

LIFE, LIBERTY, AND THE PURSUIT OF EQUITY—SAY WHAT?



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America's divisive and, at times, venomous political climate has complicated discourse surrounding current events and constitutional issues, including reproductive rights, LGBTQIA+ rights, and gun control. We are living in a world that seems overwhelmingly precarious and polarized.

Speaking about these sensitive topics at work or with professional colleagues, while attempting to maintain professional neutrality and an inclusive environment, feels like tiptoeing through a minefield. Staying silent on these issues feels worse. Not to mention the fact that, professionally, many lawyers cannot avoid discussing these thorny constitutional issues because their jobs require them to tackle these issues head on. Even if you can escape talking about hot button topics professionally, every lawyer has *that* relative who, simply because there is a JD behind your name, wants to engage in a spirited, and often uninformed, debate about legal rights.

So how do we engage in meaningful, respectful discourse on these polarizing issues?

Different strokes for different folks

Recognize that everyone comes to these conversations with different perspectives, backgrounds, and emotional baggage. When discussing reproductive rights, you may be speaking with someone who had an abortion or someone who opposes abortion because of their religion. You could be talking

about gun control with someone who has personally used a gun to protect their loved ones, someone who enjoys hunting, or someone who lost a friend or family member to gun violence.

It is easier to have a productive conversation if you know where the mines are hidden before you start driving through that minefield with a verbal bulldozer. One way to open dialogue about controversial issues is to explain your own personal connection and acknowledge that it may color your view. For example, when it comes to the issue of gun control, it could be as simple as, "Thankfully, I don't know anyone who has been killed by gun violence. But I grew up in a small rural town where guns were prevalent. Once someone jokingly stuck a gun in my face. It was a pretty traumatic experience. I'm sure that impacts my views on gun control." Then invite (but do not pressure) the other person to share any personal connections they have. Sharing personal stories can help you engage in the conversation from a position of trust and understanding.

Safety first

Before engaging in a discussion about a difficult topic make sure that everyone feels comfortable in their environment. Ask yourself who is in the conversation and who can overhear the conversation. An individual may feel uncomfortable speaking about issues that personally impact them in front of their supervisor or client. Beware of people who

can eavesdrop or those who might enter the conversation mid-stream and change the dynamic. Check yourself, too. Is there a power dynamic that you bring to the group that could make people uneasy? End the discussion if you sense any discomfort.

In order to create a safe space for dialogue, the individuals participating in the conversation need to know that all personal views and feelings will be respected and kept confidential. Personal attacks should be immediately addressed and shut down. If someone's comments hurt your feelings, acknowledge that the comments, not the person, are hurtful. Ultimately, not everyone has to agree and that is okay as long as you encourage compassion, tolerance, and appreciation for a real-life struggle.

Watch your mouth

Cultivating an environment where open dialogue can freely occur goes beyond keeping personal attacks in check. Judgmental language must also be avoided. One way to sensitively approach conversations is to make "I" statements (I believe, I feel, I think) instead of the more accusatory sounding "you" or "they" statements. It's also helpful to bring facts to the table so you can convey your beliefs through the use of hard evidence.

The specific terminology you use can make a big difference in keeping the conversation open or shutting it down. For example, in reproductive rights conversations, do not refer to aborting babies or children. It's more politically correct to say ending a pregnancy or having an abortion. Instead of baby or child, use the words embryo and fetus. Make sure you understand what concepts actually mean and their implications. For example, the term "pro-life" can make pro-choice advocates bristle because it suggests that pro-choice supporters have less regard for human life.

You may overhear new gender-neutral, inclusive phrases surrounding abortion discussions such as "pregnant people," "birthing people," or "bodies with vaginas." These phrases encompass all those who may become pregnant such as trans men and non-binary individuals.¹ There is a debate about

whether this inclusive language and the intentional omission of the word "women" detracts from the overall message. When faced with pushback, Louise Melling, a deputy legal director for the ACLU, responds that language is a powerful instrument and helps to determine political consciousness. "Language evolves and it can exclude or it can include. It's really important to me that we think about pregnant people. It's the truth: Not only women give birth, not only women seek abortion."² Regardless of your views, be respectful of others' preferred terminology.

When it comes to Second Amendment and gun control discussions, it is important to understand the meaning behind the words you are using, as well. The language can be tricky. The term "assault weapons," for example, is among the most divisive phrases in debates over gun control.³ Gun rights advocates contend that a firearm "should only be called an assault weapon when it's capable of fully automatic fire."⁴ Fully automatic weapons, those weapons which continually fire when the trigger is squeezed, are heavily regulated, expensive, and only comprise a small number of weapons owned by citizens in the United States. By comparison, a semi-automatic firearm shoots a single bullet each time the trigger is squeezed, but then reloads automatically. The majority of firearms in the United States are semi-automatic. Consequently, instead of using the term "assault weapon" to describe semi-automatic weapons, many gun control advocates opt for "assault-style" or "military-style" weapon.⁵ Using the correct vocabulary when engaged in these discussions is critical to establishing credibility and trust.

Radical listening

Listening is an art form and is necessary to creating an environment where others feel comfortable having an open dialogue. Bob Chapman, CEO and author of the bestseller *Everybody Matters: The Extraordinary Power of Caring for Your People Like Family*, famously said, "The art of listening is not to hear what someone says, but to hear how they feel." The person at the other end of the conversation needs to feel heard and understood.

The problem is that people, especially lawyers, are not always trained or socialized to listen. Rather we are taught that successful people know how to speak well and convey innovative ideas. Awards are given for excelling at public speaking, not for listening prowess. Listening involves more than just paying attention to what people are saying. You also have to be tuned into non-verbal cues, the context surrounding the conversation, and how others' words are impacting you.

Technology has hindered our ability to listen, engage, and discuss controversial topics. Social media allows us to filter out opposing views, which has a detrimental effect on our tolerance for dissent. Similarly, many news sources are carefully curated to obtain a larger audience by catering to one political side or the other. In a New York Times article on listening, Kate Murphy explains the fallout from this self-selection of news, "If people are listening to anything, it's likely through headphones or earbuds, where they feel safe inside their own curated sound bubbles." People are so used to controlling their communications that they "find phone calls intrusive and ignore voice mail preferring text or wordless emoji." Murphy ultimately concludes that this behavior "is all fueling what public health officials describe as an epidemic of loneliness in the United States."⁶

The good news is that listening is a learnable skill, but, like public speaking, one that requires practice.

Some suggestions on how to become a listening pro include:

- Allow the other person to say everything on their mind. As author and inspirational speaker Simon Sinek says, one of the parties in a difficult conversation needs to be able to "empty the bucket." Only then are you able to find common ground in opposition because you have built trust and understanding.⁷
- Do not jump into defensive mode and point out flaws in someone's logic. Lawyers, in particular, have a bad habit of talking over one another and always thinking about the next comeback instead of listening and processing the other point of view.⁸
- Try to stay focused on what the other person is saying. We tend to zone out and get distracted by our thoughts (or, worse, our phones) or assume we know the answer. Practice with a meditation that trains you to focus on putting distracting thoughts aside and listening with your full attention.⁹

It is not easy to navigate discussions about our country's constantly evolving constitutional law landscape or the explosive issues that capture today's headlines. However, if we focus on listening with curiosity and with an eye toward understanding, rather than listening to reply, we can slowly rebuild trust and move toward respectful, meaningful discourse and action. 🗨️

Notes

1 Michael Powell, A Vanishing Word in Abortion Debate: Women," N.Y. Times, June 8, 2022, available at <https://www.nytimes.com/2022/06/08/us/women-gender-aclu-abortion.html>.

2 Id.

3 John Haltiwanger, A breakdown of gun terminology to help you in discussions on mass shootings and debates over gun control, Bus. Insider, May 24, 2002, available at <https://www.businessinsider.com/terms-to-know-about-guns-when-discussing-mass-shootings-2019-8#semi-automatic-vs-automatic-1>.

4 Id.

5 Id.

6 Kate Murphy, Talk Less. Listen More. Here's How. N.Y. Times, Jan. 9, 2020, available at <https://www.nytimes.com/2020/01/09/opinion/listening-tips.html?action=click&module=RelatedLinks&pgtype=Article>.

7 Simon Sinek, The Art of Listening at <https://www.youtube.com/watch?v=qpnNsSyDw-g>.

8 Id.

9 Id.