

How Free Can Speech Be?

By Mira Agarwal

Freedom of speech is often the basis of articles in mainstream media, but what's not conveyed within the lines of black text crammed on your phone, is the way freedom of speech has the power to change the way a society is structured. Picture this, two different dystopias. One where an authoritarian leader with iron tight control monitors every word that you speak to label you a terrorist. Another, where hurtful words are thrown around, misinformation spreads like a wildfire and riots are incited daily. The only difference between these two worlds is the freedom of speech restriction. When deciding what freedom of speech means to me, I had to consider not only what will cause these two worlds, but also how major nations govern free speech and the problems they face with it.

When the Founding Fathers of the United States wrote the Constitution, they were the first of their time to ever give the right of freedom of speech to the people, setting the bar for the next several centuries. In the first amendment of the United States Bill of Rights, they boldly stated "Congress shall make no law... abridging the freedom of speech." But as time passed the Supreme Court of the United States (SCOTUS) voted on landmark cases that clarify this seemingly straightforward rule. In 1917 SCOTUS, when deciding if the Espionage Act violated the first amendment during *Schneck vs. United States*, determined that the government can restrict expressions, or speech, that would create "a clear and present danger

of a significant evil that Congress has power to prevent". In his decision Justice Oliver Wendell Holmes clarified that clear and present danger must be immediate which was later upheld during *Brandenburg v. Ohio* in which SCOTUS voted to protect speech encouraging violence at a KKK rally because the speech did not call for "imminent lawless action." But apart from immediacy there were no other standards for "clear and present danger."

Though these free speech court cases were established many decades ago there are still modern day uncertainties. During 2020 and 2021 a group of doctors called Front Line COVID-19 Critical Care Alliance alongside prominent politicians and social media figures advocated for the use of ivermectin as a treatment to COVID-19. Many of their claims were based on unverified studies and the studies that were credible prescribed a dose of ivermectin that is unsafe to humans. The messages spread by these figures contributed to thousands of ivermectin overdose cases and several deaths, but they were completely legal. In this case, deadly misinformation was legal under the first amendment. On the other hand, recently introduced bill by the Florida State Government nicknamed "Don't Say Gay" violates the free speech of educators to participate in student conversations regarding sexual orientation or sexual identity or even make them shut down these conversations, violating the free speech of students. This bill took effect on July 1st and has been in place for over a month despite its blatant free speech violations. Despite the United States having an explicit first amendment about free speech, complex court cases lead current issues to remain with under restriction and lack of enforcement.

Even though the United States was the first country to have a doctrine regarding free speech, as other countries have developed constitutions they have written their own laws based on free speech. Article 19 of the Constitution of India, the world's largest democracy, dictates the right to express one's views and opinions on any issue through speech. However this right is not absolute and the second clause of article 19 allows the Indian Government to restrict free speech if it threatens a long list of instances such as security of the state or public order. Although these limitations may seem in the best interest of the people, they are just the opposite. In clause two of article 19 there are no specific definitions of these situations of what a threat to the security of state actually is. This leaves the door open for corrupt leaders to exploit power and silence protesters, their opposition, and even the press in the name of protecting public order.

In the United Kingdom, the first nation to give rights to the people in the Magna Carta, their Human Rights Act of 1998 dictated that "Everyone has the right to freedom of expression", but added certain conditions such as national security or protection of the reputation of others. Similar to India, these conditions allow for politicians to abuse restrictions while claiming they are preserving national security. Additionally the UK Terrorist Act of 2006 made it an offense to "glorify" terrorism which can severely jeopardize free speech since it virtually bans large forms of protest against the government. Though terrorism is violent and causes many harms, banning language praising it is severely impinging on the people's right to free speech. For example after the merging of Britain and Ireland under the Act of Union, Irish freedom

fighters and activists were suppressed by the British government because they were labeled “terrorists” and therefore the government justified their silencing.

I believe that freedom of speech is one of the most fundamental rights and it is crucial that it is protected. When the government restricts what people can say, especially in vague cases it can become deadly. Currently in India there is heavy censorship of the press and very little allowance of political criticisms. This leads to politicians who are harming the country to remain in control and repress any protest for a change in leadership. Additionally during the Anti-rightist movement in China the Chinese Communist Party (CCP) prosecuted, killed, assaulted, and sent to work camps those who spoke up against their rule or even criticized policy decisions they made. This led to a whole generation that grew up without an education, massive loss of life, literature, and culture. Furthermore the coronavirus pandemic has led to an increase in authoritarian governments detaining journalists for speaking up against the government. In Thailand, Cambodia, Venezuela, Bangladesh, and Turkey, governments are prosecuting journalists, opposition activists, healthcare workers, and anyone else who dares to criticize the official response to the coronavirus. Not only does freedom of speech avoid authoritarian outcomes, it is also crucial to building a government that has the interests of the people at mind and truly solves the problems that affect the people. Freedom of speech is also crucial to innovation and producing change. For example a researcher at a Chinese lab attempted to warn the medical community about the coronavirus early but was silenced by the government which slowed down the response to COVID.

Despite the fact that I believe freedom of speech is one of the most important rights, it cannot be absolute. There is a fine line between expressing your opinions and directly causing someone else harm, and this distinction is a difficult one to master. For example the American Civil Liberties Union has recently come under scrutiny for defending a neo-nazi group that wanted to protest in a neighborhood where many Holocaust survivors lived. Although the ideas that the group is propagating are harmful, their actions are legal since a right to state one's beliefs is legal. But the moment the words start inciting violent actions is when the line should be drawn. If someone's words directly incite violence that immediately or quickly harms people, they should not be allowed. For example on January 6th, as evidence suggests, when the former President encouraged his supporters to attack the Capitol, he promoted actions that led to the death of several people. When steps to prosecute after this type of language is not taken, violent riots like January 6th will happen more often and become more deadly, and political leaders must be held to the same laws as citizens. While I wish that freedom of speech could be absolute, knowing how humans have a tendency to misuse this right I believe there have to be certain restrictions.

