

Professor says hate speech is akin to obscenity

January 25 2011, By Kristen Parker

Obscenity isn't about sex, but rather about degradation, argues a Michigan State University professor who conducted a first-of-its kind study on the relationship between hate speech and obscenity.

And therefore, the most degrading form of speech – hate speech – is the modern equivalent of obscenity, says Kevin Saunders, Charles Clarke chair in Constitutional Law in the MSU College of Law.

In his Jan. 18 book, “[Degradation: What the History of Obscenity Tells Us about Hate Speech](#),” published by New York University Press, Saunders researched depictions of sexuality in monotheistic and polytheistic cultures.

He concluded that in polytheistic cultures sex is an activity shared by humans, animals and gods, so its depiction is not degrading. But in monotheistic cultures, in which God doesn't engage in sex and is viewed as above humans, it was degrading to depict humans engaged in such behavior, Saunders said.

“Hate speech is the modern version of obscenity because they both appeal to degrading interests,” Saunders said. “What we've learned about how to regulate obscenity, how to think about obscenity, can help us in figuring out how to regulate and how to think about hate speech.”

But what is hate speech?

According to Saunders' test, which is based on obscenity law, hate speech must have intent to degrade below the level of humanity, be offensive under community standards and lack serious value.

Although not inspired by the recent shooting of U.S. Rep. Gabrielle Giffords, D-Ariz., in Tucson, Ariz., Saunders said his test could help determine whether alleged hate speech by pundits and media may have set the scene for violence by dehumanizing its targets.

"I hope the test I've developed helps groups determine exactly what is wrong with language they find offensive and helps them focus on that, rather than simply having the gut reaction that many of us have with regard to certain varieties of speech," Saunders said.

At the same time, Saunders isn't calling for regulation of hate speech. In fact, even if speech is offensive, but has value, it should be accepted, he said.

"I don't think we can have a national conversation on race if we are concerned about contributions to that conversation being viewed as racist, if they're in fact not racist," Saunders said. "I think we first need to have an understanding of what is racist and what constitutes hate speech before we can have that conversation.

"Gut level just may not be sufficient here. We need to be willing to recognize that maybe a particular utterance that seemed racist wasn't, in fact, hate speech," he said.

Provided by Michigan State University

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