

# Free Speech: Because We Can

November 23, 2006

[Original link](#)

---

In the field of Constitutional Law, there are many pages spent trying to come up with a reason for free speech. It's about the "marketplace of ideas" some say: by putting all claims and points of view out in the open, the public can sort through and figure out the truth, leaving the untruths to fall by the wayside. Others argue that free speech is necessary for democracy, since voters must hear different opinions to decide how to use their votes, and that since even non-political speech can change people's views, all speech must then be protected.

There are many more justifications like this — a limit on government abuse, a policy to promote a more tolerant citizenship, etc. — but, like most justifications, they all say we should permit free speech because it allows us to do something else. And the frustrating thing about that is that it suggests that free speech should not be permitted when it doesn't achieve those goals.

Theorists of free speech are, in general, fans of the idea (or at least their market consists of fans) so they try to dance around this. "Oh no," the marketplace-of-ideas partisans say, "we weren't suggesting that obviously false statements could be prohibited because, after all, you really never know when false statements could turn out to be true!"

But, as [something of a free speech absolutist](#), it troubles me that such a thing is even theoretically possible. And I worry that if others adopt this theory, they may not be so stringent about the practical requirements. The temptation to clamp down on free speech is always strong; it's probably not a sound idea to build the principle on such a shaky foundation.

So I have my own justification for freedom of speech: because we can. Human freedom is important, so we should try to protect it from encroachment wherever possible. With most freedoms — freedom of motion, freedom of exchange, freedom of action — permitting them in full would cause some problems. People shouldn't be free to walk into other people's bedrooms, take all their stuff, and then punch the poor victims in the face. But hurling a bunch of epithets at the guy really isn't so bad.

Freedom of speech is one place where we can draw the line and say: all of this is acceptable. There's no further logic to it than that; freedom of speech is not an *instrumental* value. Like all freedom, it's fundamental, and the only reason we happen to single it out is because it's more reasonable than all of the others.

Close readers will note that this theory doesn't quite live up to my own goals. By laying freedom of speech's provision on top of our reasonable ability to do

so, I suggest that freedom of speech could be taken away if providing it became unreasonable. But I think this is the right choice: if people really, seriously started getting hurt because of freedom of speech, it seems right for people to take the privilege away. But, to be honest, I can't even imagine how that might be possible. Words just don't genuinely wound, they're always mediated by our listening.

I do worry that people might try to stretch this justification — say that continued free speech might destroy the war effort, or the government, or civil society. But I have no problem destroying all of those. It's only the destruction of actual people that I worry about.

So here's to free speech: because we can.