

Hadalka Xorta ah iyo Hadalka Nacaybka ah: Waa maxay Halka ay ku kulmaan 'Intersections'?

Afeef: Dokumentigani looguma tala galin in uu noqdo talo dhanka sharciga ah, laakiin taasi beddelkeeda in loo isticmaalo tilmaan ahaan si loo fahmo xaddidaadaha dembi ka dhigista hadalka nacaybka ah ee Oregon iyo Maraykanka. Dokumentagani kama turjumayo aaminsanaanta ama qiyamka Qaybta Xuquuqda Madaniga ah. Waa ururinta macluumaad oo ku saleysan sharciga jira.

Ilaalinta Dastuuriga ah ee Hadalka Xorta ah

Dastuurada Maraykankaⁱ iyo Oregonⁱⁱ ayaa damaanad qaadanaya ilaalinta xorriyadda hadalka si dadka looga ilaaliyo faragelinta iyo aargoosiga **dowladda**, aan ahayn faragelinta iyo aargoosiga ka socda hay'adaha gaarka ah ama dadka aan kugu raacsanayn waxa aad tiraahdo.

Laakiin tani maxay ka dhigan tahay?

Iyada oo la eegayo adkaanshaha qeexida waxa la *ilaalinayo* iyo *hadalka xorta ah*, aad bay u fududahay in la wadaago waxa ah hadalka **aan la ilaalinayn**. Hadalka aan la ilaalinayn—halkaasi *ay dhici karto* in dowladdu wax soo farageliso—waxaa ka mid noqon kara:

- Been ku dhaarasho (in lagu dhaarto been)
- Wadaagista macluumaadka ganacsiga gudahaⁱⁱⁱ
- Hadalka magac dilka (sumcad dilka)^{iv} oo ah dhanka afka)
- Sharaf dilista^v (hadal sumcad dilis ah oo qoraal ah)
- “Hanjabaadaha runt ah” sida ay qeexday Maxkamadda Sare ee Maraykanka iyo 9th Circuit Court of Appeals^{vi}
- Hurinta colaadeed ee fal ah argagax/rabshad/sharci darro^{vii} oo ah:
 - Soo fool leh^{viii} oo
 - U badan tahay^{ix}.
- Sawirrada 'graffiti' oo waxyeeleeya hantida qof kale
- Macluumaadka qaldan ee hadal ganacsi (tusaale, shirkadaha bixinaya macluumaad wax marin habaabinaya, hadalo been abuur ah, ama sheegashooyin been ah oo ah hab waxyeelayn doono macaamiisha)

- Muuqaalada falalka galmada ee carruurta^x
- Asturnaanta iyo xatooyada qoraal qof leeyahay^{xi}

Waa maxay sababta uu hadalka nacaybka ah uusan ugu jirin liiska?

Hadalka nacaybka wuxuu tilmaamayaa hadalka xadgudubka leh ee si gaar ah loo beegsanayo qof ama dad, iyada oo sababtu tahay jinsiyadooda, midabkooda, dalka ay ka soo jeedaan, qowmiyaddooda, diintooda, jinsigooda, aqoonsigooda jinsi ahaaneed, dookhooda galmo, ama naafanimadooda. **Oregon dhexdeeda, hadalka nacaybka wuxuu ka dhigan yahay “dhacdada eexda” sida ku cad [ORS 147.380](#) marka hadalku la xiriiro sida dhabta ah ama loo arko jinsiyada, midabka, dalka laga soo jeedo, qowmiyadda, diinta, aqoonsiga jinsi ahaaneed, dookha galmo, ama naafanimada.**

Hadalka nacaybka ah iyo dhacdooyinka eexdu ma aha dembiyo. Hay’adaha dhaqangelinta sharcigu ma laha awood ay ku joojiyaan, aamusiiyaan, ku xidhaan qof ku kacaya hadal nacayb ah ama dhacdooyinka eexda. Si kastaba ha ahaatee, marar badan, hadalka nacaybka ah iyo dhacdooyinka eexdu lagu sameeyo deegaano gaar ah ayaa ka dhigan Ku xadgudubka Xuquuqda Madaniga ah—sida haddii ay ka dhacdo shaqada, goob daryeel caafimaad, dugsiga, ganacsi ama maktabadda, ama xataa guriga. Hay’adaha gaarka ah, nidaamyada warbaahinta bulshada^{xii}, ciddaha loo shaqeeyo ee gaarka ah, iyo dugsiyada, ayay dhici kartaa in ay leeyihiin shuruudaha sida wax loo isticmaalo oo mamnuucaya hadal gaar ah, oo uu ku jiro hadalka nacaybka ah; mamnuucidani sida caadiga *ahma aha* ku xadgudubka dastuurada Maraykanka iyo Oregon.

Hadalka nacaybka ah iyo dhacdooyinka eexda waxaad had iyo jeer [u soo sheegi kartaa Khadka Ka Jawaabida Eexda ee gobolka Oregon](#), waxaana dhici karta in ay jiraan fursadaha tallaabooyinka xiga oo aad heli karto oo loogu talagalay qofka la beegsaday.

[Ka waran Qaybinta Warqado Badan ‘Mass Flying’?](#)

Magaalooyin iyo xaafado badan oo ka tirsan Oregon ayaa lagu beegsaday ololaha qaybinta warqado badan ‘mass flying’ halkaasi oo ka soo horjeedka-Jewish-ka iyo farriimo weerar ah oo dheeraad ah lagu wasakheeyo albaabada, muraayadaha baabuurta, sanduuqyada boostada, iyo wadooyinka la maro. Magaalooyinka qaarkood ayaa leh ammaro lagaga soo horjeedo qaybinta warqadaha ‘flying’ kuwaasi oo mamnuucaya *mid kasta iyo dhammaan* qaybinta warqadaha ‘flying’,

oo ay ku jiraan boodhadhka eyda lunta, macluumaadka musharaxiinta siyaasadda, ku dhawaaqida furitaanka ganacsiga weyn, ogeysiisyada garaashka wax lagu gado, iyo farriimaha wax lagu beegsado/nacaybka ku dhisan. Amaradaasi ma aha dembiyo-ciqaabeed, laakiin waxay keeni karaan in la ganaaxo qofka qaybinaya iyaga. U soo sheegida hay'adaha dhaqangelinta sharcigu waa mid muhiim u ah soo ururinta caddeynta iyo baaritaanka haddii qaybinta warqadaha 'flying' ay noqon karto dembiilanimu sida ku cad Dembiga Eexda ee Oregon ee xeerarka Darajada Labaad ([ORS 166.155](#)). Falkani waxaa sidoo kale [loo soo sheegi karaa Khadka Ka Jawaabida Eexda ee gobolka Oregon](#), wixii la xiriira la socodka xogta, taageerada, qorsheynta dhanka ammaanka, iyo ilaha dheeraadka ah.

Macluumaadka iyo Ilaha Dheeraadka ah

Difaacida Dadka aan Difaaca lahayn

Dadka Maraykanka iyo Oregon waxaa ilaalinta xorriyadda hadalka oo xoogan loogu daray dastuurada federaalka iyo gobolka. Sameynta taasi, dadku waxay doorteen in ay "difaacaan dadka aan difaaca lahayn" oo ilaaliyaan—xorriyadda hadalka ahaan—hadalka nacaybka ah ee ka imaanaya faragelinta dowladda. Qayb ka mid ah wax falanqeyntu waa ayaa iska leh go'aanka halka aan jeexayno khadka? Haddii mas'uuliyiinta dowladda, kuwaasi oo asal ahaan ah shakhsiyaad siyaasadeed oo loo doorto xilka oo inta badan ku saleysan xiriirkooda siyaasadeed ee ay leeyihiin, ayaa mas'uul ka ah dejinta heerarka iyo go'aaminta xukunka ku saabsan waxa uu yahay hadalka aan la oggolayn, xaddidaadahani way isbeddeli doonaan iyada oo ku xiran jilaaga siyaasadeed ee xilka haya, iyada oo awooda wax lagu aamusiinayo ama lagu tafatirayo loo adeegsan doona mucaaradka. ^{xiii}

Kiisaska Maxkamadda Sare ee Hadalka Xorta ah

Maxkamadda Sare ee Oregon iyo Maxkamadda Sare ee Maraykanka ayaa marar badan u ilaaliyay hadalka nacaybka sida in uu yahay hadalka xorta ah. Waxaa jira fasallada dugsiyada sharciga oo dhan oo ka dooda kiisaska hadalka horta ah, laakiin halkani waxaa ku jira laba kiis oo aad rabto in aad ogaato:

Skokie

Mid ka mid ah kiisaska hadalka xorta ah ee ugu caansan waxaa loo yaqaanaa *Skokie*, ama National Socialist Party of America, (NSPA) v. Village of Skokie, 432 U.S. 43 (1977). NSPA, oo ah koox neo-Nazi, ayaa si joogto ah u qabtay mudaharaadyada caddaanka awoodda ku faana iyaga oo xiran astaantooda swastika oo lagu xardhay gacmahooda iyo faafinta isir iyo diin nacaybka, oo ugu horreyntii ka dhanka dadka

Jewish-ka iyo dadka aan Caddaanka ahayn. Village of Skokie ayaa gudbisay amar oo dejisay awaamiir ay ku doonayso inay kaga hortagto banaan baxa iyo hadalada nacaybka ee soo raaca. Ugu dambeyntii, USSC ayaa xukuntay in “haddii Gobolka raadiyo in uu xaddidaad ku soo roggo xuquuqda First Amendment, waa in uu bixiyaa ilaalinta habraacyada oo adag, oo ay ku jiraan codsi dib u eegis oo degdeg ah. ... Maqnaanshaha dib u eegidani, Gobolku waa in uu taasi beddelkeeda oggolaadaa joogis. Amarka Maxkamadda Sare ee Illinois ayaa ka dhigan diidmada xuquuqdaasi.”^{xiv}

Johnson

Oregon dhexdeeda, State v. Johnson, 345 Or. 190,191 P.3d 665, wuxuu ahaa go'aanka Maxkamadda Sare ee Oregon oo meesha ka saaraya hal oo qayb ka mid ah xeerarka Wax dhibaateynta ee Oregon sida ku cad ORS 166.065(1)(a)(B), kaasi oo bixinaya:

Qofka wuxuu galay dembi dhibaateyn ah haddii uu qofku si ula kac ah:

(a) : U dhibaateeyo ama ka xanaajiyo qof kale isaga oo:

(B) Si fagaare ah ugu aflagaadeeyo qofka caynkaasi ah erayo xadgudub leh ama tilmaamo kaasi oo ah hab loogu talagalay oo ay u badan tahay in uu keeno falcelin rabshad leh.

Eedaysane Johnson ayaa ku qayliyay nacaybka jinsi gaar ah ‘homophobia’ iyo cay lagaga soo horjeedo dadka Madaw/Maraykanka Madaw oo loo geystay laba dhibbinayaal dembi ah iyaga oo baabuurkooda si dhow loo daba socdo muddo shan daqiiqo ah taraafikada dhexdeeda, isaga oo aanan marnaba si dhanka afka uga hanjabin ama ku kicin rabshad dhab ah, balse isku dayaya in uu mid ka mid ah dhibbanayaasha ku huriyo rabshad. ORSC waxay ogaatay in “xataa hadal looga dan leeyahay ama u badan tahay in uu keeno rabshad ay dhici karto in aanan laga dhigin dembi haddii aysan ka ahayn rabshad soo fool leh.” Maxkamaddu waxay tilmaantay in sharciga, sida uu u dhigan yahay, “uu meesha ka saarayo hadal badan oo la ilaaliyo in uu badbaado ... caqabad.” Iyada oo eedaysane Johnson “odhaahdiisa ay dhici karto in ay ahayd mid ixtiraam darro ah ... in gobolku ay dhici karto in uusan cadaadin karin dhammaan hadalada meel ka dhac ku ah kooxda sharciga dembiyada.... Xataa marka sharci-dejintu raadiso in ay ka hortagto rabshada uu keeno hadalku, waa in ay ka taxadirtaa in aysan sidaasi yeelin iyada oo dembi ka dhigaysa hadalka la ilaaliyo.”^{xv}

Akhri iyo dhageysi dheeraad ah oo ku saabsan hadalka xorta ah:

ACLU’s At Liberty Podcast, [Weydii Khabiir: Waa maxay Hadalka Xorta ah?](#)

Ururka Xorriyadda Madaniga ah ee Maraykanka ee Oregon [Warbixinta kooban ee Warqada Hadalka Xorta ah](#)

[Hadalka Xorta ah marka la joogo Gobolka Oregon](#)

Pew Research Center's [ee Maraykanka iyo “Joojinta Dhaqanka’: Halka Qof U arko in uu Yahay Baaq ah Isla xisaabtan, Kuwa kale Waxay u arkaan Faafreeb, Cigaab](#)

The Race Beat: The Press, the Civil Rights Struggle, and the Awakening of a Nation by Gene Roberts and Hank Klibanoff

ⁱ Xuquuqda First Amendment ee Dastuurka Maraykanka ayaa oranaya:

Congress-ku ma aha in ay sameeyaan sharci ixtiraamaya aasaasida diin, ama mamnuucaya xuquuqda gudashada diinta la xiriirta; ama soo koobida xorriyadda hadalka, ama saxaafada; ama xuquuqda dadka si nabad ah iskugu imaanayaan, iyo in ay ka codsadaan ‘petition’ Dowladda wax ka qabashada cabashooyinka.

ⁱⁱ Iyada oo Qoddobka I § 8 ee Dastuurka Oregon oranayo in:

Aanan sharci la ansixin xakameynaya muujinta hadalka xorta ee aragtida, ama xaddidaaya xuquuqda loo leeyahay in si xor ah loo hadlo, wax loo qoro, loo daabaco maado kasta wax kasta oo ah tahay; balse qof kastaa waa in uu mas’uul ka ahaadaa ku xadgudubka xuquuqdani.

ⁱⁱⁱ <https://www.mtsu.edu/first-amendment/article/819/securities-and-exchange-commission>

^{iv} Oo macnaheedu yahay waxyeelo u geysashada sumcada wanaagsan ee qof iyada oo la adeegsanayo hadal been ah. Tani ma aha qeexid sharci ah.

^v [https://www.law.cornell.edu/wex/new_york_times_v_sullivan_\(1964\);_New_York_Times_v_Sullivan_Podcast](https://www.law.cornell.edu/wex/new_york_times_v_sullivan_(1964);_New_York_Times_v_Sullivan_Podcast)

^{vi} Watts v. United States, 394 U.S. 705 (1969), <https://supreme.justia.com/cases/federal/us/394/705/>; United States v. Keyser, 704 F.3d 631, 638 (9th Cir. 2012); United States v. Bagdasarian, 652 F.3d 1113, 1118 (9th Cir. 2011)

^{vii} [Brandenburg v. Ohio](#) (1969), <https://supreme.justia.com/cases/federal/us/395/444/>

^{viii} “loola jeedo hurinta ama sameynta fal sharci darro ah oo soo fool leh,” [Brandenburg v. Ohio](#) (1969)

^{ix} “u badan tahay in ay huriso ama keento falkani oo kale,” [Brandenburg v. Ohio](#) (1969)

^x Alliance for Community Media v. FCC, <https://law.justia.com/cases/federal/appellate-courts/F3/56/105/623915/>

^{xi} <https://news.winona.edu/insights/the-nature-of-free-speech-and-responsible-speech/>

^{xii} Wixii macluumaad dheeraad ah ee ku saabsan shuruudaha sida loo isticmaalo nidaamyada warbaahinta bulshada, fiiri [Tilmaamahayaga Ka hortagga Daabacaada Macluumaadka](#).

^{xiii} American Civil Liberties Union At Liberty Podcast | Ask an Expert: Waa maxay Hadalka Xorta ah?

<https://www.aclu.org/podcast/ask-an-expert-what-is-free-speech>

^{xiv} <https://www.law.cornell.edu/supremecourt/text/432/43>

^{xv} <https://law.justia.com/cases/oregon/supreme-court/2008/s055085.html>