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Freedom of speech may have consequences

By: **April Dziubala**

"Sticks and stones may break my bones but words will never hurt me."

Those words have empowered bullied schoolchildren for decades, but in the adult world, words cannot only hurt you, they can get you fired.

The classroom has often been regarded as a free marketplace of ideas, a place where any subject, no matter how controversial, can be discussed.

Such freedom, though, entails a great deal of responsibility.

Problems lie in the ambiguousness of the phrase "academic freedom and responsibility," which makes the interpretation of student and faculty rights exceptionally difficult, leading to situations like the one that occurred at UNLV last year.

Academic freedom and responsibility affect not only professors but students as well.

Dissension broke out among UNLV students three weeks ago when, after much debate, a controversial poem titled "X-Mas Lights in June" was published in the student magazine, Vagus Nerve.

Jason Pete, the student author of the poem, told The Rebel Yell that his poem is based on a conversation he overheard on campus.

"It negatively stereotypes African-Americans, and I disagree with that," said Sally Stewart, 22, a hospitality major.

Peter Goatz, UNLV student body president, said he considered it an issue of censorship, but some argued that the First Amendment didn't apply because not every piece submitted made it into the magazine, which could be deemed censorship.

The poem's publishing "should be based on its artistic value," Stewart said, adding, "The poem doesn't even rhyme."

Also, student tuition is used to fund the magazine. Therefore, what gets printed should ultimately be decided by students, Stewart said.

The poem did get published, despite resistance from members of the student body.

"We don't get to say where our money is going and how we want it to be used," Stewart said. "We should have a major say."

Controversy is not a stranger to UNLV, especially as of last year.

Debate ensued after Hans-Hermann Hoppe, a tenured economics professor at UNLV, made remarks about homosexuals in his lecture on time preferences in an upper-division money and banking course in March, 2004.

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Hoppe was discussing high and low time preferences – both are economics terms – when he offended Michael Knight, a now-graduated economics major, who filed a complaint pertaining to a segment of Hoppe's lecture.

According to Knight, Hoppe situated adults, especially those with children, in the low time preference category, stating that they were more likely to save money than those in the high time preference category.

Hoppe placed children, the elderly and criminals in the high time preference category, saying that criminals look for "immediate satisfaction" and therefore would be less likely to save money, Knight said.

Hoppe then added gays to the high time preference group, which is when Knight, who is gay, paid close attention to what Hoppe said next.

Homosexuals, Hoppe said, were more likely to live in apartments and not have children or possess as many family values as heterosexuals, Knight said, who said that Hoppe added that gays live riskier lifestyles, which influences them to spend, rather than save, money.

Knight took offense to Hoppe's comments and decided to file an informal complaint with the university.

"All I wanted was an apology," Knight said, but he didn't get one, which prompted him to file a formal complaint.

After a series of formal hearings found Hoppe in violation of school policies, UNLV planned to issue Hoppe a letter of reprimand and deny him his next increase in pay. That's when the local chapter of the ACLU stepped in as Hoppe's new representation.

"Hans expressed an opinion," said Allen Lichtenstein, general counsel to the Southern Nevada ACLU and who represented Hoppe.

Lichtenstein used an example to make, what he considered, an important distinction between opinion and conduct.

"If someone says that women are inferior to men, that their proper place is in the home, taking care of babies, that is opinion," Lichtenstein said, comparing that with a scenario in which men surround a woman, calling her names, which he said constitutes conduct.

There was no indication that Hoppe was stating his opinion, Knight said, "he passed it off as a credible theory."

Knight said he saw it as an issue of academic responsibility, not freedom.

"Professors should have the right to talk about whatever they want, but they need to back up what they're talking about."

Hoppe was indeed asked to provide his notes, which were intended to show support for his statements, while Knight brought copies of his class notes to the hearings.

In a Feb. 9, 2005 letter from Raymond W. Alden III, executive vice president and provost of UNLV, Hoppe was told that the grievance panel, before which Hoppe and Knight appeared, unanimously found Hoppe in violation of the University and Community College System of Nevada code.

The grievance panel concluded that, "[Hoppe's] statements of alleged fact had the effect of being discriminatory and creating a hostile learning environment because they were not qualified as opinions, theories without experimental/statistical support, topics open to debate, or otherwise limited."

Hoppe's comments, therefore, weren't clarified as opinion, nor were they supported by outside research deemed credible by the college.

Although UNLV later dropped its sanction against him, the Hoppe-Knight debate raised important questions like, "Must professors always label what they say as either opinion or fact?" or "To what extent should a professor's opinion be backed by peer-reviewed research and/or literature?"

For some, the answers lie in the creation of campus speech codes, which spell out what is and isn't acceptable speech. Those like David Horowitz, writer and political commentator, have gone one step further and proposed an Academic Bill of Rights.

The Academic Bill of Rights, according to Horowitz, attempt to eliminate political –particularly liberal – bias in university hiring and grading.

Horowitz believes that conservatives are being discriminated against in universities across the country and that there is a subsequent imbalance in the number of liberals and conservatives – Republicans and Democrats – in institutions of higher education.

Although Horowitz has a fair share of opponents, many scholars agree that a liberal-conservative imbalance does exist.

Thor Halvorssen of the Foundation for Individual Rights in Education told USA Today that colleges "seek to privilege one predominantly leftist point of view," adding that "universities should welcome all perspectives, no matter where on the political spectrum."

Proponents of Horowitz might argue in the Hoppe case that a conservative libertarian, like Hoppe, was discriminated against because he expressed a conservative view that's in the minority at UNLV and isn't shared by Hoppe's liberal colleagues and students.

The solution to problems surrounding academic freedom and responsibility are even more complex than determining whether or not Hoppe was targeted for his conservatism or if he used inherently bigoted language.

Campus speech codes and an Academic Bill of Rights are as arduous to construct as the words "freedom" and "responsibility" are to define.

One of the main problems with speech codes, Lichtenstein said, is that they're supposed to apply in all cases, regardless of context.

"Speech codes try to paint by numbers," he said. "Context is everything, and speech codes don't take it into consideration."

In 2003, the FCC ruled that Bono, lead singer of the band U2, didn't violate rules prohibiting indecency because he used the F-word in a non-sexual way when he said, "This is really, really fucking brilliant," at the Golden Globe awards.

The F-word has various meanings, Lichtenstein said, depending on who says it, how it's used and in what setting, all of which the FCC considered but a speech code would not.

Another example of censorship involves the Mark Twain classic Huck Finn, which frequently uses the word "nigger."

"The N-word is one of the most emotionally-charged words," said Lichtenstein, who also said that it too has multiple meanings depending on the context in which it's used and therefore shouldn't automatically be banned.

Lichtenstein isn't the only one who is leery of speech codes.

Dr. Randy Osborn, a visiting assistant professor who teaches in the communication department at UNLV, also recognized the importance of context.

Osborn explained that the challenge on college campuses today is to "uphold the First Amendment and provide a harassment-free environment." He conceded that this is no easy task.

Academic freedom and responsibility will surely be debated on the UNLV

campus in the coming years.

Already, there have been discussions held on the subject at UNLV's William S. Boyd School of Law where panel members agreed that a continued discussion on the matter will make all members of the academic community more aware of their rights.

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