Hate Speech

Susan Brison

Hate speech is speech that vilifies, harasses, intimidates, or incites hatred toward an individual or group on the basis of a characteristic such as race, ethnicity, religion, gender, or sexual orientation. The word "speech" here refers not only to verbal inscriptions and utterances, but also to pictorial representations and symbols, such as swastikas and Ku Klux Klan masks, and expressive acts, such as cross-burning and the defacing of mosques (*see* SPEECH, FREEDOM OF). While most people acknowledge that hate speech is often offensive and sometimes harmful, there is considerable debate about whether it is so harmful that it should be legally restricted (*see* HARM; OFFENSE). In the United States, hate speech is generally considered protected speech, under the free speech clause of the First Amendment of the US Constitution, and most Anglo-American philosophical writing about hate speech has discussed whether – and, if so, why – this position is justified. Although the right to freedom of expression, including the right to engage in hate speech, is widely considered in the United States to be a fundamental human right of virtually paramount value, in other countries, free speech rights are constrained by other rights, such as the rights to dignity, respect, and equality; and laws restricting hate speech, such as speech inciting racial hatred and Holocaust denial, are relatively uncontroversial (Bollinger 1986; Schauer 2005; *see* CIVIL RIGHTS; RIGHTS).

The First Amendment and Hate Speech

The extraordinary protection of hate speech in the United States can be explained by the existence of the First Amendment of the US Constitution, ratified in 1791, which states: "Congress shall make no law … abridging the freedom of speech, or of the press." (The Fourteenth Amendment due process guarantee applies this constraint to state legislatures as well.) No other country's legal system has such a long-standing and firmly entrenched protection of free speech. But US courts have never been absolutist about free speech and have considered many categories of speech to be unprotected. Some examples of speech that the courts have, over the years, considered to be *un*protected (or *less* protected than other categories of speech) are words posing a "clear and present danger that they will bring about the substantive evils that Congress has a right to prevent"; "fighting words"; libel of private individuals; obscenity; and false advertising and advertising of harmful, but legal, products or activities. With the exception of "fighting words," however, none of these categories has been taken to include hate speech.

In response to an increase in reported incidents of hate speech in the 1980s and 1990s, a number of municipalities and university campuses in the United States

The International Encyclopedia of Ethics. Edited by Hugh LaFollette, print pages 2332–2342.

DOI: 10.1002/ 9781444367072.wbiee771

sought, ultimately unsuccessfully, to restrict hate speech that fell into broader categories of speech already subject to legal restrictions. One such category, invoked in hate speech codes adopted by Stanford University and by the City of St. Paul in Minnesota (and later ruled unconstitutional), is that of "fighting words" or words or symbols "which by their very utterance inflict injury or tend to incite an immediate breach of the peace" (*Chaplinsky v. New Hampshire* 1942). The fighting words doctrine, as it has been developed in case-by-case adjudication, holds that, to be considered unprotected speech, fighting words must consist of speech directed at an individual, be about that individual, be addressed face-to-face, and be likely to cause an immediate breach of the peace by the average addressee. In a cross-burning case in 1992, the US Supreme Court struck down a municipal ordinance on the grounds that it prohibited only a subcategory of fighting words, thereby violating the prohibition on viewpoint discrimination (*R.A.V. v. City of St. Paul* 1992). This left open the possibility that a hate speech code covering all and only fighting words might pass constitutional muster.

Some hate speech seems to meet the definition of "fighting words," in that it can cause immediate injury not under the control of the target. The immediate injury inflicted by assaultive speech is an emotional reaction such as the reaction to a slap in the face (Matsuda et al. 1993); it can *also* lead to a suspension of reason which can cause a tendency toward retaliatory violence in an otherwise calm and orderly listener. In both cases, something is alleged to happen to the victim of the speech that is beyond her control. Those opposed to regulating hate speech object to proscribing fighting words on the grounds that it can give rise to a heckler's veto, whereby some would-be speakers could be silenced by threatened retaliatory violence on the part of the audience. Some who are in favor of regulating hate speech argue against using the fighting words doctrine to do so because it presupposes that the only reason for the regulation of hate speech is the public interest in preserving the peace, whereas a more compelling reason may be to protect a conflicting right on the part of the intended victim, for example a Fourteenth Amendment right to equal protection of the laws. In addition, some argue, a hate speech code based on the fighting words doctrine would fail to provide protection to those most vulnerable and least likely to fight back.

Another category of hate speech, based on laws prohibiting hostile environment sexual harassment in the workplace (*Meritor Savings Bank v. Vinson* 1986), was proscribed by a University of Michigan hate speech policy prohibiting "[a]ny behavior, verbal or physical, that stigmatizes or victimizes an individual on the basis of race, ethnicity, religion, sex, sexual orientation, [etc.], and that … [c]reates an intimidating, hostile, or demeaning environment" (*Doe v. University of Michigan* 1989). The court opinion ruling this policy as unconstitutional held that even if hate speech constitutes a form of harassment or race- or sex-discrimination, it is nonetheless protected under the First Amendment. The view that hate speech should be protected even when it undermines equality continues to generate considerable controversy (Matsuda et al. 1993; Hare and Weinstein 2009; Maitra and McGowan 2012; *see* DISCRIMINATION; EQUALITY; EQUALITY OF OPPORTUNITY;

LIBERTY). Some philosophers have argued that some kinds of hate speech, for example those that constitute racial discrimination, should be treated in the way US law treats "Whites Only" signs: not as speech at all, but, rather, as illegal acts of discrimination (Maitra and McGowan 2010).

Other attempts to prohibit hate speech, modeled on criminal libel law as well as on the tort of defamation, have defined hate speech in terms of the harms it causes to the reputation of individuals or groups because of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin (Matsuda et al. 1993; *see* CRIMINAL LAW; TORTS). In a 1952 case, the US Supreme Court upheld an Illinois group defamation law making it "unlawful for any person, firm or corporation to manufacture, sell … or exhibit … any publication [which] portrays depravity, criminality, unchastity, or lack of virtue of a class of citizens, of any race, color, creed or religion [and thereby] exposes [them] to contempt, derision, or obloquy or which is productive of breach of the peace or riots" (*Beauharnais v. Illinois* 1952: 251). Although *Beauharnais* has never been officially overruled by the US Supreme Court, its ruling upholding group defamation laws is generally considered to have been implicitly overturned by *New York Times Co. v. Sullivan* (1964), and since then there have been no successful efforts to draft constitutionally permissible legislation prohibiting group libel in the United States. However, in a recent article, Jeremy Waldron (2010) has defended other countries' laws prohibiting group defamation on the grounds that this variety of hate speech impugns its victims' standing as equal members of society and deprives them of the assurance that they can live free of fear, discrimination, and violence.

International Approaches to Hate Speech

There is today an international consensus that, however valuable the right to freedom of expression may be, it is overridden or irrelevant in the case of at least some forms of hate speech (Schauer 2005: 33). No other country has the strong constitutional protection of hate speech that the First Amendment jurisprudence has led to in the United States. This may be explained by the very different origins of free speech protections in the rest of the world.

Until after World War II, other liberal democracies too lacked constitutions that protected the right to freedom of expression against majoritarian legislation (Lewis 2007: xii). It was only after World War II and the devastation wrought by the Nazis that the United Nations adopted the Universal Declaration of Human Rights (UDHR) in 1948, the Council of Europe adopted the European Convention on Human Rights in 1950, and country after country adopted constitutional democracy, giving courts the last word on matters of basic rights. Such documents and constitutions asserted a right to free speech, but it was always accompanied – and constrained – by other equally or more important fundamental rights (*see* INTERNATIONAL BILL OF RIGHTS).

For example, while Article 19 of the UDHR says "everyone has the right to freedom of opinion and expression," Article 1 asserts that "[a]ll human beings are born free

and equal in dignity and rights" and that "[t]hey are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." And Article 7 states: "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination." In addition, Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination, adopted by the United Nations General Assembly in 1965 and entered into force in 1969, contains extensive prohibitions against hate speech, including the declaration that "all dissemination of ideas based on racial superiority or hatred [and] incitement to racial discrimination" are "offense[s] punishable by law."

Most democratic countries have laws prohibiting speech that incites or promotes racial hatred (Bollinger 1986: 254–6; Schauer 2005: 32–8). Even countries with laws, charters, or constitutions that explicitly protect the right to free speech consider this right to be legitimately constrained by prohibitions against hate speech. For example, although Article 5 of the Basic Law, Germany's Constitution, adopted in 1949, states that everyone has "the right to freely express and disseminate their opinions …" it also states that this right is "subject to limitations embodied in the provisions of general legislation, statutory protections for the protection of young persons and the citizen's right to personal respect." Likewise, although freedom of expression is one of the fundamental freedoms guaranteed by the Canadian Charter of Rights and Freedoms, assented to in 1982, the rights and freedoms outlined in the Charter are subject to "reasonable limits" that "can be demonstrably justified in a free and democratic society"; the Supreme Court of Canada ruled in *R. v. Keegstra* (1990) that the section of the Criminal Code proscribing speech willfully inciting hatred of an identifiable group was constitutional, given the importance of Parliament's objective of preventing the harm caused by hate propaganda. Germany, France, Canada, and Israel, among other countries, have laws prohibiting Holocaust denial, which is considered by many to be a form of hate speech against Jews.

The Charter of Fundamental Rights of the European Union, which was proclaimed in 2000 and became legally binding with the Lisbon Treaty in 2009, sets out the range of political, civil, economic, and social rights of all European citizens and residents of the EU. Although Article 11 of the EU Charter asserts that "[e]veryone has the right to freedom of expression," Article 1 states that "[h]uman dignity is inviolable" and "must be respected and protected." The dignity of persons is taken to be not only a fundamental right, but the basis for other fundamental rights. Article 54 provides that "[n]othing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter."

Arguments For and Against Restricting Hate Speech

Those in favor of restricting hate speech tend to assimilate hate speech to action and focus on the nature and extent of the harms it brings about (Matsuda et al. 1993; Lederer and Delgado 1995), while those who argue against restrictions tend to

assimilate hate speech to thought and express fears of Big Brother and governmental mind control (Strossen 1990; Lewis 2007). Proponents of restrictions on hate speech argue that they are necessary to prevent serious harms and to promote equality, whereas opponents of restrictions argue that the very goals that proponents hope to achieve are more likely to be brought about by other means and may, in fact, be undermined by such restrictions. Some have argued that, instead of punishing the perpetrators of hate speech, the state should compensate the victims of hate speech (Meyers 1995; Schauer 1992), or should, in addition to regulating the speech, provide victims of it with the means of speaking back (Gelber 2002). Even some who agree that hate speech is sufficiently harmful that it would in principle be justifiable to restrict it argue that to do so could backfire by turning outspoken bigots into "free speech heroes" and by letting bigotry in the rest of society go unchallenged.

The slippery slope argument against restricting hate speech holds that even desirable restrictions on the most vicious and harmful hate speech will open the door to unacceptable restrictions on speech that ought to be protected, since there is a continuum from one kind of speech to the other, and no principled way of drawing a line between the two (*see* SLIPPERY SLOPE ARGUMENTS). If distributing racist leaflets advocating the lynching of Blacks and the taking out of ads calling for the extermination of Jews are made punishable offenses, then, this argument goes, it will eventually become illegal to publish *Huckleberry Finn* or to put on a production of "The Merchant of Venice" because of their racist language or derogatory stereotypes.

Slippery slope arguments against restricting hate speech function in the following way: a distinction is made between a currently proposed case (e.g., a law prohibiting a Nazi march in Skokie) and the feared future case (e.g., a law banning "The Merchant of Venice"). Such arguments implicitly concede that the case currently under consideration is not itself problematic (Schauer 1985). They also presuppose that the case at hand can be described in some way that distinguishes it from the feared future case. A further assumption underlying the slippery slope argument is that language is not precise and language users are subject to the pull toward linguistic imprecision, so the boundary between the current case and the feared future case is unstable and likely to shift.

Slippery slope arguments are generally suspect, however. By means of them, we can "prove" that there is no difference between an infant and an adult or an acorn and an oak tree, since there is no nonarbitrary way of determining when one turns into the other. Furthermore, some argue that the selective application of the slippery slope charge to restrictions on hate speech is unmotivated, since the line-drawing problems in that area "are no greater than those attending other, long-accepted doctrines that limit speech we do not like, such as libel, defamation, plagiarism, copyright [infringement], threat[s], and so on" (Delgado and Stefancic 1996: 488).

Other countries, for example Germany, that have laws prohibiting speech inciting racial hatred have not found that such laws lead to still broader, and less justifiable, restrictions on speech. This may be in part because a category such as "political communications other than those urging racial hatred" is already well-entrenched in Germany, so that a law prohibiting speech urging racial hatred is not viewed as an

exception to freedom for political speech, one that might open the way for other exceptions, in the way that it is in the United States. If we had a preexisting term in our language for "speech other than speech inciting racial hatred," or if this were a well-entrenched category in our culture, it is likely that there would be less concern than there presently is over whether restrictions on hate speech will start us on the slide down a slippery slope (Schauer 1991).

Some who are persuaded that hate speech can be very harmful and who might otherwise be in favor of restricting it are deeply suspicious of the motives of governments and are reluctant to give legislators any more power than they already have. Slippery slope arguments in the law inherently involve two or more parties – the one making the law at present, and those interpreting and enforcing it in the future. Even if we are confident that we have carved out a stable and justifiable category of regulable speech, so the argument goes, we do not have grounds for a similar degree of confidence in the ability of those who come after us to interpret and enforce the regulation in ways compatible with our intentions. This relative lack of confidence may result from linguistic imprecision in the formulation of the law, anticipated limited comprehension on the part of other interpreters, or both. Given this analysis, the slippery slope argument against restricting hate speech can be seen to be reducible to an argument from distrust of government. It is not that those making this argument find *themselves* incapable of making the distinctions necessary to avoid the slide down the slippery slope; rather, they are deeply skeptical that future government officials will be able or willing to make such distinctions.

Some have argued that tolerating hate speech functions as a safety valve, enabling potentially dangerous attitudes to be aired and, thus, dissipated, rather than building up inside would-be speakers until they erupt in violence or other harmful behavior (Strossen 1990). Hate speech restrictions, on this account, are counterproductive, in that they allow the very bigotry they are supposed to curb to go underground where it becomes more virulent. Others disagree that the expression of hate speech serves to lessen or dissipate the racist (or other bigoted) attitudes being expressed by the speaker, and they point to studies of bias-motivated violence against members of certain groups showing that such violence is preceded and precipitated by a process of stereotyping and dehumanizing of the victims (Delgado and Stefancic 1996).

Another argument against restricting hate speech is grounded in the defense of free speech known as the argument from truth, best known to us from the writings of John Stuart Mill (*see* MILL, JOHN STUART; UTILITARIANISM). Mill argues in *On Liberty* that restrictions on speech would hamper the search for truth. Some argue that, to use the argument from truth to justify the toleration of hate speech, however, one would have to suppose that we are all rational truth-seekers, whereas speakers and listeners are motivated by many things apart from a desire for truth, including, in the case of individuals who engage in racist hate speech, racism, which is, as Charles Lawrence points out, "irrational and often unconscious" (Matsuda et al. 1993: 468). In addition, if vulnerable minority members are targeted by hate speech, they may well become less, rather than more, likely to express their ideas, and, even

if they do speak, they may not be taken as seriously as they would be in an environment that did not tolerate hate speech. Whether the argument from truth provides a rationale for prohibiting restrictions on hate speech depends on, among other things, the plausibility of the empirical claim that allowing even harmful hate speech contributes to a greater diversity of opinions more likely to yield truth in the long run than prohibiting it would. Furthermore, even if allowing unfettered hate speech were more likely to lead to truth, the value of social harmony may be more important (or conducive to overall, long-term utility) than that of truth.

Another argument against restricting hate speech is based in the argument from democracy, which holds that citizens in a democracy need access to information in order to make well-informed political decisions and also need to be free from obstruction in making their own views known in order to have an impact on the political process (Meiklejohn 1948). Some have argued that, if speech is valued because of its contribution to a well-functioning democracy, then there should be no government restrictions on hate speech. Others, who argue for government restrictions on hate speech, have noted that power is distributed unequally in this democracy, many citizens have virtually no access to the press, and voters are, in any case, not prepared to take the time and trouble to wade through masses of political speech. They argue that further defense is required for the assumption that letting the market regulate speech is fairer – and more conducive to representative democracy – than any governmental regulation would be. Some advocates of the argument from democracy are sensitive to these concerns and argue that some government regulation of hate speech is required by it (Sunstein 1993).

The difficulty with *any* consequentialist argument against restricting hate speech is that it opens the way for restrictions on such speech, should such restrictions turn out to promote the good desired (e.g., truth or democracy) to a greater extent than the absence of restrictions could (Alexander and Horton 1983; Fish 1994; *see* CONSEQUENTIALISM). This does not seem to provide a solid enough foundation for a right to engage in hate speech that overrides other rights, such as the right to equality. Some theorists who consider the right to free speech to be constitutive of a broader intrinsically valuable right, such as a right to autonomy or moral independence, argue that for the government to restrict hate speech would be to violate citizens' fundamental right to autonomy (Scanlon 1972, 1979; Dworkin 1985, 1992; Nagel 1995; *see* AUTONOMY). Others have argued that arguments against restricting hate speech that are grounded in the autonomy defense of free speech ultimately fail (Brison 1998; Gelber 2002). For, if one grants the empirical claim that allowing hate speech can undermine the autonomy of individuals in targeted groups, then an autonomy account cannot be invoked to defend such a policy unless one adds the implausible claim that the threat to the would-be speakers' autonomy from restrictions is even greater. The kinds of harms acknowledged by the courts to result from hate speech are autonomy-undermining harms, and so one cannot employ an autonomy account to argue that such speech must be protected.

In addition, some have suggested that psychological accounts of the inculcation of racist and other bigoted ideas through an insidious, and largely unconscious, process

of socialization undermine the claim that those engaging in hate speech are, in fact, exercising their autonomy (Lawrence 1987). If this process of socialization is sufficiently similar to brainwashing, in that those who have been socialized in this manner become incapable of critically examining their beliefs, then they cannot be said to be autonomously conveying their ideas through hate speech.

Ronald Dworkin argues against restrictions on hate speech on the grounds that free speech is a universal human right "not just instrumental to democracy but constitutive of that practice" (2009: v). In Dworkin's view, "it is illegitimate for governments to impose a collective or official decision on dissenting individuals, using the coercive powers of the state, unless that decision has been taken in a manner that respects each individual's status as a free and equal member of the community," which, in turn, requires that each citizen be allowed to express his or her opinions, fears, and prejudices, no matter how objectionable (2009: vii). If citizens are deprived of the opportunity to voice all such views before legislation is passed, Dworkin argues, the resulting laws lack legitimacy and the majority is not justified in enforcing them (2009: viii). Prohibiting hate speech, in this view, would undermine the legitimacy, not only of laws against discrimination and violence, but of all laws. Jeremy Waldron (2010) argues, however, that almost every democratic country has laws against hate speech and, yet, we do not suppose that any anti-discrimination or anti-violence laws that such countries may have are thereby rendered illegitimate.

With globalization, growing access to the Internet, and the increasing use of electronic media, it is no longer possible to take an isolationist approach to national policies concerning hate speech (*see* GLOBALIZATION; INTERNATIONAL CRIMINAL JUSTICE; INTERNET ETHICS). The question remains whether the United States and the rest of the world can reach an agreement on whether, how much, and what kind of hate speech should be tolerated.

***See also*:** AUTONOMY; CIVIL RIGHTS; CONSEQUENTIALISM; CRIMINAL LAW; DEMOCRACY; DISCRIMINATION; EQUALITY; EQUALITY OF OPPORTUNITY; GLOBALIZATION; HARM; HARM PRINCIPLE; INTERNATIONAL BILL OF RIGHTS; INTERNATIONAL CRIMINAL JUSTICE; INTERNET ETHICS; LIBERALISM; LIBERTARIANISM; LIBERTY; MILL, JOHN STUART; OFFENSE; RIGHTS; SLIPPERY SLOPE ARGUMENTS; SPEECH, FREEDOM OF; TOLERATION; TORTS; UTILITARIANISM

REFERENCES

Alexander, Lawrence, and Paul Horton 1983. "The Impossibility of a Free Speech Principle," *Northwestern University Law Review*, vol. 78, pp. 1355–6.

Beauharnais v. People of the State of Illinois, 72 S. Ct. 725 (1952)

Bollinger, Lee 1986. *The Tolerant Society: Freedom of Speech and Extremist Speech in America*. New York: Oxford University Press.

Brison, Susan J. 1998. "The Autonomy Defense of Free Speech," *Ethics*, vol. 108, pp. 312–39.

Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)

Delgado, Richard, and Jean Stefancic 1996. "Ten Arguments against Hate-Speech Regulation: How Valid?" *Northern Kentucky Law Review*, vol. 23, p. 488.

Doe v. University of Michigan, 721 F.Supp. 852 (E.D.Mich. 1989)

Dworkin, Ronald 1985. *A Matter of Principle*. Cambridge, MA: Harvard University Press.

Dworkin, Ronald 1992. "The Coming Battles over Free Speech," *New York Review of Books*, June 11, pp. 55–64.

Dworkin, Ronald 2009. "Foreword," in Ivan Hare and James Weinstein (eds.), *Extreme Speech and Democracy*. New York: Oxford University Press, pp. v–ix.

Fish, Stanley 1994. *There's No Such Thing as Free Speech, and It's a Good Thing, Too*. New York: Oxford University Press.

Gelber, Katharine 2002. *Speaking Back: The Free Speech versus Hate Speech Debate*. Philadelphia, PA: John Benjamins Publishing Company.

Hare, Ivan, and James Weinstein (eds.) 2009. *Extreme Speech and Democracy*. New York: Oxford University Press.

Lawrence, Charles R. III 1987. "The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism," *Stanford Law Review*, vol. 39, pp. 317–88.

Lederer, Laura J., and Richard Delgado (eds.) 1995. *The Price We Pay: The Case against Racist Speech, Hate Propaganda, and Pornography*. New York: Hill & Wang.

Lewis, Anthony 2007. *Freedom for the Thought We Hate: A Biography of the First Amendment*. New York: Basic Books.

Maitra, Ishani, and Mary Kate McGowan 2010. "On Racist Hate Speech and the Scope of a Free Speech Principle," *Canadian Journal of Law and Jurisprudence*, vol. 23, pp. 343–72.

Maitra, Ishani, and Mary Kate McGowan 2012. *Speech and Harm*. New York: Oxford University Press.

Matsuda, Mari J., Charles R. Lawrence III, Richard Delgado, and Kimberlé Williams Crenshaw 1993. *Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment*. Boulder, CO: Westview Press.

Meiklejohn, Alexander 1948. *Free Speech and Its Relation to Self-Government*. New York: HarperCollins.

Meritor Savings Bank v. Vinson, 477 US 57 (1986)

Meyers, Diana T. 1995. "Rights in Collision: A Non-punitive Compensatory Remedy for Abusive Speech," *Law and Philosophy*, vol. 14, pp. 203–43.

Nagel, Thomas 1995. "Personal Rights and Public Space," *Philosophy and Public Affairs*, vol. 24, pp. 83–107.

New York Times Co. v. Sullivan, 376 U.S. 254 (1964)

R. v. Keegstra, 3 S.C.R. 697 (1990)

R.A.V. v. City of St. Paul, 505 U.S. 377 (1992)

Scanlon, Thomas 1972. "A Theory of Freedom of Expression," *Philosophy and Public Affairs*, vol. 1, pp. 204–26.

Scanlon, Thomas 1979. "Freedom of Expression and Categories of Expression," *University of Pittsburgh Law Review*, vol. 40, pp. 519–50.

Schauer, Frederick 1985. "Slippery Slopes," *Harvard Law Review*, vol. 99, pp. 361–83.

Schauer, Frederick 1991. "Exceptions," *University of Chicago Law Review*, vol. 58, pp. 871–99.

Schauer, Frederick 1992. "Uncoupling Free Speech," *Columbia Law Review*, vol. 92, pp. 1321–57.

Schauer, Frederick 2005. "The Exceptional First Amendment," in Michael Ignatieff (ed.), *American Exceptionalism and Human Rights*. Princeton: Princeton University Press, pp. 29–56.

Strossen, Nadine 1990. "Regulating Racist Speech on Campus: A Modest Proposal?" *Duke Law Journal*, vol. 1990, pp. 484–572.

Sunstein, Cass R. 1993. *Democracy and the Problem of Free Speech*. New York: Free Press.

Waldron, Jeremy 2010. "Dignity and Defamation: The Visibility of Hate," *Harvard Law Review*, vol. 123, pp. 1597–657.

FURTHER READINGS

Altman, Andrew 1993. "Liberalism and Campus Hate Speech: A Philosophical Examination," *Ethics*, vol. 103, pp. 302–17.

Brink, David O. 2001. "Millian Principles, Freedom of Expression, and Hate Speech," *Legal Theory*, vol. 7, pp. 119–57.

Brison, Susan J. 1998. "Speech, Harm, and the Mind-Body Problem in First Amendment Jurisprudence," *Legal Theory*, vol. 4, pp. 39–61.

Gelber, Katharine 2010. "Freedom of Political Speech, Hate Speech and the Argument from Democracy: The Transformative Contribution of Capabilities Theory," *Contemporary Political Theory*, vol. 9, pp. 304–24.

Gelber, Katharine, and Adrienne Stone (eds.) 2007. *Hate Speech and Freedom of Speech in Australia*. Annandale, NSW, Australia: Federation Press.

Greenawalt, Kent 1996. *Fighting Words: Individuals, Communities, and Liberties of Speech*. Princeton: Princeton University Press.

Jacobson, Daniel 2007. "Why Freedom of Speech Includes Hate Speech," in Jesper Ryberg, Thomas S. Petersen, and Clark Wolf (eds.), *New Waves in Applied Ethics*. New York: Palgrave Macmillan, pp. 73–102.

Post, Robert C. 1991. "Racist Speech, Democracy, and the First Amendment," *William and Mary Law Review*, vol. 32, pp. 267–327.

Schauer, Frederick 1982. *Free Speech*: *A Philosophical Enquiry*. New York: Cambridge University Press.

Weinstein, James 1999. *Hate Speech, Pornography, and the Radical Attack on Free Speech Doctrine*. Boulder, CO: Westview Press.