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Responsibility, Freedom of Speech and Campus Speech Codes

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AGE OF VIOLENCE

PHYSICAL violence in the United States appears to be on the rise. Since 1990, incidents of violent crime in the United States have risen by nearly 25%; the homicide rate is five times higher than that of the second ranking industrial nation (Woo, 1993). Bureau of Labor Statistics claims that workplace homicide is on the increase. Since 1992, violence in the workplace has risen by 33% (Hick, 1993).

Physical violence, however, represents only part of the picture of violence in the United States. Another, and perhaps more pervasive part of violence in this country, culminates in the form of psychoviolence from speech designed to belittle or label someone or something as inferior. Racial slurs, sexist statements, homophobic remarks, threats of violence constitute many of the types of remarks that often stimulate both physical and psychological pain in individuals to whom such remarks are aimed.

College campuses often mirror many of the realities experienced by the population at large in the country. Verbal aggression directed at individuals or groups of people who are perceived as being different, for instance, appears to be gaining greater frequency on campuses throughout the United States. With this increase in verbal aggression, college administrators in increasing numbers have supported campus speech codes to combat this type of psychoviolence that on occasion has led to physical violence (Alder, Starr, Chidega, Wright, Wingert & Haac, 1990).

In this essay, I argue that speech codes are not the answer to curbing offensive communication. The answer must rest in the area of responsibility, residing with both the speaker and the listener in the communication process and with academic institutions to create a climate that promotes free and responsible communication.

SPEECH CODES

The typical response to curbing verbal aggression on campuses throughout the United States has come in the form of speech codes—designed to prevent offensive communication. More than 125 campus codes existed by 1991 (Emerson, 1991). Such codes attempted to limit speech or speech-like activities that may lead to physical violence, to emotional distress or to a hostile or intimidating environment (Melville, 1992).

Speech codes, however, are not new phenomena to the American landscape. Landmark Supreme Court decisions have provided numerous types of speech codes for identifying messages falling within and outside the boundaries of legally protected speech. The “fighting words doctrine” (*Chaplinsky v. New Hampshire*, 1942) labels provocative messages that lead to acts of violence as being unprotected by the First Amendment. Likewise, speech or speech-like activities (e.g., nonverbal messages) that fall under the headings of obscenity (*Miller v. California*, 1973) or libel (*New York Times v. Sullivan*, 1964) exist outside the boundaries of protected speech. These and other areas provide our society with speech codes which outline acceptable and unacceptable communication behavior.

But speech codes, similar to campus ones, suffer the same flaws: where to place responsibility caused by one’s behavior. For instance, if we view communication from a linear (telephone-like) model, then placement of responsibility falls almost exclusively on the shoulders of the sender of the message (Mortensin, 1972). As Haskins, Patzke and Price (1986) note: “The authors of this article have argued that the linear model perspective of communication restricts rather than expands our right of free speech. Such a perspective underscores the notion that communication operates within a closed system, where choices are limited and outcomes predictable” (p. 53). The effects of such a perspective have often resulted in the Supreme Court “fault[ing] and punish[ing] the sender” (Haskins, Patzke and Price, 1986).

Do the listeners bear any responsibility in the communication act? Are they simply passive bystanders whose behaviors remain inconsequential to the source’s behavior or message? Might the listeners be already predisposed to acts of violence regardless of the speaker’s message? Such questions go to the heart of the issue regarding campus speech codes: Who should be held responsible for the creation of meaning and the behavior of individuals interacting in a specific communication context?

RESPONSIBILITY AND CAMPUS SPEECH CODES

Haiman (1981) has argued convincingly that we must take responsibility for what is best for us, especially on matters regarding free speech issues. We have a right to decide what to see, hear or read. But once we abrogate that right to campus speech codes enforced by local campus authority, we give up not only the right of free speech but the responsibility that comes with it to recognize, challenge, defend, teach or advocate views that can help us grow intellectually and humanely.

A large measure of the responsibility associated with free speech lies in the speech act itself. That is, if we view communication as a transactional process, we must place responsibility upon all who engage in this process. Smith and Williamson (1985) explain:

[B]oth persons in the communication situation are participating simultaneously. They are mutually perceiving each other; and both persons [not just a sender] are making adjustments to messages exchanged within the transaction. Both parties are simultaneously and mutually engaged in the process of creating meaning in a relationship (p. 13).

All members, then, in the communication process engage in the creation of meaning. And more, they must take responsibility for not only the formation of meaning in a message but the responsibility for their reaction to it. To deny this responsibility simultaneously denies the process of communication itself. For if no responsibility exists or only partially exists, then no members in the communication transaction or only some members in it communicate. But a transactional perspective of communication denies the absence of participation by members in this process, allowing for the possibility of multiple meanings to exist. In the area of freedom of speech, Haskins, Patzke and Price (1986) argue: -

When a transactional model of communication has been applied members of the [Supreme] Court who use this model have been less inclined to fault the speaker. They believe that too many factors [besides the speaker's message] are operative in the communication situation. Obviously, far more choices and possibilities exist . . . : dialogs may evolve; meaning of messages may be re-evaluated and reinterpreted; and numerous possible causal connections may exist between messages and receivers' response (p. 53).

On the issue of freedom of speech, a college or university serves its constituency effectively if it perceives the act of communication from the broader view offered by a transactional perspective. Institutions of higher education must invite all shades of communication, not just those they believe unobjectionable.

Campus speech codes create only a "chilling effect;" they reduce dialogue and responsibility among people. This does not mean college officials are powerless to protect their constituency or facilities. Laws currently exist against acts of vandalism, assault or trespassing. But campus speech codes or current laws must not be used against legally protected messages to spare individuals from alleged harms that campus authorities believe **may** exist. Rather than limit speech and responsibility, campus authorities need to encourage more speech and responsibility. Dialogues can raise levels of consciousness and sensitivity; censorship often creates the opposite effects. Campus speech codes plunge institutions of higher learning back into the dark ages where people feared open and honest discussion of controversial ideas. Let us never fear discussing ideas; let us always fear acts, such as campus speech codes, which diminish discussion and responsibility.

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