

The Harm in Hate Speech. By Jeremy Waldron. Cambridge: Harvard University Press, 2012. 292 pp. \$26.95 cloth.

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This well-crafted volume by Jeremy Waldron, who teaches law and philosophy at New York University and Oxford, addresses—in the words of the title—the harm in hate speech. Waldron dispatches the old saw that we must be especially vigilant to protect the speech we hate (Chapters 1 and 2), instead showing that heaping calumny on a vulnerable minority group damages a public good, namely the reasonable belief that one can go for a walk with one's children and not expect to confront an expression of hate such as a sign telling people of your background that they are unwelcome in this country. He notes that many advanced societies prohibit such expressions (pp. 8, 29) but doubts that the United States will anytime soon, even though our checkered racial history would seem to make prohibition in order here as well.

The interest he is most concerned with protecting is not offense to feelings, such as that stemming from an epithet hurled from a passing car, but the deeper form of alienation that accompanies coming upon a written or tangible expression of contempt, such as graffiti, billboards, or monuments, that endure, communicating their message to all who pass that way (Chapter 5). Defending this form of racial vituperation is not at all valiant or noble, Waldron points out, explaining why it is neither necessary for a vigorous give-and-take of ideas (Chapter 2), a bigot's self-expression (Chapter 6), or the legitimacy of our system of liberal politics (Chapter 7).

The book is exceptional in a number of respects. Most writers address the harm of hate speech in terms of the injury that results from trying to regulate it. Focusing almost exclusively on the affront to the hate-speaker forced to hold things in or to society at large when it loses an opportunity to ponder supposedly hard truths about black intelligence, Latino personal habits, or Muslim patriotism, these writers imagine themselves courageous defenders of an embattled position. In resisting what they think of as thought reform and political correctness, they believe that in championing “the thought we hate” they are safeguarding an unpopular but noble cause. Waldron rejects this self-serving characterization, pointing out that a more important issue in the hate-speech debate is the feelings of the black or Muslim father, out for a walk with his family and suddenly confronted with a sign telling people like him and his kids to go back whence they came.

Turning to an affirmative argument, Waldron asks what a well-ordered society would look like, and with the aid of simple prose

and heart-rending examples concludes that it is one that provides each citizen with the assurance—a form of dignity—that they may lead their lives free from the fear of unwanted assaults on their security and wellbeing like those mentioned above (Chapter 4).

Surely nothing is wrong with focusing, as Waldron does, on monuments, writings, and other tangible symbols of hatred and contempt. After all, these are apt to be more stinging and long-lasting than an epithet hurled from a passing car. But face-to-face vituperation can pollute the environment in ways almost as damaging as billboards and monuments. A minority group member who is the target of a racial name hurled out of the blue is apt to review it in his mind many times. He or she may recount it to friends and family, who may, in turn, tell others about the police officer or foul-mouthed passerby who upbraided Uncle Joe on his way to work. The reverberating effect of these “microaggressions” (Davis 1999) can create the very demoralization that Waldron associates with graffiti, monuments, websites, and billboards.

By the same token, one wonders whether Waldron’s pessimism about the prospects of change is entirely warranted. The American legal system has at times responded to powerful external influences to reverse centuries of harshly negative racial practice (Bell 1980). The debate over hate-speech regulation somewhat resembles the one that arose in connection with separate but equal school assignments. When the Supreme Court overruled *Plessy v. Ferguson* in 1954, little in the way of legal precedent mandated the change. Instead, for Derrick Bell and others, international appearances and the need to avoid domestic turbulence produced the reform. Might it be that the imperatives of a diversifying population, as well as the establishment’s current desire to strengthen the hand of the moderate, democratic faction of international Islam in competition with the Shariah-embracing traditional one may impel a further round of domestic advances similar to the ones that arose in the *Brown* period and the years immediately following? If so, it would not be the first time that breakthroughs for blacks and other minorities arrived only when elite whites saw it in their interest to grant an attention-getting concession.

References

- Bell, Derrick A., Jr. (1980) “Brown v. Board of Education and the Interest Convergence Dilemma,” 93 *Harvard Law Rev.* 518–33.
 Davis, Peggy (1989) “Law as Microaggression,” 98 *Yale Law J.* 1559–77.

