

Why is Free Speech Essential to Self-Government?

BACKGROUND ESSAY

Are words and ideas, and the variety of ways we express them, really that important to self-government? For Americans of all walks of life, the answer has forever been a very simple one: yes.

Do you ever disagree with those in authority: your teacher, the governor, or the president? If you voice your opinions peacefully, will you be silenced and punished by the government? No, because the First Amendment protects freedom of speech. Individuals must also be responsible when using speech. For instance, it is unlawful to yell “fire” in a crowded area if there is no fire.

Why Does the Bill of Rights Protect Speech?

“A man has a property in his opinions and the free communication of them,” (James Madison, 1792). To James Madison, Father of the Constitution, man not only owned his thoughts, but owned the right to express them as well. This right—so vital to the very concepts of liberty and self-government—is protected in the Bill of Rights because the British had long censored political debate, and the Founders knew how powerful speech could be.

Madison envisioned a society in which citizens vigorously and fully

participate in discussions about political topics. Such discussion not only promotes self-government through participation, but acts as a “safety valve” for society. If not for free and open speech, people might resort to violence. Free speech also fosters an energetic and creative society, and can act as a further “check” on the power of government as citizens are left free to criticize it. Madison felt that everyone should be guaranteed this right, no matter how unpopular one’s views may be.

How Does Free Speech Promote a More Peaceful and Self-Governing Society?

The First Amendment protects four ways for citizens to participate in the public exchange of ideas. These are the rights to free speech, assembly, petition, and press. These four freedoms promote the foundation of a free and peaceful nation.

The freedom of Americans to express their opinions provides for a more stable society. Groups—even unpopular ones—have a chance to air their views and persuade their fellow citizens. In return, their views are open to challenge in a fair manner. This dialogue serves as a “vent” for those who might

hold extreme views, lessening the chance that they turn to violence as recourse for going unheard. The danger of tyranny—an individual or small group seizing control of government and forcing their beliefs on others—is diminished when citizens feel like they've had a fair hearing, even if they fail to convince their fellow citizens.

Self-government is not possible when speech is stifled. If citizens cannot challenge their government and leaders, the chances increase that government will not serve the people. Sharing ideas and taking part in the political process gives citizens the chance to tell officials how they wish the government to act. People can hold elected officials accountable through publicly questioning their activities and joining together with others to demand a better, more honest government that acts in the best interests of the people. Along with the right to free speech, the First Amendment's protection of a free press enlightens citizens to abuses of power and allows them to right such wrongs at the ballot box. These crucial rights serve as the first line of defense in the preservation of self-government.



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Does the First Amendment Protect All Speech?

While the First Amendment provides very broad protections of speech, it does not necessarily protect every type of speech in which citizens wish to engage, and the Supreme Court has worked to shed light on the meaning of the freedom of speech—and its boundaries—over the past century.

In *Brandenburg v. Ohio* (1969), the Supreme Court drew one such boundary of First Amendment protection. In this case, Brandenburg, a Ku Klux Klan leader, was seen on film giving a speech that the State of Ohio claimed violated its law against advocating violence. In his speech, he alluded to what he called "revengeance," but ultimately he called for a July 4th march in the nation's capital. The Supreme Court ruled that Brandenburg's speech was indeed protected by the First Amendment, but in doing so drew a limit with regard to free speech. While Brandenburg might have encouraged unlawful action, he did not do so in a way that incited people to "imminent lawless action," or immediate illegal behavior. If he had, his speech would not, the Court ruled, have been protected speech.

There are other boundaries as well. The First Amendment does not protect

speech that intentionally spreads falsehood about someone's character, such as libel or slander. It does not protect speech that maliciously puts others in harm's way, such as speech that is likely to start a riot, incite a panic, or otherwise threaten public safety. The government may outlaw certain types of obscenity and put into place "decency" standards that limit the things said or done on public airwaves during certain viewing/listening times, all without being in violation of the First Amendment. Speech that poses a national security concern, such as publicly revealing troop movements, can also be limited. Finally, all speech may be subject to reasonable time, place and manner restrictions, so long as such restrictions are applied to all individuals or groups, regardless of their particular message.

The Constitution and You.

Other types of speech are highly contested throughout the nation. For

instance, some people believe that "hate speech" (speech against a specific group) should not be protected by the First Amendment. But others argue that all speech, no matter how offensive, should remain protected, because prosecuting what some call "hate speech" may end up limiting the right to express negative views and, therefore, could limit citizens' right to free speech.

The First Amendment was designed by the Founders to protect YOUR ability to participate in self-government and live in peace with those who think differently from you. While our Founders ultimately meant to protect political speech, the scope of the First Amendment has evolved over the years. It now encompasses the variety of ways you "express" yourself, including ways beyond spoken or written words. The freedom of speech is one of the first and most important ways you participate in your society, and it is key to living a life of liberty.

Comprehension and Critical Thinking Questions:

1. What did James Madison believe people "owned" as a natural right, and why is such a right protected in the Bill of Rights?
2. How does the right to free speech help to create a more peaceful and stable society?
3. How does the right to free speech foster a self-governing society?
4. What types of speech, if any, does the First Amendment NOT protect?
5. In what ways is the right to free speech important in YOUR daily life?
(2-3 sentences)

What Do I Believe About the Freedom of Expression?

Directions: With your partner, consider and discuss the following statements concerning your beliefs about what freedom means, and what expression should be protected by the First Amendment. You and your partner DO NOT need to be of the same opinion, and can certainly have a different response to any of the statements below. It is, however, important and helpful to discuss each of the statements one by one. Answer by checking either AGREE, DISAGREE or MAYBE. If you feel you need to state a reason or an explanation for any of your positions, you may do so on the EXPLANATION line under each statement.

I BELIEVE...	AGREE	DISAGREE	MAYBE
1. ...that the protections of the First Amendment are some of most important ways we maintain a free society of self-governing citizens.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EXPLANATION:			
2. ...the First Amendment should protect the widest possible range of ways people choose to express themselves.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EXPLANATION:			
3. ...that there are times when government can reasonably limit what people say, or the ways in which they express themselves.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EXPLANATION:			

I BELIEVE...

AGREE DISAGREE MAYBE

4. ...that things that some, even many, find obscene or indecent should be protected by the First Amendment.

EXPLANATION:

5. ...that sexually explicit material, including pornography, should be protected expression.

EXPLANATION:

6. ...that the things I say or do online should be as protected by the First Amendment as the things I say or do in "real life."

EXPLANATION:

7. ...that strong anti-bullying laws or policies are important, even if it restricts what people say or do online, or in school.

EXPLANATION:

8. ... that burning an American flag, or a cross, as a method of protest should be protected expression.

EXPLANATION:

9. ...that the message someone is trying to communicate always deserves protection, even if they do it in ways that are very offensive to others.

EXPLANATION:
