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respect

A NEWSLETTER ABOUT LAW AND DIVERSITY

Moving Forward After Marriage Equality Ruling

by Barbara Sheehan

Gay rights advocates won a huge victory in June 2015 when the U.S. Supreme Court issued a 5-4 ruling declaring that same-sex marriage bans are unconstitutional. Thirty-seven states (including New Jersey) and the District of Columbia already had laws in place recognizing marriage equality. The landmark ruling—known as *Obergefell v. Hodges*—requires that the remaining 13 states recognize same-sex unions performed in other states, as well as grant marriage licenses to same-sex couples.

The *Obergefell* case involved 14 same-sex couples and two men whose same-sex partners are deceased. The petitioners filed suits, claiming that state officials in Michigan, Ohio, Kentucky and Tennessee, all of which enforced same-sex marriage bans, violated their Fourteenth Amendment rights.

Words from the bench

The majority of the Court concluded that the right to marry is a fundamental right for everyone under the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

In his **majority opinion**, Justice Anthony Kennedy wrote, “No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, sacrifice and family. In forming a marital union, two people become something greater than once they were...

Marriage embodies a love that may endure even past death... Their hope is to not be condemned to live in loneliness, excluded from one of civilization’s oldest institutions. It would misunderstand these men and women to say they disrespect the idea of marriage.

Their plea is that they do

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Free Speech vs. Hate Speech—Difficult Line to Draw

by Cheryl Baisden

When it comes to freedoms, the United States is somewhat rare among nations in that it protects citizens’ freedom of speech and expression, even if what they say, do or write runs counter to the beliefs of the country’s leaders and certain segments of society.

“The belief is that the best way to discover the truth is to permit everyone to express themselves, without censorship. Even if a communication is false, the theory goes, a ‘marketplace of ideas’ will expose the falsehood and reveal what is true...” said Bernard K. Freamon, a professor at Seton Hall Law School, who focuses on Islamic law. “Freedom of expression also is essential to the notion of self-government. People are not really free to govern themselves if they cannot say or write what is on their minds. A related argument asserts that a robust freedom of expression gives each member of society a sense of self-respect and fulfillment because it permits each member to realize their full potential. When you limit someone’s capacity to express themselves, you diminish their humanity and do harm to them.”

According to the First Amendment, “Congress shall make no law abridging freedom of speech, or of the press...” As a result, all expressions of speech, even so-called

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Are Iranian Engineering Students a National Security Risk?

by Phyllis Raybin Emert

The United States typically welcomes foreign students attending American colleges and universities, which reportedly brings more than \$24 billion to the U.S. economy. One report, compiled with help from the U.S. State Department, puts the number of international undergraduate and graduate students enrolled in the U.S. at more than 886,000. According to the Institute of International Education, more than 10,000 of those international students hail from Iran, with nearly 80 percent of them studying in the fields of science, technology, engineering or math.

In February 2015, the University of Massachusetts at Amherst (UMass) released a policy stating, "Iranian national students will not be admitted to several programs in the university's College of Engineering [this would include chemical, electrical and computer engineering, as well as mechanical & industrial engineering] and the College of Natural Sciences [this would include Physics, Chemistry, Microbiology and Polymer Science]." UMass referred to U.S. sanctions against Iran as the reason for the new policy—specifically section 501 of the 2012 Iran Threat Reduction and Syria Human Rights Act. This section stated that Iranians were not eligible for U.S. visas if they planned to attend an American college or university to pursue a career in nuclear or petroleum engineering, nuclear science or a related field in Iran.

One other U.S. college, Virginia Commonwealth University (VCU), has a similar policy. VCU's website states that the college is "not able to admit Iranian citizens in the graduate fields of mechanical and nuclear engineering or in programs that have nuclear content."

The reaction

A social media backlash and widespread protest among faculty and students greeted the UMass announcement, in particular among panicked Iranian students on campus in Amherst.

Many of these students, particularly women, were banned from study in their home country because of the repressive political and religious situation in Iran. Approximately 60 Iranian students attend UMass, most of them graduate students, with about half in engineering fields.

Nariman Mostafavi, a graduate student at UMass studying building and construction technology, told *The Boston Globe*, "I got banned from my education in Iran because I raised my voice against what happened in my country. I was a leader of a pro-democracy secular group that was advocating for academic freedoms in the universities and when I moved to the United States, especially UMass Amherst, I never imagined anything like this...I think it is against anything America has ever stood for."

After consultation between UMass officials and the U.S. State Department, the University revised its policy, opting instead to create individual study programs for the Iranian students in these fields. The State Department clarified that it investigates and evaluates each applicant from Iran who wants to study at the graduate level in these nuclear-related fields on a case-by-case basis. State Department officials also told *The Boston Globe* that the current law "does not prohibit qualified Iranian nationals coming to the United States for education in science and engineering."

What's it all about?

The basic issue concerns nuclear weapons and national security. Should the United States allow Iranian students to study in fields that could potentially be used back in Iran to advance a nuclear energy program against America and its allies? After the UMass policy reversal, U.S. Senator David Vitter, of Louisiana, issued a press release of a letter addressed to Steve Linick, the Inspector General at the State Department. Senator Vitter wrote that he was concerned that "the State Department wants to allow Iranian students to study nuclear engineering, among

other programs at U.S. universities, even though our U.S. sanctions on Iran are due to Iran's threat of developing nuclear weapons."

Professor Alan Hyde of Rutgers Law School—Newark believes that Iranian nationals should be allowed to study in nuclear-related fields in America. "U.S. policy...has been to encourage Iranian students to study in U.S. universities... The policy has been an overwhelming success," Professor Hyde says. "Eighty-nine percent of Iranian students want to remain in the U.S. Around three-quarters of them study science, technology, or engineering...the highest percentage of any group of foreign students...The U.S. gets the benefit of their skills, training, and loyalty to a modern welcoming country."

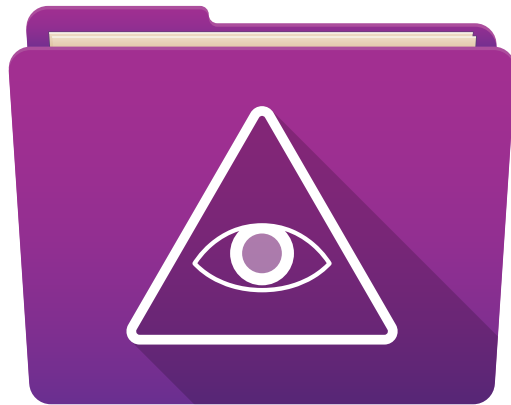
Professor Hyde, who teaches immigration law, explains that about a third of these Iranian students are women and another third have American relatives. He quotes former Secretary of State Hillary Clinton, who stated in a video to Iranian students in 2011, "We want more dialogue and more exchange with those of you who are shaping Iran's future. We want to be able to share what we think is great about America. Because as long as the Iranian government continues to stifle your potential, we will stand with you. We will support your aspirations, and your rights. And we will continue to look for new ways to fuel more opportunities for real change in Iran."

The legal question

Do Iranian nationals with student visas have any First Amendment rights if denied the opportunity to study in America? The answer is "no," Professor Hyde says. It is not unconstitutional, according to the U.S. Supreme Court, "to exclude particular noncitizens," he explains. "Between 1875 and 1892, Congress enacted a series of bills

to prohibit further immigration by Chinese people and make it easier to deport Chinese who had been here legally. The Court found this legislation to be constitutional."

Professor Hyde notes, "The Court held that the Constitution placed no limits on the federal government's power to



exclude and that such decisions are not judicially reviewable. These decisions have never been **overruled**...It is clear that no noncitizen has a constitutional right to come to the U.S."

Spreading American values

In an article published by the Brookings Institution, a nonprofit public policy organization located in Washington, D.C., Walter D. Valdivia and Marga Gual Soler wrote, "Very rarely will the knowledge created and taught at universities present a security risk that justifies the outright exclusion of an entire nationality from participating in the research and learning enterprise."

Valdivia, a fellow in the Center for Technology Innovation at the Brookings Institute, and Soler, project director at the American Association for the Advancement of Sciences' Center for Science Diplomacy, also wrote, "...a blanket ban on students by national origin is a transgression of the principles of an open society including academic freedom" and explained that even

those students who return to their home countries may "seek reform within their own universities and a few will go further and press for reform to their country's political system....spreading the values of academic life in democratic societies is a legitimate and powerful approach to spreading democratic values around the world."

Iran nuclear agreement

The Joint Comprehensive Plan of Action (JCPOA), also known as the Iran Nuclear Agreement, was finalized in July 2015 between Iran, the United States, the United Kingdom, France, Russia, China, and Germany. According to a December 2015 Congressional Research Service Report, "the JCPOA is intended to ensure that Iran's nuclear program can be used for purely peaceful purposes, in exchange for a broad lifting of U.S., European Union, and United Nations sanctions on Iran," mostly involving Iran's economic and financial policies. The report states that "sanctions [will] be re-imposed if Iran is found not in compliance with its requirements."

In an article for *Project Alpha*, Dominic Williams, a researcher with the Centre for Science and Security Studies at King's College London, explained the JCPOA will likely re-open the door to Iranian students who want to study in America. "Restrictions on Iranian access to US higher education will be relaxed..." Williams wrote. "Foreign nationals, including Iranians, deemed to pose a security risk...will still face restrictions...However, the removal of the red flag that is currently raised simply by virtue of a person's Iranian nationality may disappear..." Williams concluded that with the implementation of the Iran Nuclear Agreement, "Iranian nationals can look forward to increased access to U.S. higher education instruction in a variety of disciplines." ■

Don't Say That—Political Correctness vs. Free Speech

by Jodi L. Miller

There is a reason that freedom of speech is mentioned in the First Amendment to the U.S. Constitution. It is one of the most important rights Americans enjoy. But free speech isn't free. Its cost sometimes comes in the form of hearing, seeing or experiencing something that may make you uncomfortable.

According to an article in *The Atlantic*, there is a movement (in the interest of political correctness) at colleges and universities "to scrub campuses clean of words, ideas, and subjects that might cause discomfort or give offense." The article describes occurrences of students requesting warnings about the content of certain books. "For example, some students have called for warnings that Chinua Achebe's *Things Fall Apart* describes racial violence and that F. Scott Fitzgerald's *The Great Gatsby* portrays **misogyny** and physical abuse, so that students who have been previously victimized by racism or domestic violence can choose to avoid these works, which they believe might 'trigger' a recurrence of past trauma." In addition, the article cites recent incidents of students calling for trigger warnings at Rutgers University for Virginia Woolf's *Mrs. Dalloway* (for "suicidal inclinations") and Columbia University for Ovid's *Metamorphoses* (for sexual assault).

The First Amendment states: "Congress shall make no law... abridging the freedom of speech, or of the press..." The courts have identified three types of protected speech: pure speech (any type of verbal expression, which would include lectures), speech plus action (i.e., demonstrations or protests), and symbolic speech (i.e., wearing black armbands, flag burning). The U.S. Supreme Court, however, has identified categories that fall outside of free speech protection, including obscenity, child pornography, **defamation**, incitement to violence and true threats of violence.

Pulling the trigger

The National Coalition Against Censorship (NCAC), along with the Modern Language Association and the College Arts Association, conducted a survey regarding trigger warnings on college campuses. A trigger warning for the purposes of the survey was defined as a "written warning to alert students in advance that material assigned in a course might be upsetting or offensive."

What the survey's 800 respondents revealed is that most colleges and universities don't have formal policies pertaining to trigger warnings; however, there have been a "significant number of requests and complaints from students about a wide range of subjects" to make the issue a concern.

Joan Bertin, NCAC's executive director, says that trigger warnings send a message that something is wrong with the content of certain material, which undermines both education in general and academic freedom in particular.

"A lot of faculty members feel pressure to cater to sensitivities," Bertin says. "The concern is that students won't talk about certain subjects because they don't want to offend anyone."

She believes the problem goes beyond higher education and points to a sensitivity to language. Students today, Bertin says,

"have come of age in a time when certain language is not used. Many see the right not to be offended as their birthright."

One key finding of the survey responses indicates, "Labeling certain content as 'taboo,' inevitably chills discussion and debate. Many characterize the result as a 'sanitized' education, which they believe does students a grave disservice." One respondent pointed out, "The 'real' world does not come with trigger warnings."

As reported in *The Atlantic* article, "The current movement is largely about emotional well-being....it presumes an extraordinary fragility of

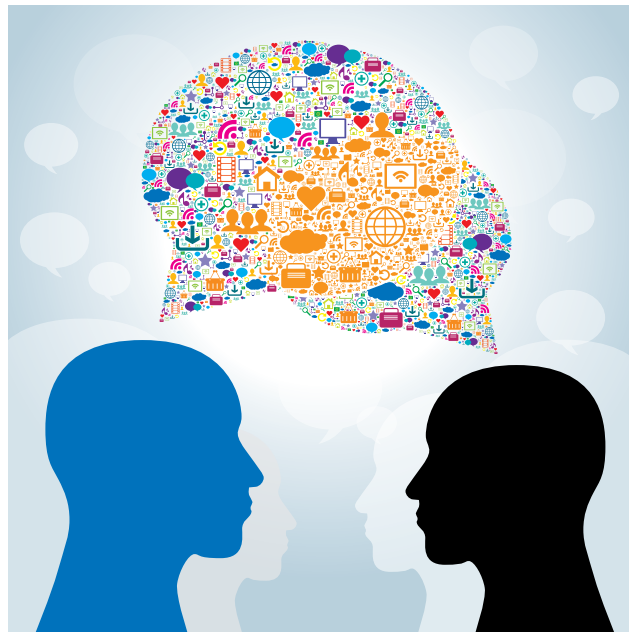
the collegiate psyche, and therefore elevates the goal of protecting students from psychological harm. The ultimate aim, it seems, is to turn campuses into 'safe spaces' where young adults are shielded from words and ideas that make some uncomfortable."

Just need a laugh

The PC movement on college campuses has bled into comedy with some stand-up comedians, like Jerry Seinfeld and Chris Rock, refusing to play college venues.

In an interview published in *New York* magazine, Chris Rock called student audiences "too conservative. Not in their political views—not like they're voting Republican—but in their social views and their willingness not to offend

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Free Speech *continued from page 1* <

'hate speech,' are generally protected under the law. Often tested in the courts, there are exceptions to the protection of expressions of speech, notably speech that encourages or incites violence.

"Speech that expresses hatred toward a particular group is protected, not because judges think it is good, but because in general some of the most important speech, in terms of changing others' perceptions, makes people uncomfortable and may even be disliked by the people who hear it," explained Bernard W. Bell, a constitutional law professor at Rutgers Law School—Newark. "In some ways, making people uncomfortable is often the point—to provoke people to reconsider their attitudes, beliefs and action."

A deadly example

Political, satirical cartoons are a time-honored form of free speech that has been known to produce strong feelings. The form was put to the test last year, when the French weekly *Charlie Hebdo* depicted the prophet Mohammed in a form that could be viewed as offensive to Muslims on two levels: First, any depiction of Mohammed is considered [sacrilegious](#) based on some interpretations of Islamic law. Second, in the publication's home country—France—Muslims are generally an underclass, which could make the cartoons appear malicious.

Over the years, *Charlie Hebdo's* satirical images have offended members of virtually all religious groups. However, the French government repeatedly asked the newspaper to avoid satirical attacks on Muslims, concerned that publication of satire targeting Muslims might lead to violence. As the government feared, in January 2015, following publication of the Mohammed cartoons, eight staff members were killed in a terrorist attack at the newspaper's office. The attack sparked debate over where to draw the line between free speech and hate speech.

Accepting a PEN American Center award in May 2015, *Charlie Hebdo* editor Gérard Biard said, "it's the function of satire, being provocative and offensive, is it not?... I perfectly understand that a believer can be shocked by a satirical cartoon about Mohammed, Jesus, Moses or even the Pope; but growing up to be a citizen, is to learn that some ideas, some words, some images, can be shocking. Being shocked is a part of democratic debate. Being shot is not."

An uncharacteristic silence

Social media was abuzz following the attack, with defenders of free speech supporting the newspaper's stance. But the majority of

the U.S. media chose not to reprint the cartoons, possibly fearing they too would be viewed as offending Muslims.

"The French law, like the American law, protects speech unless the threat of violence is imminent," said Professor Freamon. "It is clear now that this rule was inadequate under the circumstances.

The law also prohibits the violent response to such speech, but the

balance might be struck in favor of prohibiting the speech when the likelihood of violence is very high. Perhaps no one realized that the likelihood of violence was as high as it turned out to be. It is important to note that, although cartoons like those published in the *Charlie Hebdo* magazine would be protected speech in the United States, no magazine or other media outlet in the U.S. has chosen to publish anything like them."

Adding to the controversy, following the attack, the PEN American Center, an organization dedicated to protecting freedom of expression, selected *Charlie Hebdo* as the 2015 recipient of its Freedom of Expression Courage Award.

In announcing its decision, the center noted: "It is the role of the satirists in any free society to challenge the powerful and the sacred,

pushing boundaries in ways that make expression freer and more robust for us all. In paying the ultimate price for the exercise of their freedom, and then soldiering on amid devastating loss, *Charlie Hebdo* deserves to be recognized for its dauntlessness in the face of one of the most noxious assaults on expression in recent memory."

Over 200 PEN members signed a letter protesting the selection, and many cancelled plans to attend the ceremony. The debate pitted those who believed PEN should recognize the newspaper's courage in continuing to publish after the attacks in the name of free speech against those who viewed the cartoons as hate speech.

"[T]here is a critical difference between staunchly supporting expression that violates the acceptable, and enthusiastically rewarding such expression," the letter stated. "To the section of the French population that is already marginalized, embattled, and victimized, a population that is shaped by the legacy of France's various colonial enterprises, and that contains a large percentage of devout Muslims, *Charlie Hebdo's* cartoons of the Prophet must be seen as being intended to cause further humiliation and suffering."

But Islam was not alone as a target for the publication's satire. In fact, a study conducted by *Le Monde* in February showed that from 2005 through 2015, less than two percent of the newspaper's covers primarily satirized Islam.

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Marriage Equality Ruling *continued from page 1*

respect it, respect it so deeply that they seek to find its fulfillment for themselves....They ask for equal dignity in the eyes of the law. The Constitution grants them that right."

Jim Obergefell, the lead **plaintiff** in the case, sued to have his name put on his husband's Ohio death certificate as the surviving spouse. "Today's ruling from the Supreme Court affirms what millions across the country already know to be true in our hearts: that our love is equal," Obergefell told *The Washington Post*. "It is my hope that the term gay marriage will soon be a thing of the past, that from this day forward it will be, simply, marriage."

The four justices who disagreed with the ruling, each writing separate dissents, communicated that they believe the Court overstepped its bounds, and that decisions about same-sex marriage should have been left to the states.

In his dissent, Chief Justice John G. Roberts Jr. pointed out, "this Court is not a legislature." Chief Justice Roberts wrote, "Whether same-sex marriage is a good idea should be of no concern to us. Under the Constitution, judges have power to say what the law is, not what it should be....If you are among the many Americans—of whatever sexual orientation—who favor expanding same-sex marriage, by all means celebrate today's decision. Celebrate the achievement of a desired goal. Celebrate the opportunity for a new expression of commitment to a partner. Celebrate the availability of new benefits. But do not celebrate the Constitution. It had nothing to do with it."

Justice Samuel A. Alito Jr. voiced a similar sentiment and predicted intolerance to differing viewpoints. "Today's decision usurps the constitutional right of the people to decide whether to keep or alter the traditional understanding of marriage," he wrote. "The decision will also have other important consequences. It will be used to vilify Americans who are unwilling to assent to the new orthodoxy."

The new orthodoxy

When Justice Alito writes of "the new orthodoxy," he's no doubt referring to the American public's growing support of same-sex marriage. According to the Pew Research Center, polling in 2001 indicated that Americans opposed same-sex marriage 57 to 35 percent. Polling results in 2015 revealed that a majority of Americans (55 percent) supported same-sex marriage.

While many people celebrated the Court's decision, a number of states and individuals challenged the Court's ruling, even trying to block its implementation. In Texas, the state's Attorney General

advised county clerks that they could ignore the ruling based on religious objections. In Alabama, Supreme Court Chief Justice Roy Moore, one of the most vocal critics of the Court's decision, ordered Alabama's probate judges not to issue marriage licenses to same-sex couples until further legal analysis is done.

Duty to perform

In Kentucky, Rowan County Clerk Kim Davis also captured headlines when she stopped issuing marriage licenses to any couple (whether same-sex or opposite sex) after the Court's ruling, saying that it contradicted her religious beliefs as an Apostolic Christian. While many denounced Davis as a lawbreaker and even a **bigot**, others came to her defense, viewing her actions as a form of civil disobedience—or conscientious objection—to a law she perceived as unjust. Her refusal to issue marriage licenses landed her in jail for five days and facing legal action from the National American Civil Liberties Union (ACLU) and the ACLU of Kentucky.

Jeanne LoCicero, Deputy Legal Director of the ACLU of New Jersey, says that Davis has the "absolute right" to believe whatever she wants. But as a public official tasked to certain responsibilities, she is responsible to do her job in a way that does not discriminate.

"She can't pick and choose which duties she performs based on her religious beliefs," LoCicero says. "The freedom to practice your religion is a constitutional right—one that should be taken seriously and

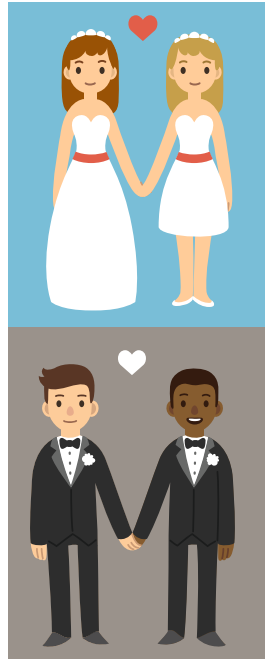
respected—but you can't turn people away in the name of religious freedom."

Indeed, after receiving the directive of the Texas Attorney General, a Texas county clerk told *The Houston Chronicle*, "We are public servants in a secular role to uphold the law of the land. We have separation of church and state. We need to remember that."

Lawyers for Davis (who could not be fired because she is an elected official) argued that the law should provide accommodations that would enable her to do her job and still remain true to her beliefs. Davis, however, rejected a proposal to allow her deputy clerks to process licenses for same-sex couples, holding out for the removal of her name entirely from the licenses.

Keeping the faith

There are laws that provide religious protections. A *Washington Post* opinion piece, written by Eugene Volokh, who teaches religious freedom law at UCLA School of Law, noted that these laws have been applied to employment situations, for example a nurse who has a religious objection to assisting in an abortion.



Volokh also noted, however, that Title VII of the federal Civil Rights Act excludes elected officials like Davis. “But Kentucky, like about 20 other states, has a state Religious Freedom Restoration Act (RFRA) statute that requires government agencies to exempt religious objectors from generally applicable laws, unless denying the exemption is the least restrictive means of serving a compelling government interest,” Volokh wrote. “There’s a lot of appeal to the ‘you take the job, you follow the rules—if you have a religious objection to the rules, quit the job’ approach,” he wrote. “But it’s not the approach that modern American federal employment law has taken, or the approach that the state religious exemption law in Kentucky and many other states has taken.”

A federal district court rejected Davis’ RFRA argument under Kentucky law stating that “the burden [on her] is slight.” The court said, “...Davis is simply being asked to signify that couples meet the legal requirements to marry. The State is not asking her to condone same-sex unions on moral or religious grounds...her religious convictions cannot excuse her from performing the duties that she took an oath to perform...The Court therefore concludes that Davis is unlikely to suffer a violation of her free exercise rights under the Kentucky Constitution.”

Despite the federal court’s ruling, Davis’ wish was granted in December 2015 when Kentucky’s governor issued an executive order calling for the removal of the county clerk’s name from marriage licenses.

Matter of respect

While both sides of the same-sex marriage debate have very different convictions, one thing they both share is a desire to be respected.

Len Deo, founder and president of the New Jersey Family Policy Council, located in Warren, acknowledged that this is a complicated subject and urged that people be afforded the “right of conscience” when they have deeply held disagreements with a duty they are being asked to perform. He says that the hostility shown to those, like Davis, voicing conscientious objections is “troublesome and disconcerting in a free society.” Deo says, “I respect those with differing beliefs and can only hope the same will be accorded to those such as Ms. Davis.”

Red Bank attorney Luanne M. Peterpaul, an active member of the LGBT advocacy group Garden State Equality, says that religious freedom is a fundamental American value protected by the Constitution, but that “some individuals have begun to distort the historical understanding of the meaning of religious freedom by claiming that religious exemptions should allow people to impose their religious beliefs on their employees, customers, patients, constituents and others.”

Peterpaul says, “Now that governments stand with same-gender couples as witnesses and protectors for their marriages, society as a whole will hopefully evolve in a wider understanding of lived equality for all, including those that are LGBT.” ■

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Adding fuel to the fire

In May, just months after the *Charlie Hebdo* attack, American Freedom Defense Initiative President Pamela Geller added fuel to the fire by sponsoring a Mohammed cartoon contest during a conference organized by the group in Texas. The organization identifies itself as a defender of free speech, but critics say it is an anti-Islam group focused on hate speech.

At the event, two Muslim men wearing body armor opened fire with assault rifles and shot a security guard in the ankle. The attackers were fatally shot by police.

The incident is viewed by the two New Jersey law school professors as an example of how difficult drawing the line between hate speech and free speech can be.

According to Professor Bell, “No icon or symbol is so sacred that the government can punish someone for mocking it. Indeed, the Supreme Court has ruled that the free speech clause protects people who deface or burn the U.S. flag....Similarly, the Pam Geller cartoon competition also falls within speech protected by the First Amendment. She is entitled to express her disrespect for those who believe Mohammed should not be depicted in any way, even if she might

be viewed as motivated by hate, and even if it offends some Muslims.”

Professor Freamon sees the situation somewhat differently: “It was an attempt, by extremists, to vilify and insult Muslims, but it may be that their effort was also designed to actually encourage a violent response as well as spew hatred and insult. By provoking a violent response, the sponsors of the contest could then point to the response as proof of their argument that Islam is a religion that promotes violence.” In the end, Professor Freamon says, “the best response to hate speech is to ignore it or combat it with more speech.” ■

Political Correctness *continued from page 4*

anybody. You can't say 'the black kid over there.' No, it's 'the guy with the red shoes.' You can't even be offensive on your way to being inoffensive," Rock said.

Comedian Chelsea Handler weighed in on the PC debate with an opinion piece on SALON. "Obviously, we don't want a nation full of nasty racists and heartfelt **misanthropes** trumpeting their spite on proud public display, but we do want people to be able to honestly express themselves and know the difference between humor and malice. This is America, after all, and the First Amendment deserves to come first."

Handler quotes Søren Kierkegaard, a 19th century Danish philosopher, who said, "People demand freedom of speech as a compensation for the freedom of thought which they seldom use."

"That is the problem," Handler wrote. "We want people to speak their minds...if only they'd use their minds for just a split-second before they spoke instead of blurting out the first stupid thing that bubbles up."

Right not to be offended?

"There is a right to be free from imminent danger and threats," says Mark Alexander, Associate Dean and professor of law at Seton Hall Law School. "There is also a right to equality that must be respected as well. But, there is no constitutional right not to be offended."

So, how do you draw the line between being politically correct without suppressing free speech? "We must allow divergent points of view to be heard, but we also must understand that sometimes words can hurt," says Professor Alexander, who teaches constitutional law. "What is often labeled as speech can have an impact that harms other people, particularly those who aren't part of the dominant majority group. We must respect the rights of all to equality and to live freely, while balancing our commitment to wide open debate on all public issues."

Bertin believes it is okay to say what you want in the name of free speech but people should also be mindful of the consequences of that speech, taking into account how it would feel to "be on the receiving end. Just because you can say something, doesn't always mean you should." At the same time, she thinks it's important to talk about topics that make people uncomfortable. "People have lost the ability or language to talk about issues of racism, gender, etc. because people are afraid to talk. We need to develop ways to discuss these issues and not be afraid."

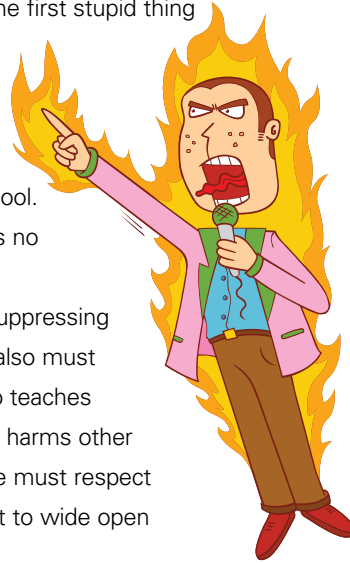
POTUS weighs in

In an ABC News interview with George Stephanopoulos, President Barack Obama touched on the subject of political correctness on college campuses.

"The purpose of free speech is to make sure that we are forced to use argument and reason and words in making our democracy work. You don't have to be fearful of somebody spouting bad ideas. Just out-argue them, beat them. Make the case as to why they're wrong. Win over **adherents**. That's how things work in a democracy," the President said. "I do worry if young people start getting trained to think that if somebody says something I don't like if somebody says something that hurts my feelings that my only recourse is to shut them up, avoid them, push them away, call on a higher power to protect me from that."

It is important to note that citizens in other countries don't have the privilege of being able to speak their mind on any topic. Indeed, some may be jailed, for instance, for speaking out against or making fun of government officials or those in power.

Being uncomfortable seems like a small price to pay for the needed debate that free speech provides. So, while free speech may not be free, it is certainly worth the price. ■



Glossary

adherent — a fanatic or extremist. **bigot** — a person who is intolerant of those of different races or religions. **defamation** — a deliberate false statement, either published or publicly spoken, that injures another person's reputation. **majority opinion** — a statement written by a judge or justice that reflects the opinion reached by the majority of his or her colleagues. **misanthropes** — one who hates or distrusts his fellow man. **misogyny** — hatred of women. **overrule** — to void a prior legal precedent. **plaintiff** — person or persons bringing a civil lawsuit against another person or entity. **sacrilegious** — disrespectful to sacred persons or things.