

The controversial issue of flag burning philosophy essay



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There is a proposed amendment to make flag burning illegal. Congress tried to pass the Flag Protection Act of 1989, but the act failed because it is seen as a form of public protection. There have been other attempts to pass legislation to protect the American flag but all of the attempts have failed so far.

Flag burning is very controversial because people have different definitions of what “ freedom of speech” means and what our flag stands for. This essay explores these definitions from the proponent’s viewpoint for a law protecting the flag and the opponents view point against such a law. The most debated question being asked at this time is: is flag burning protected under the First Amendment guaranteeing the freedom of speech? It all depends on how a person defines the flag and interprets the First Amendment.

In order to help answer this question let’s begin by defining what a flag is. The proponents (veterans, Citizens Flag Alliance, and other organizations of this type) of the amendment for protection of the flag define the flag as a “ cultural artifact with meaning significance, and usage determined by the particular system employing it (Guenter 18).” Some flag historians have recognized the impact of culture on the shifting significance and usage of the national banner, although no one has ventured a full-scale probe of the subject (Guenter 16). The flag in the beginning was a symbol of freedom and enlightenment. The flag design has even changed. The very first flag contained thirteen stars that were in a circle with the red and white stripes. As the nation grew so did the flag, until the flag became what we know of it today.

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The proponents also feel that, the flag should never be used for advertising purposes in any manner whatsoever ([www. legion. org/flagcode. htm](http://www.legion.org/flagcode.htm)). It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkin or boxes or anything that is designed for temporary use and discard (www. legion. org/flagcode. htm). Advertising signs should not be fastened to a staff or halyard from which the flag is flown. No part of the flag should ever be used as a costume or athletic uniform (www. legion. org/falgcode. htm).

However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin being a replica should be worn on the left lapel near the heart (www. legion. org/flagcode. htm).

The American flag is known through out the world as a symbol of freedom, prosperity, and even enlightenment. The American flag is a result of our (United States) revolt against Britain.

The opponent's view of the flag is clearly different. The opponents of this amendment define a flag like the New American Webster Handy College Dictionary. Which states, " a flag is a piece of cloth bearing a design for display as a signal, standard, etc. (286)." According to the opponents of the amendment a flag is just the rectangular piece of material that has stars and stripes on it. Excluding clothing, hats, napkins, and any other item that contains the red, white, and blue colors with stars and stripes.

The proponents of this amendment define the flag as any piece of material that is representative of the pattern that we (society) know as a flag. While the opponents of this amendment believe that the flag is just the piece of material that is for display purposes, viewed as a standard. The two sides of this argument have clearly defined their positions yet they fail to be specific. Both side of this controversy look to the First Amendment for clarification.

In the first amendment of the American constitution it states, “ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise there of; or abridge the freedom of speech, or of the press; or the right of the people peaceable to assemble, and to petition the government for a redress of grievances (Constitution of the United States).”

The proponents of the flag burning amendment believe that the burning of a flag does not fall under the protection of the First amendment. The reason is because burning a flag is not an expression of speech but rather an act. In the case of Texas V. Johnson, Chief Justice William Rehnquist stated that “ flag burning is the equivalent of an inarticulate grunt or roar that is . . . most likely to be indulged in not to express any particular idea, but to antagonize others (Stephens & Scheb 446).” He also goes on to state, “ the flag is the symbol of our Nation, a uniqueness that justifies a governmental prohibition against flag burning (Stephens & Scheb 446).”

According to the opponents of the flag burning amendment, this amendment not only applies to pure speech but writing also. Rather, the opponents of the flag burning amendment feel that the First Amendment potentially protects communication of any kind. Protest, demonstrations, performances, advertisements, artistic endeavors-all of these are ambit of expression.

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Basically the First Amendment protects communication no matter what its nature or medium. Does this mean that our right to free speech is absolute?

An example that would coincide with this definition is the Gregory Johnson case that happened in Texas. In 1984, a man named Gregory Johnson stood outside of the Republican National Convention in Dallas, Texas publicly burnt an American Flag. He was prosecuted under a Texas law prohibiting flag burning. The case went all the way to the Supreme Court. The Supreme Court ruled that the Texas law was unconstitutional. Their reasoning behind this ruling was the fact that it was a form of protest.

The opponents of the flag burning amendment have come to these definitions as a way to distinguish what a flag is and what it isn't. The Supreme Court has not specifically looked at the topic matter of "symbolic speech". The opponents of this amendment feel that just because the amendment states, "Congress shall make no law" doesn't make the statement is absolute. The Supreme Court may restrict the freedom of speech just on the premise of what affect it (the act or expression) may have (Epstein & Walker pg. 204). The protection of the first amendment according to Stephens and Scheb, the protection of the First Amendment is not limited to pure speech (444). "Symbolic speech" can be applied to a variety of nonverbal communication that is subject to First amendment protection (Stephens/Scheb 444).

Throughout the sixties there were many nonverbal protests against the war. These were protected under the First amendment because of symbolic speech reasoning. An example of this is from the Supreme Court case *Tinker V. Des Moines Independent Community School District* (1969). This case is <https://assignbuster.com/the-controversial-issue-of-flag-burning-philosophy-essay/>

an example of this because of a black armband that was worn to school as a “less defiant” form of protest to the Vietnam War. Another example of symbolic speech is the burning of a draft card. In the same year (1969) the Supreme Court focused on the verbal expression rather than symbolic speech.

Once again the definition and the interpretation of the First Amendment prove that this issue is difficult to solve. The proponents feel that it is a way to preserve the values that America stands for, but the opponents feel that this amendment will hinder their rights as citizens of America. Which side is right? I guess it is up to each of us (citizens of America) to decide what we feel is right and take a stand on this issue.

For further insight into this controversial topic I conducted a survey of fifty college students. The students ranged in age from 18 to 40. The students surveyed were from many different ethnic origins, and different backgrounds. The survey consisted of six questions that inquired about the public's views on the proposed Flag Burning Amendment. According to the survey, 65% of people polled said an amendment that makes burning a flag illegal is a violation of the First Amendment. Many of the responses had the same reasoning behind the answer, “if that is what a person believes than it is protected.” While 90% of those surveyed responded that they felt no sense of protection for the flag while saying the pledge of allegiance.

The results of the survey are interesting. It appears that most people oppose the proposed amendment. Which leads people right back to the beginning, what is the meaning of freedom of speech and what does our flag stand for?

The issue of flag burning will continue for a while, but in order to understand <https://assignbuster.com/the-controversial-issue-of-flag-burning-philosophy-essay/>

the issue one must take the time to really think about what they believe in and what they feel is right. It is only through action that we (humans) are able to change the ills of the world. If we change the world by protecting the flag or burning the flag we (citizens of the US) have the rights and freedoms to do such. America is about freedom and happiness; we should take a lesson from the past and try to strive for freedom and happiness, so that we can become a better nation.