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Student Learning Objectives Report: JRNM 351, Media Law

One of the major lessons of the Free Speech segment of JRNM 351 is that in a democracy is best off if everyone has a chance to put his or her opinion on the record for comment. This is true whether the opinion is popular or not; in fact, it is especially true when the comment is unpopular because that allows the majority society to see the other side of an issue – whether it accepts it or not is another matter. Even if wrong, an unpopular opinion at least stirs up discussion.

These ideas are counter-intuitive: people tend to want to censor ideas they consider shocking. It is always difficult to convince some students that an unpopular opinion has its uses. This is especially true since the historic examples usually used to show the value of contrary opinion – for example, the Civil Rights struggle – are now conventional thinking. Students are not really presented with a dilemma.

This year my law class had a real dilemma to consider. A student on the *Easterner* staff published a very controversial opinion piece (*Easterner* Nov. 12, 2014) belittling those who protested against the shooting by a policeman of an unarmed black man in Missouri.

I designed an essay question based upon this real journalism controversy. From a class discussion before hand I knew that student opinion in my class was solidly hostile to the sentiment of the opinion piece. The interesting question was whether they would be able to take into consideration any of the larger ideas that might still justify free speech.

The essay question was:

There are two lines of thought in the case of the controversial *Easterner* article. Develop **one** of the arguments below. Which one you choose has no bearing on your grade. What counts is that you make a logical case using the ideas we have discussed in class.

a) It almost seems the writer is being punished for holding an opinion that others do not like. Based upon what you learned in this class, argue that there was no terrible harm done by letting the writer of the *Easterner* article have his say about rioting.

b) On the other hand, who made Mill and Brandeis the editors of the *Easterner*? This article upset a lot of people. Maybe there is good reason to keep some opinion out of print. The argument we read in class called “The ‘Open Society’ and Its Fallacies” made a good case along these lines. Write an

essay arguing that editors are responsible for shielding their readers from *wrong* opinion.

Whichever point of view you defend, keep in mind that another well informed Media Law student is likely to invoke John Stuart Mill and Louis Brandeis. Make sure you reconcile the ideas of Mill and Brandeis with your answer, if only to explain why they are not relevant to this case, or there is a better way to pursue their advice.

Here's a sampling of comments from the essay question, beginning with some that were disappointing:

"In today's age where colleges everywhere brag about how diverse they are, why in the world would you do anything to rub that demographic the wrong way? Especially at a school like EWU where that demographic really isn't that big anyway. As a college, EWU has an obligation to keep its students in a safe, hate-free environment. . . . In this case, the speech was potentially dangerous, and it's a miracle there wasn't any violence in our community."

Another writer said:

"There is no 'wrong' opinion, but there is harmful words like it said in [our class reading] The 'Open Society' and its Fallacies.' [The opinion piece] was hurtful and overall, students felt attacked. Our audience felt attacked. We do not want our audience to feel this way about our writing."

Another student said:

"I do believe that this is an issue of sensitivity. Although I think that everyone is entitled to their opinion, I do not support opinion that is hurtful. The Easterner failed to be sensitive of their public, a public that includes staff members."

These responses are discouraging because they display little appreciation for the value of robust debate in a society of controversial ideas. The administration of a college in a Southern state in the 1950s could have used the same reasoning to stop the students from printing an article in favor of racial integration.

Most of the student essay responses did display at least some sense of a broader viewpoint:

"The minute I read [the controversial article] I knew there would be a big uproar around campus. . . . We talked [in class about how] . . . bottling up an opinion can be destructive. So maybe writing this editorial gave [the writer] the opportunity to share how he felt without feeling threatened."

One student started with this comment: *"I'd like to preface with this: I haven't read the article, and I intend to DIE having never read the article.*

The writer continued:

"I don't think the article itself did any harm. . . . Mill believed that opinions, wrong or not, should be discussed. Here in Eastern Washington, in Spokane, where 94 percent (census data) of the population is white, there aren't any race discussions. [The] article brought race to the forefront of our community. For once people are taking notice and for once they are not being complacent. This is a horribly bittersweet issue. The dumb opinion and the way it was written hurt my friends and co-workers, but now we are being more open with asking about micro-aggressions and other racist actions."

Another student wrote:

Although it would have been nice if the writer had actual facts to backup his opinion, it was beneficial to allow the article to be printed. John Stuart Mill makes the point in his third argument regarding free speech that while the information may not hold truth, it is still beneficial in helping to challenge what we believe. Instead of just being able to regurgitate words and opinions we hear from others, we now have to actually think about why we might disagree with the writer. . . . Not only has this been brought up in our journalism class, but I know my friends, roommates and even my Senior Capstone class have used this situation as a place to discuss the First Amendment, libel and other rights, concerns and issues surrounding this. I would stand with Brandeis that while we may disagree with a certain topic or opinion, that does not mean they should lose their right to free speech or be censored. . . . "

I consider this a very measured answer: The student is judging the matter, not just against his or her own feelings, but against larger considerations that must fit many types of conflicts.

Another student answered:

"There is no reason to attack the guy for stating his opinion. John Stuart Mill would say that even though his opinion was wrong, there still might be some truth to what he wrote. To assume he's wrong would be to assume our own infallibility. . . . One man's opinion should not cause this much of a ruckus. . . . To me this means that those dissenters want the Easterner staff to determine for us what is good opinion and what is bad opinion. . . . leading to a newspaper that thinks for us. . . . "

This was an interesting experience. Students had to bring dispassionate considerations of free speech to a question they obviously felt passionate about. Their successes and failures gave me ideas about how to talk about free speech in future classes.

