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The Legal Limits of Racism

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The Legal Limits of Racism

Abstract

When I heard the news that the Food Network decided not to renew Paula Deen's contract after she admitted to making racist comments, I was happy. Not because she used racial slurs, of course, but because she was punished for it. Maybe I'm a cynic, but I like the idea of public attention being placed on wrongdoings. That's the whole point of having free speech, after all: to have an open dialogue wherein all possible viewpoints can be voiced, considered, challenged, and criticized until they are ultimately decided to be acceptable or unacceptable. [*excerpt*]

Keywords

Surge, Surge Gettysburg, Gettysburg College, Center for Public Service, racism, racist, Paula Deen, Food Network, free speech

Disciplines

Criminology | Place and Environment | Politics and Social Change | Race and Ethnicity | Social Control, Law, Crime, and Deviance | Sociology

Comments

Surge is a student blog at [Gettysburg College](http://www.gettysburg.edu) where systemic issues of justice matter. Posts are originally published at surgegettysburg.wordpress.com Through stories and reflection, these blog entries relate personal experiences to larger issues of equity, demonstrating that -isms are structural problems, not actions defined by individual prejudice. We intend to popularize justice, helping each other to recognize our biases and unlearn the untruths.

SURGE

[VERB] : to move suddenly or powerfully forward or upward

THE LEGAL LIMITS OF RACISM

July 3, 2013

When I heard the news that the Food Network decided not to renew Paula Deen's contract after she admitted to making racist comments, I was happy. Not because she used racial slurs, of course, but because she was punished for it. Maybe I'm a cynic, but I like the idea of public attention being placed on wrongdoings. That's the whole point of having free speech, after all: to have an open dialogue wherein all possible viewpoints can be voiced, considered, challenged, and criticized until they are ultimately decided to be acceptable or unacceptable.

But here's the thing: What's happening with Paula Deen isn't about free speech or whether or not [a white person](#) can [say the N-word](#). Yes, that's why sponsors are dropping her and fans are defending her, but you can't be sued for having shitty opinions. It seems that her use of racial slurs is overshadowing the fact that (if the plaintiff's claims are true) she in fact broke the law.

It's easy for the lawsuit to go unnoticed amid the shallow discussion about free speech that is occurring, so here's a quick summary: A former employee at a restaurant co-owned by Paula Deen and her brother "Bubba" Heirs is suing them both for discrimination and sexual harassment. The [allegations](#) include repeatedly calling a black cook "[my little monkey](#)," paying black employees less than white employees, forcing employees to view [pornography websites](#) in the workplace, and kissing and spitting in the face of a female employee.

These behaviors are illegal. They are illegal specifically because they are behaviors. Even if Deen's racist attitude and her inclination to make racist jokes and comments stem from her southern upbringing (although this is a rather [weak argument](#) to begin with), she is legally obligated to act as if these biases do not exist.

Why the distinction? As [Baruch Spinoza](#) argues, freedom of thought is a natural right, because it is impossible to control someone's consciousness, even your own. This, in turn, necessitates freedom of expression, because preventing people from expressing certain ideas would lead them to think one thing while saying another, which could potentially create distrust among citizens and a destabilized state.

Action, however, is a completely different story for Spinoza. Just because you're able to think whatever you like doesn't mean you can turn all of your thoughts into action. This too would undermine the stability of the state. The point of



government is that we each give up the right to act in certain ways and to handle justice independently in order to gain protection from an impartial third-party.

Simply put, Deen and her brother crossed their legal boundaries when they surpassed freedom of thought and expression and put their personal opinions into action.

Yet this conclusion feels unsatisfying. Do we all just need to accept that people will be privately racist (or sexist, homophobic, transphobic, classist, etc.) and only treat minorities like full human beings because the law mandates it? If free speech is supposed to allow us to engage in meaningful conversations in order to find the truth in these issues, why are we still so divided?

I feel like the right to free speech is vastly misunderstood, and this feeds into the problem. These widespread misconceptions became obvious to me when I found a blog called "[White People Mad at Food Network](#)" and read through [some](#) of the [posts](#), wherein many [commenters](#) seem to believe that the freedom of speech means everyone should be allowed to [say anything](#) they please without any [dissent](#) or [repercussions](#) from others.

The right to free speech, however, does not mean that other people have to support, agree with, or even tolerate your opinion. Furthermore, a private company (such as the Food Network) has every right to punish an employee who misrepresents the corporation.

If you want to use your freedom of speech, you must also understand that everyone else has the right to respond to your opinion, no matter how critical that response may be.

For example, while [this person](#) has the right to claim that racism is acceptable and even supported by "statistics on education, employment, and crime," I also have the right to tell this person that he is misinformed in that he has interpreted the data from a privileged and one-sided perspective.

I would not deny that blacks typically do not perform as well in school as whites, are more likely than whites to be unemployed, and are arrested at a higher rate for criminal activity than whites; however, these issues are symptoms of the larger issue of racial inequity in America, rather than problems in cultural or ideological differences based on race. Education disparity is highly correlated with income disparity, so poorer areas struggle to educate their students as effectively as higher-income areas. Blacks often live in poorer areas and, yes, even work less than whites, a problem that stems from both racist practices in hiring (something which Deen herself is accused of), as well as their inadequate access to satisfactory educational opportunities. Statistics indicating higher rates of crimes committed by blacks than by whites can be explained by white officers' internalized racism and the fact that they are more likely to question and arrest black criminals than white.

Freedom of speech allows people like Paula Deen and the commenters on that blog to make hateful, ignorant, and racist comments in the public sphere. At the same time though, it also protects people who conduct research, who look at facts, and who have been able to prove that racial differences are only skin deep and that prejudice and discrimination are what really cause people of color to struggle in places where others excel. In this way, it creates a space in which all views can be challenged, thus forcing people to consider the opinions of others and think critically about their own. Because of this, freedom of speech may be the best tool we have for eliminating the thought processes that lead us to perpetuate social injustice.

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