Chapter 1 : Freedom of Speech and Freedom of Press

Freedom of the press or freedom of the media is the principle that communication and expression through various media, including printed and electronic media, especially published materials, should be considered a right to be exercised freely.

Constitution , says that "Congress shall make no law It is closely linked to freedom of the press because this freedom includes both the right to speak and the right to be heard. In the United States, both the freedom of speech and freedom of press are commonly called freedom of expression. Freedom of Speech Why is freedom of speech so solidly entrenched in our constitutional law, and why is it so widely embraced by the general public? Over the years many philosophers, historians, legal scholars and judges have offered theoretical justifications for strong protection of freedom of speech, and in these justifications we may also find explanatory clues. There is a direct link between freedom of speech and vibrant democracy. Free speech is an indispensable tool of self-governance in a democratic society. It enables people to obtain information from a diversity of sources, make decisions, and communicate those decisions to the government. Beyond the political purpose of free speech, the First Amendment provides American people with a "marketplace of ideas. Concurring in Whitney v. California , Justice Louis Brandeis wrote that "freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth. It is through talking that we encourage consensus, that we form a collective will. Whether the answers we reach are wise or foolish, free speech helps us ensure that the answers usually conform to what most people think. Americans who are optimists and optimism is a quintessentially American characteristic additionally believe that, over the long run, free speech actually improves our political decision-making. Just as Americans generally believe in free markets in economic matters, they generally believe in free markets when it comes to ideas, and this includes politics. In the long run the best test of intelligent political policy is its power to gain acceptance at the ballot box. On an individual level, speech is a means of participation, the vehicle through which individuals debate the issues of the day, cast their votes, and actively join in the processes of decision-making that shape the polity. Freedom of speech is also an essential contributor to the American belief in government confined by a system of checks and balances, operating as a restraint on tyranny, corruption and ineptitude. But the United States was founded on the more cantankerous revolutionary principles of John Locke, who taught that under the social compact sovereignty always rests with the people, who never surrender their natural right to protest, or even revolt, when the state exceeds the limits of legitimate authority. Speech is thus a means of "people-power," through which the people may ferret out corruption and discourage tyrannical excesses. Counter-intuitively, influential American voices have also often argued that robust protection of freedom of speech, including speech advocating crime and revolution, actually works to make the country more stable, increasing rather than decreasing our ability to maintain law and order. Again the words of Justice Brandeis in Whitney v. California are especially resonant, with his admonition that the framers of the Constitution "knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones. In America we have come to accept the wisdom that openness fosters resiliency, that peaceful protest displaces more violence than it triggers, and that free debate dissipates more hate than it stirs. The link between speech and democracy certainly provides some explanation for the American veneration of free speech, but not an entirely satisfying or complete one. For there are many flourishing democracies in the world, but few of them have adopted either the constitutional law or the cultural traditions that support free speech as expansively as America does. Moreover, much of the vast protection we provide to expression in America seems to bear no obvious connection to politics or the democratic process at all. Additional explanation is required. That would be asking too much. It merely posits that free trade in ideas is the best test of truth, in much the same way that those who believe in laissez-faire economic theory argue that over the long haul free economic markets are

superior to command-and-control economies. The American love of the marketplace of ideas metaphor stems in no small part from our irrepressible national optimism, the American "constitutional faith" that, given long enough, good will conquer evil. Just as we often have nothing to fear but fear, hope is often our best hope. Humanity may be fallible, and truth illusive, but the hope of humanity lies in its faith in progress. The marketplace metaphor reminds us to take the long view. Americans like to believe, and largely do believe, that truth has a stubborn and incorrigible persistence. Cut down again and again, truth will still not be extinguished. Truth will out, it will be rediscovered and rejuvenated. The connection of freedom of speech to self-governance and the appeal of the marketplace of ideas metaphor still, however, do not tell it all. Freedom of speech is linked not merely to such grandiose ends as the service of the democracy or the search for truth. Freedom of speech has value on a more personal and individual level. Freedom of speech is part of the human personality itself, a value intimately intertwined with human autonomy and dignity. In the words of Justice Thurgood Marshall in the case Procunier v. Martinez, "The First Amendment serves not only the needs of the polity but also those of the human spirit â€” a spirit that demands self-expression. Freedom of speech is thus bonded in special and unique ways to the human capacity to think, imagine and create. Conscience and consciousness are the sacred precincts of mind and soul. Freedom of speech is intimately linked to freedom of thought, to that central capacity to reason and wonder, hope and believe, that largely defines our humanity. If these various elements of our culture do in combination provide some insight into why freedom of speech exerts such a dominating presence on the American legal and cultural landscape, they do not by any means come close to explaining the intense and seemingly never-ending legal and cultural debates over the limits on freedom of speech. While the language of the First Amendment appears absolute, freedom of speech is not an absolute right. Certain limitations and restrictions apply. Conflicts involving freedom of expression are among the most difficult ones that courts are asked to resolve. This ongoing process is often contentious and no one simple legal formula or philosophical principle has yet been discovered that is up to the trick of making the job easy. Americans thus continue to debate in political forums and litigate in courts such issues as the power of society to censor offensive speech to protect children, the permissibility of banning speech that defeats protection of intellectual property, the propriety of curbing speech to shelter personal reputation and privacy, the right to restrict political contributions and expenditures to reduce the influence of money on the political process, and countless other free-speech conflicts. Free speech cases frequently involve a clash of fundamental values. For example, how should the law respond to a speaker who makes unpopular statement to which the listeners react violently? Should police arrest the speaker or try to control the crowd? Courts must balance the need for peace and order against the fundamental right to express ones point of view. According to the current state of law, freedom of speech does not protect the following: Speech that contains "fighting words" insulting or abusive language that is likely to cause "an immediate violent response" ; Obscenities; Language or communication directed to inciting, producing or urging the commission of a crime; Defamation - words or communication that are false and untrue and are intended to injure the character and reputation of another person; Abusive, obscene or harassing telephone calls; Loud speech and loud noise meant by volume to disturb others or to create a clear and present danger of violence. Yet while the country continues to struggle mightily to define the limits and continues to debate vigorously the details, there is surprisingly little struggle and debate over the core of the faith. Americans truly do embrace the central belief that freedom of speech is of utmost value, linked to our defining characteristics as human beings. While limits must exist, American culture and law approach such limits with abiding caution and skepticism, embracing freedom of speech as a value of transcendent constitutional importance. Freedom of Press Freedom of the press protects the right to obtain and publish information or opinions without government censorship or fear of punishment. Censorship occurs when the government examines publications and productions and prohibits the use of material it finds offensive. Freedom of press applies to all types of printed and broadcast material, including books, newspapers, magazines, pamphlets, films and radio and television programs. This freedom was considered necessary to the establishment of a strong, independent press sometimes called "the fourth branch" of the government. An independent press can provide citizens with a variety of information and opinions on matters of public importance. In the United States, the government may not prevent the publication of a newspaper,

even when there is reason to believe that it is about to reveal information that will endanger our national security. By the same token, the government cannot: Pass a law that requires newspapers to publish information against their will. Impose criminal penalties, or civil damages, on the publication of truthful information about a matter of public concern or even on the dissemination of false and damaging information about a public person except in rare instances. Impose taxes on the press that it does not levy on other businesses. Compel journalists to reveal, in most circumstances, the identities of their sources. Prohibit the press from attending judicial proceedings and thereafter informing the public about them. Collectively, this bundle of rights, largely developed by U. What we mean by the freedom of the press is, in fact, an evolving concept. It is a concept that is informed by the perceptions of those who crafted the press clause in an era of pamphlets, political tracts and periodical newspapers, and by the views of Supreme Court justices who have interpreted that clause over the past two centuries in a world of daily newspapers, books, magazines, motion pictures, radio and television broadcasts, and now Web sites and Internet postings. At the very least, those who drafted and ratified the Bill of Rights purported to embrace the notion, derived from William Blackstone, that a free press may not be licensed by the sovereign, or otherwise restrained in advance of publication see New York Times Co. And, although the subject remains a lively topic of academic debate, the Supreme Court itself reviewed the historical record in in New York Times Co. To a great extent, however, what we mean by freedom of the press today was shaped in an extraordinary era of Supreme Court decision-making that began with Sullivan and concluded in with Cohen v. During that remarkable period, the Court ruled in at least 40 cases involving the press and fleshed out the skeleton of freedoms addressed only rarely in prior cases. In contrast, although the Court in the early part of the last century had considered the First Amendment claims of political dissidents with some frequency, it took nearly years after the adoption of the Bill of Rights, and the First Amendment along with it, for the Court to issue its first decision based squarely on the freedom of the press. That case, Near v. Over the course of the quarter-century following Sullivan, the Court made it its business to explore the ramifications of the case on a virtually annual basis. United States, the Court established that freedom of the press from previous restraints on publication is nearly absolute, encompassing the right to publish information that a president concluded would harm the national security, if not the movements of troopships at sea in time of war. Compare Red Lion Broadcasting v. FCC with Tornillo. Daily Mail Publishing Co. The protections against subsequent punishments for reporting the truth afforded by the Daily Mail principle are not absolute, but the barriers to such government regulation of the press are set extremely high. Sullivan and cases that followed also hold that the First Amendment protects the publication of false information about matters of public concern in a variety of contexts, although with considerably less vigor than it does dissemination of the truth. By the same token, the Supreme Court has been considerably less definitive in articulating the degree of First Amendment protection to be afforded against restraints on the freedom of the press that are indirect and more subtle than the issuance of a prior restraint or the imposition of criminal or civil sanctions subsequent to publication. Thus, for example, in its decision Zurcher v. Stanford Daily, the Court held that the First Amendment does not protect the press and its newsrooms from the issuance of otherwise valid search warrants. Similarly, in in Herbert v. Most significantly, in in Branzburg v. Hayes, a sharply divided Court was skeptical of the contention that the First Amendment protects journalists from the compelled disclosure of the identities of their confidential sources, at least in the context of a grand-jury proceeding. That privilege, however, is by no means absolute and may be forfeited in a variety of circumstances, especially when no confidential source is thereby placed in jeopardy or when disclosure is sought in the context of a grand-jury or other criminal proceeding. And, finally, the Court has held that the First Amendment affords the press and public affirmative rights of access to at least some government proceedings. Virginia, the Court established that the First Amendment not only protects the press from prior restraints and other government-imposed penalties, but also invests the press and public with a right to attend criminal trials and other judicial proceedings. This right, however, is not absolute and is routinely balanced against other competing interests articulated by the proponents of secret proceedings.

Chapter 2 : The Mediaâ€™s War on Freedom of the Press | Frontpage Mag

Freedom of the pressâ€"the right to report news or circulate opinion without censorship from the governmentâ€"was considered "one of the great bulwarks of liberty," by the Founding Fathers of.

Hamilton The Establishment Clause: Hamilton An accurate recounting of history is necessary to appreciate the need for disestablishment and a separation between church and state. The religiosity of the generation that framed the Constitution and the Bill of Rights of which the First Amendment is the first as a result of historical accident, not the preference for religious liberty over any other right has been overstated. In reality, many of the Framers and the most influential men of that generation rarely attended church, were often Deist rather than Christian, and had a healthy understanding of the potential for religious tyranny. This latter concern is to be expected as European history was awash with executions of religious heretics: Protestant, Catholic, Jewish, and Muslim. Three of the most influential men in the Framing era provide valuable insights into the mindset at the time: Franklin saw a pattern: If we look back into history for the character of the present sects in Christianity, we shall find few that have not in their turns been persecutors, and complainers of persecution. The primitive Christians thought persecution extremely wrong in the Pagans, but practiced it on one another. The first Protestants of the Church of England blamed persecution in the Romish Church, but practiced it upon the Puritans. These found it wrong in the Bishops, but fell into the same practice themselves both here [England] and in New England. The father of the Constitution and primary drafter of the First Amendment, James Madison, in his most important document on the topic, Memorial and Remonstrance against Religious Assessments , stated: During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy, ignorance and servility in the laity, in both, superstition, bigotry and persecution. What influence, in fact, have ecclesiastical establishments had on society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the Civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been the guardians of the liberties of the people. Two years later, John Adams described the states as having been derived from reason, not religious belief: It will never be pretended that any persons employed in that service had any interviews with the gods, or were in any degree under the influence of Heaven, any more than those at work upon ships or houses, or laboring in merchandise or agriculture; it will forever be acknowledged that these governments were contrived merely by the use of reason and the senses. Thirteen governments [of the original states] thus founded on the natural authority of the people alone, without a pretence of miracle or mystery, which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind. Massachusetts and Pennsylvania are examples of early discord. In Massachusetts, the Congregationalist establishment enforced taxation on all believers and expelled or even put to death dissenters. Baptist clergy became the first in the United States to advocate for a separation of church and state and an absolute right to believe what one chooses. Baptist pastor John Leland was an eloquent and forceful proponent of the freedom of conscience and the separation of church and state. Even so, the Quakers set in motion a principle that became a mainstay in religious liberty jurisprudence: Read the full discussion here. The reason for this proliferation of distinct doctrines is that the Establishment Clause is rooted in a concept of separating the power of church and state. These are the two most authoritative forces of human existence, and drawing a boundary line between them is not easy. The further complication is that the exercise of power is fluid, which leads both state and church to alter their positions to gain power either one over the other or as a union in opposition to the general public or particular minorities. The following are some of the most important principles. A Massachusetts law delegated authority to churches and schools to determine who could receive a liquor license within feet of their buildings. The Supreme Court struck down the law, because it delegated to churches zoning power, which belongs to state and local government, not private entities. According to the Court: The challenged statute thus enmeshes churches in the processes of government and creates the danger of [p]olitical fragmentation and divisiveness along religious lines. Grumet , the state of New York designated

the neighborhood boundaries of Satmar Hasidim Orthodox Jews in Kiryas Joel Village as a public school district to itself. Thus, the boundary was determined solely by religious identity, in part because the community did not want their children to be exposed to children outside the faith. The Court invalidated the school district because political boundaries identified solely by reference to religion violate the Establishment Clause. The phrase, however, is misleading. The Supreme Court has never interpreted the First Amendment to confer on religious organizations a right to autonomy from the law. In fact, in the case in which they have most recently demanded such a right, arguing religious ministers should be exempt from laws prohibiting employment discrimination, the Court majority did not embrace the theory, not even using the term once. Therefore, if the dispute brought to a court can only be resolved by a judge or jury settling an intra-church, ecclesiastical dispute, the dispute is beyond judicial consideration. This is a corollary to the absolute right to believe what one chooses; it is not a right to be above the laws that apply to everyone else. For the Court and basic common sense, these are arguments for placing religion above the law, and in violation of the Establishment Clause. They are also fundamentally at odds with the common sense of the Framing generation that understood so well the evils of religious tyranny. Hamilton Senior Fellow, Robert A. Cardozo School of Law.

Chapter 3 : Freedom of the press | Define Freedom of the press at calendrierdelascience.com

Freedom of the press definition, the right to publish newspapers, magazines, and other printed matter without governmental restriction and subject only to the laws of libel, obscenity, sedition, etc.

April 13, Daniel Greenfield Daniel Greenfield, a Shillman Journalism Fellow at the Freedom Center, is an investigative journalist and writer focusing on the radical left and Islamic terrorism. The media took a brief break from its campaign against the Sinclair Media Group to go after the National Enquirer. In the good old days, going after rival media outlets meant writing nasty things about them. It writes nasty things to get someone fired, investigated or imprisoned. And what better way to protect the First Amendment than by destroying it? The Times tells its readers that the "federal inquiry" poses "thorny questions about A. Trump somehow opens the door to scrutiny usually reserved for political organizations. It just published an editorial titled, "Watch Out, Ted Cruz. The Times has a sharp thorn. So sharp it could punch a hole in it and the entire mainstream media. Try and suggest that behavior like that should strip them of their First Amendment rights and a howling mob of pudgy pundits would descend on the green rooms of CNN and MSNBC like hornets out of hell. The Senate Stalinists accused Sinclair of a "systematic news distortion operation that seeks to undermine freedom of the press. Like Tonya Harding, it wants to take a club to the knee of its political opponents. The press is perversely waging its war on the First Amendment in the name of freedom of the press. Its definition of the First Amendment is an exclusive club. And the only way to protect the club from Republican riffraff is to strip away their First Amendment rights. All for the sake of the First Amendment. It believes in its own freedom. It identifies the First Amendment with itself and declares any threat to it to be a threat to the First. So the media instead rallied its mobs by accusing Facebook of collaborating with Trump and the Russians. And the howls, imprecations and regulations began. The solution to an unregulated space is regulation. Then algorithm tinkering wiped out the traffic of many conservative sites, leading several to shut down. Google, Twitter and other social media companies have taken their own steps to prioritize lefty media views and silence conservative ones. The post-Trump environment in search and social has been rigged to be very favorable to the mainstream media and deeply unfriendly to Trump supporters. The great media dream is a gated internet news operation completely under their control. But the attacks on Sinclair and the Enquirer show that even with the internet, old media is still in the crosshairs. FBI raids and FCC licenses are an escalation from pressuring Facebook into hiring its fact checkers to censor conservative media. The media has been using corporations to do its dirty work. As a dog returns to its vomit, the left returns to government repression. The media will not accept any monopoly that is a hair short of total. Corporations and governments will be used as hand puppets to silence every voice of dissent. And it will be done for freedom of the press and the First Amendment. The free press is a threat to freedom of the press, read about it in the mainstream media.

Chapter 4 : Freedom of the Press - HISTORY

"The press was to serve the governed, not the governors."â€"U.S. Supreme Court Justice Hugo Black in New York Times Co. v. United States ()The freedom of the press, protected by the First Amendment, is critical to a democracy in which the government is accountable to the people.

Media freedom in the European Union Central, Northern and Western Europe has a long tradition of freedom of speech, including freedom of the press. In he called for an open system of news sources and transmission, and minimum of government regulation of the news. His proposals were aired at the Geneva Conference on Freedom of Information in , but were blocked by the Soviets and the French. Read about how licensing of the press in Britain was abolished in Remember how the freedoms won here became a model for much of the rest of the world, and be conscious how the world still watches us to see how we protect those freedoms. No publication was allowed without the accompaniment of a government-granted license. Fifty years earlier, at a time of civil war , John Milton wrote his pamphlet Areopagitica One form of speech that was widely restricted in England was seditious libel , and laws were in place that made criticizing the government a crime. The King was above public criticism and statements critical of the government were forbidden, according to the English Court of the Star Chamber. Truth was not a defense to seditious libel because the goal was to prevent and punish all condemnation of the government. Locke contributed to the lapse of the Licensing Act in , whereupon the press needed no license. Still, many libels were tried throughout the 18th century, until "the Society of the Bill of Rights" led by John Horne Tooke and John Wilkes organized a campaign to publish Parliamentary Debates. This culminated in three defeats of the Crown in the cases of Almon, of Miller and of Woodfall , who all had published one of the Letters of Junius , and the unsuccessful arrest of John Wheble in Thereafter the Crown was much more careful in the application of libel ; for example, in the aftermath of the Peterloo Massacre , Burdett was convicted, whereas by contrast the Junius affair was over a satire and sarcasm about the non-lethal conduct and policies of government. The most dramatic confrontation came in New York in , where the governor brought John Peter Zenger to trial for criminal libel after the publication of satirical attacks. The defense lawyers argued that according to English common law, the truth was a valid defense against libel. The jury acquitted Zenger, who became the iconic American hero for freedom of the press. The result was an emerging tension between the media and the government. By the mids, there were 24 weekly newspapers in the 13 colonies, and the satirical attack on government became common features in American newspapers. The individual has the right of expressing himself so long as he does not harm other individuals. The good society is one in which the greatest number of persons enjoy the greatest possible amount of happiness. Applying these general principles of liberty to freedom of expression, Mill states that if we silence an opinion, we may silence the truth. The individual freedom of expression is therefore essential to the well-being of society. If all mankind minus one, were of one opinion, and one, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. This occurred during the regime of Johann Friedrich Struensee , whose second act was to abolish the old censorship laws. Censorship in Italy After the Italian unification in , the Albertine Statute of was adopted as the constitution of the Kingdom of Italy. The Statute granted the freedom of the press with some restrictions in case of abuses and in religious matters, as stated in Article However, Bibles, catechisms, liturgical and prayer books shall not be printed without the prior permission of the Bishop. After the abolition of the monarchy in and the abrogation of the Statute in , the Constitution of the Republic of Italy guarantees the freedom of the press, as stated in Article 21, Paragraphs 2 and 3: Seizure may be permitted only by judicial order stating the reason and only for offences expressly determined by the law on the press or in case of violation of the obligation to identify the persons responsible for such offences. The Constitution allows the warrantless confiscation of periodicals in cases of absolute urgency, when the Judiciary cannot timely intervene, on the condition that a judicial validation must be obtained within 24 hours. Article 21 also gives restrictions against those publications considered offensive by public morality , as stated in Paragraph 6: Publications, performances, and other exhibits offensive to public

morality shall be prohibited. Measures of preventive and repressive measure against such violations shall be established by law. Anyone involved in the film industry - from directors to the lowliest assistant - had to sign an oath of loyalty to the Nazi Party , due to opinion-changing power Goebbels perceived movies to have. Goebbels himself maintained some personal control over every single film made in Nazi Europe. Journalists who crossed the Propaganda Ministry were routinely imprisoned.

Chapter 5 : Why freedom of the press is more important now than ever |

Freedom of the Press. The right, guaranteed by the First Amendment to the U.S. Constitution, to gather, publish, and distribute information and ideas without government restriction; this right encompasses freedom from prior restraints on publication and freedom from Censorship.

Anti-Federalism In , the second year of the American Revolutionary War , the Virginia colonial legislature passed a Declaration of Rights that included the sentence "The freedom of the press is one of the greatest bulwarks of liberty, and can never be restrained but by despotic Governments. However, these declarations were generally considered "mere admonitions to state legislatures", rather than enforceable provisions. Other delegatesâ€"including future Bill of Rights drafter James Madison â€"disagreed, arguing that existing state guarantees of civil liberties were sufficient and that any attempt to enumerate individual rights risked the implication that other, unnamed rights were unprotected. Supporters of the Constitution in states where popular sentiment was against ratification including Virginia, Massachusetts, and New York successfully proposed that their state conventions both ratify the Constitution and call for the addition of a bill of rights. Constitution was eventually ratified by all thirteen states. The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed. The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable. The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances. Establishment Clause Thomas Jefferson wrote with respect to the First Amendment and its restriction on the legislative branch of the federal government in an letter to the Danbury Baptists a religious minority concerned about the dominant position of the Congregational church in Connecticut: Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties. United States the Supreme Court used these words to declare that "it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. Congress was deprived of all legislative power over mere [religious] opinion, but was left free to reach [only those religious] actions which were in violation of social duties or subversive of good order. In the preamble of this act [. Originally, the First Amendment applied only to the federal government, and some states continued official state religions after ratification. Massachusetts , for example, was officially Congregational until the s. Board of Education , the U. Supreme Court incorporated the Establishment Clause i. The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion to another. That wall must be kept high and impregnable. We could not approve the slightest breach. Watkins , the Supreme Court ruled that the Constitution prohibits states and the federal government from requiring any kind of religious test for public office. Grumet , [12] The Court concluded that "government should not prefer one religion to another, or religion to irreligion. Perry , [14] McCreary County v. ACLU , [15] and Salazar v. Buono [16] â€"the Court considered the issue of religious monuments on federal lands without reaching a majority reasoning on the subject. President Thomas Jefferson wrote in his correspondence of "a wall of separation between church and State". It had been long established in the decisions of the Supreme Court, beginning with Reynolds v. United States in , when the Court reviewed the history of the early Republic in deciding the extent of the liberties of Mormons. Chief Justice Morrison Waite , who consulted the historian George Bancroft , also discussed at some length the Memorial and Remonstrance against Religious Assessments by James Madison, [18] who drafted the First Amendment; Madison used the metaphor of a "great barrier". Everson laid down the test that establishment existed when aid was given to religion, but that the transportation was justifiable because the benefit to the children was more important. In the school prayer cases of the early s, Engel v. Vitale and Abington School

District v. Schempp , aid seemed irrelevant; the Court ruled on the basis that a legitimate action both served a secular purpose and did not primarily assist religion. Tax Commission , the Court ruled that a legitimate action could not entangle government with religion; in Lemon v. Kurtzman , these points were combined into the Lemon test , declaring that an action was an establishment if: The Lemon test has been criticized by justices and legal scholars, but it remains the predominant means by which the Court enforces the Establishment Clause. Felton , the entanglement prong of the Lemon test was demoted to simply being a factor in determining the effect of the challenged statute or practice. Simmons-Harris , the opinion of the Court considered secular purpose and the absence of primary effect; a concurring opinion saw both cases as having treated entanglement as part of the primary purpose test. Some relationship between government and religious organizations is inevitable", the court wrote. Douglas that "[w]e are a religious people whose institutions presuppose a Supreme Being". Free Exercise Clause "Freedom of religion means freedom to hold an opinion or belief, but not to take action in violation of social duties or subversive to good order. United States , the Supreme Court found that while laws cannot interfere with religious belief and opinions, laws can regulate some religious practices e. The Court stated that to rule otherwise, "would be to make the professed doctrines of religious belief superior to the law of the land, and in effect permit every citizen to become a law unto himself. Government would exist only in name under such circumstances. While the right to have religious beliefs is absolute, the freedom to act on such beliefs is not absolute. Verner , [33] the Supreme Court required states to meet the " strict scrutiny " standard when refusing to accommodate religiously motivated conduct. This meant that a government needed to have a "compelling interest" regarding such a refusal. The case involved Adele Sherbert, who was denied unemployment benefits by South Carolina because she refused to work on Saturdays, something forbidden by her Seventh-day Adventist faith. Yoder , the Court ruled that a law that "unduly burdens the practice of religion" without a compelling interest, even though it might be "neutral on its face", would be unconstitutional. Smith , [37] which held no such interest was required under the Free Exercise Clause regarding a neutral law of general applicability that happens to affect a religious practice, as opposed to a law that targets a particular religious practice which does require a compelling governmental interest. Since the ordinance was not "generally applicable", the Court ruled that it needed to have a compelling interest, which it failed to have, and so was declared unconstitutional. In City of Boerne v. Freedom of speech in the United States and United States free speech exceptions Wording of the clause The First Amendment bars Congress from "abridging the freedom of speech, or of the pressâ€¦. The practice in America must be entitled to much more respect. In every state, probably, in the Union, the press has exerted a freedom in canvassing the merits and measures of public men, of every description, which has not been confined to the strict limits of the common law. Madison believed that legislation to be unconstitutional, and his adversaries in that dispute, such as John Marshall , advocated the narrow freedom of speech that had existed in the English common law. For example, the Supreme Court never ruled on the Alien and Sedition Acts ; three Supreme Court justices riding circuit presided over sedition trials without indicating any reservations. Sullivan , [52] the Court noted the importance of this public debate as a precedent in First Amendment law and ruled that the Acts had been unconstitutional: Specifically, the Espionage Act of states that if anyone allows any enemies to enter or fly over the United States and obtain information from a place connected with the national defense, they will be punished. United States , Debs v. United States , Frohwerk v. United States , and Abrams v. In the first of these cases, Socialist Party of America official Charles Schenck had been convicted under the Espionage Act for publishing leaflets urging resistance to the draft. United States, the court again upheld an Espionage Act conviction, this time that of a journalist who had criticized U. United States, the Court elaborated on the "clear and present danger" test established in Schenck. Debs , a political activist, delivered a speech in Canton, Ohio , in which he spoke of "most loyal comrades were paying the penalty to the working class â€” these being Wagenknecht , Baker and Ruthenberg , who had been convicted of aiding and abetting another in failing to register for the draft. In upholding his conviction, the Court reasoned that although he had not spoken any words that posed a "clear and present danger", taken in context, the speech had a "natural tendency and a probable effect to obstruct the recruiting services". The Supreme Court denied a number of Free Speech Clause claims throughout the s, including the appeal of a

labor organizer, Benjamin Gitlow, who had been convicted after distributing a manifesto calling for a "revolutionary dictatorship of the proletariat". New York , the Court upheld the conviction, but a majority also found that the First Amendment applied to state laws as well as federal laws, via the Due Process Clause of the Fourteenth Amendment. California , [70] in which Communist Party USA organizer Charlotte Anita Whitney had been arrested for " criminal syndicalism ", Brandeis wrote a dissent in which he argued for broader protections for political speech: Those who won our independence. United States , [75] the Court upheld the law, 6â€”2. The demands of free speech in a democratic society as well as the interest in national security are better served by candid and informed weighing of the competing interests, within the confines of the judicial process. United States , the Supreme Court limited the Smith Act prosecutions to "advocacy of action" rather than "advocacy in the realm of ideas". Advocacy of abstract doctrine remained protected while speech explicitly inciting the forcible overthrow of the government was punishable under the Smith Act. Though the Court upheld a law prohibiting the forgery, mutilation, or destruction of draft cards in United States v. Ohio , [84] expressly overruling Whitney v. California , [89] the Court voted 5â€”4 to reverse the conviction of a man wearing a jacket reading "Fuck the Draft" in the corridors of a Los Angeles County courthouse. California , [91] the Court struck down a Los Angeles city ordinance that made it a crime to distribute anonymous pamphlets. Justice Hugo Black wrote in the majority opinion: Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind. Ohio Elections Commission , [93] the Court struck down an Ohio statute that made it a crime to distribute anonymous campaign literature. Keene , [95] the Court upheld the Foreign Agents Registration Act of , under which several Canadian films were defined as "political propaganda", requiring their sponsors to be identified. Federal Election Commission In Buckley v. Valeo , [97] the Supreme Court reviewed the Federal Election Campaign Act of and related laws, which restricted the monetary contributions that may be made to political campaigns and expenditure by candidates. The Court affirmed the constitutionality of limits on campaign contributions, stating that they "serve[d] the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion. Federal Election Commission The Supreme Court upheld provisions which barred the raising of soft money by national parties and the use of soft money by private organizations to fund certain advertisements related to elections. In Federal Election Commission v. Wisconsin Right to Life, Inc. The Court overruled Austin v. Michigan Chamber of Commerce , [] which had upheld a state law that prohibited corporations from using treasury funds to support or oppose candidates in elections did not violate the First or Fourteenth Amendments. Federal Election Commission , [] the Court ruled that federal aggregate limits on how much a person can donate to candidates , political parties , and political action committees , combined respectively in a two-year period known as an "election cycle," violated the Free Speech Clause of the First Amendment. Street was arrested and charged with a New York state law making it a crime "publicly [to] mutilate, deface, defile, or defy, trample upon, or cast contempt upon either by words or act [any flag of the United States]. California , [] found that because the provision of the New York law criminalizing "words" against the flag was unconstitutional, and the trial did not sufficiently demonstrate that he was convicted solely under the provisions not yet deemed unconstitutional, the conviction was unconstitutional. The Court, however, "resist[ed] the pulls to decide the constitutional issues involved in this case on a broader basis" and left the constitutionality of flag-burning unaddressed. The Supreme Court reversed his conviction in a 5â€”4 vote.

Chapter 6 : First Amendment to the United States Constitution - Wikipedia

Freedom of the Press Foundation protects and defends adversarial journalism in the 21st century. We use crowdfunding, digital security, and internet advocacy to support journalists and whistleblowers worldwide. The ability of the press to cover pipeline protests is criticalâ€"but some states are.

It protects free speech and a free press in America in addition to religion, assembly and petition ; without it, the country would look completely different. How free is our freedom of the press? Timm, a lawyer and a TED Fellow , runs the Freedom of the Press Foundation , a nonprofit organization that defends journalists through Internet advocacy, crowdfunding campaigns and tools to protect reporters and their sources including SecureDrop , a safe way for whistleblowers to send information to journalists. Here, Timm shares a brief overview of press freedom in America and explains why government whistleblowers are so vital to an independent press. The US owes its existence in part to a free press. Speeches, pamphlets and newspapers were critical in informing and galvanizing public support for the revolt. And because a free press was so pivotal in their efforts to overthrow British rule, the Founding Fathers decided to protect that right with the First Amendment, ratified in But the rights protected by the First Amendment have never been absolute. Along the way, the US government has scored some key victories in stifling the press. The Sedition Act of made it criminal to criticize high-ranking government officials; anti-war activists during WWI were jailed; and FDR created an Office of Censorship during WWII in an attempt to control the media narrative around the war effort. However, a number of Supreme Court cases in the 20th century were able to establish robust legal protections for the press. These cases include Near vs. Minnesota , which held that it was largely unconstitutional for a government to censor the press, and New York Times v. An independent press ensures that citizens stay informed about the actions of their government, creating a forum for debate and the open exchange of ideas. And the press also occupies another critical role: The press relies on whistleblowers to help keep the government in check. But responsible news organizations operate according to ethical standards, consulting with government officials before releasing sensitive information and refraining from publishing stories that would cause the public more harm than good. Recent whistleblowers have been prosecuted under the Espionage Act of , a law passed during WWI to prevent insubordination and the disclosure of military secrets to foreign enemies. From until , only one government whistleblower was convicted under this law. But from to , the Obama administration used it to prosecute eight whistleblowers, including Chelsea Manning and Edward Snowden, and many predict that the law will continue to be used aggressively against sources. The Espionage Act has been called unconstitutional by the ACLU because it is selectively used against leakers who depict the government in bad light and it does not allow for whistleblowers to argue in court for the public interest served by the release of leaked information. Ultimately, says Timm, the increasing use of the Espionage Act makes sources less likely to approach journalists with classified information, even if it would benefit the general public, for fear of being jailed. The Espionage Act could be deployed against reporters, too. But the narrow Supreme Court ruling in that case leaves open the possibility that it could one day be used to criminally prosecute journalists for publishing leaks, says Timm. While Timm and other media observers sensed that free press violations have been increasing over the past decade, no one was actually keeping a record. Now for the first time, the US Press Freedom Tracker will comprehensively count and document press freedom violations in America, including reporter arrests, border stops and court orders for surveillance.

Chapter 7 : Are there limits to freedom of the press in the U.S.? | HowStuffWorks

freedom of speech and freedom of press The First Amendment to the U.S. Constitution, says that "Congress shall make no calendrierdelascience.coming (limiting) the freedom of speech, or of the press " Freedom of speech is the liberty to speak openly without fear of government restraint.

However, the Supreme Court has also recognized specific situations in which the government is allowed to limit the freedom of the press. There are legal limits, for example, to how much protection a reporter can provide a confidential source. Reporters often rely on confidential sources for inside information that exposes government or corporate corruption. In , New York Times reporter Judith Miller served 85 days in jail for contempt of court when she refused to name the source who leaked the identity of undercover CIA agent Valerie Plame [source: The following year, two reporters for the San Francisco Chronicle also served jail time for refusing to name the source who leaked closed grand jury testimonies from the Barry Bonds perjury case [source: Bloggers, however, are something of a special case when it comes to press freedom: In , an "investigative blogger" was found guilty of libel when she posted inaccurate and damaging statements about an Oregon lawyer. Defamation is also prohibited by law in specific cases. Defamation by the press is called libel. In the landmark case New York Times Co. Sullivan, the court ruled that the press is not guilty of libel against public figures unless the injured party can prove actual malice -- knowingly and recklessly publishing false information -- rather than mere reckless reporting. The ruling lifted restrictions on the press that had prevented it from reporting fully on the civil rights movement in the South. However, the Court ruled in later decisions that the press can still be found guilty of libel in defamation cases involving private citizens and private matters without proof of actual malice [source: Legal Information Institute]. Members of the media enjoy the same rights -- and are subject to the same restrictions -- as members of the general public [source: However, some states have passed shield laws that offer journalists stronger protections against accusations of libel or naming confidential sources in non-federal cases. A recent bill to establish a federal shield law stalled in Congress [source: Obscenity is another a type of speech or published material that is not protected by the First Amendment. In its ruling on the case of Miller v. California, the Supreme Court established the "Miller test" for deciding what types of material qualified as obscene [source: The material must be offensive to an average citizen applying "contemporary community standards" and have no redeeming "literary, artistic, political, or scientific value. These prohibitions were established in two separate rulings. In the case Brandenburg v. Ohio, the court ruled that only speech that is "directed to inciting or producing imminent lawless action" can be legally censored. In an earlier decision, Justice Oliver Wendell Holmes compared such speech to shouting fire in a crowded theater, creating a "clear and present danger" [source: New Hampshire , the Court ruled that speech that "inflict injury or tend to incite an immediate breach of the peace" has so social value and can be curtailed [source: For lots more information about the press and the Constitution, see the links below.

Chapter 8 : World Press Freedom Index | RSF

Freedom of the Press To view the full interactive map, visit the Freedom of the Press page by clicking here. WHAT IS FREEDOM OF THE PRESS? Freedom of the Press, an annual report on media independence around the world, assesses the degree of print, broadcast, and digital media freedom in countries and territories.

Why press freedom is important in democracy? When the press is free to write without fear of punishment, then they are not afraid to write the truth, even when it offends those with lots of power. By being able to wriâ€¦te about the workings of government without the fear of punishment, the press can reveal both good and poor decisions or actions of government. This serves as an accountability measure method for the citizens of a country. At the next election, people can judge and vote with more informed opinions than without a free press. No one person can gather and consider so much information as a team of trained journalists. Many countries do not have freedom of the press and you will notice a correlation to human rights abuses in those countries. Some countries have very centralized ownership in the press. Countries like Canada and the USA for instance. Most of the news sources that the majority of the people watch are controlled by a few companies which rely on a few big sources of news. Like AP or Postmedia news Cdn. These news companies must turn a profit or serve the fundamental values of their owners that we normally assume and hope are altruistic. Many critics of the media make arguements that in Canada and the USA we have a less free and less diverse press than others actually feel thes countries have. In contrast to how I started the answer; in a country where the press is free to speak, sometimes a news company speaks parts of the truth or pretends news is actually fact when it is really a one-sided opinion piece on a news story. When it is blatant, we tend to say the news source is biased or controlled by a group. Some would say that in a free Western democracy that we do not always have a free press due to the economic controls of our fairly centralized news media. People like Noam Chomsky try to debate these issues. Hope this answer is food for thought. This answer is a reflection of my upbringing, worldview, education, income and should be reflected upon alongside other answers. I could be writing this to inform you truthfully or trying to use propaganda to control your beliefs. However, I write this with a sense of freedom from persecution or ill treatment by others. Therefore I feel free to tell you the truth about the debate as I see it. I am not a professional writer or jourmalist and own no news company, nor am I a member of any political party. I am a citizen of two countries of which one is Canada or the USA. Or is that just what I say. However, I am free to use the internet as are you. You can accept this "free" information and analyze it with a critical mind.

Chapter 9 : First Amendment | Constitution | US Law | LII / Legal Information Institute

The government cannot require the media to publish information against its will; prevent the publication of an article even if there is reason to believe it would reveal information with national security implications; impose criminal penalties, or civil damages, on the publication of truthful.