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Racism Was Served by Silence. Justice Requires Free Speech for All.

By *Jonathan Zimmerman* DECEMBER 13, 2016

In 1986, the Senate Judiciary Committee turned down Jeff Sessions for a federal judgeship after reports surfaced that he had called the NAACP "un-American" and "Communist-inspired." That decision is back in the news now that President-elect Donald Trump has nominated Sessions to be U.S. attorney general. His remark recalls the long history of racist hostility against the NAACP, which was harassed and persecuted across the South. Law-enforcement officials spied on its members, and at least three states — including Sessions's native Alabama — prohibited the group from organizing within their borders.

But Sessions's comment should also make us look anew at campaigns to restrict speech on campus, which have been stepped up since Trump's victory. A few days after the election, for example, students at my own institution asked for an "anonymous system" for reporting faculty members who made people of color feel "unsafe." Who will collect this information, and how will they know if it's credible? What will happen to the professors it cites? And how long will it take before white students complain that faculty of color have made *them* feel unsafe?

Actually, it's already happened. In 2013, three white students at Minneapolis Community and Technical College said an African-American professor had made them feel uncomfortable by teaching them about structural racism. The college later [reprimanded her](#) for creating a "hostile learning environment."

When Americans restrict speech, in fact, it's usually minorities who lose out. That's why just about every great fighter for racial equality in our history was also a warrior for free speech. Start with Frederick Douglass, who railed against efforts to silence his fellow abolitionists. Southern states outlawed the publication of antislavery tracts and even their delivery by mail. In Congress, meanwhile, Southern representatives and

their Northern allies pushed through a "gag rule" that automatically tabled antislavery petitions. "To chain the slave, these parties have said we must fetter the free!" Douglass told an 1852 audience in Ithaca, N.Y. "To make tyranny safe, we must endanger the liberties of the nation, by destroying the palladium of all liberty and progress — the freedom of speech."

Eight years later, after a mob broke up an antislavery meeting in Boston's Music Hall, Douglass returned to the same location to deliver his most famous testament to free speech. Boston had been the fount of the American Revolution, which established freedom of speech as "the great moral renovator of society and government," he noted. If Americans turned their backs on this tradition, he warned, they would also close themselves off to collective growth and improvement.

"To suppress free speech is a double wrong. It violates the rights of the hearer as well as those of the speaker," Douglass thundered. "It is just as criminal to rob a man of his right to speak and hear as it would be to rob him of his money."

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In 1905, when W.E.B. Du Bois and 28 others met at Niagara Falls, Ontario — because hotels on the American side wouldn't serve blacks — they demanded not just equal access to public facilities and the ballot box but also freedom of speech. And when Du Bois helped launch the NAACP, four years after that, he insisted that African-Americans could never gain civil rights so long as they were prevented from speaking their minds.

After World War II, Du Bois was indicted for failing to register as a member of an antinuclear organization that the government deemed "subversive." Although he was acquitted, he continued to campaign for the freedom of others who were persecuted or muzzled during the Cold War. "It is clear still today that freedom of speech and of thinking can be attacked in the United States without the intellectual and moral leaders of this land raising a hand or saying a word in protest or defense," he wrote in 1952. "Than this fateful silence there is on earth no greater menace to present civilization."

The NAACP was listed as a subversive organization in several states, too, which helps explain why Jeff Sessions thought it was Communist-inspired. Therefore members had to either keep their affiliation hidden — in violation of the law — or register with the government, which subjected them to still further harassment. And when students

at South Carolina State College for Negroes protested the interrogation of NAACP members on campus, the students were investigated themselves. In short, if you didn't have freedom of speech, you couldn't counter any other injustice.

That's a lesson that some of today's student activists — and some college administrators — seem to have forgotten. Although courts have consistently found campus speech codes unconstitutional, hundreds of colleges continue to discipline students for saying the wrong thing. Faculty members, too, have come under fire. During the wave of protests that swept campuses last fall, students at Duke University called for the dismissal of professors who "perpetuate hate speech that threatens the safety of students of color." At Emory University, students demanded "repercussions or sanctions for racist actions performed by professors."

Let me be clear: If students think a faculty member is racist, they have every right to say so. But nobody has a right to limit someone else's speech, via institutional prohibitions or star chambers or anything else. That's precisely what white America tried to do to the NAACP and other African-Americans. We insult their memories when we silence one another in the name of racial justice, which will never be served by the restriction of free speech.

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