



License to Harass: Law, Hierarchy, and Offensive Public Speech (The Cultural Lives of Law)

Laura Beth Nielsen

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Offensive street speech--racist and sexist remarks that can make its targets feel both psychologically and physically threatened--is surprisingly common in our society. Many argue that this speech is so detestable that it should be banned under law. But is this an area covered by the First Amendment right to free speech? Or should it be banned?

In this elegantly written book, Laura Beth Nielsen pursues the answers by probing the legal consciousness of ordinary citizens. Using a combination of field observations and in-depth, semistructured interviews, she surveys one hundred men and women, some of whom are routine targets of offensive speech, about how such speech affects their lives. Drawing on these interviews as well as an interdisciplinary body of scholarship, Nielsen argues that racist and sexist speech creates, reproduces, and reinforces existing systems of hierarchy in public places. The law works to normalize and justify offensive public interactions, she concludes, offering, in essence, a "license to harass."

Nielsen relates the results of her interviews to statistical surveys that measure the impact of offensive speech on the public. Rather than arguing whether law is the appropriate remedy for offensive speech, she allows that the benefits to democracy, to community, and to society of allowing such speech may very well outweigh the burdens imposed. Nonetheless, these burdens, and the stories of the people who bear them, should not remain invisible and outside the debate.

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