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White Supremacy and Magic Paper

Posted on

34–43 minutes

White Supremacy is having a good month: On March 5, the ACLU [put its weight behind](#) Pro Football Inc's fight to keep its Washington Redskins trademark. A few days later, legal scholars from the [right](#) and [permissible left](#) along with [The New Republic](#) scolded Oklahoma University for expelling two SAE fraternity members who led the sickening racist song immortalized on [viral video](#). That same week, notorious Islamophobe Pam Gellar [won her battle](#) to force Philadelphia to display [bus signs](#) featuring a photo of Hitler and proclaiming "Islamic Jew Hatred: It's in the Quran." Five days ago, the ACLU [filed a brief](#) in support of Confederate flags on license plates.

Of course, for the self-styled First Amendment absolutists among us it's not white supremacy that's winning here, but *free speech*. "The first attacks on free speech always come at the fringe," [they insist](#). "That's where it needs to be defended." First Amendment absolutists have been saying this at least since 1977, when the ACLU won the American Nazi party the right to march through Skokie, Illinois, where an estimated one in six residents was a Holocaust survivor. In the ensuing 38 years, civil libertarians have ostentatiously supported cross burners, churches that promote race war, right wing Christians disrupting Arab festivals, and picketers of LGBT funerals, admonishing as authoritarian anyone who thinks their view of speech rights is imprudently simplistic at best.

While white supremacists were having such a good few weeks spreading freedom for all, Ramsey Orta, the man who captured [Eric Garner's murder](#) by NYPD cops on video, was still [struggling to make bail](#). Orta is enmeshed in a [Kafkaesque nightmare of](#) what looks like sadistic state reprisal against his supremely brave, selfless and heroic act. A murdered black man and a latino in a cage for bearing witness to the crime is what you could call a white supremacy twofer, as well as a complete disaster for civil liberties.

Despite the obvious First Amendment implications of a police vendetta against Orta, the ACLU and its New York branch have seemingly done nothing on Orta's behalf — searches on their websites don't yield one mention — and as far as I can tell none of the First Amendment cult's leading lights has written about it. Orta's civil liberties don't interest The New Republic like those of racist frat boys. But at least Time.com [won a World Press Award](#) two weeks ago for a video consisting

almost entirely of Orta's footage and his words in voiceover. So — if you overlook how that award embodies the parasitic relationship of press to whistleblowers, rich to poor and white to dark— there's that.

Though forty years of contrarian First Amendment advocacy hasn't produced obvious benefits for the likes of Orta, it's doing quite a lot for corporations, whose ingenious lawyers, after establishing ACLU-supported corporate personhood, have found the First Amendment endlessly useful as an instrument of [deregulation](#). I can't do justice to the orgy of litigating going on in this realm, but here's a sample: the National Labor Relations Board can't compel your employer to hang a poster informing workers of their rights; however, your employer can lobby you on how to vote and when to call your congressperson. There's an effort afoot to remake corporate lies as First Amendment protected opinion, and mandatory disclosures an unconstitutional burden. Considering corporate and shareholder demographics, corporate personhood is indisputably a win for white supremacy too.

Surely there is an onus on advocates to demonstrate that a tactical alliance with white supremacists and corporations, that clearly benefits white supremacists and corporations, produces commensurate benefits for people like Ramsey Orta. But if you want to make a First Amendment absolutist lash out, lie or robotically recite bromides, just demand conclusive evidence of such benefits. They can't produce it, because no such evidence exists.

There are some, like Radley Balko, who, when confronted with this, [will insist](#) that we should support racist speech on general principle, regardless of what it does for anyone else, but this is a justifiably tough sell. Surely if First Amendment victories for white supremacists or corporations don't meaningfully fortify the rights of people of color and anti-racists, any engagement with their cause should aim toward their defeat. It's a really rather bizarre state of affairs when reluctance to ally with fascists in pursuit of freedom strikes otherwise intelligent people as repellently authoritarian, but that's the state we're in.

I've discussed a lot of this before in various issue-focused posts. What follows is an attempt at a more detailed, general critique, which examines the folly of Free Speech Absolutism in relation to white supremacy. At the outset I'd like to make a few things clear. My objections to Free Speech Absolutism have very little to do with laws and regulations. I am extremely ambivalent about Hate Speech laws. I am less ambivalent about Hate *Crimes* Law, though I don't like laws generally since their primary use is to oppress and discipline people with very little power.

My main objection is to *the doctrine* of free speech absolutism. In addition to directing the attention, resources and goodwill of decent people to organizations and individuals that would imprison and murder them if they could, it perniciously minimizes the genocidal and avaricious politics with which it makes common cause; it promotes a view of power and social change so ahistoric and infantile it qualifies as magical thinking; and it promotes libertarian as opposed to communitarian values and politics. By virtue of this doctrine's wide adoption and promotion by revered adherents,

it has a uniquely corrupting effect on political discourse and practice as a whole.

As one would expect from an extremely dishonest doctrine that is taught in public schools and enjoys avid support across political lines, it serves power far more than it serves anyone else.

There is no such thing as First Amendment absolutism.

Today's First Amendment Absolutism, which *performs* regard for all contested speech as equal, that refuses to weigh other interests against *any* speech, and which adherents espouse as if in possession of eternal and obvious Truth, is of relatively recent vintage.

[Hugo Black](#), the Supreme Court justice most closely identified with First Amendment Absolutism, by his own account, "never believed that any person has a right to give speeches or engage in demonstrations where he pleases and when he pleases." He also distinguished speech from "conduct." Hence, he supported prohibitions on flag-burning, the wearing of anti-war armbands in high school, protesting on government property and "Fuck the Draft" t-shirts.

Even within the 95-year [history](#) of the [American Civil Liberties Union](#) — the standard bearer and most influential promoter of Free Speech Absolutism — commitment to the Bill of Rights has varied over time. Three radicals founded the ACLU in 1920, spinning off from an organization that had focused exclusively on defending anti-war protestors and conscientious objectors. In the 20s and 30s, it focused mostly on the free speech rights of artists, workers and communists, and formed a relationship with the NAACP to combat racism.

It took a right turn in the late 30s and in 1940 purged communists sympathetic to Russia from leadership positions. That same year, it defended Henry Ford's right to distribute anti-union literature against the objections of the National Labor Relations Board. In 1942, the leadership divided over the internment of Japanese Americans and as a result did not oppose it when it first began. In 1950 it declined to defend leftist, Black singer Paul Robeson when the government denied him a passport. In 1954 it purged anti-communists from leadership positions. In 1968 it divided over defending civil disobedience against the Vietnam War.

Despite the organization's rightward turn during the Cold War, the Skokie case was so far afield of anything the organization had done up to that time, thousands of members created a financial crisis for the organization by withdrawing support. The ACLU we know today emerged stronger than ever from the ashes, one with greater dependence on large grants and gifts and much more willing to make common cause with corporations and fascists.

This checkered history usefully shows that defense of the First Amendment is as bound up with social conditions and politics as the justice system within which civil libertarians mostly operate. Every day, the state stomps on the civil liberties of millions of people. The Bill of Rights is no more robustly defended in a hate crimes case than a case of anarchists harassed by local law enforcement or a latino man railroaded into jail after capturing lethal racist police brutality on

video. First Amendment absolutists are at liberty to focus on any subset of infringements they want.

While they would like you to think it's principle that puts them in bed with hate-mongers and corporations, in fact, just as the anti-communists of the 1940s ACLU reflected their time, so too today's absolutists reflect the diminishing influence of principled leftists and the increasing influence of libertarians and neoliberals. They choose their battles in accordance with their interests.

The hard line First Amendment Absolutists say they draw is simply a lie. Like everyone else, they readily accept everyday infringements on speech, which not coincidentally, are prohibitions on speech that is likely to afflict them personally. Hence they see the obvious benefit of prohibiting defamation of individuals, but any limit on Pam Gellar-style libels against whole groups puts us on the slippery slope to fascism.

Finally, it's a mistake to equate First Amendment Absolutism with a strong commitment to free speech as a general principle. Most absolutists are on very agreeable terms with the complete absence of speech rights in the private workplaces where people spend most of their days. As described above, their focus in the private sector is on the First Amendment rights of corporations, to the detriment of workers and the public. They wring their hands a bit over things like Twitter and Facebook censorship, but only as "[prudential matter\[s\]](#)" about which we can do very little. They only [hyperventilate](#) when a government tells Twitter or Facebook what to censor.

Magic Paper Theory

The usefully infantilizing role models of the left like free speech absolutist Noam Chomsky conjure a U.S. that has made huge strides since the bad old days of overt and often murderous state repression. While [admonishing](#) leftists for "paranoia about concentration camps," the world's most important living intellectual averred, "The state may try to repress you, but they can't do a lot....It hasn't always been like this—but thanks to the struggles in the past there's a tremendous amount of freedom."

Those "struggles of the past" in Chomsky's inspiring story produced better laws and fortified them with court precedents we can draw upon in the rare event that our own rights are trampled more than usual. They also brought about cultural changes such that "popular reaction" keeps the repressive state from going too far. For Chomsky, "...power really is in the hands of the governed if they're willing to use it."

Chomsky said this in 2012, when Anwar al-Aulaqi, his son and Samir Khan had been dead close to a year; Chelsea Manning was in year two of pre-trial imprisonment; and the Guantanamo Bay detention camp was in its 11th year of holding presumed Islamic anti-imperialists without charges. But no matter. In this view, the fast-moving assault on civil liberties that commenced in 2001 is a fluke, the result of terrorist calamity colliding with Bad Apple president. Surely the arc of history will resume bending toward justice after the ACLU has [filed enough briefs](#) challenging the Kill List.

To his credit, Chomsky at least pays some lip service, though not enough, to the dependence of rights on the enforcement power of the mob. Most First Amendment Absolutists omit this bit entirely, falsely advertising a justice system in which civil liberties are more contingent on Supreme Court decisions than political clout. In this parallel universe, The Bill of Rights and Supreme Court precedent have supernatural powers that guide the state no matter what state agents want to do at a given time. Hence, a court victory for Nazis is a court victory for The Black Panthers. *Obviously*. My pal [@BanjolinBuddha](#) calls the Constitution of this fantasy, “Magic Paper”, and with his inspiration I call the absolutist ahistoric understanding of power Magic Paper Theory.

Here’s an alternative theory of repression: Far from steady, though slow, progress toward justice, U. S. history is marked by surges in political repression commensurate with unusual political ferment in the masses. *At all times*, government indulgence of political expression is contingent not so much on the Bill of Rights or Supreme Court precedent, but on the political expression’s harmlessness or utility to white supremacy and the ruling class. If political expression threatens white supremacy or the ruling class, the state will persecute it in inverse proportion to the political leverage of its target, and use surveillance, harassment, ostracism, blackmail, imprisonment, indefinite detention and murder as needed.

Within this framework, there are relatively calm periods, not because a battle against repression has been won – as Chomsky suggests – but because it’s been lost. If the battle weren’t lost, it would continue until white supremacy and the ruling class were eradicated. The high perch from which Chomsky tells us how free we are was likely only vacant because state agents murdered all consequential Black leaders and squashed every other left-wing movement. In the ensuing years, white guys writing books supplanted visionaries with megaphones while the prison population grew.

Along with the war the FBI waged in the 60s and 70s that brought this about, the country’s two Red Scares attest to the cyclical nature of repression and just how extreme it can be. We get little reminders of how this works from time to time, such as during Occupy, which was so effectively crushed at the outset, a 60s-style protracted struggle leading toward murder was unnecessary. It was enough to pepper spray, beat and jail peaceful protestors while the media smeared them. The state response to the brave and inspiring challenge to white supremacy in [Ferguson](#) provides the same reminders.

The White Supremacy Difference

Since the KKK and its ilk are reactionary, it’s not too surprising that they strengthen and weaken roughly in proportion to conditions that promise leftward social change, just as state repression does. Historians say that there have been [three discrete Klan movements](#). One emerged during the Reconstruction Era for obvious reasons. The second flourished in the 20s in response to urbanization, increased immigration and the first Red Scare. The third emerged at the tail end of the second Red Scare in response to the emergence of desegregation and the Black Civil Rights

movement.

If, contrary to Magic Paper Theory, state tolerance of political expression is largely commensurate with its benefits to white supremacy and the ruling class, you would expect the reactionary expression of white supremacists to get a much easier ride from state power than say, Black Nationalism and communism. You would expect fewer attempts to repress them and when they run afoul of the law, you would anticipate greater leniency. You might even predict that in times of crisis, white supremacists would form alliances with state agents to suppress challenges to the white majority and the ruling class.

That is precisely what history shows us, which is why it's disingenuous when absolutists call white supremacism a "fringe" concern, where repression is tested first.

Let's start with Supreme Court Justice Hugo Black himself, who long before he became the patron saint of First Amendment absolutists, made his mark as a lawyer in 1921, defending [E. R. Stephenson](#), a Klansman who had murdered a Catholic priest, seemingly for performing the secret wedding of Stephenson's daughter to a Puerto Rican. The Klan paid Black's fee for his work with four other lawyers, who were all Klansmen. Following Stephenson's acquittal, Black joined the august organization himself. He later claimed he only did this for political reasons, though some biographers claim he sympathized with the Klan, particularly in their hatred for Catholics. Whatever the case, Black joined the U. S. Senate five years later, where he distinguished himself by investigating utility companies and *filibustering an anti-lynching law*.

Black's Senate to Supreme Court trajectory demonstrates that, as "fringe" political tendencies go, the Klan has [an unequaled record](#) in penetrating all branches of government. President Harry Truman, the great incinerator of Japanese cities, was briefly a member. Three other Klansmen, like Black, became Senators, and others have been state governors, members of the House of Representatives, and mayors. Of course, these men would have a rougher time winning elections now, but that doesn't mean their accommodation by elites has ceased. You can see it in how their Klan membership is still variously omitted, trivialized, glossed over and forgiven, and in how their ghosts speak through egregious appeals to racism that to this day afflict every presidential campaign.

As a Supreme Court justice, Black wrote one of the concurring opinions in the landmark [Brandenberg v. Ohio](#) case of 1969, in which the court struck down an Ohio statute under which participants at a Klan rally had been arrested for incendiary speech. The more lawyerly First Amendment absolutists cite this decision to naysayers because it led to the reversal of prior decisions against Communists. See! Helping the KKK helps the left! But the most recent of the reversals Brandenburg brought about was [Dennis vs. The United States](#), a CPUSA Smith Act decision which was by that time nineteen years old. In other words, the Supreme Court gave the Klan a pass it had withheld from communists for years, reversing decisions against members of a party that had fallen apart long before.

One could credibly attribute the apparent double standard in *Brandenburg* to different courts rendering decisions years apart from each other, if this double standard did not reveal itself repeatedly in the history of state repression. Take, for instance, the House Unamerican Activities Committee. [HUAC](#) is so synonymous with purging and blacklisting communists, few know that it was originally formed to uncover citizens with Nazi ties within the United States, a project it quickly abandoned. In 1946, the committee considered opening investigations into the Ku Klux Klan but decided against it, prompting committee member John E. Rankin (D-MS) to quite correctly remark, “After all, the KKK is an old American institution.”

The same double standard infused the FBI’s infamous Counter Intelligence Programs (COINTELPRO), a series of broadly targeted, centrally coordinated covert actions that began in 1956 to survey, infiltrate, discredit and disrupt domestic political activities the agency considered “subversive.” The programs unsurprisingly cut their teeth on communists, but as new resistance movements proliferated in the 60s, COINTELPRO targeted Martin Luther King; the Black Panthers; Puerto Rican nationalists; the American Indian movement; and a broad range of “New Left” organizations, including Students for a Democratic Society, the Weathermen, almost all groups protesting the Vietnam War, various unaffiliated anti-war protestors and the National Lawyers Guild. Perhaps tellingly, the ACLU was not a target.

Officially, COINTELPRO also targeted white supremacist groups and, in particular, the Ku Klux Klan, but according to [a report](#) the Congressional Black Caucus presented at the UN in 2001 –

...the “Klan – White Hate Groups” program was of a different order entirely. Senior FBI management and a majority of agents in the field endorsed the Klan’s values, if not the vigilante character of their tactics; from militaristic anti-communism to extreme racial hatred; from ultra-nationalism to misogynist puritanism.

...FBI monitoring of the Klan was strictly confined to the organization itself. No serious efforts were made to explore the supplemental role of White Citizens’ Councils, many of which were active Klan fronts, let alone investigate the obvious and widespread police complicity in racist violence. Bureau surveillance of the Klan was purely passive, hardly the directed aggression reserved for left-wing targets.

Church Committee hearings and internal FBI documents revealed that more than *one quarter* of all active Klan members during the 60s were FBI agents or informants. But this infiltration aimed less at disrupting Klan activities than directing them against other groups COINTELPRO targeted, particularly the Black civil rights movement. By way of assistance, foreknowledge or cover-up, the FBI facilitated Klan attacks on Freedom Riders; the bombing of a church that killed four black children; several murders of civil rights workers and more.

Consider the relationship the FBI had with the Klan beside the war it waged against the Black Panthers, the group the agency was most ruthlessly dedicated to eradicating. The report states:

Between 1968-1971, FBI-initiated terror and disruption resulted in the murder of Black Panthers Arthur Morris, Bobby Hutton, Steven Bartholomew, Robert Lawrence, Tommy Lewis, Welton Armstead, Frank Diggs, Alprentice Carter, John Huggins, Alex Rackley, John Savage, Sylvester Bell, Larry Roberson, Nathaniel Clark, Walter Touré Pope, Spurgeon Winters, Fred Hampton, Mark Clark, Sterling Jones, Eugene Anderson, Babatunde X Omarwali, Carl Hampton, Jonathan Jackson, Fred Bennett, Sandra Lane Pratt, Robert Webb, Samuel Napier, Harold Russell, and George Jackson.

While there may have been genuine attempts by members of the FBI to sabotage some of the Klan's activities, there are seemingly no accounts of the FBI blackmailing, framing or murdering any Klan members as it had in its operations against left-wing groups. Unlike other targets such as the Black Panthers, the Klan survived COINTELPRO in good health.

It was certainly robust in 1979, when, eight years after COINTELPRO allegedly ended, a posse comprised of Klansmen and members of the American Nazi party murdered — [in broad daylight](#) — five members of the Communist Workers Party (CWP) who'd organized a "Smash the Klan" rally in Greensboro, North Carolina. An FBI Klan infiltrator and a federal agent working undercover in the Nazi party helped to organize and lead the caravan. The Greensboro police helpfully stayed away. All-white juries acquitted the defendants even though four local news crews had filmed the massacre.

Though the relationship of federal authority to white supremacist groups is more amicable historically than its relationship with anything on the far left, it's not a love affair. While groups like the KKK share the ruling class interest in preserving white privilege, they don't respect the law, and some if not most regard the government as an enemy. The extent to which state authority shortens or lengthens the leash is dependent on social conditions. In times of aggressive challenges to the status quo, as in the 60s and 70s, their usefulness as a paramilitary clearly outweighs other concerns. This along with their quotidian utility as reactionaries, discourages the ruling class from ever crushing them or their progeny entirely.

Precedent hardly matters

In the absence of political pressure to do otherwise, there's very little to stop a court from honoring or ignoring precedents capriciously. Therefore, the partiality the state shows white supremacists means precedents set on their behalf need have no meaningful effect on any group the state indulges less. What good did Brandenburg do Samir Khan, executed without trial for publishing al-Qaeda's English-language magazine? What good did it do Tarek Mahenna, imprisoned for translating and posting radical Islamist documents? Magic Paper Theorists meet these objections with blather about justice being imperfect etc, but really, how many exceptions are required to show how ahistoric and counterintuitive their theory is?

Twenty-seven years after Skokie, a court upheld the [NYPD's denial](#) of a permit for an anti-war march in 2003 with encouragement from Mayor Bloomberg and a brief from the Department of

Justice. When DOJ lawyers come all the way from D.C. to file a brief against your local anti-war march, you can wave Magic Paper at them until your arm falls off, but it likely won't do you a bit of good. After much wrangling, the NYPD issued a permit for just a rally in Dag Hammarskold Plaza and on the day it took place, created conditions for would-be participants that subjected hundreds of them to arrest.

Which brings us around to how in practical terms, the arbiters of civil liberties are less the courts than the cops. They can issue the permits or not. They can block streets or not. They can pepper spray protestors or not. The Bill of Rights, if it matters at all, frequently applies retroactively. It's very nice that a lot of the The Occupy protestors who were pepper-sprayed, beaten, sexually molested and jailed won [court judgments](#) in their favor, but it didn't do anything to revive the movement the brutality intended to crush or relieve the chilling effect their experience might have on future activism. The cops will do it all over again when social conditions require it and cities will pay the court costs and legal settlements with public money budgeted for that very purpose.

We see this at work in Ferguson, Missouri when, after a cop murdered [Mike Brown](#), police fought protests with curfews, sound cannons, mass arrests, brutality, and the harassment and incarceration of journalists. It's great that the ACLU and so many media liberals wring their hands over the First and Fourteenth Amendment violations – and there may be some successful lawsuits, too – but in the absence of any political leverage to radically change conditions on the ground, and the absence of recognizing the need for such leverage, all the outrage is just vanity, fundraising and brand-building. It's also toxically disinformative to the extent it depicts not-really-unusual police conduct as some horribly new “[constitutional crisis](#)” that can be resolved with Member alerts, opinion columns and court briefs.

Finally, the really heavy lifting of political repression is done extrajudicially by both cops and members of the Intelligence Community. There's a useful lesson in the timing of Fred Hampton's COINTELPRO murder by Chicago police, which took place only six months after The Supreme Court handed down its sacred Brandenburg decision. The COINTELPRO – like Greensboro Massacre took place just two years after Skokie.

The ghosts of COINTELPRO now hover over Ramsey Orta, who [narcotics cops arrested](#) on two counts of criminal weapons possession less than a month after he captured Eric Garner's suffocation by police on video. In August, shortly after his wife had complained in a television interview that police were harassing her and her husband, NYPD police [arrested her](#) for assault. Then in February of this year, Orta, his brother and his mother were [arrested and accused](#) of peddling heroin, marijuana, crack cocaine and pills to an *undercover officer*, proof of which police claim to have captured on video.

It may well be that Orta possesses a handgun and that his family deals drugs, but it seems almost certain he and his family have been followed and stung, just as Fred Hampton was when he was sentenced to two to five years for stealing \$71 worth of Good Humor Bars. A police source

suggested as much to The New York Daily News: “He took the video. Now we took the video.”

A system with [too many laws, too many jails, unaccountable police](#) and [unaccountable prosecutors](#) provides infinite opportunities for repressing dissidents in ways that make proving Constitutional violations extremely difficult. The drug sting on Orta’s family is particularly problematic, since four others got caught in the same operation. Perhaps this is why [the NYCLU](#) has yet to wave Magic Paper on Orta’s behalf, though to be fair, the organization did [tweet](#) a link to the Pussy Riot music video about Garner’s death, “I Can’t Breathe.”

Putting the Libertarian in civil libertarian

Clearly there’s quite a lot to consider when assessing the utility to human liberation of haggling in court over fascist and corporate speech rights. But consistent with the minimizing dishonesty of Magic Paper Theory, today’s First Amendment absolutists reduce all objections to attempts at imposing one’s own values on everyone else. “There’s no right to not be offended” they say [again and again](#). But few contests about speech are simply about being offended. They’re about weighing other interests and rights against the right of a person or group to express themselves.

I shouldn’t have to point out that there are many *content*-based state limits on speech that most absolutists don’t object to. You can’t deliberately provoke a fight. You can’t defame someone. You can’t put explicit sexual material in a store window. You can’t produce or read child pornography. You can’t make overtly sexual remarks to non-consenting coworkers. You can’t make bomb threats. You can’t make death threats. And so on. If empowering the state to regulate speech puts us on a slippery slope, we’ve been on it for over 200 years.

Underlying these acceptable prohibitions is recognition that certain speech in certain contexts is so socially potent that it requires *communitarian* consideration. Since most absolutists are fine with this, their insistence that the state [protect](#), say, [“God Hates Fags” pickets](#) at LGBTQ funerals is less about principle than value judgements about the social potency of anti-LGBTQ speech at a funeral. It is therefore no less an imposition of personal preference than claiming that anti-LGBTQ harassment at a funeral *is* exceptionally potent and therefore worthy of communitarian consideration. But only the absolutist preference promotes reactionary politics and obliges funeral attendees to suffer abuse.

With truly painstaking simple-mindedness, absolutists render all contested expression equal. If all expression is equal, all “offense” taken is equal too, which means it’s all equally irrelevant, since only the speaker’s interests matter. There is no burden to consider power disparities between speaker and spoken to. The only history that matters is Supreme Court precedent. Hence, for their purposes CPUSA = KKK = NAACP = NAMBLA, a formulation that, in combination with Magic Paper Theory, puts no alliance beyond the pale, and renders no ideology or conduct too cruel or toxic to [trivialize](#).

The answer to bad speech, they say, is more speech. That sounds nice, but let’s say I’m a Muslim and Bill Maher’s routine slanders against me and my loved ones, not only offend, but frighten me. What

if I think, with some basis, that he's fostering prejudice, empowering other Islamophobes, and making an already precarious political and social situation for me and mine worse? Without my own widely watched HBO show, how do I reach an equally large audience to undo the damage? The answer is, I can't, a fact that seemingly never occurs to free speech absolutists when they're thoughtlessly reciting their bad speech/more speech bromide while performing their [awesomely more principled](#) understanding of liberty.

Pop quiz: This elision of power disparities, this elevation of even the most toxic individual interests over the community, this singular focus on *state* power, and this positing of a magic greater good that people unwittingly conjure through pursuit of their own narrow interest – where else have we seen this?

If you answered Free Market Libertarianism, give yourself a cookie. Note how the Redskins case, which is more about property rights than free speech, revealingly merges these two great religions.

Second question: why do people who reject Free Market Libertarianism precisely because of its elision of power disparities and its magical thinking about “The Market”, uncritically embrace a First Amendment absolutism that argues for itself the exact same way?

That's a harder one to answer, but one possibility is people can see for themselves what deregulated economic activity looks like. The relationship of First Amendment common law to repression is harder to get the measure of, so Magic Paper Theory touted by admired figures gets accepted on faith. Its wonderfully thought-stopping ahistorical simplicity, along with its appeal to vanity facilitate adoption.

There's a slippery slope in all of this, but it's not the one the Magic Paper club is always going on about. It's from Skokie to [Citizen's United](#) by way of [springing Oliver North](#) to God knows what else. Whatever's going on, it's either bleeding into other concerns or simply emblematic of a larger phenomenon. First Amendment absolutism's rank individualism, ahistoricism, and willingness to ally with *anyone*, is becoming standard across the so-called left, as it fixates on internet privacy, government transparency and freedom of the press, making common cause with billionaires, corporations, nazi trolls, and defense contractors while severing historical ties to communitarian ideals, labor, *genuine* anti-racism (as opposed to [this ACLU-sponsored bullshit](#)), anti-capitalism, and anti-imperialism.

Free Ramsey Orta

There was a time, such as when a bunch of anti-war reds started the ACLU, that the Bill of Rights was seen as an instrument that might occasionally be useful to the defense of worthy causes like pacifism, labor organizing, and anti-racism. The enemies of those worthy causes, like capitalists, militarists and white supremacists, having a considerable advantage to start with, fended for themselves without the assistance of people they vocally despised, exploited, and persecuted.

Somewhere along the line, the idea that everyone has the same rights, morphed into an *obligation* to defend *anyone's* rights, despite any evidence that helping avowed enemies is less self-destructive than it appears on the surface. That we are now at a point where the Redskins trademark and lynchy frat boys garner more avid civil libertarian support than Ramsey Orta, makes the folly of this exceptionally plain in a uniquely disgusting way. But this is the predictable result of chickens making tactical alliances with wolves.

Recognizing this is not tantamount to uncritical support for things like hate speech laws. It's simply rejection of reactionary politics and whitewashed repression flying under cover of free speech fairy tales. It's to insist that, regardless of where we are on the free speech spectrum, we're no more obliged to *actively* defend racists and corporations than we are to provide a shuttle to a cross-burning.

Any friend, even an anguished friend, of a nazi, or any other flavor of white supremacist is no friend of mine. In fact, they're an enemy. This goes triple if they also insist corporations are people. White supremacy and corporations don't need our help, and anyone who says by helping them you help yourself is a liar or a fool. Whatever its proponents intend, First Amendment absolutism is, in practice, an extremely clever ruse that very obviously serves power. It's long past time to call bullshit. Also, [free Ramsey Orta](#).

h/t to Honeytrap commenters planting seeds: zoodoo for [this](#) and lorenzo for [this](#).

UPDATE 4



Guess who got representation from an expensive Texas PR firm.

Flanked by black community leaders, one of the former University of Oklahoma SAE fraternity brothers captured on video singing a racist chant apologized Wednesday to those he had hurt and said he would pledge his life to fighting racism.

“What you all saw in that video was not who I am, was not who I was raised to be and not what I

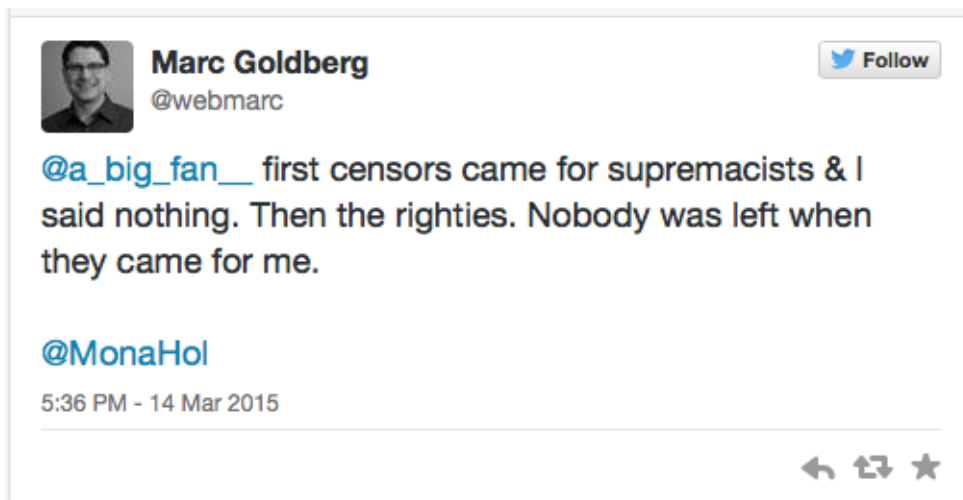
think of myself to be.”

“Black community leaders” LOL. This is what hegemony looks like.

Story and video [here](#).

UPDATE 3

[Here's](#) what you get when the shining lights of our discourse like Greenwald and Radley Balko equate racist reactionaries with dissidents. “Adults” who bastardize [Niemöller](#) to defend white supremacists. Where do you start with someone who is this politically confused?:



UPDATE 2

I've edited the first paragraph to include the news item in Update 1.

UPDATE

Look kids, another battle for white supremacy. That makes four this month and there's four days to go! Of course Club Snowwald is all about protecting the speech they hate. Do they ever defend anything else?

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