***Unit V, Question 1***

*Why have First Amendment rights been viewed as essential to the functioning of a free society?*

* *In what ways have these rights been of particular importance to women and minorities?*
* *Although First Amendment rights are considered essential in a constitutional democracy, it is sometimes argued that these rights must be limited. Under what circumstances, if any, do you think limitations are justified? Explain your answer.*

**P1.** First Amendment rights have been viewed as essential to the functioning of a free society, because the First Amendment makes this country unique among nations. How? It does so by withdrawing from government the power to dictate what people must feel or believe, how they may worship, what they may say, to whom they may say it, with whom they may mingle, and what they demand of their government.

**P2.** These liberties are often taken for granted; however, our recent experiences with terrorism once again raise questions about our rights as Americans. If our government has the authority to dictate or control our actions and beliefs, it could gain the power to enslave us. If. on the other hand, our nation’s security demands a curtailment of our traditional liberties, we need to carefully weigh the competing values.

**P3**. The freedoms of speech and press are important, because communication allows citizens to share their ideas with others, thus helping to bring about peaceful change. In addition, having a marketplace for our ideas gives all of us the chance to choose for ourselves which ideas we accept and which we reject. The Supreme Court has even held that laws that are overly broad or vague are unconstitutional, because they have a chilling effect on speech.

**P4.**  Religious liberty is a crucial right. The Framers realized that the only way to protect both church and state was to keep them separate. During our early years as a nation, in a letter to the Danbury Baptist congregation in Connecticut, Thomas Jefferson used the metaphor a “wall of separation” to describe the purpose of the Establishment Clause. Also, without the guarantee of free exercise, members of unpopular faiths might be denied civil freedoms, as happened in some places in colonial America.

**P5.**  The right to petition has historical roots in both the Magna Carta of 1215 and the early state constitutions. The Declaration of Independence includes charges that King George III ignored our petitions. Today, we often gather together and use the petitioning process to let elected officials know our opinions, and in some cases, to initiate legislation.

**P6.** These rights have been especially important to women and minority groups. Women focused publicity on their cause and virtually compelled Woodrow Wilson to support the 19th Amendment. Later, during the civil rights era, protestors used their freedoms when they gathered in churches to pray and then spoke, wrote, and used the media to draw attention to their plight. Some exercised their rights by participating in marches, such as the one from Selma, Alabama to the state’s capitol in Montgomery. Sit-ins, pray-ins, and other actions protesting segregation led to the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Groups used their petitioning power to bring their cases to the courts when legislators were slow to act in desegregating public schools.

**P7.** Achieving the delicate balance between liberty and order has been the cause of debate throughout history. Chaos and violence have no place in our free society, and absolute liberty can be as dangerous as absolute power. Despite the importance of the freedoms secured by the First Amendment, they are limited liberties.

**P8.**  Time, place and manner restrictions are acceptable limits on freedom of speech and assembly. However, in *Snyder v. Phelps,* the Court held that speech on a public sidewalk, about a public issue, cannot be liable for a tort of emotional distress, even if the speech is found to be "outrageous". Freedom of the press does not cover libelous words or obscenity. Freedom of religion can be limited when one’s religious rituals and practices conflict with other laws, as seen in the case of *Smith v Oregon*, which declared that religious motivation did not excuse illegal drug use.

**P9.** In conclusion, Benjamin Franklin once said: “Those who would give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety.” The question we must ask ourselves is whether or not the suspension of our rights is justified during national crises.

**P10.** Thank you for your attention. We are now eager to discuss these issues with you.