

## The Daylight of A Free Society

By: *Dr. Neil S. Crispo, Director of Research and Operations, Florida TaxWatch*

All heresy is a product of "right" or "correct" constructs carried to a position of extremism. This observation was noticed by a Jesuit theologian who traced the history of all the common heresies of Christianity, none of which were founded upon an evil construct but an accepted canon which was exaggerated. Thus "good" constructs can promote incorrect thinking and outrageous action. It appears that in pursuit of sexual and racial equality, some advocates are disposed to generate heresies against the fundamental doctrine of our democratic republic.

### The P.C. Redesign

"Legal scholars would limit free speech." This was the headline to a July 7, 1993 article in the **Chronicle of Higher Education**. In it, New York University law professor Nadine Strossen, who is also president of the American Civil Liberties Union (ACLU), a leader both in feminist causes and an advocate for free speech, expresses concern over feminist and minority advocates who seek to overcome the reluctance of federal courts to limit the First Amendment. The locus of this assault on free speech seems to be taking root in leading law schools throughout the nation.

In a feigned atmosphere of open intellectual dialogue, a revisionist definition of free speech is being fostered. This new paradigm would assign "freedom of expression" to what is today defined as "politically correct" and condemn what is defined as "pornographic" and "hate speech." In this context, pornography constitutes thoughts or ideas that are of a sexual orientation are defined as subordinating to women. Racist and hate speech is being defined via the prescriptives of behavior decided at our universities and colleges. According to Strossen, this advocacy and acceptance of a new definition of free speech, represents the opinion of the academic community in some of the nation's elite law schools. The extreme locus of this movement seems to have magnified the extent of its advocacy in the legal profession and among those groups advocating civil liberties.

Strossen calls for the majority in the legal profession and academics that hold a more robust view of free speech to take further initiative in law schools and the community to safeguard a basic right for a free society. She notes that federal courts recently have overturned restrictive hate speech codes at the Universities of Michigan and Wisconsin. The U.S. Supreme Court overturned an Indianapolis anti-pornography law that was crafted by a politically correct leader to redefine free speech to conform to the feminist culture. Yet University of Michigan law professor Catherine MacKennon and other legal scholars have set a strategy to cut back the First Amendment to be written within the rhetoric of the politically correct confines of radical feminism and minority advancement.

Advocates for this radical change have been heartened by a Canadian Supreme Court ruling that speech degrading or dehumanization women was not protected by the Canadian Constitution. The U.S. Supreme Court's posture in high profile cases such as Barnes vs. Glen Theatre, which consistently treat sexually oriented expression as less worthy of constitutional protection than other themes, has led many leading scholars to predict comparable restrictions in the U.S. Although the Supreme Court unanimously invalidated hate speech laws, the exceptions and qualifications noted in the opinions leave ample openings for those who

would restrict speech on the basis of hate or pornography criteria. The courts' more lenient approach to restrict speech under the rubric of sexual harassment is identified by Strossen as the path that will lead a restriction of the First Amendment.

Strossen also cites the U.S. Supreme Court's finding in Wisconsin vs. Mitchell that respected a first amendment challenge to state laws that enhanced penalties for crimes whose victims are selected on the basis of racial or other invidious discrimination. The Court said these laws targeted conduct causing psychological harm not speech. This interpretation seems to blur the difference between "criminal acts" and verbal and symbolic expressions. MacKennon and others who would modify the parameters of the First Amendment deny the distinction between the two aforementioned constructs. This Wisconsin holding will enhance the efforts to redefine the First Amendment. Strossen predicts that this may come to pass and that free speech may be restricted, because, as the late Justice Felix Frankfurter stated, "In the last analysis, the laws are what lawyers are. And the law and lawyers what law schools make them." The focus for the politically correct reinterpretation of free speech is to be found in the law school, particularly those that are characterized as setting norms in legal scholarship.

If the First Amendment is modified to the parameters set by political correctness, loss of freedom in schools, the marketplaces, businesses and every aspect of communal life will ultimately be affected. The public taste will become guides of behavior rather than the standing principles. Demography rather than governance will become the hallmark of politics. But most ironically, bias, sexism, racism and all those prejudices based on unjust principles will find sustained support in an atmosphere of repressed expression and it will foster in more invidious and subversive ways base discrimination. Bad ideas, lies, injustice and poor reasoning are like Dracula--they can't stand the daylight. And free speech is the daylight of a democratic society.

#### About the Author

*Dr. Crispo hails from Plantation, Florida where he served in the Community College and University system for 31 years as a professor and administrator. Dr. Crispo holds a doctorate in administration with emphasis in research from the University of Southern Mississippi. He received his Masters in sociology and social psychology from Florida State University, where he also received his bachelor of science in social science education. Dr. Crispo brings to Florida TaxWatch a career filled with the highest academic achievements in the fields of education and the social sciences. He has taught in various academic disciplines and participated in extensive research during his career in Florida's higher education systems.*

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