

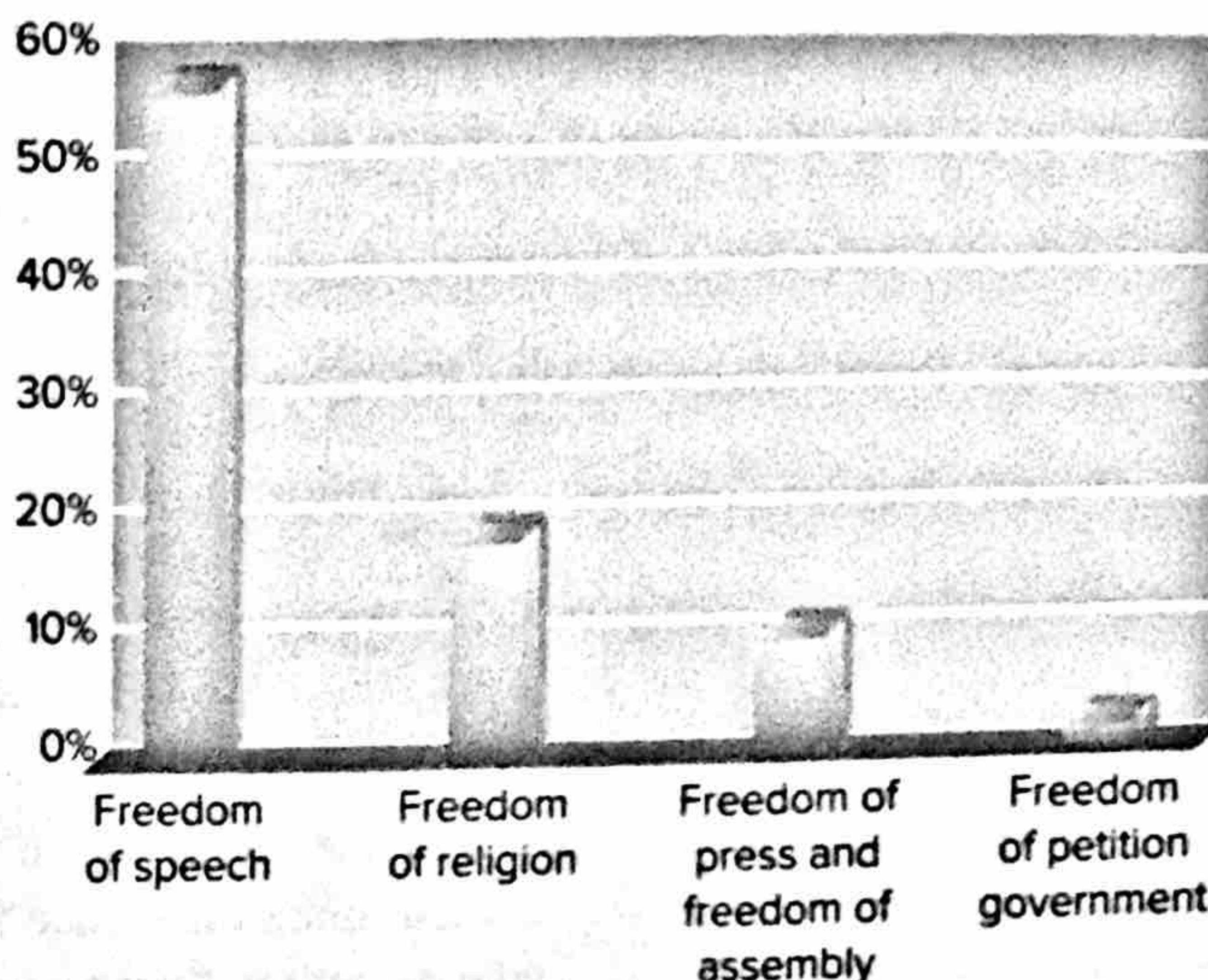
would be bound by the first ten amendments to the U.S. Constitution. At first, proponents of this view met with little success. Ultimately, however, the Court used a process known as **selective incorporation** to conclude that most of the Bill of Rights should apply to the states. Only two of the first ten amendments remain unincorporated: the Third and Seventh. In addition, the Fifth Amendment right to a grand jury hearing and the Eighth Amendment freedom from excessive bail and fines do not apply to the states.

Selective incorporation greatly enhanced the expansion of rights in the United States because the vast majority of individual actions occur in the states. Most people who exercise their rights of free speech and assembly, for instance, do so in one of the states, unless they carry their protests to Washington, D.C. The process of selective incorporation also created a uniform definition of our basic rights that is independent of geography. A criminal defendant has the same basic constitutional rights whether he or she lives in Iowa or New York.

The Modern Emphasis on Rights

1. Selective incorporation helped to usher in an era of greater emphasis on individual rights in which even the most humble citizens claim fundamental protections from government violation. Even so, many citizens today are only dimly aware of their constitutional rights. When asked to name the five specific freedoms of the First Amendment, 57 percent of Americans could name freedom of speech, 19 percent knew freedom of religion but less than 11 percent knew the other three rights. Sadly, more respondents correctly named multiple characters on *The Simpsons* television program than multiple rights in the First Amendment. In a 2015 poll, 75 percent of Americans disagreed that the First Amendment goes too far in protecting the rights it guarantees. That percentage represents an increase from the previous year, however. (See The First Amendment Goes Too Far in the Rights It Guarantees figure.) An

Can You Name Any of the Specific Rights Guaranteed by the First Amendment?

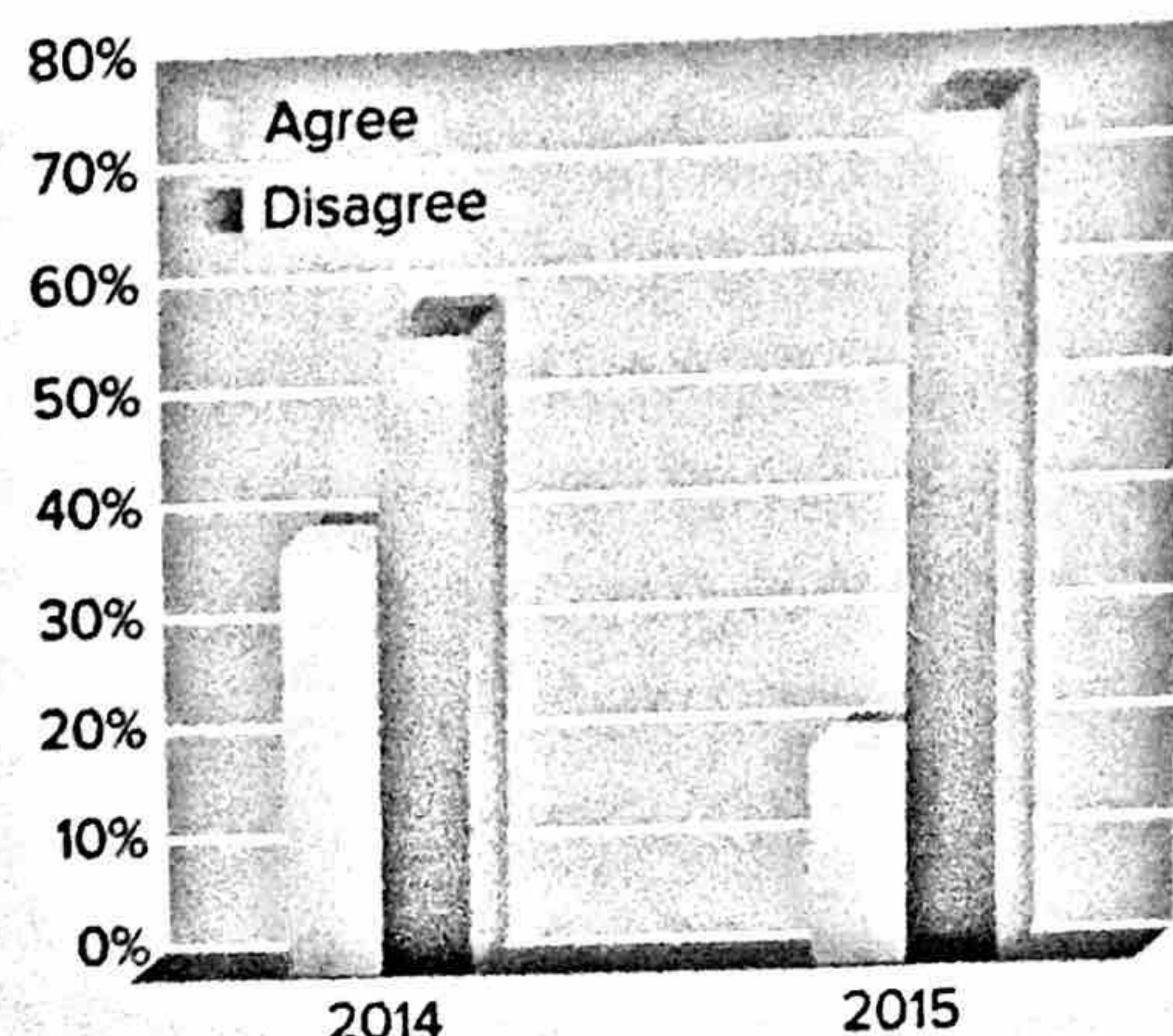


A majority of Americans can only name freedom of speech as a right found in the First Amendment of the Bill of Rights.

Source: Newseum Institute, 2015 State of the First Amendment Study.

selective incorporation Process of applying some of the rights in the Bill of Rights to the states through the due process clause of the Fourteenth Amendment.

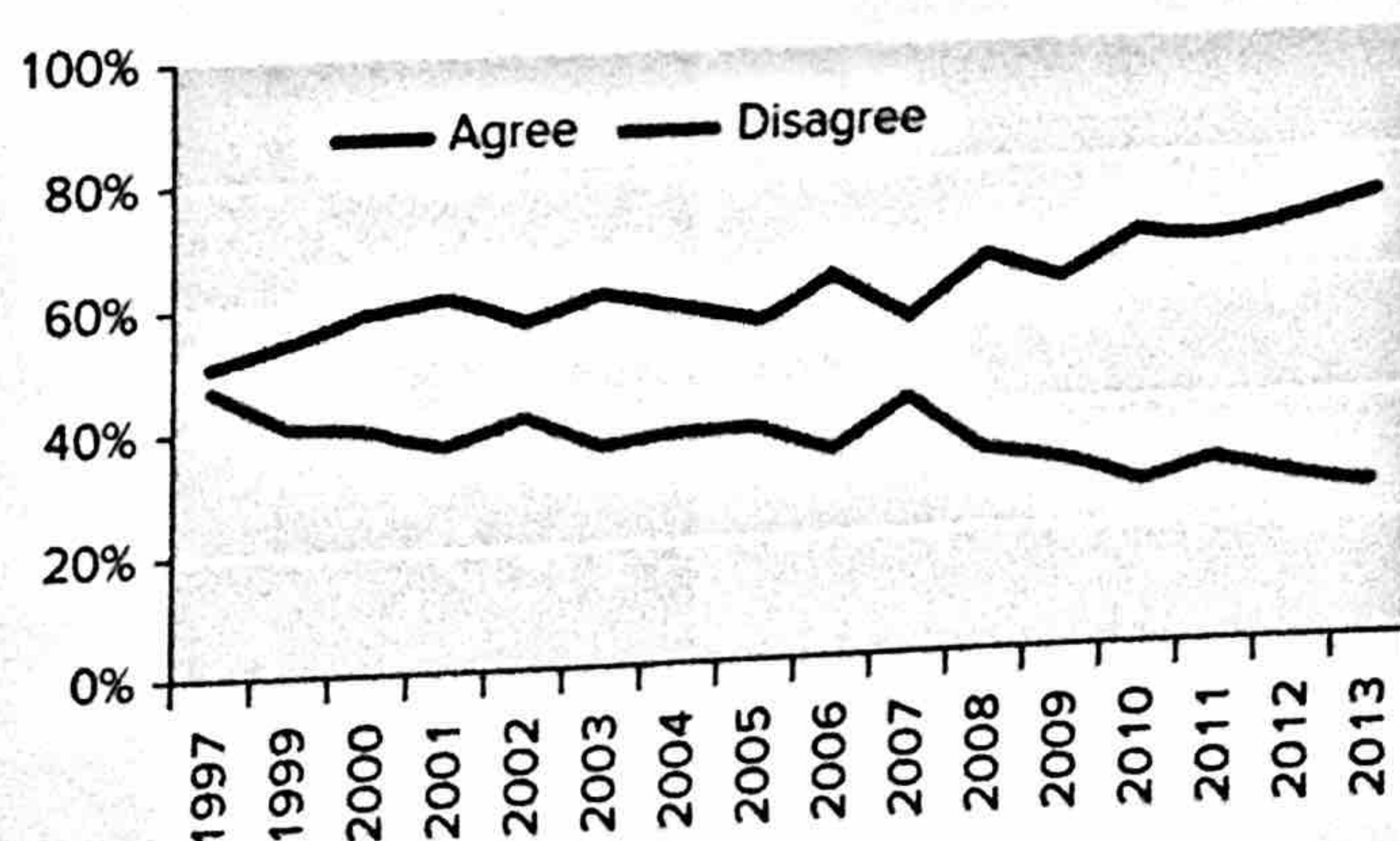
The First Amendment Goes Too Far in the Rights It Guarantees



In one year's time the percentage of Americans that do not believe the First Amendment goes too far in the rights it guarantees changed significantly. What factors may have impacted this change?

Source: State of the First Amendment: 2015. A project sponsored by the First Amendment Center, May 2015.

Musicians Should Be Allowed to Sing Songs with Lyrics Some Might Find Offensive



A large majority of Americans believe musicians should be allowed to have lyrics in their songs that some might find offensive.

Source: State of the First Amendment: 2013. A project sponsored by The First Amendment Center, May 2013.