

**Why Does Freedom of Speech Matter?  
Primary Source Analysis Activity**

**Grade Level:** 9-12

**Subject:** Civics, U.S. Government

**Time Required:** One to two 50-minute class periods

**Historical Thinking Skill:** Primary Source Analysis

**Objectives:** Students will be able to analyze historical arguments for freedom of speech and explain why protecting this right is important for individuals and democracy.

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**Lesson Plan:**

**Part 1: Bell Ringer** (5-10 minutes)

Ask students to do a write-pair-share on the following scenario: *You and your classmates want to start a club to raise awareness about immigration and its impact on your local community. You create posters, plan a peaceful lunch meeting, and prepare to speak at an assembly. But the principal says: "You can't talk about that here. It might upset some people."*

*Should school officials be able to ban student speech just because it's controversial or uncomfortable? Why or why not?*

**Part 2: Setting the Stage** (15 minutes)

- Freedom of speech - the right to state opinions and ideas without interference, retaliation, or punishment from the government
- First Amendment of the U.S. Constitution protects freedom of speech
- Different interpretations of what freedom of speech means and what is, or isn't, protected
  - Frederick Douglass - orator and abolitionist
  - John Stuart Mill - English philosopher
  - *Tinker v. Des Moines Independent Community School District* (1969)



### **Part 3: Primary Source Analysis Activity (30 minutes)**

- Assign student handout excerpts from "Why Does Freedom of Speech Matter?"
  - See Attached
- As students read, have them:
  - Answer corresponding critical thinking questions
  - Additionally consider what this document tells us about freedom of speech. How does the document apply to us today?

### **Part 4: Discussion and Reflection (15 minutes)**

As a class, discuss some, or all, of the questions below:

- Should students be allowed to express unpopular or controversial political opinions in school? Why or why not?
- How might fear of punishment change the way people express themselves?
- What role does freedom of speech play in protecting other democratic rights and freedoms?
- How do these different voices show the value of free speech?
- How do societies benefit when unpopular or minority views are freely expressed?
- Can a democracy function without free speech? Why or why not?

### **Part 5: Assessment**

Ask students to write a response to the prompt: "Explain in your own words why freedom of speech is essential in a democracy." Students should use at least three examples from the documents to support their answer.



Name \_\_\_\_\_

### Why Does Freedom of Speech Matter?

**Objective:** I can analyze historical arguments for freedom of speech and explain why protecting this right is important for individuals and democracy.

#### Bell Ringer: Write-Pair-Share

#### Setting the Stage:

Freedom of speech is one of the most important rights in a democracy. It gives people the power to share ideas, speak out against unfair treatment, and be part of important debates—even if their opinions are unpopular.

In 1859, a British thinker named **John Stuart Mill** wrote a book called *On Liberty*. He said that hearing different points of view—even ones we don't agree with—is how we find the truth and avoid being controlled by just one way of thinking.

In the United States, freedom of speech is protected by the **First Amendment to the Constitution**. Over the years, people like **Frederick Douglass** used this freedom to speak out against slavery. In schools and courtrooms, debates have continued about what kinds of speech should be allowed and where limits might apply.

In this lesson, you'll explore what different people have said about free speech—and why it's such an important part of a free society. As you read each source, you should consider what the document tells us about why free speech matters and how it is applicable today.



## Primary Source Analysis:

### Source 1: James Madison's initial version of the First Amendment (June 8, 1789)

Source Excerpt	Critical Thinking Question(s)
<p>The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks* of liberty, shall be inviolable*.</p> <p><i>*bulwark – a defensive wall</i> <i>*inviolable – never to be broken</i></p>	<p>Identify the protections Madison lists as fundamental:</p>

### Source 2: First Amendment of the U.S. Constitution (ratified 1791)

Source Excerpt	Critical Thinking Question(s)
<p>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.</p> <p><i>*redress – remedy or set right</i></p>	<p>How does the final version compare with the initial version introduced by Madison (Source 1)?</p>

### Source 3: John Stuart Mill, *On Liberty* (1859) – Excerpts

Source Excerpt	Critical Thinking Question(s)
<p>[1] As soon as any part of a person's conduct affects prejudicially* the interests of others, society has jurisdiction* over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion. But there is no room for entertaining any such question when a person's conduct affects the interests of no persons besides himself, or needs not affect them unless they like (all the persons concerned being of full age, and the ordinary amount of understanding). In all such cases there should be perfect freedom, legal and social, to do the action and stand the consequences.</p> <p><i>* prejudicially – tending to injure or impair</i> <i>* jurisdiction – the power, right, or authority to exercise control</i></p>	<p>According to Mill, when should society have the right to limit a person's actions—and when should it not?</p> <p>Do you agree with this distinction? Why or why not?</p>

<p>[2] 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. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But 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.</p> <p><i>*posterity – future generation(s)</i></p>	<p>According to the author, who is hurt when speakers are silenced?</p> <p>Do you agree or disagree with Mill's argument? Is there a time to silence speakers?</p>
<p>[3] Before quitting the subject of freedom of opinion, it is fit to take some notice of those who say, that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion. .... With regard to what is commonly meant by intemperate discussion, namely invective*, sarcasm, personality, and the like, the denunciation of these weapons would deserve more sympathy if it were ever proposed to interdict them equally to both sides; but it is only desired to restrain the employment of them against the prevailing opinion: against the unprevailing they may not only be used without general disapproval, but will be likely to obtain for him who uses them the praise of honest zeal and righteous indignation.</p> <p>...For the interest, therefore, of truth and justice, it is far more important to restrain this employment of vituperative* language than the other... It is, however, obvious that law and authority have no business with restraining either, while opinion ought, in every instance, to determine its verdict by the circumstances of the individual case; condemning every one, on whichever side of the argument he places himself, in whose mode of advocacy either want of candour*, or malignity*, bigotry, or intolerance of feeling manifest themselves; but not inferring these vices from the side which a person takes, though it be the contrary side of the question to our own: and giving merited honour to every</p>	<p>What role does Mill believe law and government should play in regulating speech?</p> <p>How does Mill think individuals should judge speech and the people who express it?</p>



<p>one, whatever opinion he may hold, who has calmness to see and honesty to state what his opponents and their opinions really are, exaggerating nothing to their discredit, keeping nothing back which tells, or can be supposed to tell, in their favour.</p> <p>* <i>invective</i> - insulting or abusive language  * <i>vituperative</i> - uttering or given to reprimand  * <i>candour</i> - honest, or sincere expression  * <i>malignity</i> - nastiness, spite, maliciousness</p>	<p>Mill says "popular opinions" often get more protection than "unpopular" ones. Why might that be dangerous in a democracy?</p>
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#### Source 4: Frederick Douglass, *A Plea for Free Speech in Boston* (1860) - Excerpts

Source Excerpt	Critical Thinking Question(s)
<p>[1] No right was deemed by the fathers of the Government more sacred than the right of speech. It was in their eyes, as in the eyes of all thoughtful men, the great moral renovator of society and government. Daniel Webster called it a homebred right, a fireside privilege. Liberty is meaningless where the right to utter one's thoughts and opinions has ceased to exist. That, of all rights, is the dread of tyrants. It is the right which they first of all strike down. They know its power. Thrones, dominions, principalities, and powers, founded in injustice and wrong, are sure to tremble, if men are allowed to reason of righteousness, temperance, and of a judgment to come in their presence. Slavery cannot tolerate free speech. Five years of its exercise would banish the auction block and break every chain in the South. They will have none of it there, for they have the power. But shall it be so here? ...</p> <p>There can be no right of speech where any man, however lifted up, or however humble, however young, or however old, is overawed by force, and compelled to suppress his honest sentiments.</p>	<p>Why does Douglass argue that free speech is essential for justice?</p>

<p>[2] Equally clear is the right to hear. To suppress free speech is a double wrong. It violates the rights of the hearer as well as those of the speaker. It is just as criminal to rob a man of his right to speak and hear as it would be to rob him of his money. I have no doubt that Boston will vindicate this right. But in order to do so, there must be no concessions to the enemy. When a man is allowed to speak because he is rich and powerful, it aggravates the crime of denying the right to the poor and humble.</p>	<p>What do you think Douglass means when he says free speech is a right for both the speaker and the listener?</p>
<p>[4] A man's right to speak does not depend upon where he was born or upon his color. The simple quality of manhood is the solid basis of the right – and there let it rest forever.</p>	<p>According to Douglass, what is the true basis for a person's right to speak freely?</p>

### Source 5: *Tinker v. Des Moines School District* (1969) – Excerpts

At a public school in Des Moines, Iowa, students planned to wear black armbands at school as a silent protest against the Vietnam War. When the principal became aware of the plan, he warned the students that they would be suspended if they wore the armbands to school because the protest might cause a disruption in the learning environment. Despite the warning, some students wore the armbands and were suspended. During their suspension, the students' parents sued the school for violating their children's right to free speech.

Source: [uscourts.gov](http://uscourts.gov)

Source Excerpt	Critical Thinking Question(s)
<p>[1] Mr. Justice FORTAS delivered the opinion of the Court...</p> <p>The District Court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act that is within the Free Speech Clause of the First Amendment. ...</p> <p>First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to</p>	<p>What type of speech was at the center of the Tinker case? How did the Court categorize it?</p>



<p>freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years.</p>	<p>Do you agree with the majority's view that "students do not shed their constitutional rights at the schoolhouse gate?" Why or why not?</p>
<p>[2] The school officials banned and sought to punish petitioners for a silent, passive expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners. There is here no evidence whatever of petitioners' interference with the schools' work or of collision with the rights of other students to be secure and to be let alone. Accordingly, this case does not concern speech or action that intrudes upon the work of the schools or the rights of other students.</p>	<p>How is the argument by Justice Fortas connected to what John Stuart Mill (Source 3) believed?</p>
<p>[3] In order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint. Certainly where there is no finding and no showing that engaging in the forbidden conduct would 'materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,' the prohibition cannot be sustained.</p>	<p>What criteria does the Court say must be met for a school to restrict student expression?</p>





<p>[4] In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views.</p>	<p>The Court says the school must show more than a desire to avoid discomfort to restrict speech. Do you think this standard protects or hinders education?</p>
<p>[5] Under our Constitution, free speech is not a right that is given only to be so circumscribed that it exists in principle but not in fact. Freedom of expression would not truly exist if the right could be exercised only in an area that a benevolent government has provided as a safe haven for crackpots. The Constitution says that Congress (and the States) may not abridge the right to free speech. This provision means what it says. We properly read it to permit reasonable regulation of speech-connected activities in carefully restricted circumstances. But we do not confine the permissible exercise of First Amendment rights to a telephone booth or the four corners of a pamphlet, or to supervised and ordained discussion in a school classroom.</p>	<p>How does this case illustrate the balance between individual rights and school authority?</p>
<p>[5] Mr. Justice BLACK, <b>dissenting</b>...</p> <p>While I have always believed that under the First and Fourteenth Amendments neither the State nor the Federal Government has any authority to regulate or censor the content of speech, I have never believed that any person has a right to give speeches or engage in demonstrations where he pleased and when he pleases.</p> <p>Even a casual reading of the record shows that this armband did divert students' minds from their regular lessons, and that talk, comments, etc., made John Tinker 'self-conscious' in attending school with his armband. While the absence of obscene remarks or boisterous and loud disorder perhaps justifies the Court's statement that the few armband</p>	<p>What concerns does Justice Black raise in his dissenting opinion?</p>



students did not actually 'disrupt' the classwork, I think the record overwhelmingly shows that the armbands did exactly what the elected school officials and principals foresaw they would, that is, took the students' minds off their classwork and diverted them to thoughts about the highly emotional subject of the Vietnam war. And I repeat that if the time has come when pupils of state-supported schools, kindergartens, grammar schools, or high schools, can defy and flout orders of school officials to keep their minds on their own schoolwork, it is the beginning of a new revolutionary era of permissiveness in this country fostered by the judiciary.

How does Justice Black interpret the impact of the armband protest on the classroom environment?



**Explain in your own words why freedom of speech is essential in a democracy. Use at least three examples from the documents to support your answer.**

