

COUNTERING HATE ON THE INTERNET – A REJOINDER

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Introduction

I read Prof. Newman's reply with interest. I thank him for his reply and wish to clarify some of the topics I addressed in my former piece, "Holocaust Denial Is a Form of Hate Speech".¹

First, I did not call "for banning Holocaust denial and other examples of hateful speech from the Internet".² Instead, I urged Internet providers and web-hosting companies to abide by their own rules of conduct. If their terms of service disallow hateful messages on their servers then they should not host or provide forums for Holocaust denial. The title of the article, "Holocaust denial is a form of hate speech" is explicit and clear, so as to counter the distinction that some (i.e., Facebook) have made between "explicit statement of hate" and Holocaust denial. For me, Holocaust denial by definition is an "explicit statement of hate". Newman is right in saying that "Nowhere in the article does Cohen-Almagor present evidence linking Holocaust denial to the silencing of its Jewish targets or any loss of self-esteem or decline in levels of civic participation among Jews".³ I refrained from elaborating on this issue because I discussed this in another forum.⁴ I assume it is time for me to elaborate.

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¹ Amsterdam Law Forum, Vol. 2, No 1 (2009), pp. 33-42.

² S. L. Newman, 'Should Hate Speech Be Allowed on the Internet? A Reply to Raphael Cohen-Almagor', p. 118-123.

³ S. L. Newman, 'Should Hate Speech Be Allowed on the Internet? A Reply to Raphael Cohen-Almagor', p. 118-123.

⁴ R. Cohen-Almagor, "Ethical Considerations in Media Coverage of Hate Speech in Canada", Review of Constitutional Studies, Vol. 6, No. 1 (2001), pp. 79-100.

I. Personal Affront, Relentless Distress

In January 1987, when Ernst Zündel was ready to appeal against the court's decision after his first trial for Holocaust denial, the Canadian Broadcasting Corporation (CBC) decided to do a radio show, hosted by David Shatsky, in which people could phone in to talk on the discuss the topic: Does Mr. Zündel deserve a new trial? Sabina Citron of the Holocaust Survivors Organisation was invited to speak from the studio and to answer questions. She agreed to do so after receiving assurance that she would be spared the need to confront Zündel. He would not be invited.

The CBC held promos for the program, announcing its subject matter, and soon enough Zündel heard it and called. He argued that the program was about him and that he deserved equal time to pronounce his views. The CBC agreed, in the name of 'objectivity', 'fairness' and 'balance'. The CBC called Citron to inform her about this new development, "but it was too late".⁵ She was already on her way to the studio. Citron was unpleasantly surprised shortly before the show. Zündel was allowed to voice his views, saying that the Holocaust was a hoax. The host of the program, David Shatsky, interviewed Citron for approximately the same length of time (6 minutes) as he had first interviewed Zündel. The interview with Citron followed immediately after his interview with Zündel. After her interview ended, Shatsky took over and fielded the calls from listeners. Citron was not allowed to respond to callers as was initially agreed. Citron was very upset and left the studio. She was deeply offended by this whole incident and by the very values that guided the CBC. Balancing her suffering as a Holocaust survivor against Zündel's freedom of expression was horribly offensive to her. I can understand why. She had to sit in the studio, listening to Zündel's allegations that she and other Holocaust survivors are nothing but exploitative liars. It was a horrifying experience which has tormented her for years. I spoke to her in 2004, and she was still feeling the impact of that incident: "He called me and other Holocaust survivors liars and I had to sit there and listen to that evil crap", she said.⁶

II. From Hate Speech to Hate Crime

Professor Newman, like others who oppose hate speech regulation, argues that it is better to opt for education to counter hate.⁷ Indeed, education is my preferred reply to Holocaust denial. But it would be naïve to assume that

⁵ Personal communication of Michael Hughes, Legal Counsel for the CBC (July 28, 2004).

⁶ Discussion with Ms. Sabina Citron (March 24, 2004).

⁷ Stephen L. Newman, 'Should Hate Speech Be Allowed on the Internet? A Reply to Raphael Cohen-Almagor', p. 118-123.

education alone would suffice. Countering hate speech with more speech is not enough, and. It is irresponsible to assume it can be enough. Hate on the Internet is far more concrete and tangible than ‘bad tendency’, a legal test that I oppose. Hate on the Internet is harmful. Allowing hatemongers and racists to release their pent-up emotions in the form of speech, and thinking that this won’t result in violence and that their targets will be much safer, ignores reality.⁸

Social science evidence indicates that permitting someone to say or do hurtful things to another person increases, rather than decreases, the chances that he or she will do so again.⁹ Just as important, observers may do likewise, creating a climate in which the targets are at even greater risk. Once the speaker forms the category of the victim who deserves what she gets, that behavior is apt to continue and even escalate to include material discrimination and physical bullying.¹⁰

The Internet plays an instrumental role in spreading hate and in translating speech into action. The impact of cruel websites should not be ignored or underestimated. More and more evidence has shown that the issue is not mere words. One of the rare incidents in which a hateful American website was shut down concerned Ryan Wilson, a white supremacist and former leader of the United States Nationalist Party, who started a website for his racist organisation, ALPHA HQ, in 1998. The site depicted a bomb destroying the office of Bonnie Jouhari, a fair housing specialist who regularly organised anti-hate activities. Additionally, Jouhari was targeted as a ‘race mixer’ because she had a biracial child, and she was also a ‘race traitor’ because she had had sexual relations with an African-American man, and as a fair-housing advocate she promoted integration. Next to her picture, the ALPHA HQ website stated, “Traitors like this should beware, for in our day, they will hung from the neck from the nearest tree or lamp post.”¹¹ Following the Internet posting, Ms. Jouhari and her daughter began to receive numerous threatening phone calls. A known Ku Klux Klansman intimidated her by sitting long hours outside Jouhari’s office. Jouhari and her daughter were terrified. They decided to relocate to the other side of the USA, to the West Coast, but a month after their arrival they began to receive the same kind of harassing and intimidating phone calls they had received in

⁸ N. Henthoff, *Free Speech for Me – But Not for Thee: How the American Left and Right Relentlessly Censor Each Other* (New York: Harper Collins, 1992), p. 134.

⁹ G. W. Allport, *The Nature of Prejudice* (Cambridge, MA: Addison-Wesley, 1954); Leonard Berkowitz, ‘The Case for Bottling Up Rage,’ *Psychology Today*, Vol. 7, Nr. 2 (July 1973), p. 24.

¹⁰ W. Peters, *A Class Divided: Then and Now* (New Haven, CT: Yale University Press, 1971); Richard Delgado and Jean Stefancic, *Understanding Words That Wound* (Boulder, CO: Westview, 2004), p. 205.

¹¹ The Secretary, United States Department of Housing and Urban Development, on behalf of Bonnie Jouhari and Pilar Horton v. Ryan Wilson and ALPHA HQ, before Alan W. Heifetz, Chief Administrative Law Judge (decided July 19, 2000), available at <http://www.hud.gov/utilities/intercept.cfm?/offices/oalj/cases/fha/pdf/wilson.pdf>

Pennsylvania. Someone pounded on their door in the middle of the night. Jouhari's daughter, who was a minor at the time and had to give up on her friends and fiancé, was diagnosed by a forensic psychologist as suffering from severe Post-Traumatic Stress Disorder with Delayed Onset. Wilson was charged by the Pennsylvania Commonwealth's Attorney General with threats, harassment, and ethnic intimidation. The site was removed from the Internet, and the court issued an injunction against the defendant and his organisation barring them from displaying certain messages on the Internet. The Chief Administrative Law Judge said: "The website was nothing less than a transparent call to action... When he published the ALPHA HQ website, Wilson created a situation that put Complainants in danger of harassment and serious bodily harm."¹²

As I briefly mentioned in my article, in 1999, 21-year-old Aryan supremacist Benjamin Nathaniel Smith went on a racially-motivated shooting spree in Illinois and Indiana over the July 4th weekend.¹³ Targeting Jews, African-Americans, and Asian-Americans, Smith killed two and wounded eight before taking his own life, just as law enforcement officers prepared to apprehend him.¹⁴ Smith embarked on his killing spree after being exposed to Internet racial propaganda. He regularly visited the World Church of the Creator website, a notorious racist and hateful organisation.¹⁵ Smith said: "It wasn't really 'til I got on the Internet, read some literature of these groups that... it really all came together." He maintained: "It's a slow, gradual process to become racially conscious."¹⁶

The same year, Matthew Williams, a solitary student at the University of Idaho, turned to the Internet in search of a new spiritual path. Described as a 'born fanatic' by acquaintances, Williams reportedly embraced a number of the radical-right philosophies he encountered online, from the anti-government views of militias to the racist and anti-Semitic beliefs of the

¹² The Secretary, United States Department of Housing and Urban Development, on behalf of Bonnie Jouhari and Pilar Horton v. Ryan Wilson and ALPHA HQ, p. 20. For further discussion, see 'Cuomo says million dollar award sends clear message against racial discrimination on the Internet', Department of Housing and Urban Development Press Release (July 20, 2000).

¹³ R. Cohen-Almagor, 'Holocaust Denial Is A Form of Hate Speech', *Amsterdam Law Forum*, Vol. 2, No 1 (2009), p. 37.

¹⁴ Anti-Defamation League, *Hate on the Internet* (Washington DC.: ADL, December 2003), p. 22.

¹⁵ For information on 'World Church of the Creator', see <http://www.apologeticsindex.org/c171.html>; Prepared Statement of Howard Berkowitz, Hate Crime on the Internet, Hearing before the Committee on the Judiciary, United States Senate (Washington, 14 September 1999).

¹⁶ Christopher Wolf, 'Regulating Hate Speech Qua Speech Is Not the Solution to the Epidemic of Hate on the Internet', OSCE Meeting on the Relationship Between Racist, Xenophobic and Anti-Semitic Propaganda on the Internet and Hate Crimes (Paris, 16-17 June 2004).

Identity movement. He regularly downloaded pages from extremist sites and continually used printouts of these pages to convince his friends to also adopt these beliefs. At age 31, Matthew Williams and his 29-year-old brother, Tyler, were charged with murdering a gay couple, Gary Matson and Winfield Mowder, and with involvement in setting fire to three Sacramento-area synagogues. The police discovered boxes of hate literature at the home of the brothers.¹⁷

I also mentioned Richard Baumhammers¹⁸ who shot down six people, all members of minorities, in suburban Philadelphia in early 2001 after being inspired by material on the Internet. Tim Haney of the Allegheny County Police Department in Pennsylvania testified that computer records confiscated at Baumhammers' home indicated his frequent visits to white supremacist Internet sites.¹⁹

Another incident involved Michael Brad Magleby who burned a cross on an interracial couple's property. He also visited hate sites prior transmitting this hateful message.²⁰ In 2002, Michael Kenneth Faust, who spent several hours a day on the Internet soliciting teens to take his classes on firearm use, shot and killed a teenager.²¹

And finally, in my article I spoke of James von Brunn who entered the U.S. Holocaust Memorial Museum in Washington DC and opened fire, killing Security Guard Stephen Tyrone Johns before he was stopped by other security guards.²² Von Brunn, a white supremacist anti-Semite, spewed hate online for decades. He ran a hate website called holywesternempire.org and had a long history of associations with prominent neo-Nazis and Holocaust deniers. As a Holocaust denier, this angry, 88 year-old man, possessed with hatred, decided to wage an attack on the Holocaust Museum. He was not interested in visiting the museum and seeing the thousands of documents that reveal the magnitude of the horror. Von Brunn was interested in killing. And so he did.

¹⁷ Anti-Defamation League, *Hate on the Internet* (Washington DC.: ADL, December 2003), p. 22.

¹⁸ R. Cohen-Almagor, "Holocaust Denial Is A Form of Hate Speech", *Amsterdam Law Forum*, Vol. 2, No 1 (2009), p. 37.

¹⁹ M. A. Fuoco, 'County Officer Specializes in Cyber Crime Cases', *Pittsburgh Post-Gazette* (September 4, 2001).

²⁰ See *United States v. Magleby*, 241 F.3d 1306, 1308 (10th Cir. 2001).

²¹ M. Gruen, 'White Ethnonationalist and Political Islamist Methods of Fund-raising and Propaganda on the Internet', in Rohan Gunaratna (ed.), *The Changing Face of Terrorism* (Singapore: Marshall Cavendish, 2004), p. 128.

²² R. Cohen-Almagor, 'Holocaust Denial Is A Form of Hate Speech', *Amsterdam Law Forum*, Vol. 2, No 1 (2009), p. 38.

Thus, hate speech, including Holocaust denial, is not ‘imaginary harm’ as Newman contends.²³ It is real. Alarmingly real. For some people, words alone are not enough. Consumed by hatred and negative sentiments towards whoever they chose as their target, they move to action. Hate crimes are the culmination of a hateful process that starts with words, and continues with strong, negative drive to inflict pain and suffering on others.

III. What can be Done?

Education is the first resort. Education should be supplemented with concrete steps on the Internet. These steps should include alerting people about the sites, indexing search engines so that hate sites could be properly labeled, citizens’ initiatives to combat hate (like ‘Coloradans United Against Hatred’ (CUAH)),²⁴ and filtering and installing computer blocking programs at work and schools. There should also be measures taken invoking ISPs’ responsibility in helping to halt the spouting of hatred via their servers, Internet users’ initiatives against hate to discuss the challenge and how to address it (e.g., Facebook United Against Hatred²⁵ and United Against Hate)²⁶, establishing uniform channels for user complaints against hate, labeling, naming and shaming ISPs that refuse to cooperate and continue to provide platforms for hate, and international cooperation of NGOs working together to combat hate on the Internet, like Jugendschutz.net in Germany, and the International Network Against Cyber Hate (INACH).²⁷

Conclusion

Fundamentally, Newman and I hold different views regarding the scope of tolerance. Newman is endorsing a very wide scope to freedom of expression. My view, on the other hand, always tries to strike a balance between freedom of expression and its likely consequences, between rights and costs.²⁸ Freedom of expression is a fundamental principle of vast importance for cultivating individuality, for the development of new ideas, for maintaining the spirit of democracy, and for progress. At the same time, boundaries need to be introduced. Otherwise speech might become detrimental to individuality, to democracy and to progress. Newman does concede that some limitations on hate speech are justified. He writes that under the free

²³ S. L. Newman, “Should Hate Speech Be Allowed on the Internet? A Reply to Raphael Cohen-Almagor”, p. 118-123.

²⁴ <http://www.cuah.com/index.htm>

²⁵ <http://www.facebook.com/topic.php?uid=58653965167&topic=7617>

²⁶ <http://www.facebook.com/group.php?gid=230091163153&ref=ts>

²⁷ <http://www.inach.net/mission.html> (all accessed on 20 February 2010)

²⁸ R. Cohen-Almagor, *The Boundaries of Liberty and Tolerance* (Gainesville, FL: The University Press of Florida, 1994); *Speech, Media, and Ethics: The Limits of Free Expression* (Houndmills and New York: Palgrave-Macmillan, 2001, 2005); *The Scope of Tolerance: Studies on the Costs of Free Expression and Freedom of the Press* (London and New York: Routledge, 2006, 2007); *The Democratic "Catch": Free Speech and Its Limits* (Tel Aviv: Maariv Publication House, 2007) (Hebrew).

speech principle, we should decide on “a case by case (or at the least, country by country) analysis that requires a showing of grave and substantial harm flowing directly from the suspect Web sites”.²⁹

We are all the result of our upbringing, education, culture, society. I am far more concerned about Holocaust denial than Newman. This may have to do with my upbringing in Israel, because I have dedicated some twenty years of my life to study the Holocaust, a study that included frequent meetings with survivors, listening to their painful and agonising stories. Those meetings cultivated in me sensitivity to their vulnerabilities that is equal to my sensitivity to one’s right to freedom of expression. I also read my fair share of hate literature, probably far more than I should, far more than is required to maintain calmness and relaxed tolerance in the face of such vile diatribes. All free speech advocates should engage themselves in reading the hate literature that they protect. They should know what is at stake, and what precisely they are defending.

In Hebrew, the root of the word tolerance (*sovlanut*) is s.v.l., which is also the root of the word suffering (*sevel*). This is for good reason. It takes some effort to endure hateful messages and to develop a protective shield to continue reading those offensive tracts. You might feel sick. You might not be able to read this literature for long. But in order to comprehend the hate industry, one has to do this. Indeed, people who defend hate speech may choose to opt for tolerance. But this education is required for them to fully realise why they are the darlings of hate mongers, and why hate mongers are staunch believers in the First Amendment.

Words can hurt. Words can wound. This is especially true when they are viciously meant to hurt, and when their propagators are not content merely with the sound of their pounding vocabulary.

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²⁹ S. L. Newman, ‘Should Hate Speech Be Allowed on the Internet? A Reply to Raphael Cohen-Almagor’, p. 118-123.

