



4-27-2007

Some Learning Opportunities from the Imus Affair

Kenneth Lasson

University of Baltimore School of Law, klasson@ubalt.edu

Follow this and additional works at: http://scholarworks.law.ubalt.edu/all_fac

 Part of the [Civil Rights and Discrimination Commons](#), [Entertainment, Arts, and Sports Law Commons](#), and the [First Amendment Commons](#)

Recommended Citation

Some Learning Opportunities from the Imus Affair, *The Daily Record*, April 27, 2007

This Editorial is brought to you for free and open access by the Faculty Scholarship at ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in All Faculty Scholarship by an authorized administrator of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

Some learning opportunities from the Imus affair

By: admin April 27, 2007

Besides being offensive and inappropriate, what is wrong with what Don Imus said about the Rutgers women's basketball team?

Nothing that a little common sense and a well-rounded understanding of constitutional free speech couldn't cure.

Imus' gratuitous slur about "nappy-headed ho's" was inexcusable, but much more embarrassing to level-headed Americans should be the blunderbuss overreaction of the media and the rank hypocrisy of its watchdogs.

Instead of demanding Imus' ouster from the airwaves, they could have used his abject apology and substantial celebrity as working capital to broker meaningful changes, both small and large, in the national discourse on racism and sexism. Instead of bludgeoning a relatively benign curmudgeon — who, like the medieval Everyman, has good deeds to weigh against his sins — they could have extracted something practical, like a scholarship program for black female athletes, and profound, like a healthy high-profile debate on a serious social issue.

But this is a morality play with unchecked passions. The sometimes competing goals of good taste and free speech have been conflated into a hodgepodge of short-sighted sentiment.

America is a country continually struggling for its soul, seeking to draw reasonable lines between noble goals and realistic expectations. We all have our own privately held prejudices, well-closeted biases and bigotries that may be shared with confidantes but never uttered publicly.

Should we punish every racist/sexist comment with loss of employment, or only those made by public figures? Even under the latter standard, the Reverends Louis Farrakhan, Jesse Jackson, Al Sharpton and Andrew Young might be out of their jobs.

In 1984, Farrakhan called Judaism "a gutter religion," Jackson referred to New York as "Hymie-town," and Young castigated political opponents as "smart-ass white boys" and "honkeys." In 1991, Sharpton said that "If the Jews want to get it on, tell them to pin their yarmulkes back and come over to my house."

Will Jackson be as public with a condemnation of the blatant sexism in black rap "music"? Will Sharpton apologize for his race-baiting during the infamous Tawana Brawley hoax in 1987? Will any black leader utter misgivings about the wrongful racist accusations and innuendo against the exonerated Duke men's lacrosse team?

What about public speech not made by public figures? Is there any recourse for spectators at Camden Yards who are subjected to the obscene taunts of Yankee fans from New York?

The free-speech problem is that, although Imus' tiny trash talk was off-handed, it was on-air. The industry is regulated, as it should be, by the government — and not by the self-appointed officers of political correctness who have managed to put "Imus in the Morning" into "Imus in the PC Shredder."

Along with him go not only his good causes (such as his privately funded Imus Ranch for Kids with Cancer and the Center for the Intrepid for wounded veterans), but his cast of sometimes obscenely satirical impersonators of real-life characters (Dr. Phil, C. Ray Nagin, Bill Clinton and Alberto Gonzales) and his exceedingly candid interviews with political figures (Harold Ford Jr., Joe Lieberman, John McCain) and media personalities (Howard Fineman, Andrea Mitchell, Tim Russert).

Will the powers of politeness be more forthcoming about the foul language regularly bleeped out of "The Daily Show," "South Park" and "Saturday Night Live" or the politically incorrect plot lines of "24," "Desperate Housewives" and "Boston Legal"?

The arbiters of moral rectitude are blindly inconsistent. Before 1990, "nappy" was an insult; today, slogans like "I'm happy, I'm nappy" celebrate it. In 1997, Stanford University proudly offered a course called "Black Hair as Culture and History." A 2003 book by Linda Masetta Jones entitled "Nappyisms: Affirmations for Nappy-Headed People and Wannabes" was widely praised.

The movement toward political correctness — which ostensibly began as a commendable effort to promote civility — has long since given way to narrow political agendas.

Along the way came speech codes, which now exist on an estimated 90 percent of American campuses and prohibit everything from “inappropriate laughter and conspicuous exclusion of others from conversation” (University of Connecticut) to “ongoing and unproductive culturally based arguments between classmates” (University of New Hampshire).

Bucknell recognizes a “right to feel comfortable.” The University of Maryland prohibits “idle chatter of a sexual nature [and] comments about a person’s clothing.”

That may sound like good policy on the surface, except that such broad regulations clearly run afoul of the First Amendment — which in theory exists precisely to protect speech that others find offensive. (The few speech codes that have been tested in court — among them Michigan’s, Stanford’s and Wisconsin’s — have all correctly been found unconstitutional.)

Having to tolerate offensive language is one of the prices we have to pay for free speech — a concept that seems to escape many moguls in the media these days. Nevertheless, while the Founding Fathers sought to encourage “people locked in civil discourse,” they were talking about political ideas — no matter how noble or offensive. What they’d have to say about verbal assaults against unwilling participants in a debate is another matter.

Many libertarians are all for civility — that is, for not offending people and being sensitive to their heritage or beliefs. But good manners cannot be legislated.

Making sure that the nation’s airwaves conform to accepted norms is a defensible proposition. But let’s be measured in our judgment.

The women on the Rutgers basketball team should be commended for not demanding that Imus be fired, but for eloquently complaining that the spotlight on them should be about their athletic and scholarly achievements.

Giving Imus his due should not have meant firing him in due course.

(Kenneth Lasson, a law professor at the University of Baltimore, specializes in civil liberties and is author of “Trembling in the Ivory Tower: Excesses in the Pursuit of Truth and Tenure.” The opinions expressed are his own.)