

Freedom of Speech and Religion

Intro

Does the Bible give you the freedom of speech and religion?
How should we understand the freedom of speech and religion in the U.S. Constitution?

Freedom of Speech in the Bible

Summary: The Bible gives you “freedom of speech” in the sense that you have the right to discuss/debate ideas, tell people they are in sin, offend people, and teach what is true. But you do not have “freedom of speech” in the sense of being able to say whatever you want.

Ephesians 5:4 - Let there be no filthiness nor foolish talk nor crude joking, which are out of place, but instead let there be thanksgiving.

Matthew 12:36 - I tell you, on the day of judgment people will give account for every careless word they speak,

Ephesians 4:29 - Let no corrupting talk come out of your mouths, but only such as is good for building up, as fits the occasion, that it may give grace to those who hear.

Colossians 3:8 - But now you must put them all away: anger, wrath, malice, slander, and obscene talk from your mouth.

Matthew 15:11 - it is not what goes into the mouth that defiles a person, but what comes out of the mouth; this defiles a person.

Colossians 4:6 - Let your speech always be gracious, seasoned with salt, so that you may know how you ought to answer each person.

Conclusion: We all fail to control our tongue, and we fail a lot!

James 3:2 - For we all stumble in many ways. And if anyone does not stumble in what he says, he is a perfect man...

James 3:8 - but no human being can tame the tongue. It is a restless evil, full of deadly poison.

Freedom of Religion in the Bible

Summary: Biblically, you do not have the right to believe any religion you choose. But you do have the right to disagree with other Christians on issues of conscience (adiaphora) and minor doctrines. This is a different question than whether or not Christians think the government should allow freedom of religion.

The First Amendment

“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.”

Breaking it down

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

Notice:

1. The government cannot have an official religion nor promote only one religion over others (is America a Christian nation?).
2. The government cannot promote religion over non-religion or vice versa.

Note: U.S. political theory is highly influenced by John Locke’s *Two Treatises of Government* and *Letter Concerning Toleration*. In his political theory the freedom of religion does not extend to atheism (because Locke’s politics is based on moral natural rights and a created state of nature, which you don’t have in atheism). Locke also denies freedom of religion to Catholics (because a Catholic has an ultimate allegiance to a another foreign power - the Pope in Italy).

3. You may believe any doctrines or dogmas you want.
4. You may practice religious action even in some cases where it is generally illegal. For example, churches were still allowed to use wine in communion during prohibition.

“More importantly, the wording of state constitutions suggest that ‘free exercise envisions religiously compelled exemptions from at least some generally applicable laws.’ The Free Exercise Clause not only protects religious belief and expression; it also seems to allow for [some] violation of laws, as long as that violation is made for religious reasons.” -Cornell Law School

5. The government cannot tax your religion so much that it precludes you from following it.
6. Your freedom of religion does not extend to issues that physically harm other people (human sacrifice).
7. You do not have to belong to an official religion or denomination.

8. You must hold your religion with “sincere belief.” For example, if you told people that a religious relic would heal them (and made them pay for it) and they died, you are only in trouble if you knew you were scamming them.
9. Belief and practice are linked. You have the right not just to believe what you want but to practice religious actions that are related to your beliefs.

What is unclear:

1. To what extent can you practice a religion that breaks the law?
2. Is the government “establishing” a religion by simply allowing religious leaders to use government facilities or recognizing that there is a majority religion?
3. Is removing Christian language from a courthouse or school protecting the religious liberties of other religions or is it restricting the religious expression of Christians?
4. What if someone claims that your religion imposes on their freedoms? Does a Christian baker have to make a wedding cake for a gay wedding or for a wicca celebration?
5. Is one’s religion “harming” someone else because telling them their lifestyle is wrong causes “emotional damage?”
6. How does freedom of religion work with kids? In *Wisconsin v. Yoder* (1972) the Supreme Court ruled that the Amish didn’t have to send their kids to public schools. Was this a win for religious rights or was it actually an infringement on the rights of those kids who won’t be able to leave the Amish community or be equipped for a job in the “real world?” What if a Satan-worshipping family makes their 4 year old stand in the middle of a pentagram and say, “hail Satan,” before they will give him ice cream?
7. During COVID-19 was it unconstitutional for the government to forbid (not merely recommend) churches from meeting when the *content* of their religion requires them to physically meet (not just hear sermons) and when the “danger” in assembling was a disease that killed less than 1% of those who even got it?

“or abridging the freedom of speech, or of the press”

Notice:

1. You have the freedom to express your views both verbally and in print.
2. Some places allow more freedom of speech than others (a public forum such as a park, sidewalk, public property, etc.)

3. People have the right to limit what you say on private property.
4. The government has a right to restrict you, not based on the content of what you say, but due to other (non-content) factors. For example, they cannot ask you not to share your faith on a sidewalk, but they can ask you not to use a bullhorn at three in the morning.
5. You cannot incite immediate crime (saying “let’s riot!” or yelling “bomb” on an airplane). However, consider *Schenk v. United States* (1919). This case said that an anti-war protester did not have the right to speak out against a draft. A man protesting the WWI draft was said to have violated the Espionage Act of 1917.
6. You may not incite people to violence by using what are known as “fighting words.” *Chaplinsky v. New Hampshire* (1942). The court decided that Chaplinsky, a Jehovah’s Witness, could not call the Town Marshall curse words as it could incite fighting and ruin the public peace.
7. Obscenity is not protected by the first amendment. Free speech that is obscene (including things like child pornography or sexual harassment) is not allowed.
8. Defamation (a false statement about another person that tends to damage the reputation of that person) is not allowed.
9. Commercial speech is not as protected as content-based speech (like political or religious speech).
10. “Other compelling interests” can overrule your freedom of speech. This would include elements of national security or a gag-order to prevent a jury from being biased.
11. Speech that is harmful to children is not protected.
12. Someone being offended by the content of your speech does not void you having the right to say what you want. *Freedom of speech is not the right to not be offended but rather the right to offend.*

What is unclear:

1. What if the government says something is a matter of national security? How high does the bar have to be?
2. What exactly is considered libel or slander as culture changes?
3. What is the definition of “hate speech?” Does it apply to calling someone in a homosexual relationship a “sinner?”
4. What exactly is “obscene” speech?

5. Is speech harmful to a child if you tell a girl that they really are a girl when their mom says that they are a transgender boy?
6. Again, during COVID-19 was it unconstitutional for the government to forbid (not merely recommend) churches from meeting when the *content* of their religion requires them to physically meet (not just hear sermons) and when the “danger” in assembling was a disease that killed less than 1% of those who even got it? Notice that the Bible allows Christians to meet in each other’s homes (Acts 5:42; 2:46) and even commands us to assemble together for worship (Heb 10:25).

“or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

Notice:

1. You have a right to peacefully assemble.
2. You have a right to correct and criticize the government publicly.
3. The government may not require a group to list its members or deny governmental benefits to people who were part of that group (assuming the group is not involved in illegal activity).
4. You do not have a right to belong to any association, but you do have a right to gather to express your opinions with a group.
5. This right does not protect illegal groups or rioting.
6. There are limits to *where* you can protest.

What is unclear:

1. What is considered a “peaceful” assembly? How many people have to incite violence before you can shut the whole group down?
2. What if there is a curfew or a quarantine? Are there factors, not related the content of the protest, that could overrule the right to assemble?
3. What if your group does not cause harm or do anything illegal but the government says they do?

What does “separation of church and state” mean in the U.S.?

1. The phrase “separation of church and state” doesn’t actually occur in the Constitution.

2. The first amendment is where we get that idea, specifically where it says “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

3. In its original context, this means that the U.S. cannot have an official state church like the Church of England in England or the Lutheran Church in Germany. The U.S. cannot favor one religious grouping over another.

4. There is nothing in the Constitution that forbids individuals from mixing faith and politics or from sharing their faith in a state-related function or location.

5. One theologian points out these helpful facts:

- The U.S. Congress used to hold Christian worship services at the Capitol on Sundays.
- The Supreme Court Building was also used to house church services on Sundays.
- Twelve of the original 14 states required religious tests for those seeking public office.
- After the Civil War, the First Congregational Church of Washington used the House of Representatives as a worship building.
- In 1863, the U.S. Senate requested that Abraham Lincoln designate an official day of national prayer and humility.
- In 1944, Franklin D. Roosevelt (as well as many presidents before him) went on the radio and prayed nationally for our troops and our nation.
- When the First Amendment was implemented in 1791, it was intended to only limit the natural (federal) government and not the state governments.

Is freedom of religion something you can really have?

Notes:

Things to watch out for in the future

1. Your freedom of religion will slowly be taken away because it infringes on another person’s unchristian beliefs.
2. Speech that is offensive, even if delivered in a nice tone, will be considered “violence,” “hate speech,” “libel,” or “slander.”
3. Because Christianity is offensive you will see that it will be restricted because it causes social unrest.
4. Christians will continue to lose rights, especially for our views on sexuality and gender.

5. Those who are seen as privileged classes will have their voices silenced by the culture at large.

6. Because of the bias of the media, social media, Google, etc. you will see Christian views and voices silenced and their positions harder to find.

7. You will see bias in who is allowed to assemble or speak out on an issue.

8. The government will restrict Christian liberties under the banner of other issues.

9. We will see the destruction of true democracy which is where people are free to express their views and influence others.

Final thoughts

In a perfect world, everyone would be a Christian and the laws would be based on the Bible. But since we are ruled by sinners and pagans, it is better to have first amendment rights.

1. Christians should support the freedom of speech (so that *we* can say what we want).
2. Christians should support the freedom of religion (so *our* religion doesn't get restricted).
3. Christians should support the right to assemble (so *we can meet together for worship* and so *we can petition the government* when they do something wrong).