



## Meeting the Moment Insight

### *The Rights that Keep Power in Check: Free Speech and a Free Press*

Free speech is a community's best way to debate and evaluate competing ideas and perspectives, ensuring that important decisions affecting everyone are grounded in a search for truth, rather than dominated by the whims of those in charge. If political leaders can tell people what may and may not be said, voters will lack the knowledge needed to hold elected officials accountable for their actions. Put simply, without free speech, democracy cannot function.

#### **What is Free Speech?**

Our Constitution's protection of free speech guarantees that governmental power may not be used to punish people for expressing ideas that contradict those in power or reward people for echoing the preferred views of political leaders. So, if you think your taxes are too high or the taxes of others are too low, or if you observe someone polluting a lake or ignoring construction safety standards, you can speak up without fear of government reprisal. Your freedom provides a powerful check on actions counter to the public interest or those that violate individual rights. Exercised together, those freedoms form a powerful defense against unwise and corrupt decisions at the highest levels.

#### **Why a Free Press?**

Every individual has a right to speak. But speech won't render government accountable unless it reaches enough voters. That's one reason why our Constitution also safeguards freedom of the press. Journalists, whether they write for newspapers, magazines, or Substack, or whether they appear on television, radio, or podcasts, must be free to communicate to all of us. Speech is not free if those in control of various media outlets are more concerned with pleasing government officials for whatever reason than they are with finding and sharing the truth. A free press ensures that the citizenry can learn what we need to give meaning to the American principle of self-government.

#### **How Do We Protect Free Speech and Freedom of the Press?**

If necessary, should government seek to violate your free speech rights, our courts stand ready to stop unlawful censorship. If you post a sign in your yard supporting a political candidate and government officials remove it, while allowing your neighbors to have signs for the opposing candidate, every court in the country will come to your rescue. But court proceedings are expensive and time-consuming and cannot be the first line of defense. That's why it's important for voters to make clear to government leaders that interference with speech will not be tolerated.



We may find our neighbors' choice of candidate abhorrent. We may even choose to walk our dog down a different street to avoid seeing signs that make us angry. But to preserve everyone's liberty we must stand up proudly for the rights of our neighbors to speak as they wish. And we should take comfort in our own right to speak out against injustice without fear of reprisal.

## **Frequently Asked Questions**

### **Q. Isn't Censorship Everywhere?**

A. Our national commitment to free speech doesn't mean that no one's views are ever blocked. Your favorite radio station may never play certain musicians you enjoy and may refuse to do so even after you ask. It may even bar a particular singer whose political views the station owner doesn't like. Some people might call this censorship, but it does not violate the musician's constitutional right to free speech. Legal protections for free speech protect us only against actions by the government because it's the government that has coercive authority and because we need also to protect the radio station's right to make its own decisions about what music to play. Your free speech rights aren't violated when your local newspaper refuses to print your letter. But if the paper does publish your words, the government cannot punish you for them.

### **Q. Does Free Speech Include Spreading Lies?**

A. Basically, no. Being free to say what you think is not the same as being free to say what you know to be untrue, particularly if you hope to deceive another into a perilous course of action. A doctor who tells a patient that the doctor has an elixir that will cure cancer when he knows this is nonsense cannot hide behind free speech. Corporations selling stock are not free to lie about their profits and losses. But well-grounded bans on deception must be kept very narrow to permit expressions of a wide range of opinions, and journalists and other speakers must be given wide latitude to make good faith mistakes. Otherwise, government censorship will cloak itself with the mantle of fighting disinformation.

### **Q. Isn't Some Speech So Hateful or Offensive We Would Be Better Off Without It?**

A. This raises hard questions we can't answer without drawing lines. But we can often do so with confidence and without wavering in our commitment to free speech. Freedom to speak isn't the same as freedom to threaten someone with bodily harm. Freedom to show certain explicit films isn't the same as license to make child pornography. Freedom to call for immigration restrictions or ending affirmative action aren't the same as hurling racial epithets at people as they try to cross the border or burning a cross on your front lawn. We may all choose slightly different answers to whether there is any speech that is truly out-of-bounds. But what we can't allow is those seeking to stifle dissent from praying on our fears of hateful or offensive speech to scare us into accepting government enforced silence.



### **Q. Aren't Wealthy Voices the Only Ones that Matter?**

A. This is another question where legitimate concerns cannot be permitted to obscure the underlying difference between a free society and one where people are scared to speak their minds. Campaign contributions from wealthy donors do influence our politics. And our media, including our tech platforms, are increasingly owned by fewer people and a small number of organizations that wield great power. But in today's U.S., when a government official resigns in protest or someone blows the whistle on high level wrongdoing, we the people hear about it. And even private individuals with a compelling story can capture significant media attention. Moreover, fear of negative press is one of the most powerful forces holding political and business leaders in check. Free speech matters to each of us as a key component protecting us from destructive leadership. We must do all we can to preserve this right set forth in our constitution.

*This overview was prepared by LDAD Meeting the Moment Volunteer Jeremy Paul, Professor of Law, Northeastern University School of Law.*