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## **Term Paper: Music Censorship in the United States**

### **Abstract**

This paper explores the evolving tension between free speech and music censorship in the United States, with comparisons to global practices such as those in China. While the First Amendment theoretically protects artistic expression, legal ambiguity, algorithmic filtering, and societal pressures continue to constrain musicians. Historical examples such as the censorship of Elvis Presley and 2 Live Crew highlight how music has long served as a battleground for culture, while modern developments like California's AB 2799 and the 2025 Kendrick Lamar lawsuit reveal ongoing challenges in balancing freedom with accountability. This paper examines how censorship manifests both through government regulation and the private sector influence, ultimately reshaping how music is distributed, marketed, and understood. The paper reveals the differing legal structures that impact artists' creative liberties across borders. Through legal analysis, cultural context, and industry impact, this paper argues for a more nuanced understanding of music censorship that defends artistic freedom while recognizing the power of music to both heal and harm.

### **Introduction**

The First Amendment of the United States Constitution states: "Congress shall make no law respecting 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” (US Constitution Amendment 1). The American right to speak freely without restriction is a foundational freedom. However, the First Amendment does not protect against fighting words, true threats, harassment, or inciting lawless action (American Library Association 1). These terms are vague and leave room for interpretation and negotiation.

Artistic expression often pushes boundaries making it vulnerable to censorship attempts and the law. When art provokes, it is frequently labeled as obscene, offensive, or dangerous, even when it doesn't meet the legal threshold for unprotected speech. This gray area opens the door for institutions, governments, or even private platforms to restrict or remove content under the facade of maintaining order. While the First Amendment protects artistic expression in the United States, music remains a contested space where legal limitations, and cultural sensitivities create ongoing tensions between freedom and censorship, especially in the face of evolving technologies, government influence, and global comparisons.

### **Historical Context**

There is an extensive history of music censorship in the US. Music is not explicitly mentioned in the First Amendment, but everything that falls under the umbrella of creation, performing, and production is protected under the First Amendment (Leadingham). Although the government cannot outright ban music for its message, songs deemed *obscene*, a legal term narrowly defined by the Supreme Court, can still be restricted, particularly by the Federal Communications Commission (FCC) on public airwaves (Leadingham). The FCC was created in 1934 in an effort to better monitor and manage interstate and international communications, however the idea of management becomes gray in legal terms. This gray area has allowed the

FCC to exert broad discretionary power, often leading to the suppression of controversial or provocative music under the guise of protecting public decency.

By 1957, music censorship in the U.S. had reached new cultural flashpoints that revealed deep anxieties about race, youth culture, and morality. That year, Elvis Presley's performance on *The Ed Sullivan Show* was famously filmed only from the waist up, reflecting widespread concern over his provocative dance moves. In Chicago, Cardinal Stritch banned all pop music from Catholic schools, decrying the "hedonistic, tribal rhythms" of rock and roll, while in Alabama, the president of the North Alabama White Citizens Council called for jukeboxes to be destroyed, fearing the influence of "black music" on white society (National Coalition Against Censorship). These examples, alongside earlier incidents like the blacklisting of The Weavers and assaults on Black performers such as Nat King Cole, underscore how censorship was often a tool for reinforcing racial hierarchies and controlling expression, concerns that groups like the NCAC and Freedom Forum now work to expose and challenge. Together, these acts of censorship illustrate how music has long been a battleground for cultural power, where fears about race, rebellion, and morality are projected onto the sounds that challenge the status quo.

### **Modern Context**

While censorship seems to be an archaic thing of the past, there have been many moves to limit and hide speech in music throughout the 21st century. The National Coalition Against Censorship further documents decades of cases, such as the 2005 cancellation of a school band's performance of "Louie Louie" due to misinterpreted lyrics, and the NYPD's 2019 request to remove five rappers from Rolling Loud Festival over safety concerns. These incidents reflect not only legal boundaries but also moral crises, racial bias, and political motivations that continue to shape music censorship in America.

In March of 2025, the San Francisco Conservatory of Music and the San Francisco Symphony announced that they had placed a pause on their Emerging Black Composers Project (Janiak). The SFCM and SFS chose to do this as a response to a directive from the US Department of Education's Office for Civil Rights, which deemed some diversity initiatives as discriminatory; continuation of this project put them at risk for losing funding. The project's pause has created concerns in regards to the federal government's influence on music, especially when it comes to music that promotes diversity.

Drake's 2025 lawsuit against Kendrick Lamar has reignited debates around music censorship and whether or not there are boundaries when it comes to artistic freedom (Petridis). The lawsuit centers on Lamar's use of personal references and provocative themes in his lyrics, which Drake claims are defamatory. However, experts argue that this legal action threatens to set a precedent by weaponizing defamation laws to silence artistic expression, particularly in rap, which is a genre historically rooted in personal narrative, critique, and social commentary. Much like past efforts by institutions like the FCC, this lawsuit reflects ongoing attempts to regulate expression that challenges mainstream sensibilities or powerful figures. Drake's case against Lamar underscores how music censorship continues to evolve, not just through government regulation, but also through litigation and public pressure, raising critical questions about the limits of creativity in a climate increasingly hostile to dissenting voices.

### **Legal Issues (IRAC)**

#### **Censorship Overview**

In *Right to Free Speech and Censorship: A Jurisprudential Analysis*, Shameek Sen explores the complicated and legal balance between the constitutional right to free speech and the legitimacy of state-imposed censorship. Sen argues that while the Constitution guarantees

freedom of speech, this right is not absolute and can be curtailed in the interests of public order, morality, and the sovereignty of the state. In addition, it's emphasized that jurisprudence must outweigh individual liberties against collective welfare. Therefore, often placing courts in the position of arbiters of cultural and moral standards. Legally, censorship is justified when speech is shown to incite violence or disrupt social harmony, but there is a concern against arbitrary or politically motivated censorship disguised as legal restraint. The article's analysis contends that without a rigorous and principled framework, the judiciary risks enabling state overreach under the guise of maintaining public interest. Thus, Sen advocates for a more nuanced, rights-focused, and protective approach that acknowledges the evolving nature of speech in democratic societies.

### **California Assembly Bill 2799**

Building upon the legal recognition of artistic expression's protection under the First Amendment, California enacted Assembly Bill 2799, known as the Decriminalizing Artistic Expression Act. This legislation addresses the contentious practice of using rap lyrics as evidence in criminal trials, a tactic that has disproportionately affected Black artists by conflating fictional artistic narratives with real-life intent. Under AB 2799, courts are now required to assess whether such creative expressions were composed around the time of the alleged crime, bear specific similarities to the offense, or contain factual details unknown to the public. This shift aims to prevent the prejudicial impact of misinterpreting artistic works as literal confessions, thereby safeguarding the creative freedoms of artists and ensuring a more equitable judicial process.

### **2 Live Crew and Speech Rights**

A more specific example can be seen in the case involving 2 Live Crew. The group successfully reclaimed the rights to their early albums under Section 203 of the Copyright Act,

reinforcing the idea that artists can terminate prior transfers and regain control of their work after 35 years (AP News). This legal victory builds upon the group's earlier battles with music censorship in the 1990s, when their lyrics were deemed obscene and sparked national debates over free expression (censorship.laws.com). Courts eventually ruled in 2 Live Crew's favor, affirming that even explicit or controversial content is protected under the First Amendment. These legal milestones highlight how music censorship often targets marginalized voices and genres, especially hip-hop, under the facade of protecting public decency.

### **Chinese vs. American Artistic Censorship**

While American music censorship often arises from societal pressures and legal challenges, such as the historical controversies surrounding 2 Live Crew's explicit lyrics, Chinese music censorship is predominantly state-driven, with extreme regulations that control both domestic and international artists (Mapping China). In China, the government mandates that foreign performers submit setlists and lyrics for approval, and has a history of banning artists who engage with politically sensitive topics, such as Tibetan independence or associations with the Dalai Lama. For instance, artists like Bon Jovi and Maroon 5 have faced concert cancellations due to such affiliations (Rare Approval). Even domestic artists are subject to strict oversight; musicians supporting figures like Ai Weiwei have been barred from performing, and content promoting themes contrary to state policies is often censored. This contrasts with the U.S., where, despite instances of censorship, there exists a robust legal framework protecting artistic expression under the First Amendment, allowing for a more open and diverse musical landscape.

### **Industry Impact**

Music censorship has immense legal implications for the industry, it shapes how content can be distributed, licensed, performed, and monetized. Legal battles over obscenity, such as those involving 2 Live Crew, force record labels to adopt precautionary labeling practices like the Parental Advisory sticker, which is not government-mandated, but functions as a form of soft censorship impacting radio play and retail availability. Laws such as California's AB 2799 also reflect the legal industry's response to discrimination, limiting the courtroom use of rap lyrics to avoid bias against artists, particularly those in marginalized communities. These legal shifts alter how record deals are negotiated and how artists' creative outputs are protected, influencing contracts and review processes. Additionally, global legal landscapes, such as China's state-controlled approval system for live performances, require international artists to navigate complex censorship laws before entering foreign markets. As a result, legal censorship not only affects individual artists but also informs broader strategies within label operations, tour planning, and international expansion.

Censorship deeply affects artistic expression in the music industry by placing constraints on the kinds of stories, identities, and perspectives artists can publicly share. In America, while the First Amendment provides protection, artists still face commercial backlash, bans, or algorithmic suppression for addressing controversial topics such as sexuality, race, or politics. This often leads to self-censorship, especially for emerging musicians who rely on streaming services and brand partnerships to build their careers. In authoritarian contexts like China, artistic expression is even more heavily policed: lyrics, visuals, and public behavior must align with state values, leading many artists to avoid sensitive themes altogether. As a result, censorship distorts the cultural ecosystem by favoring sanitized, political music over provocative or authentic storytelling. Ultimately, the industry's creative potential is diminished when artists

cannot freely challenge norms, reflect lived experiences, or engage in socio-political discourse through their music.

### **Opinion**

Ultimately, while artists must be free to express themselves without fear of censorship, that freedom comes with a social responsibility, especially when lyrics actively threaten or endanger specific groups. Art has always existed to challenge norms, provoke emotion, and make people uncomfortable, but there is a clear line between discomfort and harm. In the next five years, there will likely be a growing push within the industry to strike a balance between protecting creative autonomy and addressing the real-world impact of violent or hateful lyrics. Cases like the use of rap lyrics in court or calls to censor drill music reflect deeper cultural tensions that cannot be resolved by blanket restrictions or unchecked freedom alone. The music industry must evolve to support nuanced, contextual approaches, ones that affirm artistic expression while condemning direct incitements to violence or hate. This isn't about silencing voices; it's about ensuring that freedom of expression uplifts rather than endangers.

### **Conclusion**

Music censorship is neither a relic of the past nor a one-size-fits-all issue—it is a dynamic, evolving challenge that intersects with law, politics, economics, religion, sexuality, culture, and much more. While the First Amendment continues to provide critical protections in the U.S., those protections are often undermined by vague legal standards, algorithmic suppression, or social backlash. Globally, more authoritarian governments like China's demonstrate how censorship can become a tool for political control and cultural conformity. As legal and societal frameworks continue to shift, the music industry must navigate a complex terrain where creative freedom, market viability, and ethical accountability coexist in tension.

The future of music depends on striking a delicate balance: preserving the right to discomfort and dissent while safeguarding against lyrics that incite harm or perpetuate injustice. To do so, the industry, lawmakers, and audiences alike must commit to protecting the transformative power of music without compromising the safety and dignity of its listeners.

### Works Cited

- American Library Association. "First Amendment and Censorship." ALA.org, [www.ala.org/advocacy/intfreedom/censorship](http://www.ala.org/advocacy/intfreedom/censorship). Accessed 31 Mar. 2025.
- Janiak, Lily. "Now Trump Is Affecting S.F. Symphony Programming, with Black Composers' Project 'Paused'." *San Francisco Chronicle*, 5 Mar. 2025, [www.sfchronicle.com/entertainment/classical/article/sf-symphony-black-composers-trump-20202025.php](http://www.sfchronicle.com/entertainment/classical/article/sf-symphony-black-composers-trump-20202025.php).
- "Jury Paves the Way for 2 Live Crew to Retake Control of Records That Changed Hip-Hop." *AP News*, 18 Oct. 2024, <https://apnews.com/article/2-live-crew-hip-hop-copyright-ruling-9315d65fd99be7bee20c9c361eb3af72>.
- "Kanye West Performs in China After Rare Approval by Country's Censors." *The Guardian*, 16 Sept. 2024, <https://www.theguardian.com/music/2024/sep/16/kanye-west-performs-in-china-after-rare-approval-by-countrys-censors>
- Leadingham, Scott A. "How (and Why) These 16 Famous Songs Were Banned." *Freedom Forum*, 8 Nov. 2023, <https://www.freedomforum.org/banned-songs/>(<https://www.freedomforum.org/banned-songs>).
- "Mapping China: Music – State Policy: Censorship." *DutchCulture*, <https://dutchculture.nl/en/mapping-china-music-state-policy-censorship>.
- McKenzie Scott Civil Rights & Criminal Defense Lawyers. "Restricting Use of Rap Lyrics in Criminal Trials." *McKenzie Scott*, 10 Feb. 2023,

<https://www.mckenziescott.com/2023/02/10/restricting-use-of-rap-lyrics-in-criminal-trials/>.

"Music Censorship in America: An Interactive Timeline." *National Coalition Against Censorship*, 29 Jan. 2025, [ncac.org/resource/music-censorship-in-america-an-interactive-timeline](https://ncac.org/resource/music-censorship-in-america-an-interactive-timeline). Accessed 7 Apr. 2025.

"Music Censorship Overview." *Laws.com*, 23 Dec. 2023, <https://censorship.laws.com/music-censorship>.

Petridis, Alexis. "Drake's Lawsuit Against Kendrick Lamar Also Puts Artistic Freedom on Trial." *The Guardian*, 17 Jan. 2025, [www.theguardian.com/music/2025/jan/17/drake-lawsuit-against-kendrick-lamar-also-puts-artistic-freedom-on-trial](https://www.theguardian.com/music/2025/jan/17/drake-lawsuit-against-kendrick-lamar-also-puts-artistic-freedom-on-trial).

Sen, Shameek. "RIGHT TO FREE SPEECH AND CENSORSHIP: A JURISPRUDENTIAL ANALYSIS." *Journal of the Indian Law Institute*, vol. 56, no. 2, 2014, pp. 175–201. *JSTOR*, <http://www.jstor.org/stable/43953700>. Accessed 16 Apr. 2025.

United States Constitution. Amendment I. Legal Information Institute, Cornell Law School, [www.law.cornell.edu/constitution/first\\_amendment](https://www.law.cornell.edu/constitution/first_amendment). Accessed 31 Mar. 2025.