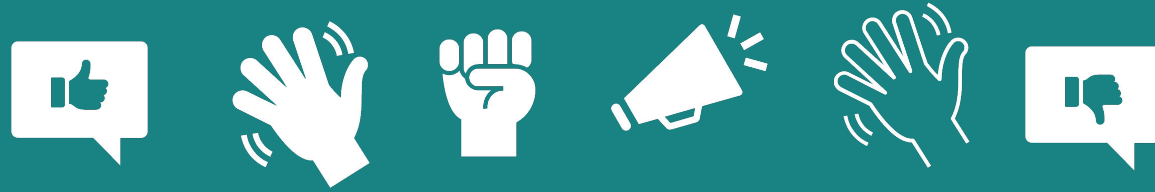


**MUSLIM LEGAL FUND**  
— *of America* —



# Freedom of Speech During Times of Conflict

What You Need to Know

Presented by the Civil Litigation Department



# U.S. Constitution Protects Free Speech from Government Interference

- First Amendment: “Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble[.]”
  - Free Speech
  - Free Press
  - Free Peaceful Assembly
- Fourteenth Amendment: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States[.]”





# Government vs. Private Actors

- Constitution protects free speech from punishment by the government, not private parties
- Constitution does not protect free speech from backlash or criticism

**Sports reporter in Philadelphia loses job over pro-Palestinian comments**

**Law Firm Rescinds NYU Student's Job Offer After Israel-Hamas Comments**

- Note that a few states (CA, NY, DC, CO, ND), but NOT the federal government, prevent private discrimination based on political affiliation or lawful political activities outside of work



# What Speech is NOT protected?

- Incitement to imminent lawless action
- Solicitations to commit crimes
- True threats
- Obscenity
- Fighting words
- Defamation (includes libel, slander)
- Child pornography
- Perjury
- Blackmail



# Protected Controversial Speech Includes

- Advancement of political causes and beliefs
- Statements criticizing public policy and its implementation
- Expressing opinions about a nation's flag, "including those opinions which are defiant or contemptuous"
- Unpopular, offensive and disagreeable ideas
- Incorrect ideas or statements



# Free Speech vs. Inciting a Riot

- Government may prohibit speech advocating for the use of force or crime if both are true:
  - The speech is **directed** to inciting or producing **imminent lawless action**; and
  - The speech is **likely to incite or produce such action**



# Freedom of Assembly vs. Rioting

- Government cannot criminalize or punish peaceful expression of unpopular views
- Government can punish criminal activity resulting from a riot (theft, property destruction, trespassing, violence, etc.)
- After the George Floyd protests in 2020, many state legislatures increase penalties under state law for “civil unrest”
- Federal courts continue to address First Amendment concerns arising from these statutes



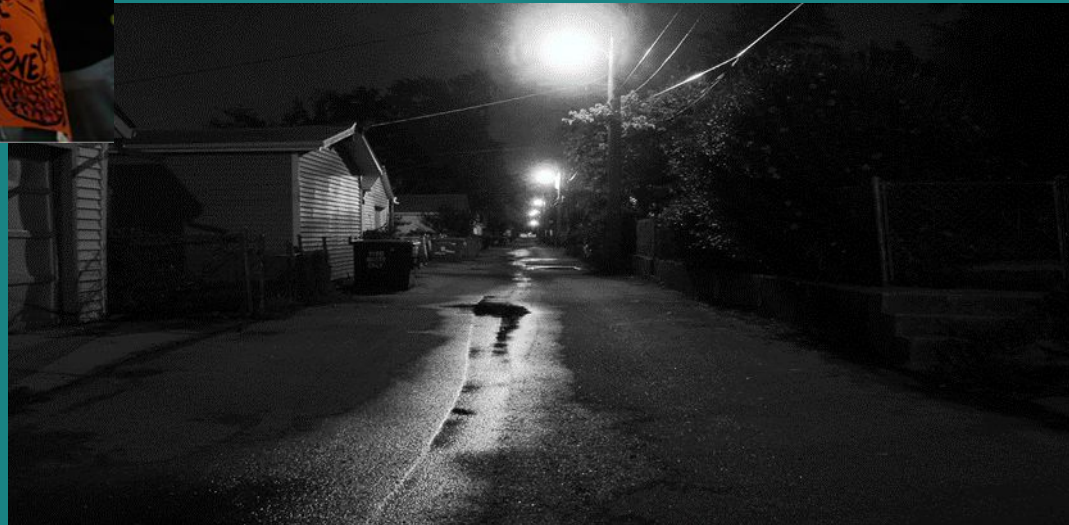


# Public Forum

- A place that has, by tradition or practice, been held out for general use by the public for speech-related purposes.
  - Ex. parks, sidewalks, streets
- NO content regulation by government allowed
- Restrictions on time, place, or manner can be allowed



# Time, Place, and Manner Restrictions



# Limited/Designated Public Forum

- Public property that, while not typically dedicated to public assembly, has been open to expressive activity by particular categories of people or on particular subjects.
  - Ex. University meeting rooms open for use by student groups or a city auditorium open for theatrical performances.
- Government has broad latitude to implement speech restrictions that further the public's interest in preserving order.
- Restrictions must be reasonable and NOT based on speaker's viewpoint





## Non-Public Forum

- Privately owned property and publicly owned property devoted almost exclusively to purposes other than individual expression.
  - Ex. Airports, jailhouses, military bases, and private residential property
- Government may impose speech restrictions that are reasonably related to the forum's function, including restrictions that discriminate against particular viewpoints.



# Freedom of Access to Clinic Entrances Act (FACE)

- Prevents, among other things, “the use of physical force, threat of physical force, or physical obstruction to intentionally injure, intimidate, interfere with or attempt to injure, intimidate or interfere with any person who is exercising or trying to exercise their First Amendment right of religious freedom at a place of religious worship”
- Also prevents similar actions against access to reproductive health clinics



# FACE Act – Prohibited Activities related to Religious Exercise

- Blocking a person's or vehicle's access to the entrance or exit of a place of religious worship
- Physically stopping people as they are trying to walk toward an entrance or through a parking lot
- Making it difficult or dangerous to get in and/or out of a place of religious worship
- Trespassing on the property
- Vandalism
- Threats and acts of violence
- Stalking
- Arson or threats of arson
- Bombings or bomb threats



# FACE Act – Permitted Activities

- Distributing literature
- Carrying signs
- Shouting (as long as no threats are made)
- Singing hymns



# Thank You!

- For further information or to request legal assistance, please go to [mlfa.org](http://mlfa.org) to submit an application
- Civil Litigation Department Attorneys:
  - Christina Jump, Civil Litigation Department Head
  - Chelsea Glover, Senior Staff Attorney
  - Samira Elhosary, Staff Attorney
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