

Freedom of speech – information sheet

Freedom of speech is the concept of the inherent human right **to voice one's opinion publicly without fear of censorship or punishment**. "Speech" is not limited to public speaking and is generally taken to include other forms of expression. The degree to which the right is upheld in practice varies greatly from one nation to another. In many nations, particularly those with authoritarian forms of government, overt government **censorship** is enforced. Moreover, there are different approaches to issues such as hate speech, obscenity, and defamation laws.

The United Nations Universal Declaration of Human Rights, adopted in 1948, provides, in Article 19, that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In the US - What Does Free Speech Mean?

Among other cherished values, the **First Amendment** protects freedom of speech. The U.S. Supreme Court often has struggled to determine what exactly constitutes protected speech. The following are examples of speech, both direct (words) and symbolic (actions), that the Court has decided are either entitled to First Amendment protections, or not.

"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."

Freedom of speech includes the right:

- Not to speak (specifically, the right not to salute the flag).
West Virginia Board of Education v. Barnette, 319 U.S. 624 (1943).
- Of students to wear black armbands to school to protest a war ("Students do not shed their constitutional rights at the schoolhouse gate."). *Tinker v. Des Moines*, 393 U.S. 503 (1969).
- To use certain offensive words and phrases to convey political messages.
Cohen v. California, 403 U.S. 15 (1971).
- To contribute money (under certain circumstances) to political campaigns.
Buckley v. Valeo, 424 U.S. 1 (1976).
- To advertise commercial products and professional services (with some restrictions).
Virginia Board of Pharmacy v. Virginia Consumer Council, 425 U.S. 748 (1976);
- To engage in symbolic speech, (e.g., burning the flag in protest). *Texas v. Johnson*, U.S. (1989)

Freedom of speech does not include the right:

- To incite imminent lawless action. *Brandenburg v. Ohio*, 395 U.S. 444 (1969).
- To make or distribute obscene materials. *Roth v. United States*, 354 U.S. 476 (1957).
- To burn draft cards as an anti-war protest.
United States v. O'Brien, 391 U.S. 367 (1968).
- To permit students to print articles in a school newspaper over the objections of the school administration. *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988).
- Of students to make an obscene speech at a school-sponsored event.
Bethel School District #43 v. Fraser, 478 U.S. 675 (1986).
- Of students to advocate illegal drug use at a school-sponsored event.
Morse v. Frederick, ___ U.S. ___ (2007).



Hate speech : public speech that expresses hate or encourages violence towards a person or group based on something such as race, religion, sex, or sexual orientation (= the fact of being gay, etc.):

Difference EU-US

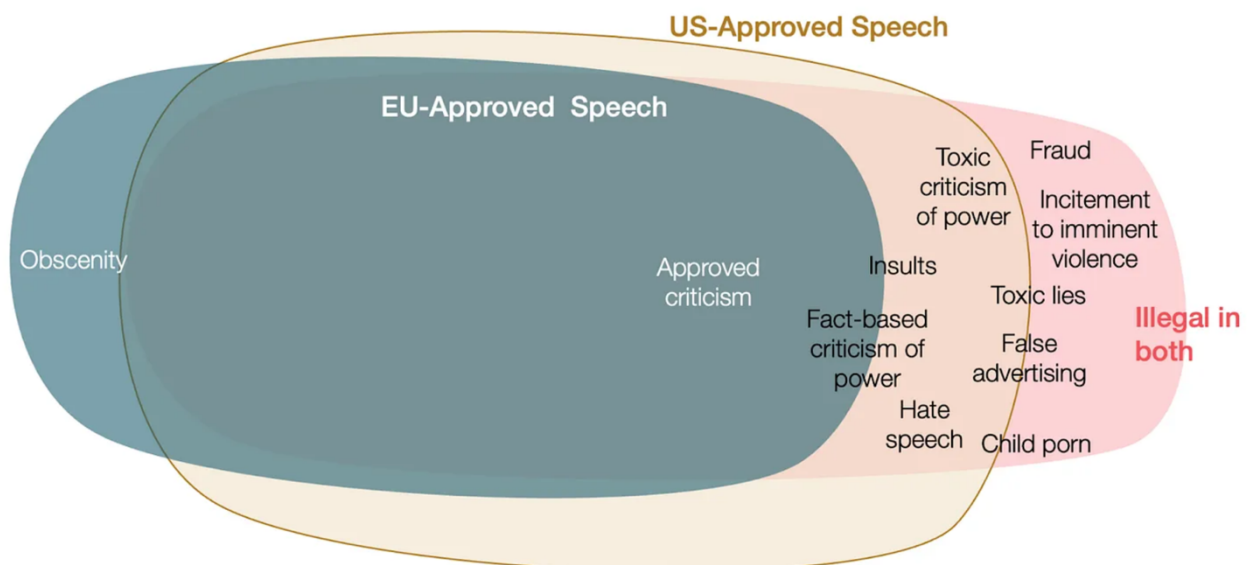
Hate speech: Comparing the US and EU approaches - Source: European Parliament - 03-06-2025

Differences between the United States (US) and the European Union (EU) over the regulation of online platforms have taken on a new dimension under the Trump administration. Senior members of the US administration have strongly criticised the EU for 'limiting free speech' and have called the EU's content moderation law 'incompatible with America's free speech tradition'.

Much of the debate is informed by misconceptions and misunderstandings. The differences between the US and EU hate speech regimes are striking, largely for historical reasons. The First Amendment to the US Constitution provides almost absolute protection to freedom of expression. By contrast, European and EU law curtails the right to freedom of expression.

Article 10 of the European Convention of Human Rights, which applies to all EU Member States, states that freedom of expressions 'carries with it duties and responsibilities'. In a democratic society, restrictions may be imposed in the interest, among others, 'of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others'. EU legislation criminalises hate speech that publicly incites to violence or hatred and targets a set of protected characteristics: race, colour, religion, descent or national or ethnic origin. Even though legislation in EU Member States varies widely, many have extended protection from hate speech to additional characteristics.

In light of the exponential growth of the internet and the use of social media, the debate about hate speech has essentially become about regulating social media companies. The focus has been on the question of whether and to what extent service providers are responsible for removing hate speech published on social media platforms. The US has opted not to impose any obligation on social media companies to remove content created by third parties, merely granting them the right to restrict access to certain material deemed to be 'obscene' or 'otherwise objectionable'. By contrast, the EU has adopted regulation that obliges companies to remove offensive content created by third parties, including hate speech, once it is brought to their attention. Social media companies also self-regulate, by adopting community guidelines that allow users to flag hate speech and ask for its removal.



What Children & Young People Need to Know about **FREE SPEECH** VS **HATE SPEECH**

Everyone in the UK has the right of "freedom of expression". That's the right to voice your opinions and share information and ideas with others. It's *not* the right to say whatever you want without regard for others' feelings and values. We all have a responsibility to use this right properly: being respectful and inclusive to those around us, rather than making offensive and threatening remarks. That's called 'hate speech' and knowing the difference is incredibly important.

Free speech is a person's legal right to share information, opinions and ideas without fear of retaliation, censorship or legal consequences. This freedom of expression is recognised in international human rights legislation, and here's what it does for us in our day-to-day lives ...

The Human Rights Act 1988 states that everyone has the right to express themselves freely – even if their views are unpopular and might offend others.

Freedom of expression encourages listening to others and allowing opposing views to be heard. It's important to respect someone's opinion, even if we disagree with it. Free speech lets us engage in meaningful discussions with people who feel differently.

Any concept could potentially offend someone. Galileo's theories were incredibly offensive to many at the time, while not everyone agrees with Darwin, even today. A frequent exchange of ideas is vitally important for a healthy society.

Free speech allows us to engage people we disagree with in a debate. The ability to challenge others' views is healthy – while having *ours* challenged helps us learn how to deal with criticism and think deeply about what we say and believe.

Freedom of expression includes the right *not* to do something, like not standing up for – or singing – the national anthem. Even though some people would find that offensive, it isn't illegal. By law, nobody can force you to say anything you don't want to.

Free speech is a powerful tool for change, justice and reform. Many modern UK rights – such as women being allowed to vote, decent working conditions or same-sex marriage – couldn't have been achieved without it.

Hate speech refers to any communication – like talking, texting or posting online – that negatively targets a group or an individual because they are perceived to be different in some way. Demonising and dehumanising statements, threats, identity-based insults, offensive name-calling and slurs would all count as hate speech. Here are some common forms it takes...

Targeting people or groups because of a protected characteristic – like race, gender identity, sexuality, nationality, religion or a disability – and verbally abusing them with slurs and name-calling. The Equality Act 2010 has more information on this.

Content that dehumanises people based on the same characteristics: referring to them as if they were animals, objects or other non-human entities, for example. Separating the target from other human beings is usually an attempt to justify the speaker's bigotry.

Calling for violence or hatred against certain people or groups and justifying and glorifying those actions. Suggesting that a certain group should be removed from society could be seen as a call to arms, for example – potentially putting people from that group in danger.

Claiming that specific types of people are physically, mentally or morally inferior (or even that they are criminals) to encourage others to view them in the same way. This kind of thinking is always incorrect – but can be incredibly harmful to the group in question.

Spreading damaging misinformation about a person or group that the speaker views as "different" – essentially, trying to turn others against them by lying. Someone might claim that a recent tragedy is the fault of this entire group, when this is simply not possible.

Promoting the segregation of certain groups, or discrimination against them, because of who they are. This has been illegal in the UK for a long time – but some people still try to promote the exclusion of others, which can cause a huge amount of distress.

Meet Our Expert

The Global Equality Collective is an online community for homes, schools and businesses, a collective of hundreds of subject matter experts in diversity, equality and inclusion, and the organisation behind the GEC app, the world's first app for diversity, equality and inclusion.

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