

## Free Speech

Freedom of speech is the political right to communicate one's opinions and ideas using one's body and property to anyone who is willing to receive them. The term freedom of expression is sometimes used synonymously, but includes any act of seeking, receiving and imparting information or ideas, regardless of the medium used. The most basic component of freedom of expression is the right of freedom of speech. The right to freedom of speech allows individuals to express themselves without interference or constraint by the government or anyone else.

In the United States we are pretty lucky; the legal protections of the First Amendment are some of the broadest of any industrialized nation; people in many other countries are not so lucky. North Koreans live in the most censored country in the world, a new analysis by the Committee to Protect Journalists has found. The world's deepest information void, communist North Korea has no independent journalists, and all radio and television receivers sold in the country are locked to government-specified frequencies. Criticism of the regime or the leadership in North Korea, if reported, is enough to make you and your family 'disappear' from society and end up in a political prison camp.

The people of Myanmar, a Southeast Asian country formally known as Burma, also have severely limited freedom of expression. The military rulers of Myanmar have jailed thousands of people in an effort to crush all dissenting views. Many of Myanmar's 55 million people live in poverty and suffer from ongoing human rights violations. Those who express any complaints face harassment, arbitrary arrest, torture, imprisonment and sometimes even extrajudicial executions. Aung San Suu Kyi, a Burmese opposition politician, remained under house arrest in Burma for almost 15 years until her most recent release on 13 November 2010. She won the Nobel peace prize (among many other accolades) in 1991 and is one of the world's most prominent political prisoners.

Russia ranks 148th out of 179 countries in the Press Freedom Index from Reporters Without Borders. While Russian law contains a broad definition of 'extremism' that authorities frequently use to silence government critics. The authorities have introduced a series of restrictive laws (including LGBT 'propaganda' laws), harassed, intimidated, and in several cases imprisoned political activists.. The enforcement of these laws and other restrictive legal provisions has encouraged self-censorship, but not for all. In February 2012 members of the punk band *Pussy Riot* were convicted of hooliganism for performing a song critical of President Vladimir Putin in a Russian Orthodox cathedral, in a brief but provocative protest action. The members were released from prison on December 23, 2013, having served almost 2 years behind bars. During the 2014 Winter Olympics in Sochi, the group was attacked with whips and pepper spray by Cossacks who were

employed as security. The band has helped to put Russian free speech violations in the international spotlight.

Human rights in Cuba are under the scrutiny of Human Rights Watch, who accuse the Cuban government of systematic human rights abuses, including arbitrary imprisonment, unfair trials, and extrajudicial execution. Cuban law limits freedom of expression, association, assembly, movement, and the press. The Cuban constitution says that free speech is allowed only "in keeping with the objectives of socialist society" and that artistic creation is allowed "as long as its content is not contrary to the Revolution". This means that many books, newspapers, radio channels, television channels, movies and music are censored because they are deemed inappropriate. Cuba's ranking was on the bottom of the Press Freedom Index, and Cuba was named one of the ten most censored countries in the world by the Committee to Protect Journalists. Internet use in Cuba is very restricted and under tight surveillance. Access is only possible with government permission and equipment is rationed. E-mail is monitored.

In 2013 protests erupted in many Brazilian cities against bus and subway fare hikes and the poor state of public services. The large-scale protests were also fuelled by discontent about the massive spending on the 2014 Football World Cup and the 2016 Olympics. During the course of the protests, around 100 journalists were the victims of acts of violence, of which more than two thirds were blamed on the military police. The "Brazilian spring" protests raised questions about the dominant media model and highlighted the appalling methods still used by the state military police since the time of the dictatorship. With five journalists killed in 2013, Brazil has become the western hemisphere's deadliest country for media personnel, the position held until then by Mexico, a much more dangerous country.

In 2006, Kurt Westergaard, a Danish cartoonist, created the controversial cartoon of the Islamic prophet Muhammad wearing a bomb in his turban. According to Islam, it is not permissible to depict the prophets or messengers of Allah. Westergaard met with strong and violent reactions from Muslims worldwide, including in Western countries. Even though he used his right of freedom of speech, since he lives in a society where this right exists, he was harassed by another culture which is very limited to accept another point of view. Since the drawing of the cartoon, Westergaard has received numerous death threats and has even been the target of assassination attempts from critics. As a result, he is under constant police protection.

These examples show there are violations to the right to free speech all over the world, and even in countries where free speech is protected there are problems. The United States ranks 48th out of 179 countries in the 2014 Press Freedom Index from Reporters Without Borders, behind most European Union countries and behind Australia. The First

Amendment to the United States Constitution 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."

Despite popular misunderstanding the right to freedom of the press guaranteed by the first amendment is not very different from the right to freedom of speech. It allows an individual to express themselves through publication and dissemination. It is part of the constitutional protection of freedom of expression. It does not afford members of the media any special rights or privileges not afforded to citizens in general.

The freedom of speech is not absolute; the Supreme Court of the United States has recognized several categories of speech that are excluded from the freedom. These exceptions include the Miller test for obscenity, child pornography laws, speech that incites imminent lawless action, regulation of commercial speech such as advertising, rights for authors over their works (copyright), protection from imminent or potential violence against particular persons (restrictions on fighting words), or the use of untruths to harm others (slander). While some of these exceptions are accepted as appropriate (child pornography, restrictions on advertising, slander), some are still contested.

The Miller test (also called the Three Prong Obscenity Test) is the United States Supreme Court's test for determining whether speech or expression can be labeled obscene, in which case it is not protected by the First Amendment to the United States Constitution and can be prohibited. The three prongs are 1. Whether "the average person, applying contemporary community standards", would find that the work, taken as a whole, appeals to the prurient (lewd) interest, and 2. Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law, 3. Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. The work is considered obscene only if *all three* conditions are satisfied. Critics of obscenity law argue that defining what is obscene is paradoxical, arbitrary, and subjective. They state that obscenity laws are in fact not defined, do not satisfy the vagueness doctrine, and thus are unenforceable and legally dubious. It is a question of who is going to be the censor? Who is going to decide what I can and cannot see or hear?

The fighting words doctrine, in United States constitutional law, is a limitation to freedom of speech as protected by the First Amendment to the United States Constitution. In 1942, the U.S. Supreme Court established the doctrine by a 9-0 decision in *Chaplinsky v. New Hampshire*. It held that "insulting or 'fighting words,' those that by their very utterance inflict injury or tend to incite an immediate breach of the peace" are among the "well-defined and narrowly limited classes of speech the prevention and punishment of [which] ... have never been thought to raise any constitutional problem." The court has continued

to uphold the doctrine but also steadily narrowed the grounds on which fighting words are held to apply.

In 1962 the court overturned a statute prohibiting flag-burning and verbally abusing the flag, holding that mere offensiveness does not qualify as "fighting words". In similar manner, in *Cohen v. California* (1971), Cohen's wearing a jacket that said "fuck the draft" did not constitute uttering fighting words since there had been no "personally abusive epithets"; the Court held the phrase to be protected speech. In *Snyder v. Phelps* (2011), dissenting Justice Samuel Alito likened the protests of the Westboro Baptist Church members to fighting words and of a personal character, and thus not protected speech. The majority disagreed and stated that the protester's speech was not personal but public.

While we often may not agree with what someone is saying, it is important to recognize their right to say it. In "On Liberty" (1859) John Stuart Mill argued that "...there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered."

After all, it is not just the right of the person who speaks to be heard either, it is the right of everyone in the audience to listen and to hear as well. Every time you silence somebody you make yourself a prisoner of your own actions because you deny yourself the right to hear something. Your own right to hear and be exposed is as much involved in all these cases as is the right of the other to voice his or her view.

It is always important to question the source and validity of one's own knowledge, to ask yourself "How do I know that I know this except that I have always been taught this?" In order to do this you must entertain and give consideration to ideas that are different than your own. This means protecting their freedom of speech.

What would you do if you met a member of the flat earth society, who claimed the Earth was flat? How could you prove the Earth is round? How do you know that evolution is true? Because there is a scientific consensus? It is important to question your beliefs and to not take refuge in the false security of consensus. Even if someone's ideas may be strange, bizarre, obscene, outrageous, or even dangerous, it is important that they are given the opportunity to be heard.

As the German philosopher and socialist Rosa Luxemburg said, "The freedom of speech is meaningless unless it means the freedom of the person who thinks differently."