

***The State of the
First Amendment
2008***

A project sponsored by:

The First Amendment Center

Conducted by:

New England Survey Research Associates, L.L.C.

September 2008

I. General Orientations Toward the First Amendment

In 2008, the First Amendment Center commissioned New England Survey Research Associates, L.L.C., to conduct its annual State of the First Amendment (SOFA) survey. A total of 1,005 interviews with a national scientific sample of adults 18 or older were conducted between July 23 and Aug. 3, 2008.

On one hand, the SOFA 2008 survey confirmed that Americans' support for the exercise of the First Amendment in general, and rights of free expression in particular, remains at a high level as compared to the state of public attitudes a decade ago, and in the years immediately following the terrorist attacks of Sept. 11, 2001. Support for the continued right to burn flags as a means of political dissent, for example, continues to hover well over the 50% mark. At the same time, Americans exhibit a mix of opinions on religious freedom. The public remained remarkably consistent from 2007 to 2008 in its overall agreement that the Founders and the Constitution intended that the U.S. be established as a Christian nation. (Americans are somewhat reluctant to have religious leaders endorse political candidates, however.)

Additionally, there is support for government restrictions on campaign spending by private individuals and corporations, and significant majorities think the government should be allowed to require TV broadcasters and newspapers to offer greater political balance.

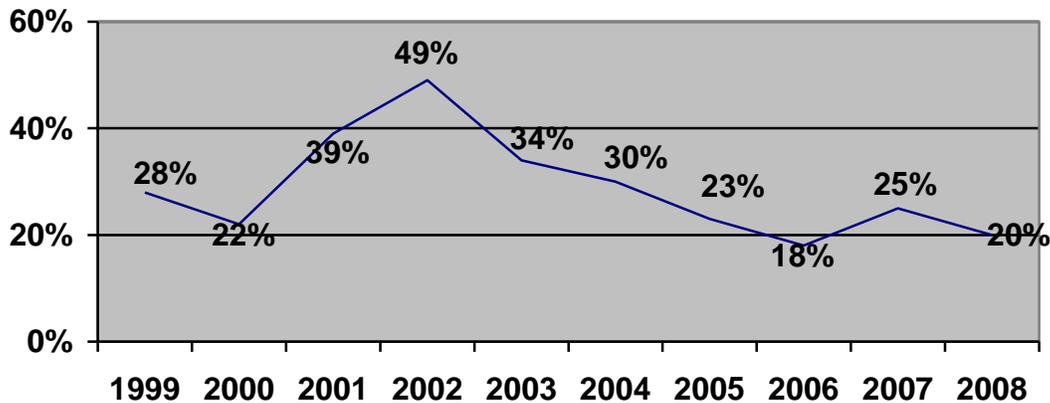
The key findings of the survey with regard to general orientations toward the First Amendment are as follows:

- **Only 56% of those surveyed could name “freedom of speech” as a specific right guaranteed by the First Amendment, matching the lowest percentage of those who could name that right since the 1999 survey. College graduates (70%) were far more likely to be able to name that right than those who never went to college (51%).**
- **Meanwhile, 4 in 10 Americans were not able to name any First Amendment right whatsoever, marking the highest such figure recorded in the 11-year history of the survey. Fewer than 1 in 6 could name the freedom of the press (15%) or the freedom of religion (15%) as a freedom guaranteed by the First Amendment. Younger adults (23%) were more than three times as likely as senior citizens (7%) to name the freedom of press as a First Amendment right.**
- **The percentage of Americans who think the First Amendment goes too far in the rights it guarantees continues on a general decline since the 2002 survey, when nearly half of those surveyed felt that way. In 2008 just 20% of Americans think the First Amendment goes too far in the rights it guarantees.**

Meanwhile, nearly 6 in 10 **strongly** disagree with that sentiment, the largest such indication of strong dissent in the history of the SOFA survey.

*“Based on your own feelings about the First Amendment, please tell me whether you agree or disagree with the following statement:
The First Amendment goes too far in the rights it guarantees.”*

percentage saying they agree the First Amendment goes too far in the rights it guarantees



- College graduates (11%) were among those least likely to think the First Amendment goes too far; by contrast, 24% of those without a high school degree feel the First Amendment goes too far.
- After a temporary rise in support for free-press rights in 2007, Americans' indications of support for press rights returned to their more normal levels of recent years in 2008. Nearly 4 in 10 now say the press in America has too much freedom to do what it wants, nearly the exact same percentage that was registered in 2005 and 2006.
- Only 62% of those surveyed say Americans have “about the right amount” of religious freedom, matching the lowest such indication of satisfaction in the history of the survey. Meanwhile, 28% think Americans have too little religious freedom, the highest percentage recorded in the post 9/11 period.

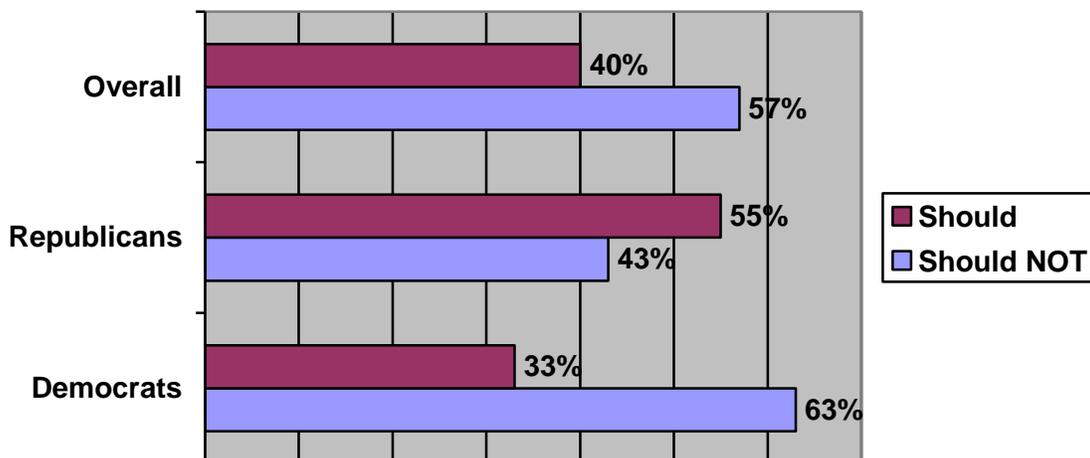
II. Freedom of Speech

Americans continue to exhibit strong support for freedom of speech in the abstract. Record numbers this decade think that musicians should be allowed to sing songs with lyrics that others might find offensive. At the same time, the public is far more reluctant to protect the rights of those who offend certain racial groups, or who engage in various campaign-related speech activities.

The key findings on free speech are as follows:

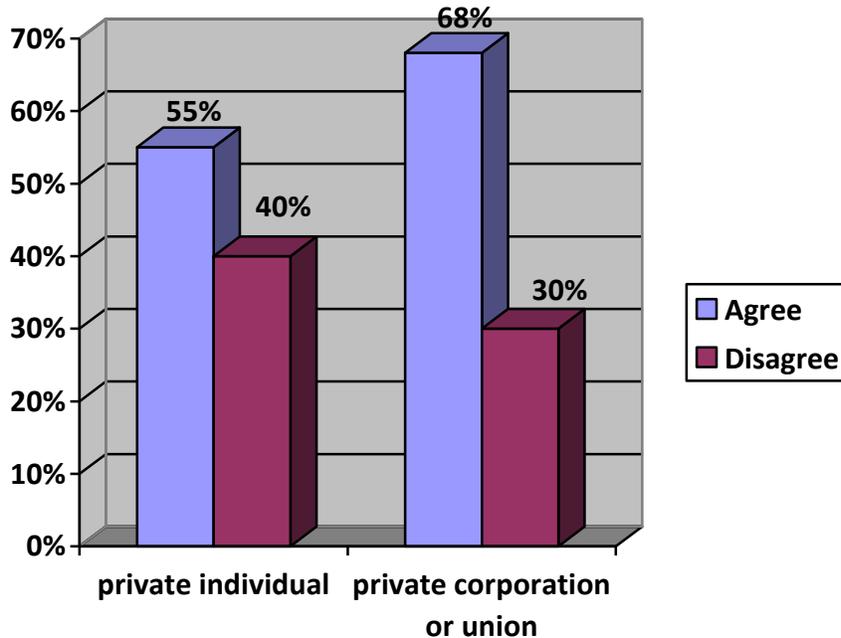
- **A clear majority of Americans (54%) object to allowing people to say things in public that might be offensive to racial groups. Women (63%) oppose such speech to a much greater degree than men (46%). By contrast, just 42% object to allowing people to say things that might offend religious groups.**
- **Nearly 2 in 3 Americans (65%) think musicians should be allowed to sing songs with offensive lyrics. That’s the highest level of support for that right recorded in the 11-year history of the survey.**
- **As always, flag-burning remains a controversial issue for many Americans. Four in 10 think that the U.S. Constitution should be amended specifically to prohibit flag-burning or desecration, and of those, 86% would support an amendment even after learning that it would be the first time one of the First Amendment’s freedoms would be amended in more than 200 years. Of the various subgroups surveyed, Republicans (55%) and those who are from the South (47%) are most likely to support an amendment that would prohibit flag-burning.**

“Do you think the U.S. constitution should or should not be amended to prohibit burning or desecrating the flag?”



- **The participation by younger individuals on social networking sites like MySpace has been the source of considerable controversy, as well. Exactly half of those surveyed agree that school officials should be allowed to discipline students who, while off campus, post entries on social-networking sites that may be “disruptive” to school classes. Meanwhile, an overwhelming majority (78%) agree that government should be able to prosecute the adult whose deception of a 13-year old using MySpace resulted in the teenager’s committing suicide. (65% agree strongly with such prosecution).**
- **As for campaign speech, Americans are almost exactly split on whether government should restrict the amount of money an individual may contribute to his own campaign. By contrast, clear majorities favor restrictions on individual donations to another’s campaign (55%) and on corporate or union contributions to an election campaign (68%).**

“The government should be able to place restrictions on the amount of money a _____ can contribute to [someone else’s] election campaign.”



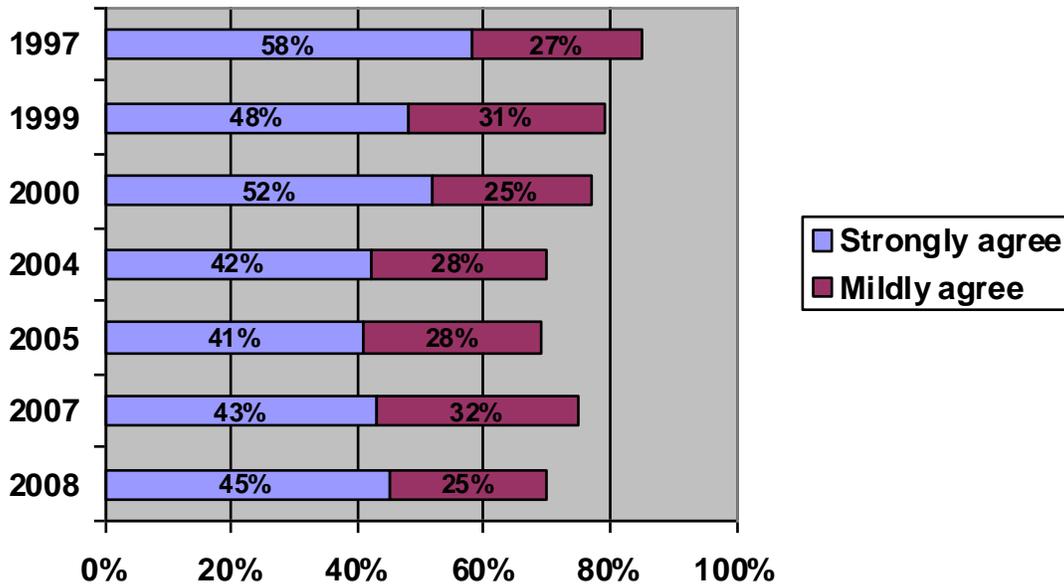
III. Press Freedoms and Internet Usage

Americans are generally less supportive of press freedoms in the abstract than they are of many other freedoms. At the same time, citizens continue to express strong support for the rights of the press to engage in certain specified activities such as the protection of news sources. And many Americans continue to express allegiance to print newspapers, notwithstanding the Internet revolution and its impact on the media industry.

The key findings on press freedom:

- **Americans overwhelmingly value the role the press plays in a democracy. More than 3 in 4 of those surveyed (76%) agree that it is important for our democracy that the news media act as a watchdog on government. And more than half strongly agree with that sentiment. Those possessing more than a bachelor's degree were most adamant, with 83% of that group indicating that it was important for our democracy that the news media act as a watchdog on government, and 61% indicating that they strongly agreed with that sentiment.**
- **Still, the vast majority of Americans do not favor expanding free-press rights. 39% think the press in America has too much freedom, as compared to a meager 9% who think the press has too little freedom. (Nearly half say the current state of press freedoms is "about right.") Women (49%) and those earning less than \$40,000 per year (47%) feel most strongly that the press has too much freedom in America, while just 27% of college graduates surveyed feel that way.**
- **Meanwhile, some specific press rights do enjoy significant public support. For example, 7 in 10 Americans in 2008 say they agree that journalists should be allowed to keep a news source confidential. And 55% would oppose court orders to require that journalists reveal their sources.**

*"Please tell me whether you agree or disagree with the following statement:
Journalists should be allowed to keep a news source confidential."*



- **The Internet revolution has raised questions about how to treat “bloggers” who post Internet entries that are read by others. 64% agree that bloggers should receive the same exact First Amendment protection as newspaper reporters. Young adults (78%) are far more likely than those 65 or over (49%) to support equal rights for bloggers.**
- **Television remains the dominant medium for news consumption. Nearly half of all Americans (49%) say they get most of their news from television. Accordingly, fewer than 4 in 10 Americans (37%) say that if newspapers were replaced by Internet and electronic news sources, that development would decrease their access to news. (About half said their access wouldn’t change at all, and just 12% said it would increase their access to news.)**
- **Meanwhile, nearly half (49%) indicated that if print newspapers were replaced altogether by Internet news sources, that development would have either “no impact at all” or a “positive” impact on the state of free expression. Of all the subgroups surveyed, Hispanics (29%) were most likely to say the development would increase their access to news.**
- **Finally, more than half of those surveyed (54%) favor a government proposal to provide free Internet access everywhere, even though under the proposal the government would block access to material that it deemed indecent or obscene. Women (57%) are more likely than men (51%) to favor such a proposal.**

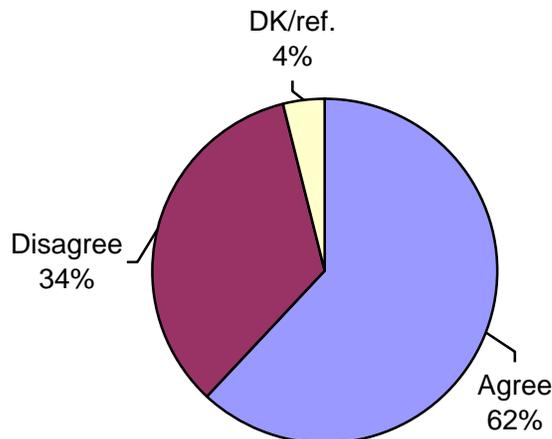
IV. Government Restrictions on the Media

To varying degrees, Americans support government power to fine television broadcasters for different types of inappropriate material. On the other hand, a clear majority of the public consistently opposes government requirements that broadcasters report some “positive news,” and it opposes attempts to extend its regulations to subscription cable or satellite stations.

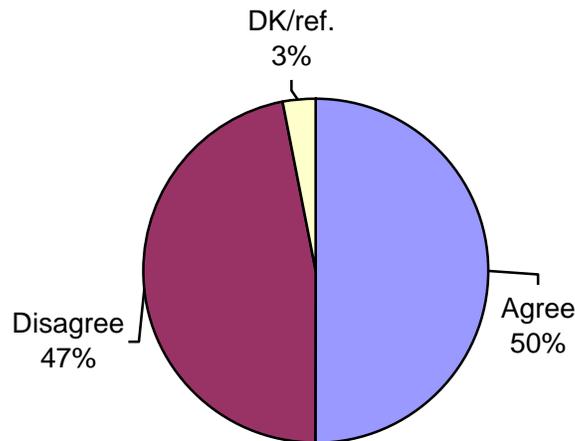
The key findings are as follows:

- **Fully 62% of those surveyed think government should be allowed to fine television broadcasters who air profane or obscene words that are scripted prior to the broadcast. Evangelical Christians (80%) were most likely to agree with those fines.**
- **By comparison, when profane or obscene words on television are spoken as part of spontaneous, unscripted materials, just 50% say they agree the government should be allowed to fine television broadcasters. Once again, evangelical Christians (65%) lead the way in supporting such regulations with fines.**

*“The government should be allowed to fine television broadcasters who air profane or obscene words that are scripted **PRIOR** to broadcast.”*



“The government should be allowed to fine television broadcasters who air profane or obscene words that are spoken as part of SPONTANEOUS, UNSCRIPTED MATERIAL.”



- **By a wide margin, Americans place the primary responsibility for keeping inappropriate material away from children on parents themselves (76%). That’s nearly five times more than those who indicated that they would place primary responsibility on broadcasters (17%).**
- **More than half of those surveyed (55%) oppose government efforts to require broadcasters to air a specified amount of “positive news.”**
- **56% oppose extending regulations to subscription cable or satellite television systems.**

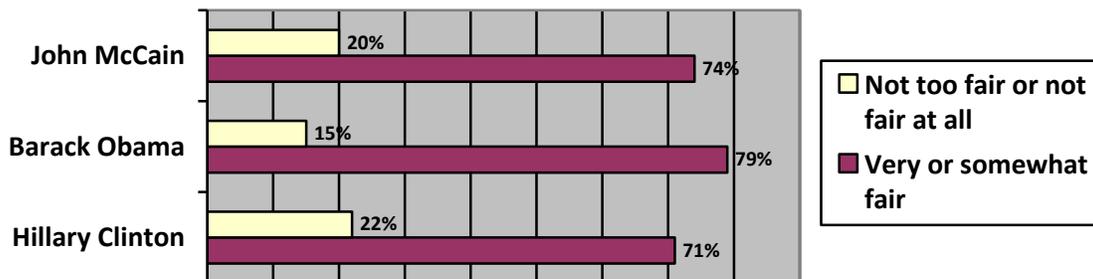
V. Press Bias in Politics and Elections

With the 2008 election offering its share of unexpected twists and turns, considerable attention has been paid to the news media’s role in fanning the flames, as well as in occasionally offering a non-objective view of the proceedings. As in past years, Americans continue to distrust the press’s capacity to stay unbiased, and it welcomes government regulation to ensure a balance of political views. At the same time, there is less willingness to accuse the news media of ganging up on one or two political candidates in particular.

The key findings in this topic area:

- **For the second consecutive year, at least 6 in 10 of those surveyed said they disagreed that the news media try to report the news without bias. (Meanwhile, fewer than 1 in 3 agrees with that sentiment.)**
- **More than 6 in 10 also favor government regulations that would require the news media to offer equal allotment of time to conservative and liberal commentators. 66% favor applying such regulations to TV broadcasters, and 62% favor applying those regulations to newspapers.**
- **Americans do not believe a liberal media bias has affected the coverage of Republican candidates for president. For example, fully 74% indicated that they thought coverage of Republican nominee John McCain was at least “somewhat” fair. Coverage of McCain received a higher fairness rating than coverage of all Democratic candidates other than Barack Obama. (79% percent thought the coverage of Obama was at least somewhat fair.)**
- **McCain’s news coverage was rated fairer than that of Hillary Clinton—71% felt that the coverage of Clinton was “very” or “somewhat” fair.**

“Please tell me if the media’s coverage of _____ has been very fair, somewhat fair, not too fair, or not fair at all ...”



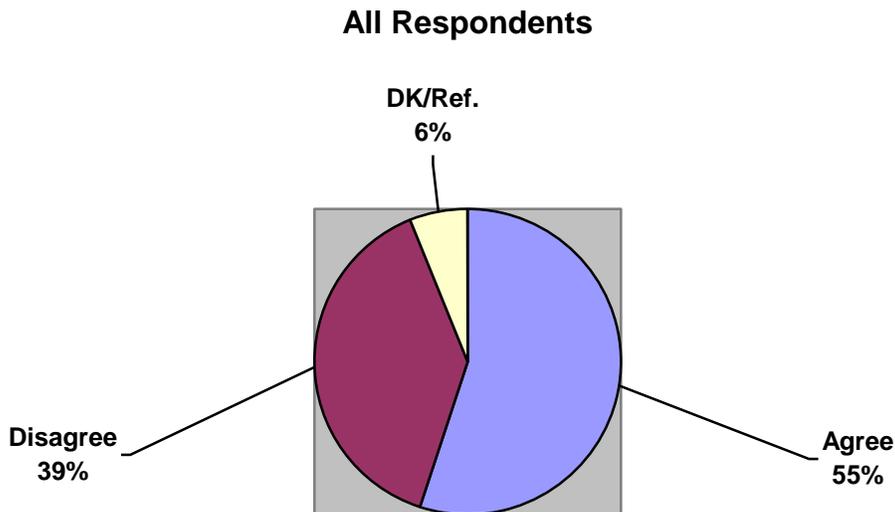
VI. Freedom of Religion and Separation of Church & State

Religious tolerance continues to suffer in the years since the Sept. 11 terrorist attacks. A clear majority of Americans believes the United States was intended to be a Christian nation. Still, the public by a small margin opposes religious leaders' open endorsement of political candidates.

The key findings in the survey this year are as follows:

- **Before 2001, approximately 7 in 10 supported applying the freedom to worship to all religious groups, no matter how extreme their views. Yet in 2008, only 54% still felt that way, with nearly 3 in 10 arguing that the First Amendment was never meant to apply to religious groups that most people would consider extreme.**
- **For the second straight year, a clear majority (63%) said the nation's founders intended the U.S. to be a Christian nation, and exactly 55% agreed that the U.S. Constitution established a Christian nation.**

*“Do you agree or disagree with the following statement?
The U.S. Constitution establishes a Christian Nation.”*



- **Interestingly, most Americans do not want to see the church pulpit become a hotbed of electoral politics. In fact, 54% said they disagreed with allowing religious leaders to openly endorse political candidates from the pulpit without endangering the tax-exempt status of their organizations.**

VII. Methodology

The First Amendment Center commissioned New England Survey Research Associates, L.L.C., to conduct a general public survey of attitudes about the First Amendment. The questionnaire was a national survey developed jointly by the First Amendment Center and Professors David Yalof and Ken Dautrich. First Amendment Center Director Gene Policinski provided overall direction for the project. The survey was conducted by telephone between July 23 and Aug. 3, 2008.

Interviews were conducted under the supervision of Professors Yalof and Dautrich, using a computer-assisted telephone interviewing (CATI) system. The survey was conducted by professional survey interviewers who are trained in standard protocols for administering survey instruments. Interviewers assigned to this survey participated in special training conducted by senior project staff. The draft survey questionnaire and field protocols received thorough testing prior to the start of the formal interviewing period. Interviews were extensively monitored to ensure standards for quality were continually met.

The national sample used for this research project included residential telephone numbers in the 48 contiguous states. The sample was stratified to ensure that broad geographic regions were represented in proportion to their share of the total adult population in the United States. Within each of these regions, telephone numbers were generated through a random-digit-dial telephone methodology to ensure that each possible residential telephone number had an equal probability of selection. Telephone banks that contain no known residential telephone numbers were removed from the sample selection process. Once selected, each telephone number was contacted a minimum of four times to attempt to reach an eligible respondent. Households where a viable contact was made were called additional times. Within each household one adult was randomly selected to complete the interview.

The sampling error for 1,005 national interviews is + 3.2% at the 95% level of confidence. This means that there is less than one chance in 20 that the results of a survey of these respective sizes would differ by more than 3.2% in either direction from the results, which would be obtained if all adults in the appropriate area had been selected. The sample error is larger for sub-groups. NESRA also attempted to minimize other possible sources of error in this survey.