

## Chapter 13 – Freedom of Speech

### A. Biblical Teaching

- a. *To prevent the abuse of power by government:* The tendency of the heart is to sin, Gov't power corrupts (Rm 3:23, 1 Sm. 8:11–17; 2 Sm. 11:1–27; see pp. 86–87, 125 in PABT).
- b. *To enable government to be chosen by the people* (note the assumptions behind Gn. 1:27; Ex 4:29–31; 2 Sm. 2:4; Rm 13:4)
- c. *To protect human liberty* (Ex 20:2; Lv. 25:10; Dt. 30:19; Is. 61:1; see pp. 91-95 in PABT)
- d. *To protect religious speech* (and so obey Matt.28:19–20 without fear of censorship or punishment)
- e. *To protect the ability of individuals to think and decide issues for themselves:* Human freedom is highly valued in Script. (Dt. 30:19; Josh. 24:15; Mt. 11:28; Rv. 22:17; see pp. 26–27, 91–92). Access to arguments on all sides of an issue is needed to be able to think and act freely.

### B. The U.S. Constitution

#### a. *First Amendment*

1. An important means of guarding against excessive power in the federal government
2. Important in order to “secure the blessings of liberty to ourselves and our posterity.” aka, human liberty.
  - “liberty” listed among the “certain unalienable rights” that had been given to each person “by their Creator” in the D of I.

C. Restrictions on Freedom of Speech– 4 commonly accepted categories of speech that are not protected by the 1st Amendment: *Defamation, Incitement to riot, Obscenity, and Child Pornography.*

### D. Campaign Finance Restrictions

#### a. *The Goal:*

1. Stated Goal: (a) removing the corrupting influence of money from politics, (b) giving every citizen an equal voice in politics
2. Possible Actual Goal: Partisan Politics to benefit the Democratic Party. See Bradley Smith's statement on pp 486-87, PABT.
  - Regarding “corrupting influences,” what about academia or Hollywood?

#### b. *The real effects of campaign finance restrictions*

1. Remove much of the influence of private citizens who use contributions to support political candidates.
  2. Gives unfair advantage to other groups:
    - *Incumbents:* have an advantage in name recognition
    - *Press:* becomes the primary source for information about candidates. See May 2004 survey, Pew Research Center for the People, re. 547 members of the Press (journalists) including 247 in the national media:
      - o 5 times more identify as “liberal” (34%) rather than “conservative” (7%)
      - o increase in self-identified “liberal” reporters - 22% in 1995 to 34% in 2004, self-identified “conservatives” remains low - 4% in 1995 to 7% in 2004
      - o Local newsrooms: 23% identify as liberal, 12% identify as conservative
      - o Fully 91% of those who work at national news organizations say it is *not* necessary to believe in God to be moral; 78% of local journalists agree
    - *Labor Unions:* Not subject to financial restrictions, provide large amounts of funding, volunteer labor to candidates sympathetic to unions.
    - *Hollywood Movies:* see Citizens United v. FEC
    - *University faculty members:* have significant influence over younger voters. Robert Lichter, George Mason Univ., 2005 Poll: 72% of college faculty identified as liberal, 15% - conservative. 50% - Democrat, 11% - Republican. 51% - rarely or never attend church.
    - *Super-wealthy candidates:* can contribute unlimited amounts of money to his own campaign – not restricted. One reason for the numerous amount of multimillionaires in political office. Nov. 2009 report – 237 millionaires in congress. As of 2008, 8 of 10 were Democrats.
  3. Makes it much more difficult for average citizens to run for office or merely participate in political process (ex's. p 489, PABT, last two paragraphs).
  4. Does not keep money out of politics, only keeps average citizen from contributing. See George Soros example, p.490).
- c. *Campaign finance laws have become a booby-trapped minefield that can destroy innocent people:* They have become so complex and confusing it's easy for citizens and candidates who mean no wrong to be accused of violations. See statement of Hans A. von Spakovsky, former commissioner of FEC, p. 490, PABT.
- d. *Restricting campaign contributions is restricting freedom of speech*
1. Eight former commissioners on the FEC filed Supreme Court Brief – McCain-Feingold = unconstitutional
- e. *What is the solution?*
1. Abolish Restrictions, except for reporting source of donation over a certain amount (\$500 or \$1000?)
  2. Possible Objection: elections can be bought.
  3. Response: Unlimited amounts of money from super-wealthy candidates are already being spent on campaigns, while average citizens remain severely restricted.

E. Campus “hate speech” codes and other restrictions of free speech on college campuses – according to FIRE: 253 public universities (97%) have “speech code” policies that can be used to severely restrict free speech, including religious speech.

a. *These regulations attempt to restrict speech that causes “offense” to someone, rather than “harm” as with riot speech codes.*

b. *Censoring the Gospel and expressions of Christian moral values*

1. Homosexual conduct is contradictory to Scripture = hate speech, Support of prop 8, California = hate speech, Gospel Message = hate speech

2. Alliance Defense Fund cases – Georgia Tech Univ., Savannah State Univ. in Georgia, Community Colleges of Spokane and Spokane Falls Community College (pp.492-93). As of Nov 09, the ADF has never lost a case litigated to completion.

-Bad News – Legal challenges now necessary for simply exercise of freedom of speech and religion.

c. *Discrimination against Christian organizations*

1. ADF has been involved in many cases re. nondiscrimination policies used to discriminate against Christians

- Rutgers Univ. and Intervarsity Christian Fellowship: required to accept leaders that do not hold Christian beliefs. Suit filed by ADF, school dropped effort.

- Christian Legal Society has had to file suit with help of ADF to preserve leadership positions on these campuses: Ariz. State Univ., Ohio State Univ., Southern Illinois Univ., many others.

- University of North Carolina at Chapel Hill tried to force Christian Frat to open leadership to non-Christians. ADF filed suit, school backed down.

2. Christian Legal Society v. Martinez

3. Student Fees, *Rosenberger v. Rector and Visitors of the University of Virginia*

d. *Conclusion*

1. “Hate Speech” codes are a violation of freedom of speech.

2. Allowed to operate on Univ.s for 20+ years, universities paid for by the public with tax dollars

3. Violates biblical value of freedom of speech and the U.S. Constitution

4. A version of Freedom of speech that prohibits merely objectionable or offensive speech is not free at all.

5. Expressing moral opposition to an action does not inevitably (or even usually) lead to violence or harm.

6. Only speech that causes direct actual harm can be curtailed by law (riot speech, yelling “fire!” in a crowded theater, etc.)

7. It is the free discussion of differences that allows a democracy work out its political process.

8. Hate speech regulations, due to legal challenges, are being turned back on American Campuses, but are still in full force in many other nations:

- Sweden, Pastor Ake Green – 6 months in prison for a sermon on sexual behavior (eventually overturned)

- Netherlands, 2000 – attempt to prosecute Pope John Paul II

- Canadian Parliament, C-250, 2003.

- Saskatchewan Human Rights Commission’s imposition of a “lifetime” ban (Dec. 2007) on a local man’s freedom to publicly criticize homosexuality – upheld.

F. The “Fairness Doctrine” and Talk Radio

a. 1949 Policy introduced by FCC requiring radio stations broadcasting some discussion of controversial issues do so in a way that is honest, equitable, and balanced. Based on the idea that a limited number of broadcast channels were available, so it was designed to give different sides an opportunity to get their views before the public.

b. *Fairness Doctrine abolished by FCC in 1987:*

1. Statement by FCC: *The intrusion by government into the content of programming occasioned by enforcement of [the Fairness Doctrine] restricts the journalistic freedom of broadcasters . . . [and] actually inhibits the presentation of controversial issues of public concern to the detriment of the public and the degradation of the editorial prerogative of the broadcast journalist.*

c. *Proliferation of conservative talk radio* (radio shows from any view point are free to air)

d. *Liberal Politicians now pushing* for reinstatement of “Fairness Doctrine.”

e. *My response:* “Definitely not!” Reinstatement would destroy conservative talk radio and leave all of American media dominated by liberal journalists who control TV, News Papers, and Gov’t-supported NPR.

f. *The “Fairness Doctrine” would result in large-scale government regulation of the content broadcast by radio stations, thus limiting free speech.*