

Freedom of speech



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Essay James Madison, who originally drafted the First Amendment, had proposed two amendments with regard to the freedom of speech. The first amendment proposed that people shall not be deprived or abridged of their freedom to speak, to write or to publish their thoughts and the second proposed that states shall not violate the rights of conscience or of the press. This was incorporated as the First amendment in the 1920s, through a ruling of the Supreme Court, much later after it was proposed. This was done with the view that protecting the freedom of speech could help to uphold certain values such as truth, to involve ordinary citizens in political-decision making, to strengthen the community, for self-fulfillment of the individual, to help check abuse of governmental power, to promote tolerance and to create a more robust community (Introduction to the Free Speech Clause).

The Supreme Court has been more protective of political speech compared to other commercial speeches. For example, the first amendment does not give rights to individuals to lie about other people (First Amendment: Speech). The expression of artists and the use of symbolism are also protected under the first amendment (Camp, 2005). However the first amendment provides protection only to a lesser extent to commercial speech, defamation, speech that would be harmful to children, those broadcast on radio and television and speech given by public employees. On the other hand the freedom of speech offers no or limited protection to obscenity, child pornography, speech that advocates the use of force or law violation or causing panic, true threats like fighting words, sedition, blackmail, perjury and those which solicit to commit crimes (Camp, 2005; Cohen, 2008).

In addition to having its reservations in providing protection to speeches, the <https://assignbuster.com/freedom-of-speech-essay-samples-2/>

first amendment has incorporated time, place and manner restrictions to speeches that enjoy a very elaborate protection under the first amendment. These would be upheld if the speeches are not sufficiently justifiable, or are tailored in a way to suit governmental interest or if they do not leave open other alternative channels of communication. While music is acknowledged as a form of communication and expression, which enjoys complete protection under the amendment, the Court has placed volume restrictions for outdoor music. The amendment also provides rights to a city to place “ zoning restrictions on adult theatres and bookstores”, despite them being fully protected by the amendment, if the goal is to prevent crime and to maintain property values in the area concerned. In cases when the Court issues an injunction a more stringent application of the first amendment principles would be required. Such an injunction was upheld in a case which involved a Women’s Health Center. The injunction ordered for the establishment of a buffer zone and against noise pollution during particular hours outside the health clinic. There are also certain incidental restrictions on some speeches which would generally not suffer any restrictions. For instance, camping in certain Washington parks was subject to prohibition as it was aimed to speak on the plight of the homeless people. Similar restrictions were placed with respect to prohibiting public nudity. While the above cases have shown some clarity on the protections laid for the freedom of speech and expression, the internet is been viewed as a major challenge for the first amendment due to the difficulty in discriminating between acceptable and unacceptable forms of speech and expression. Due to this fact the Court makes decision based on each case with regard to the kind of material that can be legally published on the internet (Cohen, 2008).

Thus in conclusion, there appears to be several modifications that the first amendment is subject to along with the changing times. It is up to every citizen to abide by the set laws and use their freedom of expression for the betterment of the society.

Reference:

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