

Opinion: Posting Rodger video is legal, but is it right?

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A makeshift memorial is front of the I.V. Deli in Isla Vista, California, where Christopher Michaels-Martinez, 20, was murdered.

David McNew/Getty Images

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CNN —

A massacre. A kid. A videotaped "manifesto." As the news broke, inevitably, the discussion turned to the Second Amendment. But as I watched the killer's video, questions about the First Amendment began to rise. What are Elliot Rodger's post-mortem First Amendment rights? Does his screed belong in the marketplace of ideas? What about those who capitalized on it? Where does the First Amendment leave off and ethics begin?

The video was initially on YouTube, which immediately – and presumably automatically – used it as an opportunity to sell adwords. That struck some people as distasteful. After all, Google – which owns YouTube – has the unofficial credo "Don't be evil." Profiting from the

hateful ravings of a mass murderer might easily be described as evil.



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Let's cut the Internet giant some slack – it places such ads automatically on all videos. But one would hope that Google, realizing it was profiting from the words of a mass murderer, might decide the ad sales weren't worth it. On the other hand, Google isn't a public service, it is a business, and if we want that video to be on the Internet, someone has to pay for the bandwidth. That raises the question whether the video should be on the Internet at all.

Some credible scholars say that making mass murderers famous motivates other mass murderers. (One might even argue that this article is part of the problem). Elliot Rodger sent his lengthy diatribe to the media before he went on his killing spree – correctly predicting that his actions would propel his ideas (such as they were) into the marketplace of ideas on a digital billboard larger than he could ever have enjoyed had he not amplified them with his psychotic rampage.

Accordingly, should we not silence him? Wipe his words from the Internet forever? Let him be forgotten?

There is a counter-argument – let’s let everyone see him for what he was – a pathetic figure, worthy of no respect or pity. Let him stand as a negative example. We allow “Mein Kampf” to be published and even study it.

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But what of those who believe Rodger is a positive example? Sickeningly enough, some expressed admiration for what he did, as there will always be people who glorify the worst among us. While the overwhelming view is one of horror and disgust, some people put up a Facebook page praising him.

As much as I disagree with that view, my beliefs are strong enough that I can tolerate theirs. Some might say that such a perspective must be purged. The First Amendment would find such a purge to be intolerable – if enforced by the government or force of law. The First Amendment is there to protect unpopular beliefs, and the marketplace of ideas should be open to this – and I would hope that none would visit the stall in the marketplace to buy them.

That, however, ignores the issue of ethics. I have a blog. If someone wanted to glorify Rodger on my blog, I would say “my blog, my rules,” and I would not tolerate it. That would not be a First Amendment violation. In fact, the right not to speak is as precious as the right to speak.



Let's say that Rodger's supporters went from website to website and were met with rejection at every corner. Their ideas would, theoretically, die out – but they would die a natural death, condemned by a lack of nourishment in the marketplace of ideas.

Facebook initially was confronted with this dilemma; when people began to protest about the pro-Rodger page, the company allegedly took the all-too-common position we hear from arrogant tech companies: They didn't have to take it down, so they wouldn't.

Facebook was completely within its legal rights to take that position – but what an ethically bankrupt decision! Only when pressure became too great did Facebook seem to cave in to public opinion. The apparently belated reversal of position was hypocritical at best.

If Facebook wants to be an anything-goes-and-we-don't-care company, then it should have let the page be. Otherwise, the company could have taken the position that it would not allow such filth on its digital real estate. Either position would have been completely within its rights. But braying “free speech” only until it couldn't stand the heat from that decision? Shame on Facebook.

What this story shows us is not so much that our notions of free speech should be strong, but there is room for free speech and ethics. The First Amendment allows us to publish Elliot Rodger's rant and his video. The First Amendment protects our right to criticize him, to pity him, to hate him, or even to declare him a hero.

But, just as with any rights, what we can do and what we should do may not be the same thing. I would hope that we will not forget that, and that the online giants might begin to learn it.

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