Secondary Case Study





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Freedom of Speech: Summary

Following the July 2005 terrorist strikes in Britain, a law was introduced limiting extremist speech. This law reflects the sentiment of British citizens that British society has been overly tolerant of free speech, paving the way for terrorist extremism. The proposed law would make "extremist speech" a crime.

In the United States, as the September 11 attacks recede from recent memory, U.S. citizens have begun to feel safer and their support for freedom of speech has risen. Even though there is vocal support for freedom of speech in the U.S., many citizens and elected representatives continue to support curbs on speech that they consider offensive, including flag burning, ideology in schools, and offensive language in the public domain.

This case study explores freedom of speech and current issues involved in balancing freedom of speech against limits protecting the broader social good.

World

Blair: Extremists no longer welcome in UK

Crackdown on radicals redefines rules of deportations, free speech

By Donna Leinwand USA TODAY

LONDON — The Hizb ut-Tahrir Party wants to bring Islamic rule to the world one country at a time.

But Prime Minister Tony Blair vows that won't happen from its offices in Britain.

The Islamic organization has operated freely in Britain for more than 20 years, writing, leafleting and rousing the faithful to overthrow secular governments

through political activism. The party on its website and in pamphlets denounces Britain and the United States as "crusaders" bent on destroying Islam.

Now, a month after four bombers attacked London's transportation system, killing themselves and 52 others, Blair has announced a crackdown on extremism. The policy, which is based on existing government powers, more sharply defines the boundaries of free speech and broadens the grounds for deporting and excluding people from Britain who

the government determines are not acting in the "public good." The new grounds for deportation and exclusion include fostering hatred, advocating violence to further a person's beliefs or iustifying or validating such violence.

Blair says radical Muslim groups have taken advantage of tolerant policies to set up hate groups on British soil. In a news conference Friday, he mentioned two by name: Hizb ut-Tahrir and its related organization, Al Muhajiroun.

Blair says the government will compile a list of extremist websites, bookstores, networks, centers and organizations. "Active engagement with any of these will be a trigger" for deportation, he said.

Such deportations may violate the

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country's human rights and free speech protections, says Gareth Crossman, director of policy for Liberty, a civil liberties organization in Britain. If the deportations are challenged in court and the courts reject them, Blair says he would consider asking Parliament to rewrite Britain's human rights law to more closely parallel the European treaty on human rights, under which other European governments, such as France and Germany, have deported radical clerics.

"The rules of the game are changing," Blair said Friday.

Britain has a history of welcoming people whose unpopular views have forced them out of their home countries. London, in particular, has become home to so many Muslim organizations that some columnists have dubbed it "Londonistan."

Britain had already rejected similar antiterrorism laws after the Sept. 11, 2001, attacks on New York City and Washington, finding some inconsistent with its values.

The courts had also struck down on human rights grounds some previous attempts at deportations.

Blair, however, is betting that the country has changed its mind after two attacks in one month. "The mood is now different," Blair said.

Polls conducted after the bombings

found that Britons support strong government actions to prevent another attack. A survey of 1,506 adults for The Times of London by the polling company Populus found that 60% supported deporting foreign Muslims who speak in support of suicide bombings or encourage extremism.

"It's made us question whether we're too multicultural," says Aleksandra Olenska, a fashion editor in London and a British citizen.

Josh Bull, 35, an Australian who has lived in London for seven years, says he enjoys the city's cultural mix, but says Britain needs to draw a line. "I think where the British have screwed up is allowing all those hate preachers," Bull says.

Under the new rules, several highly visible groups and clerics also may be subject to monitoring, and possibly banned, such as the Muslim Association of Britain and cleric Omar Bakri Muhammad.

Bakri, a Syrian who was granted asylum in Britain after he wasdeported from Saudi Arabia in 1985, has said in speeches in London's main square that he won't rest until the flag of Islam flies over No. 10 Downing Street, the prime minister's official residence.

Azzam Tamimi, spokesman for the Muslim Association of Britain, supports Hamas, which is considered a terrorist group by the U.S. government. He has said he would be willing to blow himself up for the Palestinian cause. Hizb ut-Tahrir has called on Muslims to go to Afghanistan and lraq to fight the United States and its allies.

Spokesman for these groups denied that their activities crossed the line into incitement. The new rules, they said, may instead drive more people toward extremism by limiting outlets for them to vent their frustration with British society and politics.

"This is a blurring of the margins of people who are engaged in non-violent political speech, an attempt to bunch them in with extremists and terrorists," Hizb ut-Tahrir spokesman Imran Waheed says. "In fact, we are directing people's anger and frustration into political work." Waheed denies that the party uses "hate speech."

Hizb ut-Tahrir has been described by the British government as non-violent, but anti-Semitic and anti-Western.

The Muslim Association of Britain said it had "grave concern" about Blair's announcement. It reiterated its condemnation of terrorism that targets "innocent people," including the London bombings.

"I actually have a moderating influence, rather than radicalizing influences," Tamimi says of his writings and speeches.

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Washington

House approves amendment to protect U.S. flag

By Andrea Stone USA TODAY

WASHINGTON — A constitutional amendment to ban desecration of the U.S. flag moved closer to reality Wednesday when the House of Representatives passed it 286-130.

It was the seventh time the House has approved an amendment since the U.S. Supreme Court overturned a Texas law in 1989 and the next year ruled the federal Flag Protection Act unconstitutional. Although the bill has been endorsed by all 50 states, it has

failed four times to get out of the Senate.

Those on both sides of the issue say this may be the year. Vote counts by the Citizens Flag Alliance, which supports the amendment, and the American Civil Liberties Union, which opposes it, show the Senate could be only two votes shy of the 67 needed to send the measure to the states for ratification.

"I'm optimistic this Senate will find the handful of votes we've lacked in the past to protect the American flag," Sen. John Thune, R-S.D., said. Senate Democrats Hillary Rodham Clinton of New York and Ken Salazar of Colorado have never voted on the issue, but each stated positions in their campaigns. During her 2000 race, Clinton said she opposed a flag amendment. On Wednesday, she repeated her opposition but endorsed legislation to outlaw desecration.

Salazar told the United Veterans Committee of Colorado last year that he supported the amendment. He now says he plans to "study it hard."

The amendment reads, "The Congress shall have power to prohibit



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the physical desecration of the flag of the United States." Supporters say the flag should be protected because it symbolizes the freedoms many have died to defend. Flag burning "is a challenge to the institution that defends liberty," Rep. Phil Gingrey, R-Ga., said. "Our flag deserves to be respected and protected because it is

more than just star-studded fabric."

Opponents warn the amendment would alter the Bill of Rights to exclude an expression of free speech. It "elevates a symbol of freedom over freedom itself," Rep. John Conyers, D-Mich., said. "Once we decide to limit freedom of speech, limitations on freedom of the press and freedom of religion may not be far behind."

A Senate vote has not been scheduled. Debates on Social Security and a possible Supreme Court vacancy could take precedence. Twothirds of the House and Senate must approve the amendment. Threefourths, or 38, of the states must

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Whither academic freedom?

State legislatures are battleground as divisive issue gains momentum

By G. Jeffrey MacDonald Special for USA TODAY

College students who say they can't safely express conservative views on campus are taking their case to a setting they hope will be more hospitable: state legislatures.

But as lawmakers collect testimony and weigh what to do, advocacy groups say the real danger looms in legislative proposals that could, if passed, make professors afraid to raise controversial issues in class.

This year, lawmakers in at least 14 states have introduced bills that would limit what instructors can discuss in class and establish grievance procedures for students who take offense. A federal resolution has been introduced in the U.S. House.

Legislators in Tennessee, Ohio, Maine and Florida have summoned students to hearings. In Florida, one bill has the endorsement of two House committees.

Both sides say their goal is to defend freedom of speech on college campuses. Whether laws would help or hinder that goal, however, is a matter of sharp debate.

Vicky Cangelosi, a junior at Pennsylvania State University, says she's received poor grades in women's studies and public

speaking classes solely because she argued a conservative viewpoint in her assignments. A state law, she says, would provide an avenue of recourse when a student feels victimized on the basis of her political beliefs.

"It takes away from my college experience at Penn State if I have to constantly be worrying about these things," says Cangelosi, head of the Penn State College Republicans. If the state had a law, she says, "then someone from the state could step in."

Indiana State University, sees the bill in her state as a threat to an educational process that depends on free, fearless discussion of ideas.

"The state shouldn't have to get involved," White says. "That would compromise the openness of the institution if there were these guidelines hanging over everyone's heads.'

Proposals from Colorado to Maine trace their origins to conservative activist David Horowitz and Students for Academic Freedom, a group he founded in 2003.

His goal, he says, was originally to persuade colleges and universities to take steps on their own to diversify the flow of ideas what he regards as grading. predominantly liberal campuses.

But when administrators wouldn't acknowledge problems or make internal



But Beth White, a junior at **Point:** Beth White of Indiana State University fears that a proposed bill could curtail educators' freedom of speech.



By Doug Nicotera for USA TODAY

Counterpoint: Penn State's Vicky Cangelosi backs a bill that could punish instructors for political bias in

policy changes, he says, he sought

Though proposals vary slightly from

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state to state, core principles remain the same. In Ohio, for instance, a bill would bar faculty or instructors from "introducing controversial matter into the classroom or coursework that has no relation to their subject of study and that serves no legitimate pedagogical purpose." Ohio's state colleges and universities would also have to create "a grievance procedure by which a student, faculty member, or instructor may seek redress for an alleged violation."

The effort has seen modest success so far. Georgia last year passed a non-binding resolution supporting such principles, and four Colorado schools embraced them in a 2004 memorandum of understanding. But California defeated its bill last year and again this year, and the fate of proposals in other states this year is far from certain.

Still, Horowitz says passing laws isn't the only goal. "If I go to the legislatures, this will become news, students will think and start believing that this horrible situation for many of them will be changed, and they will get active," Horowitz says. "And that's exactly what's happening."

Not everyone, however, believes the proposals are innocuous. In Ohio, where the state bill has met stiff resistance from a coalition of multiple interests, the American Civil Liberties Union warns that it still has a chance to become law and produce a climate where professors feel intimidated.

"If a professor is concerned that he or she may not get tenure for teaching something controversial, they may just decide not to teach it, and that's then chilling speech," says Ohio ACLU staff attorney Carrie Davis.

The American Association of University Professors has resisted the legislative effort, saying the so-called Academic Bill of Rights "infringes academic freedom in the very act of purporting to protect it."

Supporters of the bill argue that it would actually broaden the range of political speech on campus. Horowitz says students would no longer be powerless, for instance, when a biology professor holds a screening of Michael Moore's film Fahrenheit 9/11, as one reportedly did in Pennsylvania on the eve of the 2004 election.

Even if this round of proposed legislation fizzles, the effort is not over. Horowitz believes that as many as 30 state legislatures could ultimately be fertile ground for the measure. Meanwhile, supporters have begun to champion the same cause of politics-free education in K-12 public schools. There as well, he says, legislation may become necessary. "I'll go to the (local) school board" first, Horowitz says, "and see what I get."

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How free should speech be at campus games?

Legal rights and civility clash at sporting events

By Erik Brady USA TODAY

COLLEGE PARK, Md. — You can't shout "fire!" in a crowded theater. But can you shout a different F-word in a crowded arena?

This is an open question at the University of Maryland, where many students believe that they have a constitutional right to talk dirty. Hundreds shouted obscenities early and often during a men's basketball game last month against hated rival Duke. The chants aired live on national TV and have emerged as another pitched battle in the civil war over the coarsening of the culture.

Each time Duke guard J.J. Redick stepped to the foul line Jan. 21, many students chanted, "(Expletive) you, J.J.!" — an ugly intersection of free speech and free throws.

Maryland athletic officials say they are unable to eject students who do this because the university is a public institution that plans its healtsthall games in a public

institution that plays its basketball games in a public facility — and is thus bound by the First Amendment of the Constitution. But last week, after hearing widespread complaints, school officials asked the state attorney general for guidance.

Can public schools discipline their students for vituperative language? Or does civil liberty trump civility on campus these days?

Colleges across the country are struggling with similar issues.

The NCAA provides member institutions with sample announcements to be read before games urging fans to be good sports and warning that they can be ejected. And though fans are sometimes tossed for throwing objects or for drunkenness, they are less often expelled for language.

"This issue is critical in the sense that crowd behavior puts a public face on the image of a university," says John Swofford, commissioner of the Atlantic Coast Conference, which includes Maryland and Duke.

John Anderson, the Maryland assistant attorney general who is researching the matter, says school officials asked whether they could eject students from games for chanting obscenities or for wearing T-shirts imprinted with them. Anderson says he is looking at case law and preparing an answer but isn't sure how soon he'll have an answer.

Meantime, Maryland is trying moral suasion. President C.D. Mote Jr. wrote a letter to the school newspaper last week asking for better behavior. Maryland coach Gary Williams took a microphone and appealed to the crowd before Sunday's home loss to North Carolina State, a game in which fans mostly behaved. History suggests asking nicely is not a long-term fix. Maryland spent \$30,000 last school year on a campuswide sportsmanship campaign.

Foul-mouthed sports fans are nothing new. Williams says his Terrapins are the targets of profane verbal abuse almost everywhere they go. The notion that everyone does it is more indictment than defense, but Williams is

right that the problem is national in scope:

▶ University of North Dakota President Charles Kupchella met with the student senate this week to ask for its help in stopping hockey fans from shouting obscenities.

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- ▶ University of Cincinnati coach Bob Huggins said this week that his team heard more profanity in its game at crosstown rival Xavier two seasons ago than at any time in his career, and if it had not been for the longtime nature of the rivalry, he might not have played there again. When the schools met Tuesday at Xavier, students traded blue language for faces painted blue and some held gently mocking signs. One said: "Welcome Fellow Scholars."
- ▶ Last summer, the Big Ten adopted a rule that bans student sections from singling out individual players for verbal abuse. Iowa coach Steve Alford complained last week that forward Pierre Pierce has been a target in several games this season.

Free speech 'paradoxical'

Kermit Hall, president of Utah State University, is an expert on First Amendment issues. He says free speech at public universities is "at once the most obvious and the most paradoxical of constitutional principles" — obvious because the role of open expression is essential to academic freedom and paradoxical because it must be balanced against imperatives for civility and respect.

Big Ten's last resort on taunting: Disbanding student sections

The Big Ten Conference passed a rule last summer that it hopes will rein in students who taunt individual opposing players.

"We're aware that the use of obscenities at games is a big issue in certain places," Big Ten Commissioner Jim Delany says. "No one feels good about it."

Most despicable, though, Delany says, are those occasions when student sections target one player with a piece of personal information. "It could be a player whose mother had a DUI, for example. They harass an 18-, 19- or 20-year-old kid for two hours. That's not right. If we can't address that, we've got a problem."

The conference devised a three-strike system. The first time a school's student section trespasses on the rule, the school is warned privately. The second time it is warned publicly. And the third time it is required to disband the section.

"That's not a free speech issue," Delany says. "No one has a constitutional right to attend a basketball game."

Delany says a couple of Big Ten schools have been warned privately. He declined to name them — "or else it isn't private."

He says those schools are putting

pressure on their student sections to stop. If the behavior persists, the schools will be named publicly and have one more chance. Delany says dissolving student sections is more than fair as a last resort. "If we don't do that, when these students sit in prime locations close to the court, then we're enabling

them to do what they're doing."
Illinois fans harassed Iowa's Pierre
Pierce on Jan. 17, chanting "No means
no!" whenever he touched the ball.
Pierce pleaded guilty to a misdemeanor
charge of assault causing injury in 2002;
he originally had been charged with
felony sexual assault. He was sentenced
to one year of probation and sat out last
season.

lowa coach Steve Alford complained to the Big Ten after the Illinois game. "I didn't do anything about it other than report to the conference," Alford told The Des Moines Register. "Now action needs to be taken" during games. "It's the obligation of the Big Ten" and its schools to make sure that the rule is followed.

Pierce says he expected this sort of thing when he decided to return to the team. "Coach says I have to block that stuff out," he told The Register, "because playing in the Big Ten is tough enough."

But Hall says the Maryland case is not a close call. He believes public universities have not only a right to eject students who chant obscenities but a responsibility to do so in consideration of others' rights to watch a game in a safe setting. Hall says students should be warned first, then have their tickets pulled.

"I think that's legally justifiable and sustainable," Hall says. "There are two interesting and controlling factors. First, the process of admission to an athletic event is a license, which can be revoked. Second, there is an exemption to the First Amendment for 'fighting words' used to try to incite or intimidate." Hall says racial slurs are hate speech but that this type of profanity at ballgames is something else: "uncivilized utterances accelerated by sporting enthusiasm."

Anderson, who is in charge of the Maryland attorney general's educational affairs division, says the university has used Cohen v. California for guidance. The 1971 case involved a man arrested for wearing a jacket in a courthouse hallway that said "(Expletive) the draft." The U.S. Supreme Court ruled it was protected speech.

"Maybe that case answers it," Anderson says. "But there are distinctions between that case" and what happens in a sports arena, where speech is rarely political. "That's why I would be loath to say that Cohen is a stopper."

Anderson says he will research other cases and will consider

points of view similar to Hall's. But he adds that the answer might be different for colleges in different sections of the country. "College Park exists in a highly litigious culture right outside of Washington, D.C.," he says, and may be more susceptible to suits over free speech than colleges elsewhere.

What of in loco parentis, a concept that says colleges should act in place of students' parents? Wouldn't Mom wash out her sociology major's mouth with soap for talk like that? "Colleges have shed that role over the last 20 years," Anderson says. "Students are more customers now than they are in custodial care. And they are more conscious of their rights."

Students support right to curse

Many Maryland students feel they have a right to drop F-bombs in public if the spirit moves them.

Sunday, when the Terrapins played their next home game after the Duke contest, USA TODAY canvassed a dozen students in front-row seats at the Comcast Center. Most said, yes, they participated in the obscene chants and, yes, they believe they have a free-speech right to do so. But, no, they don't plan to do it now that Williams has asked them not to — at least until Duke comes again next season, when they just might.

"If you can't curse at a basketball game, what's next, a curfew?" asked freshman pre-med major Russell Rosenblatt, wearing a red fright wig. "We're paying them for an



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education, not to tell us what we can say at a basketball game."

Freshman animal science major Lauren Schick said students have a right to chant obscenities, "but we're not going to do it anymore. We're really not like that."

Sophomore marketing major Matt Ursino is. He wore a Tshirt to Sunday's game with two four-letter words, one of which was Duke. He said he would go along with Williams' plea not to chant obscenities anymore, but he planned to keep wearing his shirt.

What about the rights of fans who bring their children to games? "You can't shield children from everything," Ursino says. Fans with kids "have the right to say anything they want, and we have the same right to say anything we want. The games are for the students more than anyone else."

That kind of sentiment is troubling to Ron Stratton, the NCAA's vice president for educational services. He says game management is left to individual schools except during the NCAA tournament, "but we are trying to get the message out that there are better ways to support your team" than by embarrassing it with off-color words.

Some schools eject, some don't

The University of Pennsylvania is a private school that says it does not discipline students for foul language at athletic events. Carla Zighelboim, Penn's director of athletic communications, says representatives of the school's Committee on Open Expression attend games to ensure that security personnel do not infringe on free speech, even when it's foul.

Saint Joseph's University, across town in Philadelphia, is a private school that does eject students for naughty words. Athletics director Don DiJulia says about half a dozen have been tossed this season. "If you can't say it in the classroom, the library or the chapel, you can't say it in the gym," DiJulia says. "You're electing to come to school here, and this is part of what you're buying into."

DiJulia doesn't want to come off holier than thou: "Every school has its lunatic fringe. We have ours. But we're going to deal with problems" even if it means lawsuits on free-speech grounds, for which he says private schools also can be sued.

DiJulia says he doesn't think that will happen. He figures most who chant obscenities appreciate the anonymity of the arena. "If they want to be identified in open court," he says, "I say bring it on.'

Williams, the Maryland coach, says his school is unfairly singled out. He says his team hears terrible things, too, much of it directed at D.J. Strawberry, a freshman forward whose father, Darryl, struggled with drug problems during his years in pro baseball.

"I'm not going to get into comparing schools," the ACC's Swofford says. "But when vulgarity is in unison, and when vulgarity on shirts is in unison, I don't think that's commonplace. And that's where the people at Maryland got concerned. We are institutions of higher learning. It is important we all try to set higher standards."

AS SEEN IN USA TODAY NEWS SECTION, TUESDAY, JUNE 28, 2005, PAGE 4A

Washington

First Amendment gains support as fears ease

By Mark Memmott **UŠA TODAY**

Shocked by the 9/11 attacks, many Americans worried afterward that the nation was too free to be safe from

Those fears are easing, poll results due to be released today indicate. They show renewed support for the First Amendment of the Constitution and the protections it gives to speech, the media and religion. Support for those rights had flagged in the wake of the 9/11 attacks.

"A 'reset' that we first started to see last

year continues," said Gene Policinski, executive director of the First Amendment Center, the non-partisan education and information organization that sponsored the survey. Among the highlights from the national survey of 1,003 adults, conducted May 13-23:

► The percentage of people who say the First Amendment "goes too far in the rights it guarantees" has fallen dramatically. In 2002, the year after the terrorist attacks, which killed nearly 3,000 people, almost 50% of those polled said the amendment goes too far. This year. just 23% felt that way.

► The number of people who say they want to know more about what the federal government is doing in the war on terrorism continues to rise, from 40% in 2002 to 52% this year. "As the war has gone on and the critics have gotten some traction with their arguments, more people are saying they want more information" and are less concerned about the need for secrecy, Policinski said.

Pollsters David Yalof and Ken Dautrich of the firm New England Survey Research Associates conducted the survey for the

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Some rights less known People's responses when asked what rights are guaranteed by the First Amendment: Freedom of speech 63% Freedom of religion 20% Freedom of the press 16% Right of assembly/association 14% Right to petition 3% Didn't know/didn't answer 29% The First Amendment to the U.S. Constitution: Congress shall make no law respect-

ing 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.

Sources: U.S. Constitution; survey of 1,003 adults May 13-23 by New England Survey Research Associates. Margin of sampling error: ±3 percentage points. center. Each result in the survey has a margin of error of \pm 0 percentage points, the pollsters estimate.

Other polls in recent weeks support the notion that for many Americans, the fears caused by the 9/11 attacks have faded. Last week, a USA TODAY/CNN/Gallup Poll of 1,006 adults showed just 35% thought it was likely there would be an act of terrorism in the USA within the next several weeks.

In mid-October 2001, 85% of those polled thought another attack was imminent.

A less nervous population hasn't necessarily translated into greater support for the media, however. Today's poll also showed that nearly 40% of Americans think the media have "too much freedom," down from a recent peak of 46% in 2003.

"I think people are inclined to support the idea of a free press but are also very critical of its practices," said Policinski, a former editor at USA TODAY.

By Karl Gelles, USA TODAY

DISCUSSION QUESTIONS

1. Do you think that Tony Blair's limitations on extremist speech are limits that should be imposed in the U.S.? Explain your answer.

- 2. Do you consider flag burning an act of free speech or an act that should be illegal? Why or why not?
- 3. Do you think that freedom of speech should be limited in schools and classrooms as discussed in article entitled "Whither academic freedom?" What are some of the risks? What are some of the benefits? Compare your answer with others in a group.
- 4. Do you think that freedom depends on a feeling of security? What examples from history support your view? Write a short essay explaining your position.

ACTIVITY EXTENSIONS

- 1. **Class Debate:** Read the article "How free should speech be at campus games? Legal rights and civility clash at sporting events." Divide into two teams to debate the issue from each side; use the main points raised by the article to support your position.
- 2. Survey your teachers:
 - ► What examples of limiting free speech have your teachers observed during their lifetime?
 - ► What issues in education are related to freedom of speech? How has your school faces these issues? Explain.
 - ► Report your findings to classmates orally and in writing.



FUTURE IMPLICATIONS

- 1. In what ways has our society become more or less free since September 11? Do you think that we will continue this trend?
- 2. Who should decide what is "good" free speech versus what is "dangerous" free speech? How does it work in your school? How does it work in our government? What changes would you make?

ADDITIONAL RESOURCES

The First Amendment Center www.firstamendmentcenter.org

Human Rights Group Liberty www.liberty-human-rights.org.uk

Citizens Flag Alliance www.cfa-inc.org

American Civil Liberties Union www.aclu.org