

# The Philosophy of Free Speech

## LECTURE OUTLINE

In this lesson, you will learn:

- The philosophical origins of modern American free speech rights
- Thinkers and texts that influenced the creation of the First Amendment

## INTRODUCTION: BARACK OBAMA ON FREEDOM OF SPEECH AND THE VALUE OF DEBATE

“There will be times when you shouldn’t compromise your core values, your integrity, and you will have the responsibility to speak up in the face of injustice. But listen. Engage. If the other side has a point, learn from them. If they’re wrong, rebut them. Teach them. Beat them on the battlefield of ideas.”

— Barack Obama,  
Howard University  
May 7, 2016

## WHERE DID THIS IDEA COME FROM?

- Where does Obama get the notion of a battlefield of ideas, and what does it mean?
- What does the battlefield of ideas have to do with freedom of speech?
- How long have we have these ideas?

## KEY CONCEPT:

The philosophical foundations of America’s Constitution and Bill of Rights, including the protection of freedom of speech, were influenced by thinkers working long before America’s founding.

## JOHN MILTON (1608-1674)

Wrote Areopagitica (1644)- one of the earliest essays arguing against censorship and for freedom of the press.

- England wanted to control what people said about the government and Church of England in print, and instituted a licensing system requiring every new document to be approved by the government before it could be printed.
  - This practice today is known as prior review, and in America is unconstitutional in almost all instances.
  - Areopagitica criticized the principles of such licensing systems
- Milton argued that censoring authors amounted to state control of thought.

- He also said that information sources should not be controlled or influenced by political party interests.

### QUOTATIONS:

- “Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.”
- “[H]e who destroys a good book, kills reason itself.”

### JOHN LOCKE (1632-1704)

Among most influential works were A Letter Concerning Toleration (1689) and The Second Treatise of Government (1690)

John Locke has been called “the intellectual founding father of the United States.”

- The phrase “life, liberty and the pursuit of happiness” in the Declaration of Independence was borrowed almost entirely from Locke’s writings, along with many other ideas that informed our founding documents.

### LOCKE’S IDEAS

- Political leaders are in no better position to determine “truth” than other men are, and thus have no right to attempt to force their opinions on others.
- People must deal with one another through the use of persuasion and reason rather than coercion (force.)

What connection do you see between Locke’s ideas on free speech and the “battlefield of ideas” Barack Obama references in his commencement address?

### JOHN LOCKE ON GOVERNMENT

The basis of equality, independence and freedom among people is the mutual possession of the ability to reason.

This is why children do not have all their rights until they have reached the age when their reason is developed.

- He insisted that when government violates individual rights, people may legitimately rebel.
- In a state of nature, without government, each person possesses an equal amount of independent reason and free will, and thus, should be politically independent and equal.

His views were so radical at the time that he did not sign his name to his essays. He acknowledged authorship only in his will.

Locke signed his essays as ‘Publius’

Publishing anonymously or pseudonymously is a key right under the First Amendment today

Locke would be a major influence on the Enlightenment in Europe, which revolutionized political and

moral thought concerning government, science, and religion, and placed a new emphasis on the importance of individual freedom and the right to one's own conscience.

## THE ENLIGHTENMENT COMES TO AMERICA

- The Enlightenment revolutionized thought throughout Europe during the 18th Century.
- The European Enlightenment in turn had a profound influence on thought in the American colonies and contributed greatly to the movement for independence. In America, this period is often referred to as the American Enlightenment.
- Europe's major Enlightenment thinkers and texts were widely read among the founders, and helped lay the intellectual foundation for the cause of Independence.
- Some of these Enlightenment ideas would be reflected in the United States Constitution (1787) and Bill of Rights (1791), and with American concepts of freedom of speech.

## MAJOR FIGURES OF THE AMERICAN ENLIGHTENMENT:

- Benjamin Franklin: Author, publisher, inventor, diplomat, delegate to Constitutional Convention
- Thomas Paine: Author of "Common Sense," which rallied support for cause of American Independence
- Thomas Jefferson: Author of Declaration of Independence, President of the United States 1801-1809
- James Madison: Drafted and promoted the Constitution and Bill of Rights (is known as the "father of the Constitution"; co-authored Federalist Papers, a set of essays urging ratification; President of the United States from 1809-1817)

## GETTING TO THE CONSTITUTION

- The U.S. Constitution (debated 1787, ratified 1789) replaced the earlier Articles of Confederation (ratified 1781)
- The Articles of Confederation gave the federal government very weak powers over the 13 states, including weak powers of taxation
  - Independence came at a high price: the newly-independent states were heavily indebted by the American Revolution
- Partly motivated by these concerns, the Constitutional Convention was called in 1787 in the hopes of strengthening the federal government's constitutional powers
- Famous Federalists include George Washington, John Adams, and Alexander Hamilton.
- Famous Anti-Federalists include Thomas Jefferson, James Monroe, Patrick Henry, Samuel Adams, and George Mason

## COMPROMISE: THE BILL OF RIGHTS

- Among the Anti-Federalists' chief concerns was the Constitution's lack of a Bill of Rights outlining



specific rights the federal government could not take away from the people

- Some Anti-Federalists were convinced to vote to ratify the Constitution by promises that a Bill of Rights would be separately drafted and voted on in the future.
- The Bill of Rights was ratified in 1791

The Bill of Rights is the first 10 Amendments to the Constitution that list specific prohibitions on governmental power.

The First Amendment was placed ahead of all the others.

The First Amendment states: “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.”

This discussion about the tension between individual liberty and government power is a longstanding debate that we are still having today.

### **BONUS: JOHN STUART MILL**

(1859) On Liberty – although it was written after the Constitution, this is considered to be one of the greatest and most convincing arguments in favor of free speech and individuality ever written.

Mill believed that individuality is something that should be protected and nurtured. He believed society squelches nonconformity, which is a loss to everyone, because we can learn new ideas from the nonconformists among us.

Mill argued that societies that allow liberty and freedom of speech and thought will uncover the best new ideas and flourish, but those that impose restrictions will stagnate.

Mill rejects attempts, either through legal coercion or social pressure, to coerce people’s opinions and behavior.

Mill spoke of the need to protect the minority against the power of the majority; this is sometimes referred to as the “tyranny of the majority.”

Mill says liberty of opinion is valuable for two main reasons. First, the unpopular opinion may be right. Second, if the opinion is wrong, refuting it will allow people to better understand their own opinions.

Mill observes that people who feel very sure of their opinion may begin to believe they are infallible. This leads to the attempt to try to impose their views on other people and to decide the question for everyone. He said that even if only one person held a particular opinion, mankind would still not be justified in silencing him.

He points out that some of the most horrible mistakes in human history have been made attempting to stifle dissenters (such as when Socrates was forced to drink hemlock [poison] for blasphemy because their beliefs were too radical for their times.)

### **IMPORTANT QUOTATIONS FROM ON LIBERTY:**

“If all mankind minus one, were of one opinion, 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...”

“The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.”

“First: the opinion which it is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging. To refuse a hearing to an opinion, because they are sure that it is false, is to assume that their certainty is the same thing as absolute certainty. All silencing of discussion is an assumption of infallibility.”

### **SUMMING UP**

The Constitution lists what the federal government can and must do.

The Bill of Rights lists what the federal government cannot do; those rights belong to the people, not the government.

Freedom of speech means that the government may not punish people for expressing their opinions.

#### Terms and Concepts

- Federalist
- Anti-Federalist
- Rights
- Tyranny
- Coercion
- Censorship
- Prior Review
- Ratify
- Liberty

- Dissenter
- Suppress
- Infallibility
- Enlightenment
- Bill of Rights

### CHECK YOUR MEMORY

Which writer has been called the “intellectual founding father of the United States?”

Hint: The phrase “life, liberty and the pursuit of happiness” in the Declaration was borrowed from him.

(A: *John Locke*)

John Milton wrote a very famous essay arguing against censorship. What did he call his essay? (A: *Areopagitica*)

TRIVIA: Areopagitica was named after a famous hill called Areopagus, where ancient philosophers would often speak.

What was the period of time called during which so many new ideas, inventions and discoveries occurred leading up to the American Revolution? (A: *The American Enlightenment*)

Who were some major figures of the American Enlightenment? (A: *Ben Franklin, Thomas Paine, Thomas Jefferson, James Madison*)

What was the key difference between the Federalists and the Anti-Federalists?

Why was the Bill of Rights added to the Constitution?

To protect the rights of the people and to convince the anti-federalists to ratify the constitution  
When was the Constitution ratified? The Bill of Rights? 1789 (Constitution) 1791 (Bill of Rights)

### DISCUSSION QUESTIONS

Why do you think freedom of speech so important to the founders?

Why did President Obama say that it is important to listen to the “other side” in a debate? What does he believe we gain by doing so?

Can you describe an instance in your experience when you changed your opinion on an issue through this kind of debate?

What is the difference between persuasion and coercion?