

Margaret Chase Smith Library 2025 Essay Contest

Each year the Margaret Chase Smith Library sponsors an essay contest for high school seniors. The essay prompt for 2025 asked students their opinion on the rights of speakers in the public square. Should people be allowed to express anything they desire no matter the ripple effect their words may cause? Or, should there be limitations on speech? If so, how far is too far?

FIRST-PLACE ESSAY

Hate Speech in the Digital Age: Balancing Constitutional Freedoms with Just Regulation

by Connor Stanley

Imagine scrolling through your social media feed and encountering a torrent of slurs and calls to violence aimed at minority groups. Such online hate speech—unrestrained by real-world social barriers—can quickly spread and normalize extreme and hateful views, intimidate marginalized communities, and even incite real violence (Barroso 2024). Yet in the United States, robust First Amendment protections prevent the government from banning speech many deem offensive. Legal and social science research sheds light on how policymakers can curb harmful online content without eroding core free-expression rights. While free speech must be broadly protected, there should be narrow limits on speech when it crosses into direct harm, particularly in online sphere. These limits should not be imposed through sweeping federal legislation; instead, platform self-regulation, strengthened through coregulatory frameworks that focus on modifying areas like unprotected speech and Section 230—meant to prevent companies from being liable on what their users post—to compel companies to adhere to free speech

expectations. This system offers a more constitutionally sound and practically effective means of addressing hate speech.

Many democratic nations impose penalties on particularly harmful hate speech to protect targeted communities (Clegg 2024). Advocates of a federal US hate speech statute argue that such legislation would create a consistent, nationwide framework for criminalizing severe incitement of hatred or deliberate harassment aimed at protected groups. Such advocates maintain that these measures could align with existing unprotected speech categories, such as explicit threats or imminent incitement. Germany's ban on Holocaust denial, for example, is regarded as a vital safeguard against extremist propaganda. Canada and several European countries also restrict specific hateful expressions, reasoning that defending marginalized populations from harm matters more than preserving unwavering protection for demeaning or threatening speech (Goldman-Hasbun 2022). Research underscores this view: hate speech fosters bigotry, exacerbates social tensions, and can lead to

violence. By spreading dehumanizing language, online hate normalizes prejudice and lays the groundwork for further discrimination (Barroso 2024). US statutes mirroring these global examples would send a decisive message that American lawmakers refuse to tolerate hateful and abusive rhetoric.

Despite these claims, a hate speech statute would encounter several obstacles in the United States. Under Supreme Court jurisdiction, hateful speech is generally protected unless it clearly provokes unlawful action, rises to a real threat, or falls into another narrow exception (Goldman-Hasbun 2022). In contrast to countries weighing free speech against equality or dignity, US law forbids punishing speech solely for its hateful content. This stance reflects the belief that restricting offensive speech can be a slippery slope (Åkerlund 1238). Critics warn that giving officials authority over banned slurs could lead to the misuse of valid arguments. Censorship, rather than being used to protect the oppressed, has often been used to suppress unpopular positions. For example, a Tufts University student on a school visa was detained by ICE and now faces deportation for peacefully advocating Palestinian rights on campus, with officials falsely claiming the protest equated to terrorist support (Casey et al. 2025). This detention highlights how a federal hate speech law might not resolve the problem and could even exacerbate it.

Crafting a constitutionally valid hate speech ban is also difficult. It must target only unprotected forms of speech, such as true threats or direct incitement, which are already illegal. Broader laws criminalizing general insults against protected groups would likely be struck down for “viewpoint

discrimination” protected by the First Amendment. Court rulings, for example *Brandenburg v. Ohio*, confirm that the government cannot single out hateful content just for being offensive (Goldman-Hasbun 2022). While appealing to some, a federal hate speech ban faces both legal and political barriers, which is why none currently exists in the United States.

In contrast, platform-based moderation offers flexibility. Specifically, private moderation doesn’t raise First Amendment issues since the Constitution aims to limit government action only. Some also argue a platform’s decision to moderate speech is itself a form of protected expression (Goldman-Hasbun 2022). Through this system, companies can adapt rapidly to emerging hate tactics, such as coded slurs or new memes (Asogwa and Onwuama 2021). AI filters and human reviewers scan billions of posts daily, identifying and removing egregious content. Different platforms may adopt different rules, letting users decide where they feel most comfortable. When effective, moderation reduces harm while upholding the American view of free speech (Nossel 2024).

However, self-regulation has notable flaws. Many tech firms profit from engagement with online posts, which controversial content often drives. Shocking posts attract more attention, leading platforms to underenforce hate speech policies. Even with sincere efforts, the content volume is overwhelming (Strauss 2025). Enforcement may be uneven; some violators face bans while others may remain. Shifts in leadership or corporate philosophy can drastically change moderation. After Elon Musk took over Twitter and embraced a “free speech” stance, hate speech reportedly surged (Park 2021). This surge shows how moderation often

reflects internal priorities rather than stable, unbiased standards.

To improve this system, I support the idea of coregulation: the government doesn’t directly censor hate speech but requires or motivates platforms to address it through policy (Keulenaar et al. 2021). Policymakers could revise section 230 of the Communications Decency Act, tying liability protections to transparency and enforcement standards. Currently Section 230 shields platforms from lawsuits over user-generated content while allowing them to moderate in good faith (Nossel 2024). Yet political voices say the law needs reform (Clegg 2024).

Revisions might require platforms to publish takedown data, respond quickly to threats, and follow consistent procedures. This model recognizes that self-regulation needs accountability and oversight to be effective (Antonetti and Crisafulli 2021).

The European Union’s Digital Services Act takes a similar approach, requiring fast removal of illegal hate speech and public disclosures about how content decisions are made. This form of government regulation focuses on consistent moderation practices instead of prohibiting particular viewpoints. The government cannot force platforms to delete lawful but hateful content, but it can set performance or transparency benchmarks (Keulenaar et al. 2021). Although US constitutional law differs, these methods propose a form of regulation that focuses on consistent moderation practices instead of prohibiting particular viewpoints, as such proposals must still respect the First Amendment.

American courts have reiterated that there is no general “hate speech exception” (Rieger et al. 2021). Racist diatribes, antisemitic rallies, or other hateful statements typically remain

lawful unless they include imminent threats. The Supreme Court has ruled in favor of deeply offensive speech, including the Westboro Baptist Church’s anti-gay funeral protests (*Snyder v. Phelps*, 562 US 443 [2011]). The court’s guideline is that the best response to hateful speech is more speech—what scholars call “counterspeech”; confronting harmful ideas not through bans, but through public rebuttal, fact-checking, and amplifying marginalized voices. The First Amendment principle assumes that open discourse will expose and discredit hate. Yet, recent crackdowns on pro-Palestinian students and activists (Casey et al. 2025) suggest a growing gap between this ideal and reality.

The issue is that while the law strongly favors broad protections for free expression, social science research shows that severe or relentless abuse can drive some individuals away from online platforms, limiting their right to speak (Åkerlund 2023). The suppression reveals where counterspeech falls short of upholding a diverse range of thought in the online sphere. The silencing effect that constant harassment can have in marginalized communities narrows the range of perspectives in public discourse. In this way, the First Amendment may paradoxically undermine its own democratic aims by protecting the speech of those who spread hatred. Potentially leading the document to suppress the voices it was intended to empower and exclude the very diversity of thought it seeks to protect (Barroso 2024).

Therefore, coregulation offers an alternative path to self-regulation or a federal hate speech ban. Policymakers should revise Section 230 to demand that platforms adopt transparent, consistent moderation procedures (Keulenaar et al. 2021). Such changes would

help curb the unpredictable nature of self-regulation. Meanwhile, narrower laws could more effectively punish clear threats, doxxing, or organized harassment without violating free speech. In tandem with coregulation, the role of societal norms, counterspeech, and community-driven actions remains paramount to maintain a diverse space of ideas. Broader public intolerance for hateful ideas can push platforms to remove violent or harassing posts. Educational programs, user-empowerment tools, and direct challenges to hateful rhetoric can help form a culture where bigotry is less welcome (Asogwa and Onwuama 2021). At the same time, the tension between an inclusive society and near absolute free speech remains. The Supreme Court's consistent defense of offensive expression means any legislative approach must be carefully written to handle only speech that courts recognize as unprotected like incitement or threats.

Ultimately, the conversation about hate speech requires nuanced solutions that protect democracy's ideals. While absolute freedom of speech is unsustainable in a digital age where targeted harm spreads rapidly, the solution is not a federal hate speech ban. Instead, policymakers should strengthen coregulatory models, promote platform accountability, and invest in educational and cultural tools that push back against bigotry without violating constitutional freedoms. The double-edged sword of the First Amendment cuts in multiple ways, defending even vile speech but also protecting critical opposition that is vital to a free society (Nossel 2024). Balancing these priorities calls for thoughtful collaboration among lawmakers, tech companies, researchers, and the public to maintain both liberty and civility online.

REFERENCES

- Åkerlund, Mathilda. 2023. "Politics of Deliberate Inaction: The Disconnect Between Platform Justifications and User Imaginaries on Content Moderation in a 'Free Speech' Online Forum." *New Media & Society* 27(3): 1235–1255. <https://doi.org/10.1177/14614448231190905>.
- Antonetti, Paolo, and Benedetta Crisafulli. 2021. "I Will Defend Your Right to Free Speech, Provided I Agree with You": How Social Media Users React (or not) to Online Out-Group Aggression." *Psychology & Marketing* 38(10): 1633–1650. <https://doi.org/10.1002/mar.21447>.
- Asogwa, Nicholas Uchekukwu, and Michael Emeka Onwuama. 2021. "Hate Speech and Authentic Personhood: Unveiling the Truth." *Sage Open* 11(1). <https://doi.org/10.1177/21582440211005772>.
- Barroso, Paulo. 2024. "Online Hate Speech in the New Digital Public Sphere: Free Speech and the Facebook." *Revista Filosóficos* 29(2): 1–37. <https://doi.org/10.5216/phi.v29i2.80137>.
- Casey, Michael, Jake Offenhart, and Kathy McCormack. 2025. "Tufts Student from Turkey Threatened with Deportation, Latest Palestinian Supporter Swept Up in Crackdown." *PBS NewsHour*, March 27. <https://www.pbs.org/newshour/politics/tufts-student-from-turkey-threatened-with-deportation-latest-palestinian-supporter-swept-up-in-crackdown>.
- Clegg, Nick. 2024. "The Future of Speech Online: International Cooperation for a Free & Open Internet." *Daedalus: Journal of the American Academy of Arts & Sciences* 153(3): 65–76. https://doi.org/10.1162/daed_a_02089.
- Goldman-Hasbun, Julia. 2022. "The Moral Discourse of Free Speech: A Virtual Ethnographic Study." *Journal of Contemporary Ethnography* 52(4): 463–492. <https://doi.org/10.1177/08912416221129880>.
- Keulenaar, Emillie de, Marc Tuters, Cassian Osborne-Carey, Daniel Jurg, and Ivan Kisjes. 2021. "Free Market in Extreme Speech: Scientific Racism and Bloodsports on YouTube." *Digital Scholarship in the Humanities* 37(4): 949–971. <https://doi.org/10.1093/lc/fqab076>.
- Nossel, Suzanne. 2024. "The Fate of American Democracy Depends on Free Speech." *Daedalus: Journal of the American Academy of Arts & Sciences* 153(3): 119–134. https://doi.org/10.1162/daed_a_02093.
- Park, K-Sue. 2021. "Whose Free Speech?" *Dissent* 68(3): 42–44. <https://www.dissentmagazine.org/article/whose-free-speech/>.

- Rieger, Diana, Anna Sophie Kümpel, Maximilian Wich, Toni Kiening, and Georg Groh. 2021. "Assessing the Extent and Types of Hate Speech in Fringe Communities: A Case Study of Alt-Right Communities on 8chan, 4chan, and Reddit." *Social Media + Society* 7(4). <https://doi.org/10.1177/20563051211052906>.
- Strauss, David Levi. "Dispatch 44: The Slow Painful Death of Free Speech and Free Expression Online as Tech Bros Swipe Right for Trump." *Brooklyn Rail*, January 9. <https://brooklynrail.org/2024/12/dispatches/>.

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