

MORE CATCALLING DEBATE ROOM NEEDED AT NEW YORK TIMES

[Update below]

So, the New York Times today has up another in their series called "Room For Debate". Today's topic is "catcalling", and the supposedly relevant question for debate is "Do We Need a Law Against Catcalling?" The 'debate' is based on the "catcalling video" that has gone somewhat viral the last couple of days. First off, let us stipulate that catcalling is disgusting and reprehensible, and there seems to thankfully be a bipartisan consensus on that. But does the New York Times make it a fair debate when it comes to criminalization of public speech? No, of course not, there are three contributors who specialize in seeking to restrict clear First Amendment speech on this subject against one token policy guy from the ACLU who gives the "whoa, hold on there" position. Hardly a "fair and balanced" fight, but the framing itself makes it crystal clear the Times did not want a fair fight.

Frankly, the fact that the NYT was determined to push the knee jerk attack on free speech side was patently obvious from the fact of their title "Do we Need a Law Against Catcalling" and that is exactly what they put up. Which, considering that the New York Times has led the pantheon of First Amendment law for decades, is a rather astounding and depressing thing. I guess the Times' love and protection of the First Amendment tails off quickly when their own rear ends and press rights are not on the chopping block. A disturbing position.

This is but the latest example of a growing victim culture trend that is willing to abandon the founding Constitutional principles, and shift inherent burdens of proof, out of emotional angst. There is the attempt to criminalize speech in via so called "revenge

porn” laws. There is the astoundingly intellectually backward desire of Ezra Klein to eliminate due process and shift the burden of proof onto the accused – presumed guilt – in state government sponsored punitive proceedings in state universities. And now this.

These are all feel good laws fighting against things that are detestable – revenge porn, non-consensual sex and flat out rape on college campuses, and verbal harassment of women on city streets and in public places. Those are all terrible things that we should all be firmly against, and I am. But just because there are terrible things out there in our world does not mean there is always an appropriate path to eradicate it through ever more broad and vague criminal laws. That is a path our founders took great care to protect against, and one we would do well to keep in mind when emotions try to overcome Constitutional protections.

So, in conclusion, no, we most certainly do NOT need a law against catcalling. Furthermore, in the true spirit of Halloween, I boo and hiss in the general direction of the hypocritical New York Times, who apparently view the First Amendment as protecting them, but not the rest of us non-journalist common citizens.

[Note: It is my belief that this will be one of multiple entries from a group of friends who are either practicing criminal defense attorneys, or heavily involved in the criminal justice system. Our own “More Room For Debate” if you will, because the Times will never seek out actual practicing criminal defense lawyers when talking about, you know, criminal laws. Those in for the debate, or hopefully contemplating it, are: Scott Greenfield from Simple Justice, Gideon from A Public Defender, and Liliana Segura from The Intercept. All of these people, and their blogs, are simply superb, and you should be reading them. When and if they post their entries at their sites, I will update with links here]

Update 1: And Scott Greenfield has weighed in

with his take.