

Protecting The Rights Of A Holocaust Denier Ultimately Protects Us All

Free speech, even if it hurts

By Michael Shermer
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'More women died in the back seat of Edward Kennedy's car at Chappaquiddick than ever died in a gas chamber at Auschwitz.'

Is this line more offensive to Jews than an editorial cartoon depicting the prophet Muhammad with a turban bomb is to Muslims?

Apparently it is, because the editorial cartoonists are still free, whereas the man who made this statement - British author David Irving - was sentenced this week to three years in an Austrian jail for violating a law that says it is a crime if a person "denies, grossly trivializes, approves or seeks to justify the National Socialist genocide or other National Socialist crimes against humanity."

That Irving has been, and probably still is, a Holocaust denier is indisputable. In 1994, I interviewed him for a book on Holocaust denial, and he told me that no more than half a million Jews died during World War II, and most of those because of disease and starvation. In 2000,

Irving lost his libel suit in Britain against an author, and the judge in the case called him "an active Holocaust denier anti-Semitic and racist." And in April 2005, I attended a lecture he gave in Costa Mesa at an event sponsored by the Institute for Historical Review, the leading voice of Holocaust denial in the U.S. There he joked about the Chappaquiddick line and, holding his right arm up, boasted: "This hand has shaken more hands that shook Hitler's hand than anyone else in the world."

The important question here is not whether Irving is a Holocaust denier (he is), or whether he offends people with what he says (he does), but why anyone, anywhere should be imprisoned for expressing dissenting views or saying offensive things. Today, you may be imprisoned or fined for dissenting from the accepted Holocaust history in the following countries: Australia, Austria, Belgium, Canada, Czech Republic, France, Germany, Israel, Lithuania, New Zealand, Poland, Romania, Slovakia and Switzerland.

Given their disastrous history of being too lenient with fringe political ideologues, it is perhaps understandable that countries such as Germany and Austria have sought to crack down on rabble-rousers whose "hate speech" can and has led to violence and pogroms. In some cases, the slippery slope has only a few paces between calling the Holocaust a "Zionist lie" and the neo-Nazi desecration of Jewish property.

And as we have witnessed repeatedly, Europeans have a different history and culture of free speech than we do in this country. In Germany, for example, the "Auschwitz lie" law makes it a crime to "defame the memory of the dead." In Britain, libel law requires the defendant to prove that he or she did not libel the plaintiff - unlike U.S. law, which puts the onus on the plaintiff - and the British recently debated the merits of banning religious hate speech. In France, it is illegal to challenge the existence of the "crimes against humanity" as they were

defined by the military tribunal at Nuremberg; another law, on the books until just a few weeks ago, required that France's colonial history (which was not always "humane") had to be taught in a "positive" light.

In traditionally liberal Canada, there are "anti-hate" laws against spreading "false news." In late 1992, Irving went to Canada to receive the George Orwell Award from a conservative free-speech organization, whereupon he was arrested and deported on the grounds that his German court conviction for denying the Holocaust made him a likely candidate for future hate-speech violations.

Even in the land of Thomas Jefferson and the 1st Amendment, freedom of speech does not always ring. On Feb. 3, 1995, Irving was invited by the Berkeley Coalition for Free Speech to lecture at UC Berkeley. More than 300 protesters prevented Irving and the 113 ticket holders from entering. (That, however, is quite different from passing a law that bars him from speaking.)

Austria's treatment of Irving as a political dissident should offend both the people who defend the rights of political cartoonists to express their opinion of Islamic terrorists and the civil libertarians who leaped to the defense of University of Colorado professor Ward Churchill when he exercised his right to call the victims of 9/11 "little Eichmanns." Why doesn't it? Why aren't freedom lovers everywhere offended by Irving's court conviction?

Freedom is a principle that must be applied indiscriminately. We have to defend Irving in order to defend ourselves. Once the laws are in place to jail dissidents of Holocaust history, what's to stop such laws from being applied to dissenters of religious or political histories, or to skepticism of any sort that deviates from the accepted canon?

No one should be required to facilitate the expression of Holocaust denial, but neither should there be what Supreme Court Justice Louis Brandeis called the "silence coerced by law - the argument of force in its worst form."

The point was poignantly made in Robert Bolt's play, "A Man for All Seasons," in which William Roper and Sir Thomas More debate the relative balance between evil and freedom:

Roper: So now you'd give the devil benefit of law.

More: Yes. What would you do? Cut a great road through the law to get after the devil?

Roper: I'd cut down every law in England to do that.

More: Oh? And when the law was down - and the devil turned round on you - where would you hide? Yes, I'd give the devil benefit of law, for my own safety's sake.

Call David Irving the devil if you like; the principle of free speech gives you the right to do so. But we must give the devil his due. Let Irving go, for our own safety's sake.

Dr. Michael Shermer is the publisher of Skeptic magazine, a monthly columnist for Scientific American and the author of "Denying History: Who Says the Holocaust Never Happened and Why Do They Say It?"

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