

Freedom of speech critical thinking example

[Philosophy](#), [Freedom](#)



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Introduction

The freedom of speech is one of the rights included in the First Amendment of the United States Constitution, which states that “ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” ¹

However, with censorship and all the libel and slander cases being filed today, it is clear that this freedom is not absolute. The freedom of speech is a moderated freedom that is guarded by a lot of rules and conditions. As such, this paper explores the rightful purpose for this freedom, as well as some of the ways by which it is suppressed.

Brief Historical Background

The freedom of speech prior to the American Revolution was a privilege enjoyed only by the members of the parliament and was not an individual right. ² While the people’s representatives were allowed to openly debate

the various issues of the time, the people themselves were supposed to be content as mere spectators of such debates. During this time, free expression was understood in the context of the provision of immunity for the members of Congress.

In the first Amendment of the U. S. Constitution, the application of the freedom of speech is for everyone. The English origins of this right are based on two complementary freedoms, namely “ the freedom of conscience on matters of religious belief and the freedom of the press.”³ This stemmed from the religious debates that occurred among the proponents of the freedom of speech where the speakers used the press to get their messages across.

The freedom of speech was very restricted prior to the American Revolution where the English government strictly censored the text produced by printing presses at the time. A licensing system was used, but after this proved ineffective, the English government relied on criminal laws of seditious libel and treason for the punishment of writers and printers who published objectionable material. However, this, too, failed in insulating the government and its officials from being publicly criticized. On the contrary, the freedom of speech in England was freer than the laws dictated, and it was even freer in the American colonies where people were able to discuss matters on subjects such as social structure, politics, and religion.

The Zenger case in 1735 resulted in the reformation of the common law and seditious libel. However, even after the American Revolution, the commitment to and understanding of the freedom of speech remained

incomplete as it was granted only to those who spoke in favor of the American government. Still, the period between the American Revolution and the First Amendment's ratification saw free speech as being freer in America than on any other place in the world. However, during this time, there was no formal law to protect or control this freedom. It was only through the ratification of the Bill of Rights in 1791 did the freedom of speech become formalized. 4

Provisions of the Freedom of Speech

The “ freedom of speech is not a luxury of democracy, but it should be recognized as a necessity,” 5 that is, a democratic form of government can continue to function and exist only if educated criticism and free expression exist. It should be noted that majority of the developments in the free society of the United States were made possible through public debate and disclosure, in both written and oratory form. Moreover, the United States leaders recognized that there could also be truth in the view of the minority. After all, it was through the voice of the minority group who opposed tyranny that the United States was able to sever its ties to England.

The freedom of speech was included in the Bill of Rights to provide individuals with the freedom to worship God according to the dictates of their own conscience; to provide a means to truth and a check against error; to establish it as a form of minority rights; to allow for democracy and self-government; to promote individual autonomy; to preserve defenses of free speech; and to allow for free speech as a form of prudence. 6

In understanding the freedom of speech, the freedom itself must not be confused with the law itself. Unlike in some European countries where the laws regarding the freedom of speech had no moral authority over the people, in America it seems that “ the majority is invested with both the physical and moral authority.”⁷ In trying to understand the provisions of the First Amendment, it is incorrect to understand it as the prohibition of any law that abridges a person’s speech from being passed. On the contrary, Congress has the right to abridge one’s speech, that is, it can forbid an individual from saying whatever he or she does not have a right to say. However, it cannot abridge an individual’s freedom of speech. This means that an individual has the freedom to say whatever he or she wants, but the government still has the right to reprimand the person based on the content or implication of what was said. For example, a man who falsely shouts fire and causes panic will not be protected by the law.

Other restrictions include perjuring oneself and proposing a bribe to a political official. Competing businesses are also prohibited from talking about fixing the price of services or goods and from using false advertisements. In the same manner, corporate managers are prohibited from saying negative things about labor unions, and government employees are restricted from expressing their political opinions. As well, employees and supervisors are restricted from repeatedly making comments about a fellow employee’s physical attractiveness, race, or sex. Similarly, obscenity and talking dirty to children can be legally punished.

Today, the U. S. Supreme Court is responsible for defining the parameters that constitute permissible speech based on careful categorical analysis, which is based on the various categorical legal distinctions where the most fundamental distinction is between conduct and speech. Since the First Amendment clearly protects only speech or verbal expression, the government retains the authority to regulate behavior. The distinction between these categories can easily get blurred, however, as for example, the constitution allows for the wearing of armbands and the burning of flags but does not allow for obscenities. As such, the courts end up dealing with each case on a case-to-case base, which, on many instances, has caused controversy.

Conclusion

Indeed, the First Amendment's provision for the freedom of speech is full of intricacies and is subject to interpretation, which makes its application in legal cases quite complex. Although it has been put in place to enable the exercise of democracy and to allow for a balance check in society, it is clear that this freedom cannot be as freely exercised as one would desire. While the government does not abridge any individual's freedom of speech, it still retains the authority to abridge the speech itself, which makes this freedom highly regulated. Although it is only right that freedom comes with responsibility, it's apparent that the right of speech comes with more responsibility than freedom, and as such, should be exercised with care.

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