

Bok Issues Free Speech Statement

President Derek Bok released the following statement this week in response to recent concerns about flags displayed by students in the Houses.

During the past two weeks, as you know, students in two Houses have created a controversy by displaying Confederate flags, while another student in one of these Houses responded by displaying a swastika for a few days. These incidents have provoked much discussion and disagreement. Some have urged that the University require the removal of symbols that offend many members of the community. Others reply that such symbols are protected free speech. In light of this dispute, many have asked what the University's policy is in situations of this kind. Let me try to explain.

To begin with, it is important to distinguish clearly between the appropriateness of such communications and their status under the First Amendment. The fact that speech is protected by the First Amendment does not necessarily mean that it is right, proper, or civil. In this case, I believe that the vast majority in this community believes that hanging a Confederate flag in public view – or displaying a swastika in response – is insensitive and unwise. It is insensitive and unwise because any satisfaction it gives to the students who display these symbols is far outweighed by the discomfort it causes to many others. I agree with this view and regret that the Harvard students involved saw fit to behave in this fashion. Whether or not they merely wished to manifest their pride in the South – or to demonstrate the insensitivity of hanging Confederate flags by mounting another offensive symbol in response – they must have known that they would upset many fellow students and ignore the decent regard for the feelings of others so essential to building and preserving a strong and harmonious community.

To disapprove of a particular form of communication, however, is not enough to justify prohibiting it. We are faced here with a clear example of the conflict between our commitment to free speech and our desire to foster a community founded on mutual respect. Our society has dealt with this dilemma for many years. Interpreting the First Amendment, the Supreme Court has clearly struck the balance in favor of free speech. The Court has consistently protected even offensive, ugly, unpleasant forms of communication so long as they do not provoke an imminent risk of violence (e.g., "fighting words," delivered face to face). While communities do have the right to regulate speech in order to uphold aesthetic standards (avoiding defacement of buildings) or to protect the public from disturbing noise, rules of this kind must be applied across the board and cannot be enforced selectively to prohibit certain kinds of messages but not others.

Under the Supreme Court's rulings, as I read them, the display of swastikas or Confederate flags clearly falls within the protection of the free speech clause of the First Amendment and cannot be forbidden simply because it offends the feelings of many

members of the community. These rulings apply to all agencies of government, including public universities.

Although it is not clear to what extent the First Amendment is enforceable against *private* institutions, I have great difficulty understanding why a university such as Harvard should have less free speech than the surrounding society – or than a public university, for that matter. By the nature of their mission, all universities should be at least as concerned with protecting freedom of expression as the rest of society. Like the rest of society, we should also worry about who will draw the lines and how wisely they will be drawn if we begin to restrict the bounds of permissible speech.

One reason why the power of censorship is so dangerous is that it is extremely difficult to decide when a particular communication is offensive enough to warrant prohibition or to weigh the degree of offensiveness against the potential value of the communication. If we begin to forbid flags, it is only a short step to prohibiting offensive speakers. Do we really want Harvard officials (or anyone else) to begin deciding whether Louis Farrakhan or Yasser Arafat or David Duke or anyone else should be allowed to speak on this campus? Those who are still unconvinced should remember the long, sorry history of preventing Dick Gregory and others from speaking at Southern universities on grounds that they might prove “disruptive” or “offensive” to the campus community, not to mention the earlier exclusion of suspected communists for fear that they would corrupt students’ minds.

In addition, I suspect that no community can expect to become humane and caring by restricting what its members can say. The worst offenders will simply find other ways to irritate and insult. Those who are not malicious but merely insensitive are not likely to learn by having their flags or their posters torn down. Once we start to declare certain things “offensive,” with all the excitement and attention that will follow, I fear that much ingenuity will be exerted trying to test the limits, much time will be expended trying draw tenuous distinctions, and the resulting publicity will eventually attract more attention to the offensive material than would ever have occurred otherwise.

Rather than prohibit such communications, with all the resulting risks, it would be **better** simply to ignore them, since students would then have little reason to create such displays and would soon abandon them. If this response is not possible – and one can understand why – the wisest course is to talk with those who perform insensitive acts and try to help them understand the effects of their actions on others. Appropriate officials and faculty members should take the lead, as the House Masters have already done in this case. In making this effort, one should seek to educate and persuade, rather than resort to ridicule or intimidation, recognizing that only persuasion is likely to produce a lasting, beneficial effect.

In conclusion, then, our concern for free speech may keep the University from forcibly removing the offensive flags, but it should not prevent us from urging the students involved to take more account of the feelings and sensibilities of others. Most of the time, I suspect, we will succeed in this endeavor. By so doing, I believe that we will have acted in the manner most consistent with our ideals as an educational institution and most likely to help us create a truly understanding, supportive community.