

NEW YORK TIMES COMPANY v. UNITED STATES

403 U.S. 713 (1971)

Freedom of the Press

Facts

In the famous “pentagon papers” case, government classified documents were removed from government files and then given to the news media for the eventual release to the public. The government, upon discovery of the news leak, sought to have such publications stopped through a court order, i.e., injunction, forbidding that publication.

The newspaper’s claim was that prior restraints or censorship infringed upon constitutional freedom of the press. Furthermore, such injunctions had rarely been granted in American history. The government claimed (1) that the publication would threaten national security, (2) that it would provide for international diplomatic embarrassment, (3) that its defense secrets were being jeopardized by allowing such publication, and (4) that the publication would cause “grave and irreparable injury” to the national interest, i.e., all Americans. At that time, federal law did provide for criminal penalties for unauthorized communication of defense information, but it did not authorize injunctions as a way of preventing this communication from being published.

Decision of the Court

In *New York Times Company v. United States*, the United States Supreme Court disposed of this issue by concluding in a six-to-three vote that the First Amendment free speech and free press sections did allow such publication. The three dissenters argued that it was not the Court’s function to forbid newspapers from publishing something, even at the request of the President, as Congress had never given such power through a law to the courts.

Questions

1. Do the media (T.V., newspapers, radio, etc.) have a responsibility to keep the public informed, regardless of the conflicting interests presented by individuals, groups, or the government itself? Why or why not?
2. What responsibility should a media source have toward checking the truth of the stories it makes public? What problems in verification do media people have?
3. If a newspaper printed a false story, not knowing it was false, should it be penalized for this? Why or why not?
4. Should a public figure have the same rights to privacy that a private citizen has? Why or why not?
5. How much of his or her right to privacy (and therefore legal protection of these rights) should someone have to give up when becoming a public figure?
6. Should the press have the right to make public something which may damage a public figure’s career, if the information is true? All the time? None of the time?

7. Should the press have the same right to publish the truth about the government that it has to publish the truth about individuals? What effects might this have on the government? Good effects? Bad effects?
8. In the “Pentagon Papers” case the government attempted to withhold classified government documents. Why? Does the government classify too many documents?
9. Should information about the government ever be withheld from the public? Why or why not? If so, when?
10. Who should decide whether the government information is to be withheld? The Congress? The press? The courts? A Senator? A Congressman? The Chief Justice of the United States Supreme Court?
11. In the “Pentagon Papers” case, the Court decided that the press had the right to publish the information. What was the reason for this decision? Do you agree with the decision? Why or why not?
12. What do you think is the most important responsibility of a free press? What are the rights and the responsibilities of an individual, a group, a private person, or a public figure with respect to the public’s right to information?
13. How would you decide these cases?