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Reflections on the First Amendment

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Reflections on the First Amendment

The First Amendment gives the right of freedom of speech but does this right protect freedom of speech expressed in obscenities, flag burning, and in hate speeches; *rights are limited by responsibility, responsibility as defined by the United States Supreme Court*. For a court to decide if obscenities, flag burning, and in hate speeches are violating the law or not the court must see if they fit into the parameters of the freedom of speech protection. 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” (*United States Constitution, First Amendment, 1789*). This amendment gives people the right in America to express their feelings and beliefs without violating any **laws** to a certain extent of the **law**. This Amendment brings up a lot of debate over just what exactly fits into the rights of the first amendment. These issues are debated in court to see if they are protected by the First Amendment or violating the law. *Overall thesis unclear, make sure each paragraph has some reference, direct or indirect to the thesis*

**Obscenity is a big (major?) issue seen in court cases to determine if it violates the First Amendment of the Constitution.** *Unclear* Obscenity is a tough issue in determining if it passes the line of the rights of the Constitution of their freedom of speech. Obscenity is an important issue and had its biggest issue brought up in the Miller vs. California *cite correctly first time used* case. *Set up quote, what will it say?*

“The Court then undertook to enunciate standards by which unprotected pornographic materials were to be identified. Because of the inherent dangers in undertaking to regulate any form of expression, laws to regulate pornography must be carefully limited; their

scope is to be confined to works which depict or describe sexual conduct. That conduct must be specifically defined by the

applicable statute, whether as written or as authoritatively construed by the courts”

(Miller v. California, 413 U.S. 15, 24 (1973)). *Interpret quote, connect to the thesis*

The case of Miller vs. California was to determine just what is considered sexually explicit material. The court in determining if this violates the Constitution the Miller vs. California court case looked back on the rulings of the Ruth vs. U.S. *cite first time* case. The Ruth vs. U.S. case determined “Obscenity is not within the area of constitutionally protected freedom of speech or press - either (1) under the First Amendment, as to the Federal Government, or (2) under the Due Process Clause of the Fourteenth Amendment, as to the States” (Ruth vs. U.S., 354, 476 (1957)). The Miller case uses the Ruth case as a foundation in determining if Miller if indeed violated for the rights of the constitution. *Good point, and what do you think?*

Obscenity is a questionable subject in the protection in the rights of the First Amendment. The issue of obscenity comes up all the time in which people feel they expressed their rights in a way that is protected by the First Amendment of the Constitution. The issue of obscenity is seen in a recent issue in which “a motorist believes the constitutional right to free speech includes obscene hand gestures. Thomas Burn contends he was denied his First Amendment free speech rights when he was cited for giving an obscene hand gesture” (AZCentral, 2006). Thomas Burn brought up the issue of his First Amendment being violated when he received a ticket. The case was dropped by the police and no more was made out of the issue. Obscenity is a sensitive issue that is hard to determine just what makes it not be protected by the First Amendment. *Good inclusion of current events*

The right of flag burning is also another big *major* issue in determining if it violates the rights of the First Amendment. The rights of restraint on content of expression for burning the United States flag was seen in the court case Texas vs. Johnson. *cite*

“During the 1984 Republican National Convention in Dallas, Texas, respondent Johnson participated in a political demonstration to protest the policies of the Reagan administration and some Dallas-based corporations. After a march through the city streets, Johnson burned an American flag while protesters chanted. No one was physically injured or threatened with injury, although several witnesses were seriously offended by the flag burning. Johnson was convicted of desecration of a venerated object in violation of a Texas statute, and a State Court of Appeals affirmed. However, the Texas Court of Criminal Appeals reversed, holding that the State, consistent with the First Amendment, could not punish Johnson for burning the flag in these circumstances. The court first found that Johnson's burning of the flag was expressive conduct protected by the First Amendment. The court concluded that the State could not criminally sanction flag desecration in order to preserve the flag as a symbol of national unity. It also held that the statute did not meet the State's goal of preventing breaches of the peace, since it was not drawn narrowly enough to encompass only those flag burnings that would likely result in a serious disturbance, and since the flag burning in this case did not threaten such a reaction. Further, it stressed that another Texas statute prohibited breaches of the peace and could be used to prevent disturbances without punishing this flag desecration” (Texas vs. Johnson, 491 U.S. 397 (1989)).

The court had to make an important decision in the understanding of the circumstance to see if it fit into the rights protected by the First Amendment. Flag burning just as any issue has many variables in determining if it violates the First Amendment of the Constitution. A Flag Protection Act has been brought in front of the senate many times but has not received a majority of votes to pass this act that would protect the American Flag from being burnt. Flag burning is a controversial issue in deciding if it violates the rights of the First Amendment or not. *cite parts of the quote that prove that point*

Hate speech *define* is another big controversy in if it violates the rights of the First Amendment in the Constitution. *Reword sentence, unclear* Hate speech has been seen throughout history and continues today. Hate speech has been demonstrated in a number of ways such as the KKK and cross burning. In the court case Wisconsin vs. Mitchell *cite* the issue was that he *who?* had selected his victim upon race making it a hate speech issue. The case considered if it was within his right of freedom of speech protect by the First Amendment to choose to hurt a person and assault them because of their race. This case helped to lay down the guidelines for what was considered inappropriate antidiscrimination laws violating the freedom of speech. The case stated

“that the statute violates the First Amendment by punishing what the legislature has deemed to be offensive thought and rejected the State's contention that the law punishes only the conduct of intentional victim selection. It also found that the statute was unconstitutionally overbroad because the evidentiary use of a defendant's prior speech would have a chilling effect on those who fear they may be prosecuted for offenses subject to penalty enhancement. Finally, it distinguished antidiscrimination laws, which

have long been held constitutional, on the ground that they prohibit objective acts of discrimination, whereas the state statute punishes the subjective mental process”

(Wisconsin vs. Mitchell, 508 U.S. 476 (1993)).

This case helped to set down the guidelines for further issues in hate speech to determine if they were protected in the rights of the First Amendment or not. *Interpret what the quote is saying*

*connect to thesis*

*What about the RAV case?*

*Make the hate speech section more complete*

The issues within ones freedom of speech are hard to define as within the rights of the First Amendment or if they are in violation of the first Amendment. The First Amendment was written in a very general definition in ones rights to freedom of speech so it would have to be interpreted for each issue in which it is involve. The rights of the First Amendment are consider in court cases when a person feels their rights where violated under this protection but the First Amendment of the Constitution was not made to give a opening for crimes to be legally committed passed upon their freedom of speech. The 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” (Amendment I), which does not entitle people to not be charged but it is their if a person feels they were wrongfully charged due to the rights in the First Amendment. The First Amendment protects a persons

freedom of speech when it is displayed in a appropriate way which is a questionable issue especially in case on obscenity, flag burning, and hate **speeched**.

*Write a thesis about rights and responsibility and conclude with it more clearly, extensively.*

*Mention/review how the limits you discussed are protected or not.*

## References

AZCentral.com (2006). *Man Contends 'The Finger' is Free Speech*.

Miller v. California, [413 U.S. 15, 24](#) (1973)

Ruth vs. U.S., 354, 476 (1957)

Taylor, Phillip. First Amendment Center. *Flag Protection Act Head toward Committee*.

Texas vs. Johnson, 491 U.S. 397 (1989)

United States Constitution, (1787). *Amendment I.*

Wisconsin vs. Mitchell, 508 U.S. 476 (1993)

**Grading:** the paper will be graded in the following areas applying the definitions listed

Ideas (10 poss.)	Organization (7)	Fluency (4)	Conventions (3)	Total
9	6	3	2.5	20.5

Ideas =

Connections, assessments, evaluations and your own descriptions. <i>Good</i>
The content is comprehensive, accurate, and /or persuasive. <i>Improve by taking a position thesis</i>
Numerous examples from the news and one’s own life are related to the topic <i>good</i>
A clear thesis statement is made. <i>NO</i>
A position is taken and its arguments are refuted. <i>improve</i>
The paper links theory to relevant examples. <i>good</i>
Major points are stated clearly and are supported by specific details, examples, or analysis. <i>Good but interpret examples (quotes) more</i>

Fluency =

Ease to read <i>Some wording is awkward</i>
Citations are integrated to the paragraph structure. <i>improve</i>
Paper is interesting to read. <i>good</i>
The thesis is clear throughout the paper. <i>No</i>

Organization =

The paper develops a central theme or idea, directed toward the appropriate audience. <i>Improve responsibility and rights theme</i>
The introduction provides sufficient background on the topic and previews major points. <i>improve</i>
The conclusion is logical, flows from the body of the paper, and reviews the major points. <i>improve</i>
Transitions between sentences, paragraphs, and sections aid in maintaining the flow of thought. <i>Imrpove</i>
The tone is appropriate to the content and assignment. <i>yes</i>

Conventions/Mechanics =



Citations of original works within the body of the paper follow APA guidelines where appropriate.
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The paper is laid out with effective use of headings, font styles, and white space.
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Rules of grammar, usage, and punctuation are followed.
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Sentences are complete, clear, concise, and varied. <i>More concise sentences</i>
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Spelling is correct.
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