

CENSORSHIP IN NEWS

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Don't Fear Free Speech

By Christopher M. Finan

"People have begun to feel like a Christian Scientist with appendicitis," the humorist Tom Lehrer observed during the turbulent 1960s.

We get it. Who wasn't frightened by the sight of armed neo-Nazis fighting black-clad anarchists at the University of Virginia in Charlottesville? It conjured visions of Hitler's Stormtroopers battling Communists in the streets of Berlin in the 1920s. We know how that turned out.

The question that many are asking is, what is to be done?

One answer was given by 40,000 people in Boston who gathered a week after the Charlottesville riot to peacefully demonstrate their opposition to white supremacists.

But there is reason to worry that many well-intentioned people, institutions and companies are taking steps that undermine freedom of speech.

Not surprisingly some of the first to react were universities. Citing security concerns, five have refused to allow speeches by the white nationalist Richard Spencer, an organizer of the Unite the Right rally in Charlottesville.

Some internet companies have taken steps to shut down speech by white supremacists. GoDaddy and Google have refused to provide services to a neo-Nazi website, the Daily Stormer. Cloudflare, a company that defends its customers from hacker attacks, is no longer protecting the Daily Stormer.

It also seems very likely that as a new school year begins we will see more efforts by college students and other protesters to disrupt campus events featuring conservative speakers. Rioting at the University of California at Berkeley earlier this year prevented Milo Yiannopoulos from speaking and led to the cancellation of an appearance by Ann Coulter.

Fear is driving many of these decisions. University presidents naturally want to protect the safety of their students and staff.

The internet companies are afraid that they are facilitating hate, and students believe that racist words are as harmful as racist acts.

But democracy requires courage. "It is an experiment, as all life is an experiment," Supreme Court Justice Oliver Wendell Holmes, Jr., wrote in 1919.

In a democracy, debate is the only means of resolving our conflicts, and people must be free to express any ideas. Holmes recognized that hateful ideas were the most in danger of suppression. "[W]e should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death," he warned.

This doesn't mean we are powerless. On the contrary, using the protection of the First Amendment, protest movements have profoundly changed the United States, making it more protective of the civil liberties of every minority group.

On the day before Martin Luther King, Jr., was assassinated, he spoke about his plan to lead a demonstration in defiance of a court injunction.

"If I lived in China or even Russia, or any totalitarian country, maybe I could understand the denial of certain basic First Amendment privileges, because they hadn't committed themselves to that over there," he said. "But somewhere I read of the freedom of assembly. Somewhere I read of the freedom of the press. Somewhere I read that the greatness of America is the right to protest for right."

Let's not be afraid to allow the other side to speak. It is our opportunity to oppose them with words of our own.

Christopher Finan, the new executive director of NCAC, has led efforts to protect and expand free speech rights for over 30 years. As president of the American Booksellers Foundation for Free Expression, he led a national campaign to protect reader privacy, challenging Kenneth Starr's attempt to get Monica Lewinsky's book records and later joining Senator Bernie Sanders in opposing sections of the Patriot Act that give the government access to bookstore and library records. Christopher is a historian and the author of several books, including the award-winning 'From the Palmer Raids to the Patriot Act: A History of the Fight for Free Speech in America.'



Actors' Equity Association
 American Association of School Administrators
 American Association of University Professors
 American Association of University Women
 American Booksellers for Free Expression
 American Civil Liberties Union
 American Ethical Union
 American Federation of Teachers
 American Jewish Committee
 American Library Association
 American Literary Translators Association
 American Orthopsychiatric Association
 American Society of Journalists & Authors
 Americans United for Separation of Church & State
 Association of American Publishers
 Authors Guild
 Catholics for Choice
 Children's Literature Association
 College Art Association
 Comic Book Legal Defense Fund
 The Creative Coalition
 Directors Guild of America
 The Dramatists Guild of America
 Dramatists Legal Defense Fund
 Educational Book & Media Association
 Free Speech Coalition
 First Amendment Lawyers Association
 International Literacy Association
 Lambda Legal
 Modern Language Association
 National Center for Science Education
 National Communication Association
 National Council for the Social Studies
 National Council of the Churches
 National Council of Jewish Women
 National Council of Teachers of English
 National Education Association
 National Youth Rights Association
 The Newspaper Guild/CWA
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 People For the American Way
 Planned Parenthood Federation of America
 Project Censored
 SAG-AFTRA
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 Society of Children's Book Writers & Illustrators
 Speech Communication Association
 Student Press Law Center
 Union for Reform Judaism
 Union of Democratic Intellectuals
 Unitarian Universalist Association
 United Church of Christ, Office of Communication
 United Methodist Church, United Methodist Communications
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 Woodhull Sexual Freedom Alliance
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Troubling Legislation

Targeting political boycotts

Joining a boycott is a well-recognized right under the First Amendment. Yet proponents of a boycott of Israel may find themselves facing legal repercussions. Bills that target the BDS (Boycott, Divestment and Sanctions) movement, which seeks to place economic and cultural pressure on Israel because of its policies towards the Palestinians, have swept across the country. At least 17 states have now introduced “anti-BDS” bills; legislation has failed to pass in five but is pending in several others. The legislation varies from state to state, ranging from resolutions condemning BDS to prohibiting government agencies to do business with companies that participate in a boycott of Israel.

NCAC opposes these bills. From colonial boycotts of British goods to the Montgomery bus boycott, boycotts have played an integral role in U.S. history. For this reason, the Supreme Court has ruled boycotts “rest . . . on the highest rung of the hierarchy of First Amendment values.”

Recently in Nassau County, New York, lawmakers condemned Roger Waters, former bassist for the rock group Pink Floyd, for supporting a boycott of Israel and tried to prevent him from performing locally. In an op-ed in Long Island’s *Newsday*, NCAC appealed to Nassau County, asking if it was ready to return to the McCarthy-era when entertainers were punished because of their political beliefs. As the McCarthy witch hunts demonstrated, blacklisting a performer for his political opinions has far-ranging effects: where one performer may be taken off the stage, the speech of many is chilled.

Cracking down on protesters

There are also new efforts to punish protesters who engage in acts of civil disobedience. Some block traffic during protest marches. Others chain themselves to bulldozers or block access to businesses.

In Missouri, Georgia, Arizona and Tennessee, legislators have introduced bills that would bar prosecution of drivers when their cars strike protesters who are blocking traffic. Other lawmakers want to increase the penalties for protesters. Currently, such activities

Meddling with campus speech

This year, several universities have responded to the threat of mass protest over controversial speaking events by rescinding invitations to the individuals booked to speak. In response, legislators, concerned about the state of campus free speech, have introduced new laws in states across the country that endanger free expression and the right to dissent.

At least a dozen states have introduced measures regulating speech on public university campuses. The laws are inspired by proposals issued by two conservative think tanks, the Goldwater Institute and the American Legislative Exchange Council. The laws aim to “restore and preserve” free speech in universities by mandating punishments for students and faculty members who violate the free speech rights of others. Students can be expelled.

In addition to punishing individuals, the new laws in Arizona, Colorado, North Carolina, Utah, Tennessee, and Virginia require public institutions to create a “committee on free expression” that will provide annual reports on the state of free speech on campus.

NCAC has warned that legislative interference in college affairs has had a chilling effect on free expression and intellectual freedom in the past. During the Cold War, legislatures forced the resignations of professors who had been accused of being members of the Communist Party.

The laws do have one good feature: they ban free speech zones and restrictive speech codes, which prohibit speech that is protected by the First Amendment.

are penalized as misdemeanors. However, there are efforts in Colorado and Oklahoma to reclassify these offenses as felonies, hitting violators with up to \$100,000 in fines and 18 months of prison time.

NCAC is monitoring the progress of anti-protest bills around the country. It has also expressed strong opposition to government investigations that seek to intimidate protesters into silence.

Honoring Joan

I am still new here. I replaced Joan Bertin as executive director in July.

One day, while I was exploring the NCAC computer network, I stumbled on Joan’s folder. It is a massive file of the things she has written during her 20 years at NCAC: letters, articles, op-eds, testimony delivered to Congress and state legislatures, reports, coalition statements and blog posts.

The range of issues was mind boggling: book banning, academic freedom, “pornographic” art, Patriot Act, media violence, video game ratings, internet freedom, press censorship, boycotts, cyberbullying, suppression of science.

It left me feeling rather inadequate. But then I thought back to 1997 when I met Joan during a reception welcoming her to NCAC. At the time, she didn’t know much about censorship. She had been working as a lawyer for the ACLU’s Women’s Rights Project for most of her career.

Joan greeted me warmly. When she found out that I worked for another free speech group, she was quick to ask for help getting up to speed. A little later, I joined the NCAC board and have been her supporter and friend ever since.

Joan didn’t need much help. When she was a student at New York University Law School, she received the Arthur Garfield Hayes Civil Liberties Fellowship. Hayes, one of ACLU’s first attorneys and an intrepid defender of free speech, would have



recognized Joan as a fellow spirit.

She has a natural sympathy for the underdog, and she is tenacious in her pursuit of justice. “We fought tooth and nail on every ground,” Joan wrote about one of her ACLU cases.

Joan brought that passion to NCAC. I never saw her work harder than when she was helping a student, teacher or librarian who had been punished for something they said or wrote. These were often people who had nowhere else to turn, and she was determined not to let them down.

Joan is also brave. In the defense of free speech, she has often stood up for the rights of people she certainly wouldn’t allow in her house. Earlier this year she wrote a statement expressing concern over the many voices calling for a ban on a book by Milo Yiannopolis before it had even been published.

Joan launched all of NCAC’s major initiatives: the Arts Advocacy Project (2000), the Kids’ Right to Read Project (2008), and the Youth Free Expression Project (2010). During her tenure as E.D., NCAC has taken action in over 1,000 cases involving artists, students, teachers, librarians and other victims of censorship.

At this year’s NCAC benefit on November 6, we will be honoring Joan and the pioneering author David Levithan. We hope you can join us, ncac.org/benefit. If you can’t be there in person, please consider recognizing Joan’s leadership of the fight for free speech by making a donation, <http://ncac.org/donate>.

Thank you!
Christopher Finan, Executive Director

SHORT TAKES

Censored swastika symbols

Artspace, an organization that manages spaces where artists live and work, ordered one of its residents, Native American and Jewish artist Steven Leyba, to remove an exhibition of his works that featured Native American swastika symbols. Leyba uses the swastika motifs in his work as an act of reclamation. While acknowledging Leyba’s artistic intent, Artspace claimed the swastikas violated federal anti-discrimination laws. NCAC demanded Artspace restore the exhibit, arguing that the removal compromises its pledge to protect the artistic freedom of its residents.

“Inappropriate” Trump yearbook quote

A school in North Carolina canceled the distribution of the student yearbook after administrators discovered a student had included a quote attributed to President Trump: “Build that wall!” In announcing the decision the school said that it “would not tolerate inappropriate

conduct toward any of our students.” NCAC criticized the decision, arguing that schools have a responsibility to prepare students to respond to controversial opinions with reasoned arguments, not censorship.

LGBT art censored in Tennessee

In Tennessee, a school removed a student artwork with an LGBT message from a display because it “disrupted the learning environment.” The piece, which featured the word “GAYDOM” over a rainbow background, was created for an art class assignment. NCAC joined Lambda Legal in demanding the school restore the work, calling the removal “a case of blatant discrimination against a pro-LGBT viewpoint.”

Literature or “pornography”?

Sherman Alexie’s *The Absolutely True Diary of a Part-Time Indian* was the subject of a summer-long controversy in the small community of Conejo Valley,

California. The school board hesitated to approve a curriculum for 9th grade students that included the book because the board president called sections of it “pornographic.” NCAC urged the school district to approve the curriculum, warning that a decision to abandon it would encourage challenges that are not based on pedagogical merit. The board approved the curriculum at the end of August.

Public Artwork Dismantled Following Protest

Sculptor Sam Durant agreed to dismantle his sculpture “Scaffold” at the Minneapolis Sculpture Garden following protests by Dakota Nation members. The work replicates gallows used in U.S. state-sanctioned executions to invoke historically white power structures that subjugate communities of color. Protesters said it was traumatic for the Dakota because it recalled the execution of 38 members of the tribe in 1862. NCAC argued that the dismantling will discourage artists from tackling the history of injustice.

Censorship “made me more defiant”: an interview with David Levithan

David Levithan, an award-winning author and editor of dozens of books, will be honored along with former NCAC Executive Director Joan Bertin, at the NCAC Celebration of Free Speech and Its Defenders on Nov. 6 in New York. Levithan is best known for his path-breaking and frequently challenged novels about gay youth, including *Boy Meets Boy* (2003) and *Two Boys Kissing* (2013). He is also the editorial director of Scholastic Books where he started the PUSH imprint, which publishes new voices and new authors in teen literature.

NCAC spoke with Levithan about his writing and how he responds to efforts to censor his work because of its LGBT themes.

In your career as an author, have you ever encountered censorship?

Certainly. Book challenges. A picketing line. The pre-emptive censorship of librarians and teachers who don't order the book because they know what it's about from the title. All because my books have gay characters.

According to *School Library Journal*, you wrote *Boy Meets Boy* without descriptions of sexual conduct. Why did you choose that strategy? Were you responding to censorship pressure?

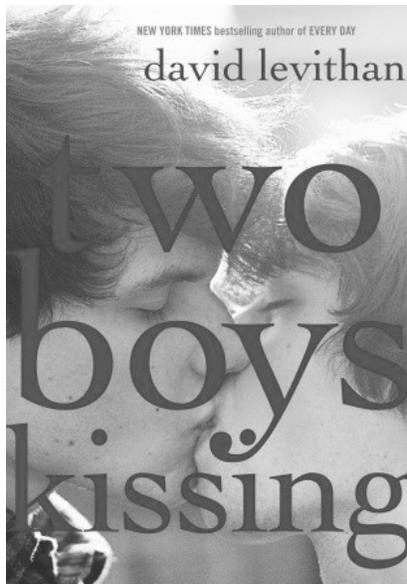
In that particular case, it fit exactly with what I was trying to do, which was to write a romantic comedy with two boys at the center. I didn't have to pull back from anything -- that was the beauty of the endeavor. Had I set out to write a realistic depiction of gay teen life, I wouldn't have constructed it that way (as later books show).

How has censorship shaped your approach to writing?

It's probably made me more defiant, I'd guess. Certainly it affected the titling of *Boy Meets Boy* and *Two Boys Kissing* -- I wanted them to be “out” books, even if that meant they'd be prejudged by forces that were inclined to be hostile toward such titles. But when it comes to the actual writing . . . when I'm in the world of the book, I'm in the world of the book, and any voices that would try to infiltrate my head to say, “You can't do that” -- well, they're shut out.

Two recent NCAC cases involved efforts to censor books with LGBT-themes. In both, religious groups claimed the books are “LGBT propaganda.” As an author who has written LGBT-themed books, how would you respond to these claims?

Well, of course, it's propaganda in the war to have all people recognized as equal. I know the fact that we are making progress in this war leads to a lot of fear and confusion, especially when religion is involved. But if a book can be a weapon of empathy, so be it. If it is propaganda to teach love and respect, so be it. If people think that by erasing an LGBT book from a public shelf that it will somehow make LGBT people in their communities fall silent or go away -- well, they are sadly, sadly mistaken.



How have your readers responded to your work?

I've had many extraordinary messages from many extraordinary readers, teen and adult, who've said my books have helped them navigate life, and in some cases get through questions they were having about whether to remain alive. And, goodness knows, I'm not alone in this -- most authors of queer YA who've been doing this awhile could tell similar stories. Our books have a huge positive impact.

What's your favorite “banned” book?

That's pretty much like asking what my favorite book is, so I'll go with MT Anderson's FEED.

NCAC is thrilled to honor you as a defender of free expression at our November gala. Have you ever thought of yourself as a champion of First Amendment rights?

An advocate, for sure. It's an honor to join the roll call of previous winners. But, really, we're all in this together. It's not a single-champion kind of fight.

For details on NCAC's Celebration of Free Speech and Its Defenders on November 6, visit ncac.org/benefit