

# On the limitations of the freedom of expression

Sociology, Human Rights



ON THE LIMITATIONS OF THE FREEDOM OF EXPRESSION 1 Introduction The Constitution, Article 3, Section 4 provides: “ No law shall be passed abridging the freedom of speech, of expression, or of the press, or of the right of people peaceably to assemble and petition the government for redress of grievance. \*The Constitution forbids not the abridging of speech, but the abridging of freedom of speech. 3 There are several reasons why freedom of expression is guaranteed by the Constitution. For some, freedom of expression is essential for the search of truth. This is the marketplace idea, which posits that the power of thought can be tested by its acceptability in the competition of the market. Another reason offered is that free expression is needed for democracy to work properly. The citizen has to be given the information required for him to be able to perform his civic duty. Still another reason is a very personal one: freedom of expression promotes individual self-realization and self-determination. 4 The importance of freedom of expression is easily appreciated. Notably, this is the first right that is always curtailed when a free society falls under a repressive regime. Our Constitution provides that “ sovereignty resides in the people” 5 Whom manifest it regularly through their suffrages, and more frequently and generally, by the assertion of their freedom of expression. This sovereignty would be negated if they were denied the opportunity to participate in the shaping of public affairs though the arbitrary imposition upon them of the ban on silence. 6 Freedom of expression contains two guarantees: prohibiting prior restraint and a prohibition of subsequent punishment. Prior restraint means official government restrictions on the press or other forms of expression in advance of actual publication or dissemination. Its most blatant

form is a system of licensing or censorship administered by an executive officer. But it also includes other prior restrictions such as a judicial injunction against publication, license taxes for the privilege of engaging in the business of advertising, or flat license fees for the privilege of selling religious books. The mere prohibition of government interference before words are spoken or published would be an inadequate protection of the freedom of expression if the government could punish without restraint after publication.