2005).

any other country on Earth<sup>20</sup>—is clearly one of the basic rules of American society. If that rule is violated by silencing “hate group” members—even though the silencing is done with good motives—then by definition those individuals will feel aggrieved. Indeed, the Supreme Court recently held that even convicted sex offenders have a right to access the internet,<sup>21</sup> so “hate group” members who are told that they are so loathsome that their views are not welcome on the internet are likely to see their treatment as unjust—even if objective observers can distinguish between sex offenders and “hate group” members. Hence, it should be expected that silencing and stigmatizing hate group members will create grievances and thereby make violence more likely.

Indeed, there is substantial scholarship which indicates that censorship or stigmatization of extremist groups and their members tends to drive them to employ violence. For example, a recent study by a professor at the University of Oslo’s Center for Research on Extremism examined differences in the level of right-wing terrorist violence in eighteen western European countries between 1990 and 2015.<sup>22</sup> It found that one “recipe” for increased right-wing violence was elites responding to right-wing extremism by repressing and stigmatizing extremist groups and opinions.<sup>23</sup> That finding is consistent with what scholars of political violence have long known:

[I]f groups are excluded, or feel themselves to be excluded, from democratic channels of participation, then violent action may be seen as the most rational means of political action open to them . . . . Political violence is thus fostered by the exclusion or marginalization [sic] of groups from the established channels of democratic politics.”<sup>24</sup>

To put it another way, “[w]hen normal channels of access to the political system are blocked, extreme forms of political violence are perceived as necessary[.]”<sup>25</sup>

Thus, censoring and otherwise stigmatizing members of hate groups increases the risk of violence by causing members to feel that they have been treated unjustly. However, that is not the only way that such strategies are often counterproductive. Censorship and other stigmatization of hate groups and their members also tends to make them increasingly extreme, which means that they

---

<sup>20</sup> Frederick Schauer, *The Exceptional First Amendment*, in AMERICAN EXCEPTIONALISM AND HUMAN RIGHTS 29 (Michael Ignatieff, ed., 2009).

<sup>21</sup> *Packingham v. North Carolina*, 137 S.Ct. 1730, 1737 (2017).

<sup>22</sup> Jacob Aasland Ravndal, *Explaining Right-Wing Terrorism and Violence in Western Europe: Grievances, Opportunities and Polarisation*, 57 EUR. J. POL. RES. 845, 846 (2018), <http://onlinelibrary.wiley.com/doi/10.1111/1475-6765.12254/full>.

<sup>23</sup> *Id.*

<sup>24</sup> JOHN SCHWARZMANTEL, DEMOCRACY AND POLITICAL VIOLENCE 31 (2011).

<sup>25</sup> Donatella Della Porta, *On Violence and Repression: A Relational Approach*, 49 GOV’T & OPPOSITION 159, 160 (2014), <https://doi.org/10.1017/gov.2013.47>.

are increasingly willing to use violence. There are several ways that those strategies tend to radicalize hate groups and their members.

First, it is commonly understood by social psychologists that repression and ostracism of groups leads members to identify more strongly with those groups.<sup>26</sup> A study of members of three extremist right-wing parties in Italy found that physical or verbal assaults on young persons because of their right-wing political views “favoured the development of interviewees’ image of themselves as extreme right-wing activists.”<sup>27</sup> Similarly, in Europe, censorship and verbal delegitimization of those deemed radical Muslims have made radical groups more attractive to Muslims who feel alienated from society.<sup>28</sup>

Second, censorship and ostracism of members of extremist parties tends to drive out relative moderates, leaving only the most extreme members, who are more likely to use violence.<sup>29</sup> That is true both of extremist groups on the left, as in Italy in the 1960s and early 1970s<sup>30</sup>, and of extremist groups on the right, as is demonstrated by a study of ten anti-immigrant parties in Europe that found parties that were ostracized continued to be extremist, while parties which were not ostracized became more moderate.<sup>31</sup> Moreover, since men are less deterred by the social stigma against the radical right than are women,<sup>32</sup> and since men are more willing to engage in violence than are women, ostracism is likely to leave extremist groups largely in the hands of men (i.e., those most likely to support the use of violence).

Third, censorship and ostracism of extremists plays into the hands of the leaders of extremist parties who use the threat as a means of increasing solidarity<sup>33</sup> and a sense of victimization among rank-and-file members, thereby

---

<sup>26</sup> Michael Minkenberg, *Repression and Reaction: Militant Democracy and the Radical Right in Germany and France*, 40 *PATTERNS OF PREJUDICE* 25, 43 (2006), <http://www.tandfonline.com/doi/abs/10.1080/00313220500482662>.

<sup>27</sup> Patrizia Milesi et al., *Italy: The Offspring of Fascism*, in *EXTREME RIGHT ACTIVISTS IN EUROPE: THROUGH THE MAGNIFYING GLASS*, 67, 77 (Bert Klendermans & Nonna Mayer, eds., 2006).

<sup>28</sup> Lasse Lindeskilde, *Soft Repression and Mobilization: The Case of Transnational Activism of Danish Muslims During the Cartoons Controversy*, 42 *INT’L J. MIDDLE E. STUD.* 451, 454 (2010), <https://doi.org/10.1017/S0020743810000449>.

<sup>29</sup> Della Porta, *supra* note 25, at 168; accord DAVID ART, *INSIDE THE RADICAL RIGHT* 48–49 (2011) (explaining that *cordon sanitaire* and social sanctions undermine chances of far-right political party success, because they drive away relative moderates).

<sup>30</sup> Della Porta, *supra* note 25 at 160.

<sup>31</sup> Joost Van Spanje & Wouter Van Der Brug, *The Party as Pariah: The Exclusion of Anti-Immigration Parties and Its Effect on Their Ideological Positions*, 30 *W. EUR. POL.* 1022, 1022 (2007), <http://www.tandfonline.com/doi/abs/10.1080/01402380701617431>.

<sup>32</sup> Eelco Harteveld, *Daring to Vote Right: Why Men Are More Likely Than Women to Vote for the Radical Right* (Sept. 23, 2016) (unpublished Ph.D. dissertation, on file with the University of Amsterdam), [https://pure.uva.nl/ws/files/2765246/176416\\_00\\_Introduction.pdf](https://pure.uva.nl/ws/files/2765246/176416_00_Introduction.pdf).

<sup>33</sup> Minkenberg, *supra* note 26, at 25.

radicalizing formerly more moderate members.<sup>34</sup> Thus, it is no surprise that the 2009 hate speech prosecution of Dutch right-wing politician Geert Wilders increased his support in the subsequent election.<sup>35</sup>

Finally, censorship, stigmatization, and ostracism interfere with efforts to deradicalize extremists because, in order for deradicalization to be effective, it is essential for the individual to be respected, even as his or her opinions and behaviors are challenged.<sup>36</sup>

It seems quite clear, then, that the most common responses to hate group members and other extremists are likely to be counterproductive and should be discouraged. A key first step in responding to extremists is to strive to treat such individuals, though not their ideas, with respect. After all, these people are clearly upset about something. It does not matter why they are upset. It does not matter that they are upset because they have bad upbringings and are possibly emotionally unstable as a result.<sup>37</sup> It does not matter if they are upset about the loss of their “white privilege”<sup>38</sup> or if they are being manipulated by agents of “global capitalism” or other elites.<sup>39</sup> Nor is the question whether society should accede to their demands because the answer to that is clearly “no.” The vow of the protesters at Charlottesville that “Jews will not replace us”<sup>40</sup> obviously should not and will not become the basis of public policy. Rather, the question is how should society respond to the expression of those ideas in a way which does not exacerbate grievances or increase the risk of violence?

This challenge was stated succinctly by Jacob Ravndal in his recent work.<sup>41</sup> As he notes, the challenge constitutes “a demanding balancing act between upholding core liberal democratic principles such as the freedom of ex-

---

<sup>34</sup> Della Porta, *supra* note 25, at 168.

<sup>35</sup> Joost Van Spanje & Claes De Vreese, *The Good, the Bad and the Voter: The Impact of Hate Speech Prosecution of a Politician on Electoral Support for His Party*, 21 PARTY POL. 115, 125 (2015), <http://journals.sagepub.com/doi/abs/10.1177/1354068812472553>.

<sup>36</sup> Harald Weimböck, *The Narrative Principle: Good Practice in Anti-Hate Crime Interventions, Within the Radicalisation Awareness Network*, in RIGHT-WING EXTREMISM IN EUROPE 379, 394 (Ralf Melzer & Sebastian Serafin, eds., 2013), [https://www.policysolutions.hu/userfiles/elemzes/248/right\\_wing\\_extremism\\_in\\_europe.pdf](https://www.policysolutions.hu/userfiles/elemzes/248/right_wing_extremism_in_europe.pdf).

<sup>37</sup> Raphael S. Ezekiel, *An Ethnographer Looks at Neo-Nazi and Klan Groups: The Racist Mind Revisited*, 46 AM. BEHAV. SCI. 51(2002), <http://journals.sagepub.com/doi/abs/10.1177/0002764202046001005>.

<sup>38</sup> Jeff Maskovsky, *Toward the Anthropology of White Nationalist Postracialism: Comments Inspired by Hall, Goldstein, and Ingram’s “The Hands of Donald Trump”*, 7 HAU: J. ETHNOGRAPHIC THEORY 433, 437 (2017), <https://www.haujournal.org/index.php/hau/article/view/hau7.1.030>.

<sup>39</sup> Tahir Abbas, *The Fear and the Passion*, TIKKUN (Feb. 28, 2017), <http://www.tikkun.org/nextgen/the-fear-and-the-passion>.

<sup>40</sup> Emma Green, *Why the Charlottesville Marchers Were Obsessed With Jews*, ATLANTIC, Aug. 15, 2017, <https://www.theatlantic.com/politics/archive/2017/08/nazis-racism-charlottesville/536928/>.

<sup>41</sup> Ravndal, *supra* note 22.

pression and political freedoms for all people, including those on the far right, on the one hand, while trying to prevent any form of antidemocratic or violent behaviour, on the other.”<sup>42</sup> In the words of the political scientist John Schwartzmantel,

There are two implications here for the politics of liberal-democracy: the first is the need for the creation of new institutions which are more inclusive than the present institutions of liberal democracy . . . The second implication is that there needs to be a *change in the discourse of politics*—from one that is confrontational and dogmatic to one that puts greater emphasis on dialogue and communication.<sup>43</sup>

As much as people fear hate speech, history teaches us two things. First, people are far less susceptible to propaganda than is popularly assumed.<sup>44</sup> Second, and most importantly, the ideals of liberal democracy have repeatedly won out in the marketplace of ideas. Hence, while putting up with reprehensible beliefs is deeply unpleasant, the alternative is likely worse. The best—or, perhaps, the “least bad”—solution to the problem posed by those who express odious opinions is not less respect for civil liberties and democracy, but more. Therefore, it is incumbent upon the rest of us to be the “adults in the room” by respecting the extremist individual, while challenging their opinions and behaviors.<sup>45</sup>

---

<sup>42</sup> *Id.* at 18.

<sup>43</sup> SCHWARZMANTEL. *supra* note 24, at 33–34.

<sup>44</sup> Hugo Mercier, *How Gullible Are We? A Review of the Evidence from Psychology and Social Science*, 21 REV. GEN. PSYCHOL. 103, 103 (2017), <http://dx.doi.org/10.1037/gpr0000111>.

<sup>45</sup> Weillböck, *supra* note 36, at 394.