

3-14-2016

The Price of Freedom

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Nadine Strossen, a professor of constitutional law at New York Law School, served as the president of the American Civil Liberties Union from 1991 through 2008. She and the ACLU have been the targets of Westboro Baptist Church picketers, and have also defended these picketers' First Amendment rights in courts and legislative bodies.

Updated March 14, 2016, 1:00 PM

The First Amendment appropriately protects expression that both expresses and provokes strong emotion. Even when expression stirs emotions that are overwhelmingly negative, as in the Snyder case, that cannot justify suppressing it.

The most constructive outlet for anyone who is outraged by Westboro Baptist is to raise your own voice in support of the groups the church lambastes.

This conclusion does not reflect the view that “sticks and stones can break my bones, but words can never hurt me.” To the contrary, it reflects respect for the power of expression to ignite our feelings and inspire our actions, which is precisely why freedom of expression is such a cherished individual right.

The First Amendment guarantees each of us the freedom to make our own choices about what we say and hear, consistent with our own emotions, as well as our own intellectual predilections. The price we pay for this precious freedom is that sometimes we are subjected to others' expression that we find deeply upsetting. In many situations we can avoid such expression or reduce its negative impact by answering back. But even when those options might be unavailable, exposure to the most traumatizing expression is the lesser of two evils. Far worse would be empowering the government to decree which words or ideas are off limits.

Our emotional reactions to expression are highly individualized, so we cannot delegate our choices to anyone else, whether a government official or a jury of our peers. Moreover, expression that incites negative emotions may well also spur positive actions.

The most constructive outlet for anyone who is outraged by the Westboro Baptist Church's homophobic, anti-military, anti-Catholic tirades is to raise your own voice in support of the lambasted groups and their rights. After all, the increasing protection of lesbian, gay, bisexual and transgender rights, including in the military, is exactly what has provoked outrage on the part of the Westboro Baptist picketers.

So let's all exercise our own First Amendment rights to cause even more outrage on their part!