

INTERPRETING THE DOCUMENTS: Freedom of Speech

The English, like the ancient Greeks, established legal restrictions on three types of speech or expression.

Sedition (criticism of the government)

Defamation (criticism of individuals)

Blasphemy (criticism of religion)

European ruling elites in the 1700s believed that any criticism of government or of its officials undermined confidence in the government. During this time, the British Crown prosecuted hundreds of cases of **sedition** **libel**, often imposing fatal penalties. When one man declared the people had the right to rebel against government, he was arrested and convicted of sedition for merely imagining the death of the King.

To protect U.S. citizens against the possibility of abuses like these, the authors of the **Bill of Rights** included the First Amendment, which ensures freedom of expression.

“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.”



Protesters carry signs criticizing the United States government as part of a 2009 march on Washington, D.C. The First Amendment gives Americans the freedom to voice opinions about the government.

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The First Amendment—particularly protected versus non-protected speech—is clearly **open to interpretation** and the Supreme Court has the final word in the matter. How the Court interprets freedom of speech and expression is influenced by the social, political, and historical setting of the case. For example, in the 1920s and again in the 1940s and 1950s, America went through two periods of strong **anti-Communism** sentiment known as Red Scares. During these times, the Supreme Court upheld several convictions of people involved in Communist Party activities. The Court denied First Amendment rights because it said the actions presented a clear and present danger to citizens and the American government.

After the second Red Scare was over, the Supreme Court shifted their decisions to allow for increased freedom of expression. An example of this shift is *Brandenburg v. Ohio* in 1969. Brandenburg, the leader of a local **Ku Klux Klan**, was arrested for a speech he gave that was aired on a television news report. The Supreme Court decided that even though Brandenburg's speech was hateful, it did not incite people to act violently and did not present a clear and present danger to citizens or the government.

The debate is not limited to the courts; this topic is controversial in the public realm as well. **Do you think anyone should be allowed to say anything about anyone at any time?**



Senator Joseph McCarthy promoted popular anti-Communism efforts during the second Red Scare in the 1950s. The American social climate at the time was generally anti-Communist. McCarthy became unpopular after a series of Senate hearings publicly exposed him for unethical interrogation techniques.