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# Neglecting the 'Right on Which All Other Rights Depend': Press Freedom in the International Human Rights Discourse

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**NEGLECTING THE 'RIGHT ON WHICH ALL OTHER RIGHTS  
DEPEND': PRESS FREEDOM IN THE INTERNATIONAL HUMAN  
RIGHTS DISCOURSE**

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## **ABSTRACT**

### **NEGLECTING THE 'RIGHT ON WHICH ALL OTHER RIGHTS DEPEND': PRESS FREEDOM IN THE INTERNATIONAL HUMAN RIGHTS DISCOURSE**

Wiebke Lamer  
Old Dominion University, 2014  
Director: Dr. Kurt Taylor Gaubatz

Historically and philosophically, press freedom has closely been linked to the fight against tyranny and the advancement of human rights. But coverage of press freedom as a distinct human right is surprisingly absent from scholarship and the human rights agenda. This dissertation fills this gap in the academic literature by examining why press freedom has not become part of the established international human rights debate, despite its centrality to democratic theory.

It does so in three steps: First, it outlines the distinction between press freedom and other human rights to which it is usually subjugated, like free speech and freedom of information, thus highlighting the importance of press freedom as a distinct human right. Second, it examines in detail how press freedom is treated at the UN, and traces the historical path of the freedom of the press debate at the UN to determine how and why press freedom is neglected. Third, the dissertation examines the roles of transnational actors, the media and NGOs, in the context of the international promotion of press freedom.

The dissertation finds that, despite the popularity of ideational explanations in the field of human rights studies, in the case of promoting press freedom, considerations of power and strategic interests rather than ideas dominate state behavior. No state, not even Western liberal ones, goes out of its way to promote press freedom, because it

undermines state power. The dissertation further finds that there is no domestic constituency for press freedom and that human rights NGOs as well as the media themselves do surprisingly little to promote press freedom.

These findings imply that the current place of press freedom in the human rights discourse needs to be rethought. The findings also have implications for the idea of democracy and human rights and for their future not only in developing countries, but in liberal democracies as well. If the goal is to implement these ideas, the 'right on which all other rights depend' should be at the center of human rights advocacy at home and abroad.

Für meine Eltern, Heike und Detlef, die immer für mich da sind.

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## CHAPTER 1

### INTRODUCTION

The sense of optimism in the early 1990s surrounding the future of Western liberal democracy and human rights was overwhelming. The Soviet Union collapsed and the world was supposedly witnessing the ‘end of history’ that would mark the final triumph of Western liberalism and the universalization of its norms and values. As some observers have pointed out, the media in both democratic and democratizing countries, along with new developments in information and communication technologies were greeted with similar confidence and optimism.<sup>1</sup> Liberal theory holds, after all, that a free press, meaning a press that is free from government control, is vital not only to political processes, but also to the development and maintenance of personal autonomy and the right to self-determination.

Twenty years later it has become obvious that this confidence about the bright global future of Western ideals and institutions was premature, particularly in regard to freedom of the press. Press freedom around the world has increasingly come under attack in recent years. The latest Freedom House report found that the proportion of the global population that enjoys a free press fell to its lowest level in over a decade.<sup>2</sup> Less than 14 percent of the world’s population now live in countries with a press that earns the Freedom House status ‘Free.’<sup>3</sup>

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<sup>1</sup> Thomas Dine, "Free Media in Unfree Societies," *Harvard International Review* 23, no. 1 (2001). Paul Starr, "An Unexpected Crisis: The News Media in Postindustrial Democracies," *The International Journal of Press/Politics* 17, no. 2 (2012).

<sup>2</sup> Karin Deutsch Karlekar and Jennifer Dunham, "Press Freedom in 2012: Middle East Volatility Amid Global Decline," (Washington, D.C.: Freedom House, 2013), 1.

<sup>3</sup> *Ibid.*, 2.

Despite this somber reality, press freedom has received very little attention in the context of international human rights. The benefits of a free press for economic and political development have been documented.<sup>4</sup> But coverage of press freedom as a human right per se are absent from the academic literature. This dissertation will fill this gap by examining why press freedom has not become part of the established international human rights discourse, despite its centrality to democratic theory. It argues that press freedom is *the* cornerstone of human rights and democracy and should be treated as such in the academic literature and the international human rights debate. It submits that an unrestricted press is not just an important economic actor, but also an influential power in the political process, a status that interferes with government interests of sustaining their own power and influence. Consequently, states undermine press freedom at home or its promotion on the international stage.

### Press Freedom in the West

Press freedom is not easy to define. Lawyers and constitutional scholars have been grappling with this challenge for centuries. Instead of rehashing the intricacies of this debate, this dissertation will work with the definition that press freedom constitutes a press free from government interference. The mention of government interference brings up another set of complications since government interference can come in different ways. For the purposes of this project, however, it shall mainly refer to government censorship, intimidation (or attempts thereof) of journalists and news media workers by

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<sup>4</sup> See for example: Amartya Sen, *Development as Freedom* (New York: Anchor Books, 1999). Pippa Norris, *Driving Democracy: Do Power-Sharing Institutions Work?* (Cambridge: Cambridge University Press, 2008). Marina et al. Guseva, "Press Freedom and Development," (Paris: UNESCO, 2008).

government officials, and attempts at regulating the news media. In other words, it refers to any government action that thwarts efforts of the news media to report freely on public affairs, whether they are political, economic or otherwise. In this context, government or taxpayer subsidies to broadcasting institutions will not be considered a form of government interference. Many Western European news broadcasters, like the BBC, receive such government subsidies but are nonetheless considered independent, because they are allowed to report freely even if it is critical of the government.

While violent suppression of journalists and media workers is not common in the West, even in countries that according to Freedom House have a free press, governments are no strangers to curtailing press freedoms. Instances in which Western governments attempt to intimidate or regulate the news media are on the rise. Canada fell dramatically in the rankings because of its poor handling of student protests in 2012.<sup>5</sup> Across the Atlantic, the UK is still embroiled in a crisis over media regulation following the revelations of the Murdoch phone hacking scandals. Several other European countries saw a weakening of press freedom in 2012, most notably Greece, which even dropped from Free to Partly Free in the Freedom House Press Freedom rankings due to its continued economic downturn and a resulting hostile environment for the press.<sup>6</sup> And while press freedom is being curtailed across the continent, the EU is seriously entertaining the introduction of legislation that would install media councils with enforcement powers to impose fines, order apologies and fire journalists.<sup>7</sup>

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<sup>5</sup> World Press Freedom Index 2013 (2013)"World Press Freedom Index 2013," (Paris: Reporters Without Borders, 2013).

<sup>6</sup> Deutsch Karlekar and Dunham (2013) 3.

<sup>7</sup> High Level Group on Media Freedom and Pluralism, "A Free and Pluralistic Media to Sustain European Democracy," (Brussels: European Commission, January 2013), 7.

Even the U.S., historically the poster child for press freedom, has seen administrations crack down on rights that secure a free press. For example, only a few years after the First Amendment was passed, the Alien and Sedition Acts of 1798 came into force. Publishing “false, scandalous, and malicious writing or writings against the government of the United States” became a crime under these acts and led to the prosecution of 14 people.<sup>8</sup> Primary targets were editors and owners of the leading Republican newspapers that supported their political party and criticized President John Adams’ Federalist government. The laws expired only a few years later, but even Thomas Jefferson, a strong opponent of the acts, could not resist the temptation to use them to prosecute several of his own critics.<sup>9</sup> The Sedition Act of 1918 followed a similar pattern, stating that whoever shall “willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States... shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both...”<sup>10</sup> The 1918 Sedition Act only applied to times of war, and was repealed in 1920, but it continued the pattern of restricting free press and free speech under the guise of national security concerns to the detriment of writers, journalists, editors and publishers.

More recently, the Patriot Act that was passed shortly after the September 11 terrorist attacks has resulted in changes to the legislation leading to more government secrecy. The news media have been considerably affected by these new laws, as their task of informing citizens on government activities has become increasingly difficult since

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<sup>8</sup> Anthony Lewis, *Make No Law: The Sullivan Case and the First Amendment* (New York: Random House, 1991). 63.

<sup>9</sup> Ron Chernow, *Alexander Hamilton* (New York: Penguin Press, 2004). 667-8.

<sup>10</sup> United States Congress, "Sedition Act," (1918).

9/11. In the wars in Afghanistan and Iraq, for example, the U.S. government and military have gone to unprecedented lengths to limit unflattering media coverage by banning interviews with soldiers or taking photos of coffins of U.S. military personnel who died overseas.<sup>11</sup> On December 6, 2011, the Reporters Committee for the Freedom of the Press reports, "Marines locked reporters and photographers in a warehouse to prevent them from covering a story about American troops killed or injured by a stray bomb north of Kandahar."<sup>12</sup> Such interferences are not exclusive to media abroad; they also extend to journalists at home. As the Reporters Committee for the Freedom of the Press report puts it: "U.S. journalists face an increased likelihood of being seen as government informants with no constitutional right to keep sources confidential or to withhold unpublished materials from prosecutors."<sup>13</sup> The George W. Bush administration also cracked down on government leaks, and this trend has been continued under President Obama.

In 2012, the U.S. fell 27 ranks in the Reporters Without Borders World Press Freedom Index due to the treatment of journalists covering the Occupy Wall Street protests.<sup>14</sup> A report by seven U.S. law school clinics on the police response to the movement in New York recounts alarming details of obstructions of press freedom including physical violence directed at journalists, threats of arrests and arrests of journalists, and the willful obstruction of witnessing or recording events, most notably during the Zuccotti Park eviction on November 15, 2011.<sup>15</sup> The U.S. ranked 47<sup>th</sup> on the

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<sup>11</sup> "Homefront Confidential: How the War on Terrorism Affects Access to Information and the Public's Right to Know," ed. Lucy A. Dalglish and Gregg P. Leslie (Arlington, VA: The Reporters Committee for Freedom of the Press, 2005), 41.

<sup>12</sup> *Ibid.*, 22.

<sup>13</sup> *Ibid.*, 51.

<sup>14</sup> "World Press Freedom Index 2011-2012," (Paris: Reporters Without Borders, 2012), 2.

<sup>15</sup> Sarah Knuckey, Katherine Glenn, and Emi MacLean, "Suppressing Protest: Human Rights Violations in the U.S. Response to Occupy Wall Street," (The Global Justice Clinic and the Walter Leitner International Human Rights Clinic, 2012), 84-90.

World Press Freedom Index, after countries like South Africa, Ghana, and El Salvador. To make matters worse, New York authorities do not seem to have learned their lesson and instead continued to arrest journalists and photographers on the anniversary of the beginning of the protests in September 2012.<sup>16</sup>

In 2013, the U.S. moved up several ranks to position 32 in the Reporters Without Borders World Press Freedom Index, but recent revelations that the Department of Justice seized confidential phone records of reporters and editors of the Associated Press, have once more highlighted how serious the U.S. government is about controlling the flow of information.<sup>17</sup>

It is quite obvious then, that “the right on which all other rights depend” as the liberal European theorist and Napoleon opponent, Mme de Staël, described press freedom, has and still is experiencing more than its fair share of suppression and neglect. It has also received very little attention in the context of human rights. At first glance, this might strike readers as an odd observation, considering that Freedom House and several other nongovernmental organizations dedicate substantial resources to compiling periodic reports on press freedom violations across the globe. There also seems to be an ever present debate on topics relating to the Internet and other new information technologies in the broader context of international relations.

However, discussing the role of the Internet on social movements or tallying the incidents in which journalists or Internet bloggers have been deprived of their right to

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<sup>16</sup> “Journalists Arrested During Occupy Wall Street Anniversary Protests,” *The Huffington Post* (September 17, 2012), [http://www.huffingtonpost.com/2012/09/17/journalists-arrested-occupy-wall-street\\_n\\_1891068.html](http://www.huffingtonpost.com/2012/09/17/journalists-arrested-occupy-wall-street_n_1891068.html).

<sup>17</sup> Charlie Savage and Leslie Kaufman, “Phone Records of Journalists Seized by U.S.,” *New York Times* May 14, 2013. [http://www.nytimes.com/2013/05/14/us/phone-records-of-journalists-of-the-associated-press-seized-by-us.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/05/14/us/phone-records-of-journalists-of-the-associated-press-seized-by-us.html?pagewanted=all&_r=0)



free expression is distinct from addressing press freedom as a human right. Press freedom is not the same as freedom of information. Neither is press freedom the same as freedom of expression or speech. Certainly, these concepts and rights overlap (as will be discussed in more detail in chapter 2), but they quite substantially differ on the fact that protecting a free press also protects a – if not *the* – vital institution in a democratic society. In Jefferson’s words: “were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.”<sup>18</sup>

### Press Freedom at the UN

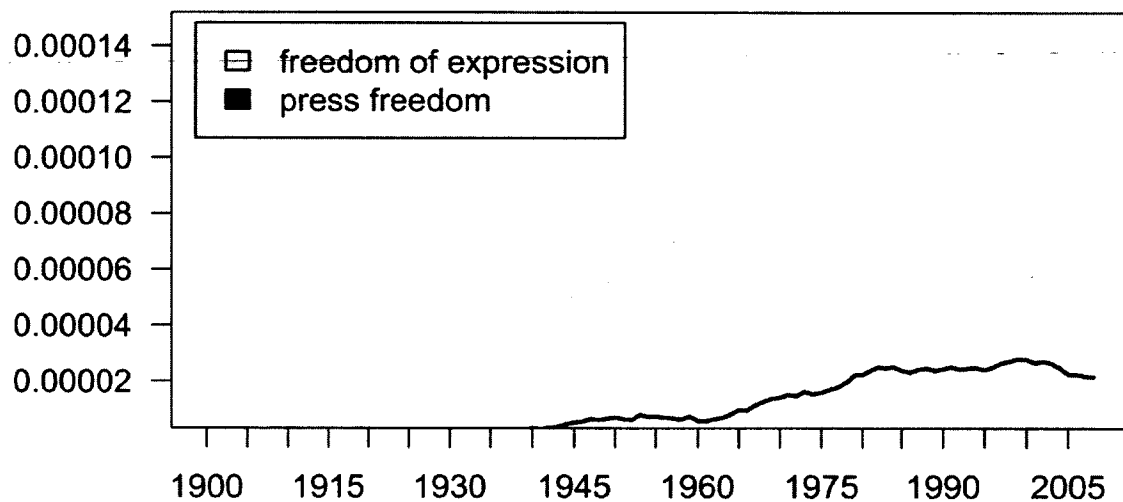
The political aspect of press freedom, however, is seldom taken into consideration in the context of human rights in the international discourse. Press freedom lacks legal institutionalization in international human rights law. Unlike the French revolutionaries and the American Founding Fathers of the 18<sup>th</sup> century, the creators of the Universal Declaration on Human Rights did not include an explicit provision for the freedom of the press. For the UN, press freedom falls under Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Some might argue that the phrasing does not matter, that in principle Article 19 preserves the same right as the First Amendment: “Congress shall make no law... abridging the freedom of speech, or of the press...” But given the lack of

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<sup>18</sup> Thomas Jefferson, "To Edward Carrington 1," Federal ed., vol. 5, *The Works of Thomas Jefferson* (New York and London: G.P. Putnam's Sons, 1904-5), <http://oll.libertyfund.org/title/802/86653>.

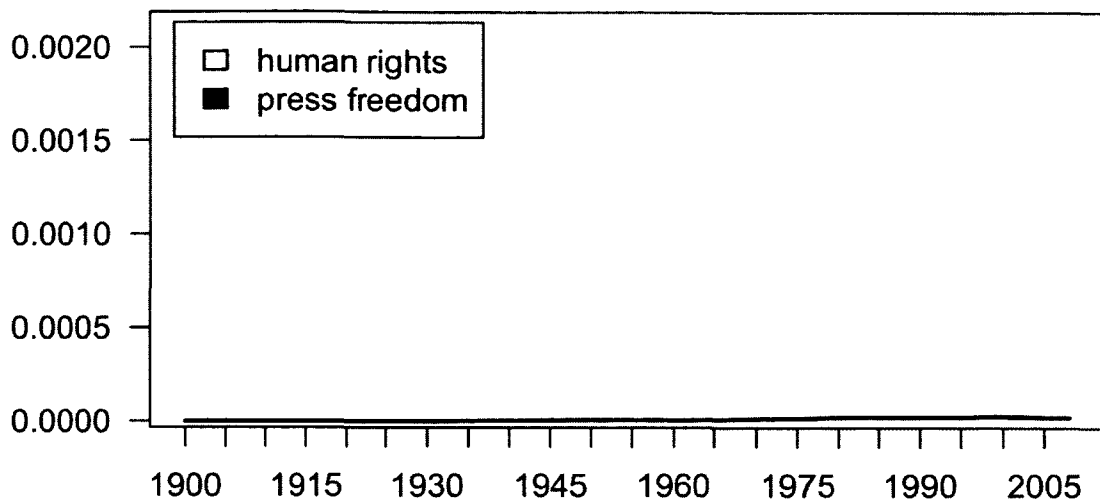
focus on press freedom at the international level, the phrasing is instructive. One explicitly stresses the freedom of the press – as a group, an institution. The other guarantees the *individual* right to expression through all media. In the latter, the media are an afterthought, a mere tool, to secure the right to freedom of expression, rather than an entity worthy of protection itself.

General usage trends of terms such as “press freedom” and “freedom of expression” also confirm that historically debates about the latter have garnered more attention. Figure 1 shows the rise of the phrase “press freedom” compared to the phrase “freedom of expression” in the English language from 1900 to 2008 based on the Google Books database of more than eight million digitized books. Interestingly, while the usage of the term “human rights” has increased drastically and steadily since 1945, usage of press freedom did not grow. This gap is highlighted in Figure 2.



**Figure 1. Usage of “press freedom” vs. “freedom of expression” in print, 1900-2008.<sup>19</sup>**

<sup>19</sup> Data collected from Google Books, “Ngram Viewer,” <https://books.google.com/ngrams>.



**Figure 2. Usage of "press freedom" vs. "human rights" in print, 1900-2008.<sup>20</sup>**

Consequently, it is hardly unexpected that the UN framework does not treat press freedom as an end in itself. Instead, the media are treated as a means to an end, and that end comes in different variations: to protect the right to information; to guarantee freedom of expression; to foster understanding and friendly cooperation among people and states; to publicize and mitigate humanitarian disasters; or to promote human and economic development. In other words, the media or press freedom are treated as a channel to secure other human rights. They are not treated as an institution that requires its own protection. This reality of the UN discourse is reflected in the academic literature on human rights. In fact, press freedom is virtually absent in the discussion of human rights.

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<sup>20</sup> Ibid.

## Press Freedom in the Human Rights Literature

A surprising number of prominent human rights volumes do not feature any references to press freedom. Jack Donnelly's *Universal Human Rights in Theory and Practice* does not mention press freedom or free press at all, and free speech only once.<sup>21</sup> Similarly, David Forsythe's latest edition of *Human Rights in International Relations* does not bring up freedom of the press, or expression or anything on media more generally.<sup>22</sup> Sohn and Buergenthal's 1973 classic *International Protection of Human Rights* only addresses press freedom violations in Haiti, while freedom of expression and information receive considerably more prominent coverage.<sup>23</sup> There are plenty of other human rights texts that do not mention press freedom at all like L.J. MacFarlane's *The Theory and Practice of Human Rights* from 1985, *Human Rights in the World Community* by Claude and Weston from 2006, Haas' *Improving Human Rights* from 1994, and Philip Alston's *The United Nations and Human Rights* from 1992, for example.<sup>24</sup>

As far as human rights reference works are concerned, press freedom fares only marginally better. Lawson's *Encyclopedia of Human Rights* counts a handful of references to press freedom and a free press or media. However, the discussion of the

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<sup>21</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca: Cornell University Press, 2003).

<sup>22</sup> David P. Forsythe, *Human Rights in International Relations*, 3rd ed. (Cambridge: Cambridge University Press, 2012).

<sup>23</sup> Louis B. and Thomas Buergenthal Sohn, *International Protection of Human Rights* (New York: Bobbs-Merrill, 1973).

<sup>24</sup> L.J. MacFarlane, *The Theory and Practice of Human Rights* (New York: St. Martin's Press, 1985). Richard Pierre Claude and Burns H. Weston, *Human Rights in the World Community: Issues and Actions* (Philadelphia: University of Pennsylvania Press, 2006). Michael Haas, *Improving Human Rights* (Westport, CT: Praeger, 1994). Philip Alston, ed. *The United Nations and Human Rights: A Critical Appraisal* (Oxford: Clarendon Press, 1992). Alston mentions freedom of information.

topic is far from comprehensive. Press freedom is mentioned four times in direct relation to the 1992 Declaration of Windhoek on promoting an independent and pluralistic press in Africa; three times it cites NGO reports on press freedom in Sudan, Jordan and on the topic of press law in European countries respectively; once it comes up in the context of Hungarian protesters in the 1980s who carried signs demanding “press freedom;” and once in reference to freedom of information. To compare, freedom of expression is mentioned 79 times in the book.<sup>25</sup>

The 2000 *International Encyclopedia of Human Rights* by Maddex features a short entry on press freedom that places it within the general context of the media’s responsibilities and shortcomings for the protection of human rights.<sup>26</sup> Again, freedom of expression occupies a much more prominent role, however. The 2009 *Encyclopedia of Human Rights* edited by David Forsythe addresses whether the right to a free press is a human right, but does so only briefly.<sup>27</sup> Mostly because this point is featured under the entry “Media” that quickly moves on to concerns of how the advent of the Internet is affecting traditional media potential for political socialization, and how the media exert influence through agenda setting and framing. In fact, the media entry is striking a cautionary note overall, warning of the dangers of the media rather than highlighting its necessity for democracy and human rights.

Other notable human rights books that mention press freedom superficially are *Which Rights Should Be Universal* by William Talbott, who makes the case that press freedom should be one of nine universal rights but at no point in the book elaborates on

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<sup>25</sup> Edward Lawson, *Encyclopedia of Human Rights*, 2nd ed. (Washington, DC: Taylor & Francis, 1996).

<sup>26</sup> Robert L. Maddex, *International Encyclopedia of Human Rights: Freedoms, Abuses, and Remedies* (Washington, DC: CQ Press, 2000).

<sup>27</sup> David P. Forsythe, *Encyclopedia of Human Rights* (Oxford: Oxford University Press, 2009).

why press freedom is on his list.<sup>28</sup> Another is Beth Simmons' *Mobilizing for Human Rights*. While she acknowledges the importance of a free press for democratic governance and government adherence to human rights domestically, she has nothing explicit to say about press freedom as a human right per se.<sup>29</sup>

Alfred Zinnos' 2007 bibliography cataloguing the latest works in human rights research offers no entry on press freedom and only two on media and one on information technology.<sup>30</sup> Most likely, this circumstance stems from the lack of attention on press freedom in human rights journals.

From 2002 until 2011 only three articles on press freedom appeared in the *Journal of Human Rights*, and these focused on media coverage of human rights. Between 1981 and 2012 *Human Rights Quarterly* published only six articles directly related to press freedom. Five of these are case studies of the status of press freedom in developing countries, while one addresses the question whether free speech and press is an absolute right.<sup>31</sup> With the exception of one article on confining press freedom in Singapore, all of these articles date back to the 1980s. Even worse is the record of *Human Rights Review*, which did not feature a single article on press freedom between 1999 and 2012, and only one on free speech.<sup>32</sup>

An analysis of the nearly 7,000 academic articles written on the topic of "human rights" from Web of Science, the Social Science Citation Index and the Arts and Humanities Citation Index (1975-present) and ranking them according to the number of

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<sup>28</sup> William J. Talbott, *Which Rights Should Be Universal?* (Oxford: Oxford University Press, 2005).

<sup>29</sup> Beth A. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009). 270.

<sup>30</sup> Albert A. Zinnos, *Human Rights: A Bibliography With Indexes* (New York: Nova Publishers, 2007).

<sup>31</sup> Anthea J. Jeffery, "Free Speech and Press: An Absolute Right?," *Human Rights Quarterly* 8, no. 2 (1986).

<sup>32</sup> The search was limited to articles from these three journals that were available from online databases, which accounts for the different date ranges.

times these articles have been cited also shows astonishing results.<sup>33</sup> Out of these nearly 7,000 articles only one carries the term press freedom in its title and is only cited twice.<sup>34</sup> Freedom of expression or free speech comes up eight times. A search for 'media' returns 17 results, although some of those overlap with related search terms like journalism/journalists (three), news/newspapers (two) and fourth estate (one). Out of all media and press freedom related human rights articles the highest score goes to "Shaping the Northern media's human rights coverage, 1986-2000" with 19 citations.<sup>35</sup> It provides a case study of the human rights reporting of *The Economist* and *Newsweek*, overall drawing positive conclusions with regard to the media being a potentially useful ally in the fight against human rights violations, but also highlighting the media's gatekeeper role.

On the whole, however, what these findings show is that older texts on human rights do not feature much discussion on press freedom, free press or the media. In the cases that they do, it is in the context of the right to free speech and mostly perfunctory. Newer texts acknowledge the importance of the media and particularly the Internet, but do not address press freedom in depth, if at all. The general emphasis is on taking the power of the press for granted in the context of other human rights on the one hand, and on highlighting the drawbacks of the media and how they do not adequately report on human rights abuses on the other. However, this approach is undermining the vital role of the press in preserving civil and political rights.

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<sup>33</sup> Kurt Taylor Gaubatz, "Human Rights Citation Database," (Old Dominion University 2013). The ten most prominent human rights articles have between 100 and 492 citations each.

<sup>34</sup> The article in question is Dursun Peksen, "Coercive Diplomacy and Press Freedom: An Empirical Assessment of the Impact of Economic Sanctions on Media Openness," *International Political Science Review* 31, no. 4 (2010).

<sup>35</sup> Howard Ramos, James Ron, and Oskar N. T. Thoms, "Shaping the Northern Media's Human Rights Coverage, 1986-2000," *Journal of Peace Research* 44, no. 4 (2007).

## The Fourth Estate

Why, critics might ask, does it matter that press freedom is not addressed sufficiently in human rights works and at the UN? The literature mentions it here and there; there are plenty of accounts available of press freedom violations in all parts of the world; there are human rights organizations that work on behalf of threatened journalists and against censorship measures; and the Internet has received a lot of attention in this context. Why then, is it a problem that press freedom is largely absent in these discussions? It matters because by ignoring or reducing press freedom to debates about the influence of the Internet, or what the media can and cannot do about foreign policy we are conflating it with other rights and consequently miss the point of press freedom altogether.

Most importantly, a free press is central to the relationship between governing authorities and the people. Furthermore, the protection of a free press should not be confined to states that are no strangers to human rights violations, but to all states. All governments are interested in sustaining themselves and their power. Take the example of former German President, Christian Wulff, who resigned early in 2012 after a prolonged controversy over corruption claims. One day after he gave a speech on the values of freedom of expression and press freedom to an audience in Qatar, he left the editor-in-chief of the leading German tabloid *Bild* an angry voicemail, threatening the paper with legal action and a “final break” in relations with the paper’s publishing house, should they not refrain from publishing a story on a controversial private loan the



President received from an entrepreneur friend when he was governor.<sup>36</sup> To this day, the full transcript of his voicemail has not been published, even though it is not difficult to make the case that the voicemail of a German president threatening editors and publishers with “war” is anything but private.<sup>37</sup> Such information is clearly in the public’s interest, particularly if the public figure in question serves as a moral authority for the nation.

This story highlights the power dynamics between governments and the so-called Fourth Estate. The term goes back to the English constitutional theorist Edmund Burke who used it to refer to the British press as the most important estate in Parliament, watching over the others.<sup>38</sup>

Indeed, the institution of a free press is the greatest safeguard the public has against government abuses, and for ensuring that they receive the information they need in order to make government accountable to them. This is the basis of democracy, as James Madison put it: “The people, not the government, possess the absolute sovereignty.”<sup>39</sup> As a result, they have “the right of freely examining public characters and measures,” he argued in opposition to the Alien and Sedition Acts of 1798.<sup>40</sup> Of course it is important that each individual is able to speak their mind on-line and off. What is equally, if not more important, however, is that journalists, editors and publishers are allowed to use their channels of mass communication freely to reach the wider public,

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<sup>36</sup> “President Accused of Threatening Tabloid Newspaper,” *Spiegel Online International*(January 2, 2012), <http://www.spiegel.de/international/germany/angry-call-president-accused-of-threatening-tabloid-newspaper-a-806665.html>.

<sup>37</sup> Melissa Eddy, “German President Retreats on Openness,” *New York Times*(January 5, 2012), <http://www.nytimes.com/2012/01/06/world/europe/germany-president-christian-wulff-stops-publication-of-threatening-call-to-bild.html>.

<sup>38</sup> The term was first attributed to Edmund Burke by Thomas Carlyle in his book *Heros and Hero Worship in History* (1841) 141

<sup>39</sup> Lewis (1991) 60-1.

<sup>40</sup> *Ibid.*

providing a political institution that has the power to ensure that the government continues to work for the people.

Whether this lack of attention on the benefits of a free press in the literature is intentional or accidental is difficult to determine. Most likely it is both. If there are no international legal statutes or conventions, it is difficult to find literature that covers them. Likewise, if the UN debate focusses on everything but press freedom, books will reflect that. In the 1970s and 1980s, when the UN was preoccupied with the debate surrounding the New World Information and Communication Order, for example, accounts and analysis of the issue abounded.

The debate back then was also fueled by the polarization of the Cold War, and the media were framed by Third World countries and the East as tools of Western global dominance and exploitation that needed to be curtailed. This explains why the non-Western world tends not to focus on the advantages of a free press too much and why the human rights literature tends to highlight the drawbacks of the press rather than its virtues. But what is less clear is why there is silence on the subject from Western states as well, and why their Cold War attitude towards press freedom prevails, even decades after the end of the ideological East-West clashes.

This dissertation argues that promoting a free press as a right in itself undermines government interests because the press is a powerful force in the political process if it is allowed to function freely. It is also an influential economic actor. As a result, states – Western and non-Western alike – tend not to promote press freedom in the context of international human rights. Treating press freedom as a means to an end, rather than an end in itself in the international framework of human rights protects the interests of

governing authorities. This explains the current state of the press freedom debate at the international level and it also explains why the way we think about the place of press freedom in the human rights framework requires dramatic reinterpretation. If the goal is to promote Western liberal ideals, and democracy according to Madison's premise, press freedom should be the centerpiece of human rights advocacy and democracy promotion in international relations.

### Chapter Outline

*Chapter 2* addresses the relationship between press freedom and freedom of expression in more detail. It will make the case that press freedom matters as a right in itself due to its government oversight capacity, and that the right to freedom of expression is in fact meaningless without a free press. Since the free press fulfills several vital political and social functions, while also having access to a mass audience, it has a powerful influence on the government-citizen relationship. The chapter also highlights the importance of press freedom for promoting and protecting human rights.

*Chapter 3* provides a detailed case study of the treatment of press freedom within the UN framework over the last ten years, highlighting in particular the absence of press freedom in the UN human rights debate. The UN is *the* setting for establishing and upholding international norms on human rights. Due to its inclusive nature it can form internationally agreed norms that are politically legitimate. Furthermore, the UN monitors states' commitments and adherence to these norms, while also carrying the moral authority to admonish those that engage in norm violations. Consequently, the UN is the

logical place to investigate how states treat press freedom in the context of international relations and to what extent, if any, press freedom has reached the status of accepted international norm.

The chapter also examines indicators for the state driven nature of the UN discourse and actions on press freedom. Among those is the funding of UN bodies like UNESCO and initiatives that deal with press freedom. The lack of funding and prominence of UN actors that work on behalf of press freedom indicates that the issue is rather low on the UN and state agenda. The fact that most of these actors only engage in monitoring violations of press freedom is also characteristic of a lack of focus on the issue of a free press.

*Chapter 4* examines the politics of press freedom, arguing that when it comes to promoting press freedom, power and state interests carry more weight than ideas and norms. The emphasis here is on Western states in particular, since they are the most ideational driven ones. The U.S., France, Norway and Sweden were chosen because they represent four most-likely cases. France and the U.S. have placed a historically strong emphasis on liberal ideals and the liberal democracies Norway and Sweden tend to have the most friendly domestic environment for press freedom. One would expect to therefore, that these countries promote press freedom in the context of the UN human rights agenda. Yet, evidence suggests that their efforts are also minimal and largely rhetorical. To further prove the point that strategic interests, rather than ideas, determine Western state action on the issue of press freedom, the chapter also examines the historical trajectory of press freedom at the UN.

The 1950s and 1960s were marked by Western efforts to promote the “free press” model at the UN. Following the decolonization period, the 1970s brought on what is now called the “Great Global Media Debate.” During the early years of that decade, the idea of information colonialism took hold among the newly decolonized states.<sup>41</sup> They joined with the Soviet Union in promoting the New World Information and Communication Order (NWICO) which was aimed at curbing what they saw as the global Western dominance over information flow and content. By the mid-1970s, the West organized a counter-offensive in cooperation with influential media interests. The World Press Freedom Committee was founded and UNESCO’s Mass Media Declaration was successfully stalled.

The end of the decade saw a truce between both sides and was followed by a Western offensive during the 1980s. The Declaration of Talloires rallied Western governments and media and journalism organizations against a restriction of press freedom. The U.S. and the UK withdrew from UNESCO in 1984, UNESCO’s Director General M’Bow was unseated and the New World Information and Communication Order concept died. The end of the global media debate coincided with the end of the Cold War and reflected the apparent triumph of Western liberalism.

The 1990s were marked by concerns over the digital divide, globalization and the impact of multinational media corporations on cultural heritage and civil society. This debate culminated with the World Summit on the Information Society (WSIS) in 2003 in Geneva and in 2005 in Tunis, but its impact was minimal. The “Great Global Media Debate,” it seemed, had become marginalized in UN circles. Instead, the last decade has

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<sup>41</sup> Robin Mansell and Kaarle Nordenstreng, "Great Media and Communication Debates: WSIS and the MacBride Report," *Information Technologies and International Development* 3, no. 4 (Summer 2006): 21-2.

seen worrying actions by some countries that seem to be aimed at undermining the promotion and protection of press freedom.

*Chapter 5* focuses on who might promote press freedom if not states or the UN. The chapter examines the efforts of non-governmental organizations that work on behalf of press freedom issues, but also looks at what role the media itself play with regard to the press freedom debate. The marginal role of the media as an actor at the international level supports the argument that press freedom does not garner sufficient attention in the context of democracy and human rights promotion. Despite some successes in countering the New World Information and Communication Order plans to restrict the free flow of information during the 1980s, the influence of the media on the press freedom debate these days seems to be minimal. And even back then, the successful opposition to the information order was mostly due to efforts by the U.S. and UK governments.

Given that the media at the international level are an economic player, but not necessarily a political one that exercises oversight, the absence of a well-organized, global media lobby might not come as a surprise. Yet, media influence stems, to a great extent, from being a cultural force that shapes identities and values. Since the dominant media organizations originate in the West, they are likely to spread Western, democratic values. This leads to the contradiction that on the one hand, the media help promote press freedom through other means than politics. On the other hand, the media's status as a political and economic player undermines efforts to promote press freedom, as states are tempted to avoid advocating press freedom out of fear that an independent press will eventually undermine their own interests and power. The chapter also makes the case that anti-press freedom measures are indirectly supported by Western publics that seem to

have lost their trust in the press as an independent political institution aimed at representing the voice of the people. This is a result mostly of the changing news media landscape and economic pressures on the press, which are discussed in this chapter as well. Whatever the reasons, the absence of a strong lobby for press freedom at the UN and at home suggests that the media should take on more than simply its cultural and economic role and become more of a political actor.

*Chapter 6* will examine press freedom in the context of increased political activity by new media outlets and Internet companies. The focus here will be on the future of press freedom in the age of the Internet, as this medium has become the most central to the global debate, particularly since the Arab Spring. A 2012 report by Google Transparency showed a drastic increase in requests to censor political web content over the previous two years by authoritarian and democratic governments alike.<sup>42</sup> This highlights the new challenges the world faces with regard to the state-society balance in the 21<sup>st</sup> century. This chapter thus contends that promoting and protecting press freedom is of vital importance in the digital age.

*Chapter 7* provides a conclusion discussing the future of press freedom, as well as the implications of the findings of the study.

## Conclusion

The importance of a free press as the basis for democracy and human rights seems universally acknowledged, but curiously press freedom has not become part of the

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<sup>42</sup> Dominic Rushe, "Google Reports 'Alarming' Rise in Censorship by Governments," *Guardian*, June 17, 2012. <http://www.guardian.co.uk/technology/2012/jun/18/google-reports-alarming-rise-censorship>

established human rights discourse. This project contributes to the existing scholarship in three important ways: First, it places press freedom at the center of how we think about democracy and human rights promotion. Second, it provides the first detailed account on the treatment of press freedom at the UN. Third, it offers a useful addition to those concerned with policy prescriptions for the human rights community. If the goal is to promote Western liberal ideals, press freedom should be the centerpiece of human rights advocacy and democracy promotion in international relations, not merely a side note to freedom of expression or freedom of information.



## CHAPTER 2

### THE CASE FOR PRESS FREEDOM AS A HUMAN RIGHT

#### Introduction

The International Bill of Rights does not feature a protection of press freedom, or even a mention of it. Those concerned with promoting and protecting a free press usually point to Article 19 of the Universal Declaration of Human Rights that states that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Clearly though, the focus here is not on safeguarding the press, or even the media, but rather to ensure every individual’s right to express themselves freely. Yet, “the press is not everyone; everyone is not the press.”<sup>1</sup>

This chapter will focus on the difference between press freedom and freedom of expression, while exploring the functions of the press that are not easily replaced by granting everyone the right to freely express themselves. The roles of the press as a political institution, provider of information as well as context, and as a social necessity are not fully developed within the human rights framework. As this chapter will outline, however, press freedom should be of central concern to human rights promoters because it is nothing less than the ‘right on which all other rights depend.’

The absence of press freedom from the international human rights framework is historically striking for several reasons. First, throughout history, thinkers and

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<sup>1</sup> Sonja R. West, “Awakening the Press Clause,” *UCLA Law Review* 58, no. 4 (2011): 1070.

practitioners have made the case for the necessity of press freedom as the basis for human rights and self-government, values to which the Universal Declaration of Human Rights is clearly committed. Second, securing a free press emerged as a constitutional concern in the U.S. and France at the end of the 18<sup>th</sup> century, when revolutionaries fought to overcome tyranny and establish equality, values that are also fundamental to UN objectives.

Third, press freedom was a key talking point during the early deliberations on drafting the Universal Declaration on Human Rights. In 1946, the Commission on Human Rights even recommended that the Economic and Social Council create a Sub-Commission on Freedom of Information and of the Press.<sup>2</sup> What is more, the Draft Declaration of the International Rights and Duties of Man, formulated by the Inter-American Juridical Committee and submitted to the UN General Assembly, explicitly included “the special and highly privileged right to freedom of the press” under Article III on the right to freedom of speech and of expression.<sup>3</sup> Article 17 of the subsequent Draft Outline of International Bill of Rights does not mention press freedom specifically, but states that “[c]ensorship shall not be permitted.”<sup>4</sup> But despite the fact that press freedom was an issue at these early stages of drafting the Universal Declaration of Human Rights, any reference to it or even to censorship did not make it into the final version of the document.

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<sup>2</sup> "Report of the Commission on Human Rights to the Second Session of the Economic and Social Council," (United Nations Economic and Social Council 21 May 1946), 7. The Sub-Commission was established in 1947, but was short-lived, and suspended in 1952

<sup>3</sup> "Draft Declaration of the International Rights and Duties of Man ", (Inter-American Juridical Committee 8 January 1947), 3.

<sup>4</sup> "Draft Outline of International Bill of Rights," (Commission on Human Rights Drafting Committee, 4 June 1947), 6.

The debate over the legal status of press freedom has long been fraught with difficulties. In the U.S. the First Amendment clearly states “Congress shall make no law... abridging the freedom of speech, or of the press...” Nonetheless, legal experts continue to debate whether the press clause is redundant, or whether the press indeed deserves constitutional protection.<sup>5</sup> The difficulty mostly stems from the close relationship between the concepts of free speech and free press. Indeed, it is no easy task to disentangle freedom of expression from freedom of the press, which is underlined by the fact that the U.S. Supreme Court did not touch the subject of press freedom in any significant way until 1919, and has continued to deflect decisions on the status of press freedom vis-à-vis freedom of expression.

Some historians even argue that the Founding Fathers did not differentiate between the two either, that they equated free speech with free press. But, as Melville Nimmer points out: “As nature abhors a vacuum, the law cannot abide a redundancy. The presumption is strong that language used in a legal instrument, be it a constitution, a statute, or a contract, has meaning, else it would not have been employed.”<sup>6</sup> Indeed, there is plenty of evidence that suggests that the Founding Fathers were well aware of the connection between guaranteeing a free press and preventing the abuse of power, or even overthrowing tyranny.

Originally, British censorship practices were exported to the American colonies and the early American newspapers fell victim to printing restrictions by the colonial

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<sup>5</sup> For an excellent recent overview of the debate see West (2011).

<sup>6</sup> Melville B. Nimmer, "Introduction - Is Freedom of the Press a Redundancy: What Does it Add to Freedom of Speech?," *Hastings Law Journal* (1975).

government.<sup>7</sup> The reason for this was twofold: First, there were only a small number of printers operating in the colonies, making it easier for the colonial government to control them. Second, the printers were dependent on governmental printing like official documents, money and legislative proceedings for their primary income. As a result, the printing of anything that would challenge the authorities was a rare occurrence.<sup>8</sup>

Printing limitations remained a staple of the American societal and political landscape throughout the 17<sup>th</sup> century. The early stance of American officials was that any kind of debate had to be curtailed because it “inevitably endangered the moral and social values that government protected, the public peace it sought to maintain and the institutions it erected and protected to serve those ends.”<sup>9</sup> The end of the British licensing law in 1694, however, resulted in a dramatic rise in the numbers of newspapers both in England and in the colonies. Control over what was being published became thus ever more difficult for the government authorities.

But the influence of the newly flourishing printing business on political events in the British colonies did not stop there. Leonard Sussman argues that the arrival of the printing press was the central factor that eventually led to the revolution. He contends that back then, the people of Boston – where the first American newspapers originated – saw themselves as good Englishmen who came to America to resist harsh civil and religious rule. He continues: “The press, however, served to build solidarity among the colonists of differing European backgrounds.”<sup>10</sup> Or, in John Adams’ words: “The

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<sup>7</sup> Leonard R. Sussman, *Press Freedom in Our Genes: A Human Need* (Reston, VA: World Press Freedom Committee, 2001). 23.

<sup>8</sup> David A. Copeland, *The Idea of a Free Press: The Enlightenment and Its Unruly Legacy* (Evanston, Illinois: Northwestern University Press, 2006). 108.

<sup>9</sup> Larry Eldridge, quoted in *ibid.*, 119.

<sup>10</sup> Sussman (2001) 24.

Revolution was effected before the war commenced. The Revolution was in the minds and hearts of the people.”<sup>11</sup> The newspapers, Sussman writes, “were the *real* revolution, in Adam’s view.”<sup>12</sup>

It seems quite far-fetched, then, to assume that the people who were at the forefront of the revolution, who in some cases were journalists or publishers themselves and who later went on to oppose the Alien and Sedition Acts, were not aware of the unique democratic functions of a free press. Even though the debate continues over what the Founding Fathers meant by the press clause, a strong case can be made in favor of the argument that they intended to specifically protect it with the First Amendment. After all, the fourth article of the original draft of the Bill of Rights states: “The people shall not be deprived or abridged of their right to speak, write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.”

First Amendment historian Leonard Levy even argues that the free speech clause was a result of the perceived importance of an unrestricted press: “It developed as an offshoot of freedom of the press, on the one hand, and on the other, freedom of religion – the freedom to speak openly on religious matters.”<sup>13</sup> Rather than being an addition to the free speech clause, there is a strong case to be made that the press was important to the Founding Fathers from the beginning. According to Levy, they might not have had a clear idea of what precisely they were doing by including the press clause, but they were

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<sup>11</sup> John Adams quoted in *ibid.*, 25.

<sup>12</sup> *Ibid.*

<sup>13</sup> Leonard W. Levy, *Legacy of Suppression: Freedom of Speech and Press in Early American History* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1960). 5.

nonetheless implying that the press should have a Fourth Estate function as an unofficial part of the checks and balance system.<sup>14</sup>

Whether the press clause debate in the U.S. is settled or not, it is clear that there is a strong link between free press and state-society relations that was recognized by the American drafters of the two documents that are commonly seen as the most comprehensive attempt at translating the values of the Enlightenment into a constitutional blueprint. Consequently, the question that arises is not so much whether press freedom is a vital ingredient for democracy and human rights, because that the press is important in this regards is more or less accepted.

The more important – but less discussed – issue in the context of democracy and human rights is how to distinguish between freedom of expression and freedom of the press. Within the current debate, freedom of expression or free speech carries more weight, while press freedom is often not more than an afterthought. As a result, what is forgotten are the functions that are unique to the press, which cannot be fulfilled by simply guaranteeing everyone the right to freely express themselves. To come back to this chapter's initial quote: "The press is not everyone; everyone is not the press."<sup>15</sup>

The unique roles of the free press can be divided into three broad categories: a political institution, provider of information and context, and the press as social glue. While these different roles overlap to a certain degree, it is nonetheless important to distinguish between them in order to discuss them vis-à-vis freedom of expression and make the case that press freedom is equally, if not more, important than free speech

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<sup>14</sup> Ibid., 273.

<sup>15</sup> West (2011) 1070.

## The Press as a Political Institution

The Founding Fathers were not the only ones to recognize the value of a free press as a government oversight mechanism that complimented the system of checks and balance. The term that is today often used to describe this political role of the press – the Fourth Estate – is attributed to the English constitutional theorist Edmund Burke. Thomas Carlyle describes its use in a parliamentary speech by Burke:

Burke said there were Three Estates in Parliament; but in the Reporter' Gallery yonder, there sat a Fourth Estate more important than they all. It is not a figure of speech, or a witty saying; it is a literal fact – very momentous to us in these times. Literature is our Parliament too. Printing, which comes necessarily out of Writing, I say often, is equivalent to Democracy; invent Writing, Democracy is inevitable ... Whoever can speak, speaking now to the whole nation, becomes a power, a branch of government, with inalienable weight in lawmaking, in all acts of authority. It matters not what rank he has, what revenues or garnitures: the requisite thing is that he have a tongue which others will listen to; this and nothing more is requisite. The nation is governed by all that has tongue in the nation. Democracy is virtually there.<sup>16</sup>

Indeed, the institution of a free press is the greatest safeguard the public has against government abuses, and for ensuring that they receive the information they need in order to make government accountable to them. This is the basis of democracy, as James Madison put it: “The people, not the government, possess the absolute sovereignty.”<sup>17</sup> As a result, they have “the right of freely examining public characters and measures,” he argued in opposition to the Alien and Sedition Acts of 1798.<sup>18</sup>

Vincent Blasi coined the term “checking value” in reference to the First Amendment, arguing that the speech, assembly and press clauses were designed to check

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<sup>16</sup> The term was first attributed to Edmund Burke by Thomas Carlyle, *On Heroes, Hero-Worship, and The Heroic in History* (London: James Fraser, 1841). 141.

<sup>17</sup> Lewis (1991) 60-1.

<sup>18</sup> Ibid.

“the inherent tendency of government officials to abuse the power entrusted them.”<sup>19</sup> Official misconduct is particularly dangerous, he writes, because the government can employ legitimized violence and other “investigative capabilities” like subpoena power or the accumulation of data that governments require citizens to submit on a regular basis.<sup>20</sup> On the other hand, there is no concentrated and easily mobilized checking system to ensure the government does not abuse its powers. Hence, Blasi concludes, public opinion needs to act as a check on official power. Even more so since public officials are expected to fulfill the moral duties of serving the general welfare.<sup>21</sup> Blasi cites the Watergate scandal as an example of how profoundly society can be shaken by official betrayal of the public trust, much more than any wrongdoing on the part of private power by corporations, for example.<sup>22</sup> Consequently, the government needs to be checked by the public, and the most reliable way to do so is via the press.

Furthermore, a government that is checked by a free press is more accountable and less likely to become corrupt.<sup>23</sup> This goes back to the likes of Kant and Montesquieu, who argued in favor of the principle of publicity to prevent the abuses of power. Or, to put it in Justice Brandeis’ words, “Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.”<sup>24</sup> It is the press that has the facilities to shine the light on those in power. The individual right to freedom of expression, on the other hand, does not

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<sup>19</sup> Vincent Blasi, "The Checking Value in First Amendment Theory," *American Bar Foundation Research Journal* 2, no. 3 (1977): 538.

<sup>20</sup> *Ibid.*, 538-9.

<sup>21</sup> *Ibid.*, 540.

<sup>22</sup> *Ibid.*

<sup>23</sup> Ronald Dworkin, *Freedom's Law: The Moral Reading of the American Constitution* (Cambridge, MA: Harvard University Press, 1996). 199-200.

<sup>24</sup> Louis D. Brandeis, *Other People's Money: And How the Bankers Use It* (New York: F.A. Stokes, 1914). 92.



automatically grant access to public institutions. A free press endowed with investigative rights can make information available to the public that it otherwise would not have. For example, it does not make much sense (or even be possible) to allow every citizen access to criminal trials or prisons, when there are representatives of the press who are much better positioned to attend such events and then make the information public.<sup>25</sup>

If one person expresses a view critical of the government, this exercise of free speech is unlikely to cause public officials to take note. If, however, the mass media publicize the same issue, the government faces more pressure than from one person or a small group of people. In fact, the importance of press freedom vis-à-vis free speech is today more pronounced than it was at the time the Bill of Rights was drafted. Yes, newspapers were a driving force behind the revolution, but it was also easier for a person in the market square of Philadelphia to reach a critical audience.

The key to understanding press freedom in its own right is the fact that it makes information available to the masses. In an age of ever expanding government bureaucracies and capabilities, and changing social fabrics, the press holds a bigger responsibility for ensuring government oversight than ever. Critics may point out that the rise of the Internet is reversing this trend, but recent events in the Arab world tell a different story. To reach and mobilize the masses, traditional news outlets are still indispensable. The Arab Spring originated with a few hundred or thousand activists that organized protest movements through new and social media, but only after Al Jazeera and other traditional media outlets started reporting about the protests, did the movement

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<sup>25</sup> Eric Barendt, *Freedom of Speech* (Oxford: Clarendon Press, 1985). 72.

scale upwards to mobilize millions.<sup>26</sup> The trajectory of the protests that erupted on September 11, 2012 in the Middle East in response to the controversial video *The Innocence of Muslims* tells a similar story. The video was published on YouTube in July 2012 without garnering much attention. Only after the video was sent to reporters in the U.S., Egypt and elsewhere on September 6, did it become widely publicized and caused outraged responses from Muslims.<sup>27</sup>

The fact that everyone can express himself or herself through whichever media they like does not guarantee a government oversight mechanism. But the role of the press as a political institution reaches farther than simply providing a check on those in power. According to Walter Lippmann:

A free press is not a privilege but an organic necessity in a great society. Without criticism and reliable and intelligent reporting, the government cannot govern. For there is no adequate way in which it can keep itself informed about what the people of the country are thinking and doing and wanting.

Given the fact that the people possess the absolute sovereignty in a democracy, that the elected officials are mere representatives of the public will, their government needs a way of staying in touch with the wants and needs of the citizenry. Simply granting free expression to every citizen does not fulfill this vital function. Norberto Bobbio reminds us that it is the press through which public opinion – “the public expression of agreement or dissent concerning institutions” – circulates after all.<sup>28</sup>

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<sup>26</sup> Jon B. Alterman, "The Revolution Will Not Be Tweeted," *The Washington Quarterly* 34, no. 4 (Fall 2011): 104-10.

<sup>27</sup> Sarah Chayes, "Does 'Innocence of Muslims' Meet the Free-Speech Test?," *Los Angeles Times* 18 September 2012. <http://articles.latimes.com/2012/sep/18/opinion/la-oe-chayes-innocence-of-muslims-first-amendment-20120918>

<sup>28</sup> Norberto Bobbio, *Democracy and Dictatorship: The Nature and Limits of State Power* (Minneapolis: University of Minnesota Press, 1989). 26.

This process is not unique to press freedom, however. It goes back to Alexander Meiklejohn's broader free speech argument based on its necessity for the implementation of self-government:

The First Amendment is not, primarily, a device for the winning of new truth, though that is very important. It is a device for the sharing of whatever truth has been won. Its purpose is to give to every voting member of the body politic the fullest possible participation in the understanding of those problems with which the citizens of a self-governing society must deal.<sup>29</sup>

Others have argued, though, that this democratic dialogue function is best served by the press, since it is difficult to imagine other forms of speech to offer the same kind of contribution to the democratic dialogue than the "informing and opinion-shaping" influence of the press.<sup>30</sup> More recently, further evidence has emerged that supports the case for highlighting the key role of the press for the democratic process even in light of changes in the media landscape.

Eleanor Townsley and Ronald Jacobs argue that the traditional media outlets are "increasingly central to the large and densely networked public sphere" because blogs or other alternative media pick up the debates that are conducted in the opinion sections of the elite national newspapers and by commentators of the mainstream television programs.<sup>31</sup> A recent Pew survey finds, for instance, that it is not true that large percentages of Americans now get their news mainly from recommendations from their friends via social media.<sup>32</sup> Online news consumption has increased dramatically over the last few years, but the top news sites continue to be legacy news outlets.<sup>33</sup>

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<sup>29</sup> Alexander Meiklejohn, *Political Freedom: The Constitutional Powers of the People* (Oxford: Oxford University Press, 1965). 75.

<sup>30</sup> Nimmer (1975) 653.

<sup>31</sup> Ronald N. and Eleanor Townsley Jacobs, *The Space of Opinion: Media Intellectuals and the Public Sphere* (New York: Oxford University Press, 2011). 14.

<sup>32</sup> Amy Mitchell, Tom Rosenstiel, and Leah Christian, "What Facebook and Twitter Mean for News," The Pew Research Center's Project for Excellence in Journalism, <http://stateofthemedias.org/2012/mobile->

Despite a greater availability of channels of communication, politicians still turn primarily to the newspapers and major TV networks to sell their policies to the people. The Internet offers a place for everyone to voice their opinions and thus serves a self-fulfilling purpose. It is also easy to find like-minded people online who share the same political opinions, however rare they might be. But in terms of serving the political process, new media cannot that easily replace the press, because the latter also acts as a facilitator of forming majorities.<sup>34</sup> “Democratic government,” Patrick Garry writes, “must come from what is common among its citizens.”<sup>35</sup> The press is well suited to pick up the central debates that are of concern to everyone and presenting them to a wider audience, because they are:

well-organized, well-financed, professional critics to serve as a counterforce to government – critics capable of acquiring enough information to pass judgment on the actions of government, and also capable of disseminating their information and judgments to the general public.<sup>36</sup>

Indeed, the notion that press involvement in political reporting and debate leads to political participation and progress of democratic politics is not new. Thomas Leonard contends that it was not necessarily the republican style of government that created the democratic process in the U.S. Instead it was the press because it created a “common language in both words and pictures for political interests to be expressed and shared.”<sup>37</sup>

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devices-and-news-consumption-some-good-signs-for-journalism/what-facebook-and-twitter-mean-for-news/.

<sup>33</sup> Amy Mitchell and Tom Rosenstiel, "The State of the News Media 2012: Key Findings," The Pew Research Center's Project for Excellence in Journalism, <http://stateofthemediamedia.org/2012/overview-4/key-findings/>.

<sup>34</sup> Patrick M. Garry, *The American Vision of a Free Press* (New York & London: Garland Publishing, Inc., 1990), 76.

<sup>35</sup> *Ibid.*, 81.

<sup>36</sup> Blasi (1977) 541.

<sup>37</sup> Thomas C. Leonard, *The Power of the Press: The Birth of American Political Reporting* (New York: Oxford University Press, 1986), 4.

To this day, this is true of the press as it dominates the way public debate and opinion is framed.

At the same time, some philosophers – John Stuart Mill and de Tocqueville among them – have been wary of the “tyranny of the majority.”<sup>38</sup> Consequently, a just society needs many factions, and preferably a system of checks and balances, but also a free press because it “is a powerful protection against the influence of oppressive and tyrannical factions.”<sup>39</sup>

### The Press as Provider of Information and Context

The second key role of the press is closely related to the first. For the democratic process to function, the public needs to be informed not only about its government’s conducts and policies, but also about important issues and debates. The press aides the democratic dialogue in this context, but it does more than simply providing information. If its only purpose were to make relevant information accessible to the people, the press could be easily replaced by new technology.

These days, governments have ways of making information public directly through their websites or social media channels. But the availability of information does not automatically increase the number of informed citizens. Most people do not have time to spend hours online going through hundreds of pages of meeting minutes or draft legislation. The press is needed to make sense of the sheer amount of information that the government and other institutions release every day. According to Jay Rosen: “Journalists

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<sup>38</sup> J. Herbert Altschull, *From Milton to McLuhan: The Ideas behind American Journalism* (New York: Longman, 1990). 170.

<sup>39</sup> *Ibid.*, 112.

build up the world because their reports about it contain more than “information,” that superabundant commodity. Headlines and the stories that follow are guides to what’s important, cues to what’s current...<sup>40</sup>

The press thus plays an important role not just in informing the public and the government, but also by putting this information into context. Granting the right to freedom of expression does not automatically safeguard this vital democratic function.

Herbert Altschull argues:

[T]echnology itself does not inform anyone... someone or something must produce the constant stream of information in a form that provides an accurate representation of what is happening, in a form that the audience can comprehend... and this information must be what its audience needs to know...<sup>41</sup>

It is therefore also vital to distinguish between the right to freedom of information and the right to a free press. Without the latter a lot of information might end up in the vast depths of the Internet even in the unlikely case that a government is fully transparent and informs its citizens about all of its activities.

### The Press as Social Glue

In addition to its political role, the press also fulfills a social function. The social and political are closely intertwined, of course, particularly when it comes to concepts such as the democratic dialogue or the opinion-shaping purpose of the press. De Tocqueville was convinced not only of the political influence of the press, but of its social function as well:

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<sup>40</sup> Jay Rosen, *What Are Journalists For?* (New Haven: Yale University Press, 1999). 3.

<sup>41</sup> Altschull (1990) 14.

To suppose that they only serve to protect freedom would be to diminish their importance: they maintain civilization. I shall not deny that in democratic countries newspapers frequently lead the citizens to launch together into very ill-digested schemes; but if there were no newspapers there would be no common activity. The evil which they produce is therefore much less than that which they cure.<sup>42</sup>

Indeed, one of the functions of the press is to foster a sense of community, much like Adams described the effect of the newspapers in creating solidarity among the settlers of the American colonies. Jay Rosen writes that the press helps people develop a stake in community affairs, particularly through local news outlets. This trend has continued to this day, as the 2011 National Newspaper Association community newspaper readership survey reflects. It found that three-quarters of respondents read a local newspaper every week.<sup>43</sup> Their primary reason to do so is to find out about local news or local information.<sup>44</sup> The appeal of the community paper is clear:

Of course, most of these newspapers are not uncovering major scandals on a regular basis. That's not what keeps them selling at such a good clip; it's the steady stream of news that readers can only get from that publication -- the births, deaths, crimes, sports and local shenanigans that only matter to the 5,000 or so souls in their circulation area.<sup>45</sup>

After all, democracy starts at the grassroots level, where the press is counteracting what Rosen calls the "disappearing public" through community newspapers and local TV and radio news.<sup>46</sup> With social fabrics changing and more and more of our day-to-day interaction replaced by online activities, the threat of the disappearing citizen is becoming more troubling. The argument about declining social capital and the loss of a sense of

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<sup>42</sup> Alexis de Tocqueville, *Democracy in America*, ed. Isaac Kramnick, trans. Henry Reeves, Norton Critical Editions (New York: W.W. Norton & Company, 1840 (republished 2007)). 455-6, Vol II, Ch. VI.

<sup>43</sup> "2011 Community Newspaper Readership Survey," (National Newspaper Association, 2011), 5.

<sup>44</sup> *Ibid.*, 8.

<sup>45</sup> Judy Muller, "Where Newspapers Thrive," *Los Angeles Times* September 13, 2011. <http://articles.latimes.com/2011/sep/13/opinion/la-oe-muller-weeklies-20110913>

<sup>46</sup> Rosen (1999) 24.

community in Western societies has been made for some time now.<sup>47</sup> It is thus particularly important to highlight the values of the press both for sustaining democracy at home and in our efforts at promoting it internationally.

There are two other arguments in favor of promoting a free press. On the one hand, keeping the public channels of communication open will enable society to be able to adapt to changing circumstances and develop new ideas.<sup>48</sup> On the other hand, allowing all forms of speech, even the extremist kind, fosters a sense of tolerance, which is vital for a free society.<sup>49</sup> Both of these are arguments highlighting the role of the press as promoting a certain type of society that goes beyond the notion of the press as a political watchdog.<sup>50</sup> Accordingly, the 1947 Commission on Freedom of the Press framed the role of the press in broad terms:

Today our society needs, first, a truthful, comprehensive, and intelligent account of the day's events in a context which gives them meaning; second, a forum for the exchange of comment and criticism; third, a means of projecting the opinions and attitudes of the groups in the society to one another; fourth, a method of presenting and clarifying the goals and values of the society; and, fifth, a way of reaching every member of the society by the currents of information, thought, and feeling which the press supplies.<sup>51</sup>

The role of the press in democratic societies is thus varied. It functions as a political institution that checks public officials for abuses of power; it also provides information and content that contributes to the democratic dialogue between citizens and their government representatives; and it plays an important role in fostering social cohesion. However, the right of the individual to be able to say and write whatever he or

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<sup>47</sup> Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).

<sup>48</sup> Garry (1990) 85.

<sup>49</sup> Lee C. Bollinger, *The Tolerant Society* (New York: Oxford University Press, 1986).

<sup>50</sup> Garry (1990). Garry's overall argument is that the watchdog rationale is too narrow a prism through which to evaluate the merits of the free press.

<sup>51</sup> Commission on Freedom of the Press, *A Free and Responsible Press* (Chicago: University of Chicago Press, 1947). 20-1.



she wants does not protect from tyranny, corruption or incompetence by itself. Only if there is a press able to report without restrictions to the public at large can government oversight by the people truly be guaranteed.

The importance of the press therefore stems from a combination of two things: the press holds power due to its mass audience and as a result carries out vital social and political functions. As pointed out in this section, both of these factors underscore the difference between free speech and free press. The fact that governments have a different relationship with the Googles, Facebooks and Verizons of the media landscape further highlights the distinction between press freedom and freedom of expression. These companies, although providing people with the tools to freely express themselves and access information, are not tasked with providing a government oversight role and can even be abused by the government, as recent revelations surrounding American and British data surveillance programs have shown. The very idea behind having a free press, on the other hand, is to safeguard the people's interests by widely publicizing government policies and behavior. Freedom of expression is not necessarily a thorn in the side of governments that aim to pursue their interests, but press freedom is. Even in advanced democracies government interests and promoting a free press are at odds, since the very goal of press freedom is to keep the government in check and protect civil and political liberties.

In fact, when it comes to recognizing the political power of the press, governments have been beating the human rights community to the punch for decades. They are apt at drawing distinctions between freedom of expression and press freedom on a regular basis, thus able to circumvent the more damaging effects of press freedom on

their own power, while claiming to uphold the cherished human right to freedom of expression. Russia under Putin has provided ample evidence of this.

In a 2010 article on the status of press freedom in Russia, Maria Lipman makes the case that freedom of expression is possible without a free press. "Today's Kremlin," she writes, "doesn't mind free and critical voices as long as they remain politically irrelevant and have no impact on decision-making."<sup>52</sup> She concludes that Russia enjoys freedom of expression but no press freedom, if one understands press freedom "as one of the elements in an institutionalized democratic polity."<sup>53</sup> More recently, President Putin summed up his government's approach to freedom of expression: "Citizens' right to freedom of speech is unshakable and inviolable — however, no one has the right to sow hatred, to stir up society and the country, and put under threat the life, welfare and peace of millions of our citizens."<sup>54</sup> In other words, speech is free until it poses dangers to the state as defined by the government. Putin draws a clear distinction between the right to free speech, which every Russian citizen is granted, and the channels that can render speech politically relevant, in this case the Internet: "It is necessary to block attempts by radical groups to use information technologies, Internet resources and social networking Web sites for their propaganda," Putin justifies his position.

This definition of free expression is, of course, a very narrow one. People have to live in fear of saying something that might become politically relevant are less likely to say anything at all. At the very least they are more likely to self-censor what they are

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<sup>52</sup> Maria Lipman, "Rethinking Russia : Freedom of Expression without Freedom of the Press," *Journal of International Affairs* 63, no. 2 (2010).

<sup>53</sup> Ibid.

<sup>54</sup> Ellen Barry, "Russia Seeks the Arrest of a Politician From Georgia," *New York Times* February 14, 2013. [http://www.nytimes.com/2013/02/15/world/europe/russia-seeks-arrest-of-georgian-politician-givi-targamadze.html?ref=world&\\_r=0](http://www.nytimes.com/2013/02/15/world/europe/russia-seeks-arrest-of-georgian-politician-givi-targamadze.html?ref=world&_r=0)

saying. Neither of these scenarios is in accordance with the idea of free speech, that lets people express themselves without fear, whatever the political repercussions might be. What is more, none of this is in line with the idea that people are the masters of their government.

Because authoritarian regimes draw these distinctions, the human rights community needs to distinguish between freedom of expression and press freedom as well. Only if the vital political functions and power of the free press are appreciated to their full extent, can press freedom be promoted accordingly in the context of human rights.

### Press Freedom as a Human Right

Clearly, press freedom and freedom of expression or of information are different in many ways. What is more, the functions of a free press in a just society go beyond the protection of the individual's right to free speech. Yet, international law neglects the issue of press freedom almost completely. In 1762, John Wilkes declared in England: "the liberty of the press is the birth-right of a Briton, and is justly esteemed the finest bulwark of the liberties of this country."<sup>55</sup> This birth-right should not be confined to Britons. Everyone should be able to benefit from the right to a free press. The first step towards this goal is to anchor press freedom more firmly in the international human rights framework.

Free press supporters point to Article 19 of the Universal Declaration of Human Rights as a home for press freedom. As outlined in the previous section, however, the

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<sup>55</sup> John Wilkes, *The North Briton*, vol. 1 (London: W. Bingley, 1769). 1-2.

benefits of press freedom extend far beyond the realms of guaranteeing free speech as a channel of individual self-fulfillment. In fact, most human rights actually depend on a right to a free press.

Human rights are first and foremost aimed at protecting the individual from abuses of government power. Article 5 of the Universal Declaration of Human Rights protects “freedom from torture and cruel, inhuman treatment or punishment.” Article 9 grants “the right to freedom from arbitrary arrest, detention or exile.” Article 12 states that “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.” But who is most likely to interfere with these freedoms is the government. It holds the monopoly on legalized violence and thus, as Blasi points out, requires a checking mechanism that can protect citizens from undue exercise of such government power.<sup>56</sup>

Like the U.S. Constitution and Bill of Rights, the Universal Declaration of Human Rights is an attempt at safeguarding against tyranny. But unlike the Founding Fathers, the makers of the Universal Declaration of Human Rights ignored the ‘great bulwark of liberty.’ Westerners might think that this does not affect them very much, since our constitutions tend to prescribe systems of checks and balance to prevent the abuse of power. But even in these systems, action against the government is taken only if there is a high level of public dissatisfaction with official actions and a demand to look into the actions of one branch of government.<sup>57</sup> Whether it is the president or a congressman that is guilty of misconduct, they are subject to the same kind of power dynamics and have access to subpoena powers, citizen data, or law enforcement personnel. In the absence of

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<sup>56</sup> Blasi (1977) 538.

<sup>57</sup> Ibid.

any other channel through which public dissatisfaction can be expressed in a way that puts pressure on those in government, the press remains the only viable protection mechanism against official misconduct.

This fact alone justifies a more central role of press freedom in the human rights debate than it currently holds. Everyone who is not a journalist, publisher, or owner of the press deserves the right to benefit from the advantages of a free press and the work of these individuals. To frame the debate within the context of freedom of expression ignores the wider social and political consequences of protecting the free press as a structural necessity of the modern state, and underestimates its significance as the basis of other political and civil rights.

Although the significance of the free press as the basis for human rights is neglected in international law, scholars have recognized the checking value of the free press in recent years. In 2008, a statistical report found that there is a good correlation between press freedom and different indicators of development, poverty and governance.<sup>58</sup> Amartya Sen makes the powerful case that a free press encourages good governance and emphasizes public concerns. He finds that “in the terrible history of famines in the world, no substantial famine has ever occurred in any independent and democratic country with a relatively free press.”<sup>59</sup>

Similarly, several studies have shown that a free press has positive effects on human development.<sup>60</sup> More recently, Mohamed Keita from the Committee for the Protection of Journalists made a similar case for the importance of journalistic oversight on issues like malnourishment and other humanitarian crises. Not only does a lack of

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<sup>58</sup> Guseva (2008).

<sup>59</sup> Sen (1999).

<sup>60</sup> Summarized in Norris (2008) 187.

reporting on such matters prevent the local government from adequately taking action, it also hinders the ability of aid groups to quickly and effectively provide support.<sup>61</sup>

Indeed, press freedom is more important than simply establishing multi-party elections. A 2009 study, for example, found that impunity, that is, failure of governments to guarantee that their representatives comply with the same laws that apply to the rest of the citizenry, drastically decreases in the presence of higher levels of press freedom.<sup>62</sup> “Formal democracy,” the author contends, “results in episodic rather than constant pressure on abusive and poorly controlled military and police forces.”<sup>63</sup>

In this context, the democratic dialogue function of the press is also important. Article 21 of the Universal Declaration of Human Rights states that “Everyone has the right to take part in the government of his country” and that “The will of the people shall be the basis of the authority of the government.” Elections are not the only mechanism through which the public will is expressed, and if it is, it happens only in intervals. On the other hand, the public expresses its will constantly through the channels of the free press thus aiding the democratic dialogue. If everyone is entitled to participate in the collective decision-making process, everyone is entitled to a free press.

Observers have increasingly pointed out that the global wave of democratic reversal is due to the fact that democracy promotion has been focused on establishing institutions like elections at the expense of supporting initiatives that help people value the practice of democracy itself. Many countries today are democracies on paper, but in practice the citizens in many of these states do not trust their institutions. This is because

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<sup>61</sup> Mohamed Keita, "Africa's Free Press Problem," *New York Times* April 15, 2012.

<sup>62</sup> Nick Jorgensen, "Impunity and Oversight: When Do Governments Police Themselves?," *Journal of Human Rights* 8(2009): 385.

<sup>63</sup> Ibid.

they are familiar with the organization side of democracy, but not with the democratic processes that help them to insure that their governments are implementing citizens' interests.<sup>64</sup> According to Marina Ottaway:

Democratic consolidation can only take place if citizens become convinced that they can further their demands through democratic mechanisms—that is, if they think that there are political parties and pressure groups that represent their particular interests. It is only at this point that citizens will not be tempted to applaud military coups d'etat and support populist leaders with weak democratic credentials.<sup>65</sup>

A free press is the key prerequisite to facilitate democratic consolidation. It uniquely helps citizens to understand that they can further their interests through democratic means. It gives people the tools to make their demands heard and the oversight capacity to ensure their government works for them. With a press in place that provides the necessary political information and context, facilitates the dialogue between the governed and the governing, and checks government policies and agencies, it is much more difficult for officials to abuse their power. These functions also underline the importance of establishing a free press in order to secure human development.

The societal role of the press cannot be left out in this context, as Ottaway indicates when she emphasizes the role of civil society as a basis for healthy and just societies. A recent study examining the relationship between civil society and press freedom in the fight against corruption concludes that “claims of civil society’s anticorruption impact must acknowledge its significant dependence on civil society’s ability to generate public pressure against corruption and that, in turn, the public pressure mechanism is strongly

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<sup>64</sup> Marina Ottaway, "Democratic Reversals," *Georgetown Journal of International Affairs* 1, no. 2 (Summer/Fall 2000). <http://carnegieendowment.org/2000/07/01/democratic-reversals/4o7r>

<sup>65</sup> Ibid.

conditioned by the extent of press freedom.”<sup>66</sup> In other words, corruption stands a much better chance of being weeded out if civil society is strong, which depends on the presence of a free press.

To be fair, the relationship between civil society and a free press is one of the few aspects to which the UN draws attention in the rare case press freedom is brought up at all, most often in the context of World Press Freedom Day. But as this chapter outlines, there is more to press freedom than simply being a means to secure the right to freedom of expression. Despite the vital social and political functions a free press fulfills, his idea of press freedom as a common or human right, has not taken hold in the established discourse.

This might ultimately go back to the assumption that because the right to freedom of expression covers journalists and other media workers just like every other individual, a specific protection for the press is not necessary. While this might be an acceptable notion in theory, the reality looks very different. The fact that journalists are more prominent precisely because they have more power as a result of reaching a bigger audience than regular citizens means that they are the first ones to get arrested or killed. The many reports on journalist mistreatment seem to suggest that the international community recognizes this circumstance to some degree, but plans to anchor press freedom more firmly within the human rights framework are nonetheless lacking. Surely, the fact that journalists in theory enjoy the same right to freedom of expression should not detract from extending special safeguards for press freedom. Equal rights for women are not specifically spelled out in most domestic legislation, and yet the human rights

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<sup>66</sup> Nuno S. Themudo, "Reassessing the Impact of Civil Society: Nonprofit Sector, Press Freedom, and Corruption," *Governance: An International Journal of Policy, Administration, and Institutions* 26, no. 1 (January 2013): 82.



community considers it a priority to promote equal rights for women and to monitor and admonish those that violate them. Press freedom, however, enjoys a neglected status at the international level and often has to give way to human rights considerations of Internet freedom, despite the fact that those two concepts diverge as well.

### Press Freedom vs. Internet Freedom

In his 1991 book *Images of the First Amendment* Lee Bollinger makes the point that freedom of the press, in its central and widely accepted image, is about the state not being allowed to coerce the press in order for the public to receive the information they need to make up their minds on their own and ultimately be the sovereign.<sup>67</sup> But Bollinger also outlines another press freedom image that tends to be downplayed in U.S. domestic considerations, namely the fact that if unfettered, the press can also be a gatekeeper with influence over which voices get heard.<sup>68</sup> This has become more of a concern after the advent of radio and television news and has led to the implementation of regulations aimed at guaranteeing a fair and balanced access to a plurality of voices.

At the international level it is the second image of press freedom that dominates, while Bollinger's central image is mostly ignored. The human rights community is primarily concerned with the dangers of the gatekeeper role of the press. This is hardly surprising considering that in the majority of states the government has control over most, if not all, broadcasting channels. But this state of affairs has also had the unfortunate

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<sup>67</sup> Lee C. Bollinger, *Images of a Free Press* (Chicago: University of Chicago Press, 1991). 1.

<sup>68</sup> *Ibid.*, 62ff.

consequence of reducing the positive functions of the press as guardian of the people as sovereign to the notion of the press as a mere tool of the government.

This reality is reinforced by the fact that the Internet, particularly social media, is currently treated as the cure-all to the gatekeeper problem. Because the Internet eliminates access barriers, everyone can be heard. Consequently, the freedom of expression community is concerned with keeping the Internet free from restrictions. While this is undoubtedly an important cause, one that should not be at odds with promoting press freedom, it tends to neglect the role of journalists and the wider implications of a free press.

Recently, Article 19, an NGO dedicated to the promotion of freedom of expression, published a policy brief in which it makes the case for the international community to recognize the right to blog. Again, this is a laudable cause, since bloggers are targeted and prosecuted by many governments for their political views. However, Article 19 also calls for a functional definition of journalism, meaning it is “an activity that can be exercised by anyone.”<sup>69</sup> While in theory this might be workable, in practice it is not. The functions of the press cannot simply be replaced by access to Blogger or Twitter. For one, 61 percent of the world’s population is still without Internet access.<sup>70</sup>

Furthermore, what is published on blogs and social media is primarily information, not necessarily context. Sure, there are bloggers that investigate, fact-check, and explain. But there is no guarantee that they will be heard. It is easy to get published online, but difficult to be heard and even more difficult to be heard by a critical mass. Traditional or professional journalists are still needed to sift through the vast amounts of

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<sup>69</sup> Article 19, "The Right to Blog," (London: Article 19, 2013), 1.

<sup>70</sup> ITU, *The World in 2013: ICT Facts and Figures*, (Geneva: ITU, 2013), <http://www.itu.int/en/ITU-D/Statistics/Documents/facts/ICTFactsFigures2013.pdf>.

information we are bombarded with and give it meaning, particularly for those people that do not spend their time searching for information online on their own initiative. Even though journalism *can* be exercised by anyone, it does not mean that it *will* be exercised by everyone; or that everyone will have the time or incentive to actively pursue the efforts of citizen journalists. Those people, too, have a right to a political institution that makes sure their government responds to their interests. And that institution is the press.

What the Internet is good at, among many other things, is making traditional journalism more accountable, since it is much easier to spot errors in reporting with an added layer of online fact-checkers that have the tools to spread the news about these errors more quickly. It is one way of bringing the press closer to the people and making them more responsive to the public's interests, which is what the press is supposed to look out for in the first place. It also shows how press freedom and Internet freedom are two sides of the same coin and work best together. It does not show, however, that focusing exclusively on Internet freedom will solve the problem of securing an unrestricted, independent press. If anything, political and civil rights would benefit if in addition to the gatekeeper concern, the human rights community would invest more resources into highlighting what Bollinger calls the central image of press freedom: that a free press protects the status of the people as the masters of their government.

## Common Excuses for Not Making Press Freedom a Central Tenant of the Human Rights Framework

Of course, the different roles of the press described above are mostly best-case scenarios, ones that only rarely translate into reality in their idealized theoretical understanding. The press and the system in which it operates have many flaws. In some cases, as in the UK News of the World phone-hacking scandal, the press abdicates its responsibilities entirely and thus opens itself up to criticisms from those that would like to see the power of the press checked. However, politicians are not the only ones who emphasize the problems of a free press at the expense of its merits. All too often, observers and the public alike forget about the vital role the press plays for the protection of democracy and human rights.

Granted, dealing with the press in legal and political terms is often complicated. Below are a few excuses that are commonly brought up in discussions of press freedom and its special status in democracy. Some of them will be addressed in later chapters in more detail, but they should nonetheless be featured here for the simple reason that they are so often brought up. This is not an argument to ignore any of these concerns, but at the same time we should not let them drown out the reasons for giving this ‘great bulwark of liberty’ its rightful place in the context of human rights.

Problems for press freedom usually start with definitions. A lot of the First Amendment literature, and many of the Supreme Court rulings, are concerned with the difficulty of defining the term “the press.” This is further complicated by considerations of what the Founding Fathers meant by the term and the fact that the media landscape has

drastically changed since the creation of the Bill of Rights and even since the drafting of the Universal Declaration of Human Rights. Things become even trickier when considering the fact that these days “the press” has practically disappeared in common usage. Instead, it has been replaced by “media” to be all-inclusive and non-discriminatory, when in fact some discrimination in this context might be rather helpful.

By trying to protect any and all media, the unique functions of the press outlined above are diluted and downplayed. Most movies do not serve a political oversight purpose. Nor do dance competition shows on television, or food blogs, for instance. The key is to differentiate between the all-encompassing media and the press that is engaged in newsgathering activities, provides government oversight and facilitates the democratic dialogue. This is not to say that food bloggers and screen-writers have no right to freedom of speech. Of course they do. But their rights are guaranteed by the right to freedom of expression, whereas the special political functions of the press are rarely recognized within the human rights debate and even more rarely legally protected.

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Jay Rosen points out another problem with switching from “the press” to “the media:”

Today we say media instead of “the press.” We need to keep the press from being absorbed into The Media. This means keeping the word press, which is antiquated. But included under its modern umbrella should be all who do the serious work in journalism, regardless of what technology they use. [...] It has a powerful social history and political legend attached.<sup>71</sup>

Others have argued that it is possible to determine who and what constitutes being part of the press and thus deserves protection that goes beyond the general free speech

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<sup>71</sup>Jay Rosen, "PressThink: An Introduction,"  
[http://archive.prsstthink.org/2003/09/01/introduction\\_ghost.html](http://archive.prsstthink.org/2003/09/01/introduction_ghost.html).

rights.<sup>72</sup> Every day the government and other institutions decide who the press is and who is not when they hand out press passes, assign seats at press conferences or even on press planes.<sup>73</sup> Arguing that it is difficult to define the press, should not be an excuse for not treating it as the important right that it is.

Furthermore, if press freedom is recognized as a distinct human right, the fact that media systems differ dramatically from one country to the next, even within the West, will not pose any more obstacles to addressing press freedom more uniformly at the international level. In this case it will not matter if the press in Britain and France developed differently, or if they one system is more market oriented in one country and government subsidized in another. As long as the press is recognized for playing these important structural roles and protected for it, other differences will become less of an obstacle of framing press freedom as a human right.

Another reason that is often brought up in negative reference to the media is their status as an economic actor. At the international level global media corporations are often seen within the debate of Western cultural and economic dominance and exploitation of other countries. The next chapter will address this question in more detail. Suffice it to say at this point that by focusing on the media's economic status and the resulting drawbacks their political and social functions are often overlooked.

Another concern is that many people think of the press as an elite club, rubbing shoulders with political insiders instead of being in touch with the needs of the public. Related to this is Anthony Lewis' argument that it makes people apprehensive to talk about the press as a political institution or watchdog, because referring to it as such

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<sup>72</sup> West (2011).

<sup>73</sup> Ibid., 1062.

invokes the notion of outside checks.<sup>74</sup> The question that arises then is who is supposed to check the press?

This is certainly a valid concern, but it is also a somewhat hypocritical question. It seems to put a lot more confidence in the other branches of government to check each other although they have vastly more capabilities to affect the lives of its citizens in harmful ways than the press does. While presidents or members of parliament can abuse their access to law enforcement and legislation, the press has no such power. It can fail in its task of informing the citizenry adequately, as in the case of the 2003 Iraq War when the U.S. press neglected to ask policymakers the right questions on behalf of the public.

Overall, however, the benefits of a free press far outweigh the disadvantages. Without it, democracy would be unthinkable because it is the only way to ensure that the government ultimately remains responsive to the people, the sovereign. The final arbiter is the public and as such, if the public does not want a free press, there will not be one.<sup>75</sup> The first step on the way to secure the birth right to a free press for everyone, therefore, is to stop focusing on the alleged dangers of a free press, and instead concentrate on the good it brings.

### Conclusion

Political theorists and journalists alike have long praised press freedom for its special democratic role. However, the distinction between press freedom and freedom of expression has been underdeveloped particularly in the context of human rights. Such a

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<sup>74</sup> Lewis (1991).

<sup>75</sup> Altschull (1990) 111-2.

distinction is necessary, though, as it shows that the functions of the free press – as political institution, provider of information and context, and as a social necessity – reach much farther than the individual right to freedom of expression or the right to know.

The central difference to freedom of expression is the fact that the press possesses power that it draws from its mass audience and its resulting status as the people's surrogate. Its role is to protect the masses from the age-old reality that power corrupts and the conviction that those in charge of running the government consequently require an outside checking mechanism that holds them accountable to the public whose interests they are representing.

However, the human rights community tends to neglect this vital function of the press, while governments from Beijing to Washington know how to conveniently draw the lines between the broader but not necessarily political concept of free speech and the notion of a free press whose role it is to exercise political oversight. But as press freedom is increasingly coming under threat worldwide, it is time for the human rights community to rethink its current treatment of the press and re-instate it as a fundamental ingredient to securing political and civil rights, and start promoting it as the guardian of the central goal of the human rights movement of making the people the masters of their own governments.



## **CHAPTER 3**

### **UNESCO, WORLD PRESS FREEDOM DAY AND BEYOND: THE MARGINAL PLACE OF PRESS FREEDOM AT THE UN**

#### Introduction

As argued in detail in the previous chapter, promoting and protecting a free press also protects and promotes a political institution that acts as the people's surrogate and provides a government oversight function. In this role press freedom differs from freedom of expression as the latter lacks the power aspect of the press that it draws from its political functions and its mass audience. As a consequence of its power and oversight role, the press is the key to promoting and protecting human rights, the very notion of which rests on the curtailment and accountability of government. Therefore, it is not just worrisome that press freedom reports of press freedom violations have been worsening across the world every year, but also that press freedom is largely absent from the human rights discourse. The introductory chapter included evidence of the absence of press freedom in the academic literature on human rights. This chapter will demonstrate that the concept of press freedom is also neglected in the wider context of the human rights debate.

In order to do so, this chapter studies in detail the treatment of press freedom at the United Nations over the past ten years. The UN is the central setting for establishing and upholding international norms on human rights. Because it is an inclusive organization it can form internationally agreed norms that are politically legitimate. In

addition to that, the UN monitors states' commitments and adherence to these norms, while also carrying the moral authority to admonish those that engage in norm violations. Consequently, the UN is the logical place to investigate how states treat press freedom in the context of human rights and international relations and to what extent, if any, press freedom has reached the status of accepted international norm.

The UN is also the most logical place for a case study on the international treatment of press freedom, since there is no other institution with comparable reach and political power that works on behalf of freedom of the press. A few international NGOs champion press freedom, and the European Union and the Organization for Security and Cooperation in Europe have offices dedicated to the promotion and protection of media and press freedom. Yet, these do not have the global, universal reach of the UN or enough political influence or even resources to elevate press freedom to a human rights priority internationally. While the UN in theory has the means to make press freedom a top agenda item for the international human rights community, the evidence presented in this chapter clearly shows that this is not the case.

Of course, proving a negative, in this case the absence or neglect of press freedom in the human rights debate, is never an easy endeavor, especially since the absence of evidence does not necessarily constitute evidence of absence. It is further complicated by the fact that there is no template to rank the level of UN attention paid to the different human rights. But since press freedom has been linked philosophically to the core of democracy and has been established as a vital civil and political right in the U.S. and other countries' bill of rights, one can reasonably expect there to be a discussion of press freedom within the context of human rights. Furthermore, this chapter does not argue that

there is a total absence of press freedom at the UN – UNESCO's World Press Freedom Day is an annual occasion to highlight the importance of press freedom and remind people of its continued abuse after all. This makes it even more difficult to make the case that press freedom is neglected in the context of human rights, although it is an important case to make.

While UNESCO's work on press freedom is important, it is not enough. Other rights have their own conventions, like the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) or the Convention Against Torture. They also have committees, working groups and regular conferences exclusively dedicated to this right, feature as regular agenda items at UN human rights bodies, and are thus much more visible in the human rights debate than press freedom. The 'right on which all other rights depend,' as it is historically and philosophically known, should occupy a much more prominent role in the human rights hierarchy as well.

In order to make the case that press freedom is neglected, this chapter follows the subsequent outline. First, an examination of the legally binding human rights instruments and declarations on the subject is presented. As a key to securing democracy and human rights, press freedom should be well established and protected in this regard. As this chapter shows, however, this is not the case. Second, the chapter contains an analysis of the work of the various UN human rights bodies as it pertains to the protection and promotion of press freedom. The results here are mixed. While the Human Rights Committee and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression have made some progress in their efforts to support

press freedom, the topic is largely marginalized in the work of the Human Rights Council. If it is addressed, it is in the context of journalist safety.

Third, the chapter provides details on the work of UNESCO, the UN organ where most work on press freedom is done. This includes both more normative, standard-setting efforts like the UN Plan of Action on the Safety of Journalists and the Issue of Impunity or promoting press freedom through the annual World Press Freedom Day activities, and more practical, on-the-ground initiatives in media development programs facilitated by the International Programme for the Development of Communication. Finally, the chapter concludes with a section detailing the amount and content of press freedom references in speeches delivered by high-ranking UN officials in order to determine whether press freedom is of high priority to them and, by extension, the wider human rights debate.

### The UN Human Rights Structure

Before moving on to the press freedom case, this section gives a brief overview of the UN human rights framework. The UN human rights structure is based on the UN Charter, the International Bill of Human Rights, other legally binding treaties and various non-binding declarations and documents. Work on human rights is done by many UN bodies and agencies, committees, working groups, rapporteurs and other experts, but at the center of these is the Office of the High Commissioner for Human Rights (OHCHR). The High Commissioner for Human Rights administers the human rights activities of the UN and reports to the General Assembly and the Human Rights Council.

The principal UN human rights organ is the Human Rights Council. It was established in 2006 with the mandate to promote and protect all human rights and fundamental freedoms. The Council is made up of representatives from 47 states, elected based on equitable geographical distribution for a renewable three-year term. Its predecessor, the Commission on Human Rights, had been established in 1946 under the UN Charter, but had become discredited over the years, due to the fact that many of its member countries were known human rights violators themselves. As a result, the Commission was not so much a tool to address real human rights concerns, but was used to block serious inquiry and became the setting for political criticism and attacks, most often focused on Israel.

Whether the Human Rights Council will suffer a similar fate remains to be seen, although the recent election of known human rights violators China, Saudi Arabia and Russia to the Council does not inspire much confidence that it will not. Nonetheless, the establishment of the Human Rights Council in 2006 serves well as a starting point for this case study on the treatment of press freedom at the UN, due to its predecessor's image as something of a farce. Furthermore, the Council was also equipped with a new feature: the Universal Periodic Review (UPR), which reviews the human rights records of all 192 UN member states once every four years, thus giving the Council more monitoring power than its predecessor. The Council is also supported by the so-called Advisory Committee, a form of think tank made up of 18 members providing expertise and advice on human rights issues, and manages the improved Complaint Procedure, through which individuals and organizations can bring human rights violations to the attention of the Council.<sup>1</sup>

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<sup>1</sup> OHCHR, "Background Information on the Human Rights Council," <http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>.

The UN human rights system also features ten human rights treaty bodies that monitor implementation of the core international human rights treaties. Since there is no explicit treaty on press freedom, the most relevant of those is the Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights.

Special rapporteurs form another pillar of the UN human rights structure. These rapporteurs are independent experts and serve on the front lines of protecting and promoting human rights. There are country-specific and thematic rapporteurs. They prepare reports on their country or issue to the Human Rights Council and the General Assembly. They collaborate with NGOs, governments and work in the field to gather the necessary information to report on the status of their respective responsibility. The issue of press freedom falls under the umbrella of freedom of opinion and expression, which is currently headed by Special Rapporteur Frank LaRue and will be addressed in more detail near the end of the chapter. First, however, the analysis will turn to the human rights instruments and declarations on freedom of the press.

### Human Rights Instruments and Declarations

The human rights regime with regard to press freedom is weak. There are no legally binding treaties or conventions that protect freedom of the press. Article 19 of the International Covenant on Civil and Political Rights is often cited as the legal instrument protecting press freedom. However, the Covenant does not specifically address press freedom:

Article 19:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Unlike many national constitutions, the International Covenant on Civil and Political Rights does not mention the press. Instead, the focus is on the individual right of freedom of expression. As demonstrated in chapter 2, however, press freedom and freedom of expression cannot simply be equated. They are closely intertwined and both fall within the broader category of communication rights, but they are nonetheless differing concepts. While a free press meets a political role as government watchdog and representative of the public will, freedom of expression simply guarantees that every individual can freely express himself or herself, which does not necessarily constitute a political act.

While press freedom has been ignored in any legally binding sense, it has garnered some attention from UNESCO, the UN body with the mandate to 'promote the free flow of ideas by word and image.' On 28 November 1978, UNESCO's General Conference adopted the *Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, apartheid and incitement to war*, or, in short, the Mass Media Declaration. As the title indicates, this declaration treats the press, and the media more generally, as a tool for

advancing certain goals rather than framing the importance of the press in a structural sense. While the declaration highlights the important contribution the media can make in strengthening peace and international understanding, it also points out the restrictions of the current media landscape and the responsibilities that come with such opportunities for playing a key role in fostering peace. This compromise was a direct result of Cold War politics and the divisive New World Information and Communication Order (NWICO) debate, which, according to observers, rendered the declaration so ambivalent and inconsistent that it became pointless.<sup>2</sup> And since it is a mere declaration, it does not demand any binding commitments from states.

The same applies to the series of declarations that resulted from various regional UNESCO workshops on promoting independent and pluralistic media in the 1990s and were later endorsed by the General Conference. The Declaration of Windhoek, focused on promoting independent and pluralistic media in Africa, made the start in 1991, followed by similar declarations on media development in Asia (Alma Ata, 1992), Latin America and the Caribbean (Santiago, 1994), and the Arab states (Sana'a, 1996). These declarations have been influential in establishing regional norms on press freedom and have helped media development efforts.

They also acknowledge that “freedom of the press is a key and indivisible part of freedom of expression,” which in turn is “the cornerstone of our democracies.”<sup>3</sup> However, these declarations were initiated in the early 1990s, when communism had collapsed and Western liberalism was at a peak. The Declaration of Sana'a even recognized and welcomed “the world-wide trend towards democracy, freedom of

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<sup>2</sup> Thomas L. McPhail, *Global Communication: Theories, Stakeholders, and Trends* (Malden, MA: Wiley-Blackwell, 2010). 71.

<sup>3</sup> UNESCO, "Declaration of Santiago," (May 6, 1994).



expression and press freedom” and urged “all Arab states to participate in this historic process.” Since then, however, such optimism over the spread of democracy has subsided and the topic of press freedom has failed to work its way up the ranks of the human rights debate. Press freedom in the UN forum is still largely confined to discussions and initiatives by UNESCO.

Press freedom, or freedom of expression for that matter, never warranted the creation of specialized working groups in other UN bodies that other human rights issues like freedom from torture and arbitrary detention, enforced and involuntary disappearances, the rights of the child, the rights of women, or the right to development enjoy. In terms of UN conferences and summits, press freedom is also neglected. Since the World Summit on the Information Society in 2003 and 2005 there has been no other conference or summit in this field, and even the Summit was not about press freedom but focused on the potential of new information and communication technology for human development.

In light of the lack of legally binding instruments that promote and protect press freedom, one needs to look at how often and in what context press freedom is addressed in various UN forums in order to evaluate whether press freedom is indeed absent from or neglected in the wider debate.

A search of the United Nations Bibliographic Information System (UNBISNET) shows that the subject ‘freedom of the press’ only returns 927 results.<sup>4</sup> Freedom of expression, by comparison, is cited 2,147 times and women’s rights 5,596 times. A

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<sup>4</sup> UNBISNET, "UNBISNET Subject Search: Freedom of the Press," Dag Hammarskjold Library, <http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1P80HN0982440.48981&menu=search&aspect=alpha&npp=50&ipp=20&spp=20&profile=bib&ri=9&source=~%21horizon&index=SUBJECT&term=freedom+of+the+press&x=-478&y=-129&aspect=alpha>.

search for ‘freedom of the press’ in the full-text Official Document System of the UN returns 2,450 results. However, nearly 800 of these are documents of NGOs reporting press freedom abuses to various UN bodies. Furthermore, another 350 are related to UNESCO’s annual World Press Freedom Day.

Freedom of expression fares even worse than press freedom in the Official Document Search, with 1,160 results, while ‘freedom of information’ returns roughly the same hits as press freedom with 2,400 results. Other civil and political rights return roughly the same results. For example, ‘freedom of assembly’ shows up 2,430 times, although ‘freedom of religion’ seems to have more visibility with 3,630 times. Other rights also count more mentions, like the ‘right to food’ with 3,020 times and the ‘right to education’ with 4,300 results.

Overall, this does not indicate that the UN is preoccupied with promoting press freedom in a substantial manner. It merely shows that the UN is concerned with publicizing its World Press Freedom Day once a year and that NGOs attempt to bring some press freedom violations to the UN’s attention. It also suggests that civil and political rights, particularly those in the area of communication and expression, receive less attention than other, less controversial rights.

### UN Human Rights Bodies

A closer look at the UN human rights bodies, under the umbrella of the Office of the High Commissioner for Human Rights, also shows that the discourse on press freedom is surprisingly limited.

## Human Rights Council

A search of all Human Rights Council resolutions from its regular sessions since its inception in 2006 shows that press freedom is very rarely a topic of conversation. In 23 sessions, only two resolutions related to press freedom were adopted. These, however, do not directly address the issue of press freedom, but concern the safety of journalists. In terms of overall mentions of press freedom or freedom of the press in the annual reports of the Human Rights Council, the results are equally dismaying. Press freedom comes up a total of four times in these reports that contain resolutions, decisions and president's statements of the Council's sessions since 2006.

Freedom of expression only fares somewhat better, with one dedicated resolution from 2009, one resolution on the role of "freedom of opinion and expression in women's empowerment" adopted earlier in 2013, and two more resolutions that pertain to the renewal of the mandate of the Special Rapporteur of the right to freedom of opinion and expression. On the other hand, freedom of religion is on the agenda periodically with 13 resolutions in total, as is the right to freedom of assembly with 5 resolutions. The right to food and the issue of women's rights are very prominent as well, counting 10 and 13 resolutions respectively since 2006. These numbers show that press freedom is a marginal issue in the Human Rights Council debates.

One topic that did attract some attention in recent years is the safety of journalists. Although it should not be equated with addressing the issue of press freedom, the discussions surrounding the safety of journalists pick up on the importance of media workers and the press. While the safety of journalists is an important part of protecting

press freedom, saving journalists from being killed or thrown in jail does not constitute the overall solution to guaranteeing everyone the right to a free press, whether in times of crisis or peace. It is a step in the right direction to acknowledge the political significance of press freedom, although it should be remembered that the Human Rights Council so far has primarily addressed the issue of journalist safety from a humanitarian point of view and in the context of protecting journalists in crisis and conflict situations. Furthermore, the resolution agreed upon in the Council's 13<sup>th</sup> session on the protection of journalists in situations of armed conflict simply proposes the development of a panel discussion on the topic.

The first time the issue of journalist safety in conflict situations came up at a high priority meeting at the UN was in 2006. France and Greece joined forces to sponsor Security Council resolution 1738, which was adopted unanimously and which "condemns intentional attacks against journalists, media professionals and associated personnel, as such, in situations of armed conflict, and calls upon all parties to put an end to such practices."<sup>5</sup> The resolution also states that journalists and other media workers on professional mission in areas of armed conflict should be considered civilian and are thus protected under the same Geneva Convention statutes that apply to other civilians in conflict situations. The issue seems to have resurfaced in various UN human rights forums in 2010 due to an increased trend in violence and discrimination against journalists.

Following the 2010 resolution, the UN has taken even more action on the issue: UNESCO initiated the UN Plan of Action on the Safety of Journalists and the Issue of Impunity and the Human Rights Council adopted a resolution on the safety of journalists

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<sup>5</sup> United Nations Security Council, "Resolution 1736," (2006), 2.

in which it “[c]ondemns in the strongest terms all attacks and violence against journalists, such as torture, extrajudicial killings, enforced disappearances and arbitrary detention, as well as intimidation and harassment.”<sup>6</sup> It should be stressed, however, that this document, too, focuses on journalist safety in armed conflicts, as it:

*Calls on all parties to armed conflict to respect their obligations under international human rights law and international humanitarian law, including their obligations under the Geneva Conventions of 12 August 1949 and, where applicable, the Additional Protocols thereto of 8 June 1977, the provisions of which extend protection to journalists in situations of armed conflict, and to allow, within the framework of applicable rules and procedures, media access and coverage, as appropriate, in situations of international and non-international armed conflict;*<sup>7</sup>

As mentioned previously, it seems that the increased focus on the safety of journalists is a result of a rising trend in killings of and attacks on journalists in recent years, particularly in the countries swept up in the Arab Spring revolts and their aftermath.<sup>8</sup> In this context, it should also be noted, however, that representatives of several of the deadliest countries for journalists according to reports by the Committee to Protect Journalists are serving currently on the Human Rights Council. For example, the Philippines is the second most deadly country for journalists, Pakistan ranks fifth and India ninth.<sup>9</sup> This highlights the difficulties of reconciling state interests with the promotion of human rights.

A look at the Universal Periodic Review documentation paints a similar picture. Since press freedom is under attack worldwide, UN human rights bodies like the special rapporteurs and NGOs do point out such violations in many countries as part of the

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<sup>6</sup> United Nations Human Rights Council, "Safety of Journalists (A/HRC/RES/21/12)," (2012), para. 5.

<sup>7</sup> *Ibid.*, para. 6.

<sup>8</sup> Resolution A/HRC/RES/21/12 cites concerns over “increased attacks against and killings of journalists and media workers” as a reason to call for improved protection of journalists.

<sup>9</sup> Committee to Protect Journalists, "1040 Journalists Killed since 1992," <http://cpj.org/killed/>.

review process. Western states also usually raise questions about how the country under review plans to remedy these shortcomings in the areas of free speech and freedom of the press and make recommendations for improving the situation. However, in many cases the government in question insists that press freedom is guaranteed in its country or, in the case of Russia, flat-out rejects such UN recommendations. It is clear that while the UPR process is a useful monitoring exercise and helps raise awareness of human rights violations in all countries, it is not an effective tool for effecting change in government behavior. The government has the last word and all the UN human rights bodies, NGOs and other stakeholders can do, is wait for the next review in four years and hope for an improvement in the meantime.

### Human Rights Committee

In addition to overseeing state party compliance with the International Covenant on Civil and Political Rights and managing the inter-state and individual complaints procedures, the Human Rights Committee also interprets the content of human rights provisions and publishes them as so-called general comments.

Until 2011, the Human Rights Committee had published only one general comment on Article 19. This comment from 1983 was brief and did not speak to press freedom. In 1996, the issue of press freedom came up in General comment No. 25 on Article 25 of the International Covenant on Civil and Political Rights granting the right of every citizen to take part in the conduct of public affairs. The document states:

In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between

citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.<sup>10</sup>

An important step towards explicitly acknowledging the importance of press freedom in the legal context was thus taken. But it took 15 more years until the Committee focused on Article 19 specifically and delivered a much more detailed interpretation of the article in General comment No. 34, which addresses the relationship between press freedom and freedom of expression. It states that:

A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society.<sup>n28</sup> The Covenant embraces a right whereby the media may receive information on the basis of which it can carry out its function.<sup>n29</sup> The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.<sup>n30</sup> The public also has a corresponding right to receive media output.<sup>11</sup>

The general comments are viewed as general statements of law that communicate the Committee's conceptual understanding of a particular provision, in this case Article 19, aimed at adapting the International Covenant on Civil and Political Rights to modern circumstances.<sup>12</sup> Consequently, the Committee's interpretation of press freedom as an essential factor for safeguarding freedom of expression, democracy and human rights, is a significant development in elevating press freedom to a more central position not only in the context of Article 19, but also in the wider human rights debate. It also suggests a step forward in terms of normative standard setting in disentangling press freedom from

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<sup>10</sup> Human Rights Committee, "General Comment No. 25," (CCPR/C/21/Rev.1/Add.7, August 27, 1996), para. 25.

<sup>11</sup> Human Rights Committee, "General Comment No. 34," (CCPR/C/GC/34, September 12, 2011), para. 13.

<sup>12</sup> OHCHR, "Civil and Political Rights: The Human Rights Committee Fact Sheet No. 15 (Rev. 1)," (Geneva: OHCHR, 2005), 24.

freedom of expression, even if the Human Rights Committee lacks effective enforcement mechanisms that ensure that states adhere to the provisions of the Covenant and the Committee's interpretations thereof.

### Human Rights Advisory Committee

Despite efforts by the Human Rights Committee in framing press freedom as a central component of democracy and human rights, other bodies have not followed this trend. It is indicative of press freedom's neglect in the academic and activist community that the Human Rights Council Advisory Committee, whose task it is to provide the Council with expertise in the form of studies and research-based advice and recommend further research proposals, also does not seem to consider press freedom as a high priority.<sup>13</sup> The issues the Advisory Committee has covered since its inception in 2008 do not feature press freedom, freedom of expression, or any other civil and political rights. Instead, their work focuses on issues like the right to food, the right to peace, international cooperation on human rights, and missing persons. All of these are important causes, of course, but none of them fall under the category of political or civil rights. This failure of the Advisory Committee to advance civil and political rights highlights the reluctance of the Human Rights Council to promote rights that could possibly threaten state power.

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<sup>13</sup> OHCHR, "Background Information on the Advisory Committee," <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/AboutAC.aspx>.



Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion  
and Expression

The mandate for the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression was established in 1993. His primary job is to monitor violations of the right to freedom of opinion and expression and make recommendations on ways and means to improve the promotion and protection of the right “in all its manifestations.”<sup>14</sup>

Overall, the UN special rapporteurs and their work are well perceived within the human rights community. Kofi Annan called them the “crown jewels” of the UN human rights machinery.<sup>15</sup> Similarly, Louise Arbour, the then UN High Commissioner for Human Rights, called the individual special rapporteurs “the frontline human rights troops.”<sup>16</sup> Others have argued that the special rapporteurs are not just crucial due to their monitoring function, but also through standard setting, with which “they have significantly influenced the elaboration, interpretation, and implementation of international human rights law.”<sup>17</sup>

But when it comes to press freedom, the Special Rapporteur has not lived up to this praise. For example, the Rapporteur’s website highlights plenty of “issues in focus” like access to information and censorship, but there is not one specifically dedicated to

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<sup>14</sup> OHCHR, “Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression,” <http://www.ohchr.org/EN/ISSUES/FREEDOMOPINION/Pages/OpinionIndex.aspx>.

<sup>15</sup> “Annan Calls on Human Rights Council to Strive for Unity, Avoid Familiar Fault Lines,” *UN News Centre* (November 29, 2006), <http://www.un.org/apps/news/story.asp?NewsID=20770#.Unl73VCmgpg>.

<sup>16</sup> United Nations, “Statement by High Commissioner for Human Rights to Last Meeting of Commission on Human Rights,” (March 27, 2006).

<sup>17</sup> Surya P. Subedi, “Protection of Human Rights through the Mechanism of UN Special Rapporteurs,” *Human Rights Quarterly* 33, no. 1 (February 2011): 204.

press freedom.<sup>18</sup> A survey of the rapporteur's annual reports since 2003 also shows that press freedom does not seem to be of high priority.<sup>19</sup> The latest one from 2013 does not even mention press freedom. Most previous ones mention it in passing and often it comes up due to the rapporteur reporting about his annual participation in World Press Freedom Day events. Since the primary role of the Special Rapporteur is to monitor press freedom violations, the annually submitted list of country cases often features press freedom violations by various countries. Three annual reports also discuss the issue of safety of journalists.<sup>20</sup>

In 2010, Special Rapporteur Frank LaRue issued a statement of the ten key challenges to freedom of expression in the next decade. While press freedom is not addressed specifically, the list indirectly speaks to several issues that are closely related to press freedom, particularly government control over the media, which tops LaRue's list.<sup>21</sup>

These findings with regard to the Special Rapporteur's work on press freedom indicate two things: First, that clear distinctions between the concepts of press freedom and freedom of expression are lacking even in communications by experts in the field.

<sup>18</sup> "Freedom of Opinion and Expression - Issues in focus," United Nations Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Issues.aspx>.

<sup>19</sup> Reports are available from OHCHR, "Freedom of Opinion and Expression - Annual Reports," <http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx>.

<sup>20</sup> Human Rights Council, "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue," (A/HRC/20/17: UN General Assembly June 4, 2012). Human Rights Council, "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Frank La Rue," (A/HRC/14/23: UN General Assembly, April 20, 2010). Human Rights Council, "Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development," (A/HRC/7/14: UN General Assembly, February 28, 2008). Commission on Human Rights, "Civil and Political Rights, Including the Question of Freedom of Expression," (E/CN.4/2005/64: UN Economic and Social Council, December 17, 2004). Although the latter two only mention it once.

<sup>21</sup> Human Rights Council, "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression: Tenth Anniversary Joint Declaration: Ten Key Challenges to Freedom of Expression in the Next Decade," (A/HRC/14/23/Add.2: UN General Assembly, March 25, 2010).

And second, that the importance of the press for securing human rights and freedom of expression is implied, rather than outright stated, much like the Human Rights Committee's general comment 34 leads us to conclude.

So, while the rapporteur has been active in monitoring and promoting the right of freedom of expression and developed numerous sub-categories, press freedom by itself is very rarely a talking point in this forum. Furthermore, in recent years, there have even been attempts to limit the mandate of the rapporteur. In 2008, for example, China and Russia joined force with the Organization of the Islamic Conference to amend the mandate of the Special Rapporteur on freedom of expression and opinion requiring him not just to report on infringements of the right by governments, but also report instances of "abuse" of the right to freedom of expression as an act of racial or religious discrimination.<sup>22</sup> This initiative was part of an ongoing campaign started in 1999 by the Organization of the Islamic Conference to have 'defamation of religion' recognized internationally as a crime.<sup>23</sup> This trend has become more threatening to freedom of expression since Russia and even atheist countries like China, Cuba and Vietnam joined this call for more respect for religion. What is more, they are now linking concerns over blasphemy with attempts to promote "traditional values" at the UN, thus signaling opposition to Western values and civil and political liberties.<sup>24</sup> In light of these worrying developments, one has to wonder not just about the effectiveness of the Special Rapporteur on freedom of expression and opinion, but also about the influence of the West on the UN human rights agenda in the future.

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<sup>22</sup> Article 19, "UN Human Rights Council Undermines Freedom of Expression," (March 31, 2008), <http://www.article19.org/data/files/pdfs/press/hrc-resolution-passed.pdf>.

<sup>23</sup> Reporters Without Borders, *Blasphemy: Information Sacrificed on Altar of Religion*, (December 2013), [http://rsf.org/religions/pdf/EN\\_RAPPORT\\_BLASPHEME\\_BD.pdf](http://rsf.org/religions/pdf/EN_RAPPORT_BLASPHEME_BD.pdf). 21.

<sup>24</sup> *Ibid.*

## UNESCO

As the UN organ mandated to protect freedom of expression, UNESCO is the central UN forum for issues of free speech, freedom of information and freedom of the press, but even here press freedom seems to be nothing but a marginal issue. The press freedom section of the UNESCO website is the most underdeveloped section of the organization's online presence. While the Freedom of Information section features resources, publications and lists of initiatives, the press freedom section simply lists World Press Freedom Day, "the establishment of an advisory group on press freedom which includes media professionals from all parts of the world," and "the establishment in 1997 of the UNESCO/Guillermo Cano World Press Freedom Prize" as "major UNESCO activities" in the field of promoting press freedom.<sup>25</sup> Although World Press Freedom Day, which falls on May 3 and was created in 1993 to mark the anniversary of the Declaration of Windhoek, is the UN's flagship initiative on the subject of press freedom, UNESCO's website and other press freedom activities hardly indicate that press freedom is a high priority for UNESCO.

A look at UNESCO's budget and strategic plan confirms that press freedom is not a central issue for the organization. The 2008-2013 strategic plan mentions press freedom only three times, all under broader concerns for freedom of expression. Press freedom also falls under the fifth out of UNESCO's five overarching objectives,<sup>26</sup> and under

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<sup>25</sup> UNESCO, "Press Freedom," <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/>.

<sup>26</sup> Overarching Objective 5 is "Building inclusive knowledge societies through information and communication." UNESCO, "34 C/4 Medium-Term Strategy for 2008-2013," (2008), 29.

Strategic Programme Objective 13 out of 14 in total.<sup>27</sup> Table 1 shows that of UNESCO's five major programs only Social & Human Sciences receives less funds than Communication & Information, under which the promotion of press freedom falls.

Year (Doc. #)	Total Budget (in million US\$)	Education (in million US\$)	Natural Sciences (in million US\$)	Social & Human Sciences (in million US\$)	Culture (in million US\$)	Communication & Information (in million US\$)
2006-7 (33C/5)	610	108	56	31	51	33
2008-9 (34C/5)	631	108	57	29	51	32
2010-11 (35C/5)	653	119	59	30	54	33
2012-13 (36C/5)	653	115	59	29	52	32

**Table 1. UNESCO budget by Major Programme.**<sup>28</sup>

Thus, the Communication & Information sector qualifies as one of the smallest UNESCO sections with sparse resources and staff. It counts some 80 staff in its headquarters and field offices, while the Education sector by comparison employs approximately 400 staff and the Natural Sciences sector about 150.

A 2010 UN evaluation report of UNESCO's contribution to Strategic Programme Objectives (SPO) 12 and 13: "Enhancing universal access to information and knowledge" and "Fostering pluralistic free and independent media and infostructures" found that the Communication & Information sector was indeed spread too thinly as the vast range of its activities by themes shows. This situation, the report concluded, was exacerbated by the

<sup>27</sup> Ibid.

<sup>28</sup> Data compiled from biannual UNESCO budgets, available from UNESCO, "Programme and Budget," <http://www.unesco.org/new/en/bureau-of-strategic-planning/resources/programme-and-budget-c5/>.

circumstance that the sector was “also probably the most complex and diverse in its range of responsibilities.”<sup>29</sup>

Since publication of the report, the sector has consolidated its organizational structure somewhat and is now broken down into the Division of Freedom of Expression and Media Development and the Knowledge Society Division.<sup>30</sup> Still, the tasks of the Communication & Information sector start with access for people with disabilities, include all kinds of freedom of expression and media development activities as well as Internet governance, linguistic diversity and documentary heritage initiatives, and end with cross-cutting priorities like post-conflict and disaster responses, gender and media issues.<sup>31</sup>

In some of these areas, most notably in media development, the Communication & Information sector has been rather successful. One of the main findings of the evaluation report states that the sector had made significant progress in achieving enhancement of the capacities and competencies of media and information professionals.

It does so by developing guidelines and toolkits like editorial guidelines, which support the work of media professionals; by training media professionals in areas such as investigative journalism, information management and supporting training facilities; and creating and supporting regional and national networks of media professionals.<sup>32</sup>

The objective of integrating “communication and information policies conforming with the principles of press freedom, independent and pluralistic media and contributing

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<sup>29</sup> UN Office of Internal Oversight Services, "Evaluation of UNESCO's Contribution to Strategic Programme Objectives 12 and 13: "Enhancing Universal Access to Information and Knowledge" and "Fostering Pluralistic, Free and Independent Media and Infostructures", (Geneva: United Nations, 2010), 35.

<sup>30</sup> UNESCO, "About Us," <http://www.unesco.org/new/en/communication-and-information/about-us/>.

<sup>31</sup> UNESCO, "Communication and Information: Themes," <http://www.unesco.org/new/en/communication-and-information/themes/>.

<sup>32</sup> UN Office of Internal Oversight Services (2010) 20.

to the development of infrastructures adopted by Member States” also received good marks due to the sector’s development and use of the Media Development Indicators and its efforts in supporting legislation and policies in the field of media regulation and literacy.<sup>33</sup> The positive evaluations with regard to these two objectives are due to the fact that the Communication & Information sector is also in charge of the International Programme for the Development of Communication.

The Programme was established by UNESCO in 1980 as a consequence of the New World Information and Communication Order (NWICO) debate, which will be discussed in more detail in chapter 4. Its overall objective is to promote freedom of expression and media pluralism by supporting media development projects in developing countries. According to its website, it “is the only multilateral forum in the UN system designed to mobilize the international community to discuss and promote media development in developing countries.”<sup>34</sup>

Evaluations of the International Programme for the Development of Communication have repeatedly indicated that the program is very effective in directing support to grassroots media organizations and assisting with training and preparation needs of media professionals, thus fostering media professionalization and advancing community media.<sup>35</sup> Even though the program secretariat falls within the organizational structure of the Communication & Information sector, the budget for its projects comes from an external funding pool to which 59 countries have contributed approximately a

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<sup>33</sup> Ibid., 20-1.

<sup>34</sup> UNESCO, "About IPDC," <http://www.unesco.org/new/en/communication-and-information/intergovernmental-programmes/ipdc/about-ipdc/>.

<sup>35</sup> UN Office of Internal Oversight Services (2010) 25.

little over 100 million US dollars over the last 30 years.<sup>36</sup> This leads to some confusion about the activities of UNESCO and the International Programme for the Development of Communication, as themes and tasks overlap in many cases.

The evaluation report also identified a basic dilemma of the Communication & Information sector, namely that on the one hand it “lacks funding for activities to implement and embed policy and standards,” but on the other hand, it is at an advantage when it comes to media development initiatives because of the funds and resources of the International Programme for the Development of Communication.<sup>37</sup> In this context, there is another factor that contributes to the difficulties of the Communication & Information sector’s efforts in promoting and achieving its tasks, the promotion of press freedom among them. As the report points out, “evidence from field missions suggests that whereas education, health and climate change are clearly understood by other UN agencies, they generally remain confused about UNESCO’s to the Communication & Information priorities and approach.”<sup>38</sup> This is hardly surprising, considering the broad range of its tasks, which makes it difficult to present a coherent sector.

The example of press freedom underlines this circumstance. On the one hand, the Communication & Information website claims to promote “freedom of the press as a basic human right”, but then lacks any further links to resources or lists of activities other than World Press Freedom Day and the World Press Freedom Prize.<sup>39</sup> If there is already “considerable confusion, over exactly what [Communication & Information] is all about, among external stakeholders, staff in UNESCO and other UN agencies,” it can hardly

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<sup>36</sup> UNESCO, "IPDC - Funding," <http://www.unesco.org/new/en/communication-and-information/intergovernmental-programmes/ipdc/funding/>.

<sup>37</sup> UN Office of Internal Oversight Services (2010) 22.

<sup>38</sup> Ibid., 29.

<sup>39</sup> UNESCO, "Press Freedom".



come as a surprise that press freedom as one of the sector's sub-themes also lacks coherence in terms of where it belongs in the bigger debate over communication rights such as freedom of expression and the broader human rights framework.<sup>40</sup>

What becomes apparent from UNESCO's work in the field of freedom of expression and press freedom is that it is better at downstream activities that implement projects at the grassroots level, particularly in the area of media development. When it comes to upstream activities and promoting press freedom in the context of international norms, however, its efforts lack clarity. Some observers blame the UNESCO constitution for this state of affairs. Since its constitution frames the media primarily as a tool with which the organization should work to contribute to peace and security, it is difficult for UNESCO to promote press freedom as distinct human right. What is more, the UNESCO mandate is kept vague in that the organization shall "promote the free flow of ideas by word and image." Clearly, though, the free flow of ideas is not the same as freedom of the press with its intrinsic political function. And as the next chapter outlines, the phrase has been interpreted differently by different countries and thus led to substantial controversies over UNESCO, its mandate and concepts like freedom of information.

Given its limited mandate, funds and resources, however, UNESCO works within its limits to monitor press freedom violations and promote improved press freedom best practices by helping on the ground to develop media in developing countries. Nonetheless, as a basic human right, as the UNESCO website calls it, press freedom is lacking in upstream activities that widely promote it as a key to democracy and human rights.

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<sup>40</sup> UN Office of Internal Oversight Services (2010) 26.

World Press Freedom Day is an effective measure in this regard. Yet, even this initiative is subject to different themes every year, themes that also tend to conflate the different debates within the broader field of communication rights. In 2013, the events were focused on the safety of journalists. In 2012, the broader concept of media freedom was the theme of the day. In 2010, the spotlight was on freedom of information. This is not exactly helpful in shedding light on the already very murky subject of communication rights. It also does not help efforts in promoting press freedom as the ‘right on which all other rights depend.’

### UN Speeches

The lack of upstream activities within the UN framework is demonstrated by a survey of speeches on the subject of press freedom given by high-ranking UN officials and representatives of country missions to the UN. Interestingly, the UN Bibliographic Information System only returns four indexed speeches on the subject of press freedom or freedom of the press, and all four of them date back to 1993.<sup>41</sup> In comparison, freedom of expression counts 41 entries.<sup>42</sup> When looking for speeches on press freedom by high-ranking UN officials, the results are equally limited. A search of UN Secretary-General

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<sup>41</sup> UNBISNET, "UNBISNET Topic Search: Press Freedom," Dag Hammarskjold Library, <http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=UJ8359264R837.30422&menu=search&aspect=power&npp=50&ipp=20&spp=20&profile=speech&ri=&index=.SM&term=&matchoptbox=0%7C0&oper=AND&x=9&y=11&aspect=power&index=.SP&term=&matchoptbox=0%7C0&oper=AND&index=.SC&term=&matchoptbox=0%7C0&oper=AND&index=.SS&term=press+freedom&matchoptbox=0%7C0&uloper=%3D&ullimit=&uloper=%3D&ullimit=&sort=>

<sup>42</sup> UNBISNET, "UNBISNET Topic Search: Freedom of Expression," Dag Hammarskjold Library, <http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=UJ8359264R837.30422&menu=search&aspect=power&npp=50&ipp=20&spp=20&profile=speech&ri=&index=.SM&term=&matchoptbox=0%7C0&oper=AND&x=5&y=12&aspect=power&index=.SP&term=&matchoptbox=0%7C0&oper=AND&index=.SC&term=&matchoptbox=0%7C0&oper=AND&index=.SS&term=freedom+of+expression&matchoptbox=0%7C0&uloper=%3D&ullimit=&uloper=%3D&ullimit=&sort=>

Ban Ki-moon's speeches for the keyword 'press freedom' or 'freedom of expression' on the UN News Centre website returns six speeches. Five of these are his remarks on the annual occasion of World Press Freedom Day and the other one was given at the inauguration of the Sierra Leone Broadcasting Corporation.<sup>43</sup>

As can be expected from the UNESCO Director-General, the current office holder, Irina Bokova, has given significantly more speeches on the subject since she took office in 2009 than the Secretary General. A total of 37 of her speeches contain references to 'press freedom' or freedom of the press.' However, 19 of these speeches simply mention World Press Freedom Day or UNESCO's Guillermo Cano World Press Freedom Prize.<sup>44</sup> Another eleven of Bokova's speeches mention World Press Freedom Day, but also contain other references to press freedom. However, these are just cursory references in most cases.

Seven speeches refer to press freedom without any mention of World Press Freedom Day, but the majority of these bring up the subject in the context of brief descriptions of UNESCO's objectives of supporting freedom of expression and of the press. And even the handful of speeches that do contain more than a fleeting reference to press freedom do so because they quote famous people like Albert Camus and John F. Kennedy on the importance of press freedom in order to make the case that press freedom should be respected. Overall, however, the lack of substantial discourse on the subject of press freedom is further highlighted by the fact that the UNESDOC database indexes

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<sup>43</sup> UN News Centre, "Ban Ki-moon's Speeches,"  
[http://www.un.org/apps/news/infocus/sgspeeches/search\\_results.asp](http://www.un.org/apps/news/infocus/sgspeeches/search_results.asp).

<sup>44</sup> Speeches are searchable on UNESCO, "Director-General: Speeches,"  
<http://www.unesco.org/new/en/unesco/about-us/who-we-are/director-general/speeches/>.

more than twice as many speeches (84) by Bokova on the subject of freedom of expression.

These discoveries based on the amount and content of speeches and remarks by UN officials on press freedom represent evidence that coverage of the topic is limited and usually coincides with World Press Freedom Day event announcements. They also show that press freedom is not addressed in any normative or policy-oriented sense, but is linked to practical matters of protecting journalists, for example, rather than being discussed in the context of its place in the human rights framework. These speeches might also be interpreted as taking the importance of press freedom for granted. What many of the documents and speeches featuring press freedom have in common is the implied understanding that press freedom and freedom of expression go hand in hand and that press freedom is a necessary component for securing both freedom of expression and democracy. It is difficult to know for sure, however, whether UN officials take the importance for granted, which further highlights the necessity of a debate on press freedom and what is meant by it.

Freedom of expression is for all, whether they are journalists or a regular citizen. But as put forward in the previous chapter, press freedom and freedom of expression are two distinct concepts. A free press is a political institution that ensures that the government draws its authority from the will of the people. This endows the press with both a government oversight role and political power derived from its mass audience and the fact that it acts as a surrogate of the public. Given this situation, and the fact, that individual freedom of expression does not fulfill the same function, one would expect

press freedom to be of more prominence and more clearly distinguished from the right to free speech. As the evidence in this chapter shows, however, this is not the case.

### Conclusion

Press freedom is neglected in the human rights debate at the UN. Article 19 of the International Covenant on Civil and Political Rights does not specifically address the right to a free press and the handful of press freedom related declarations from the 1970s and 1990s are not legally binding. The Human Rights Committee has made some progress in clarifying the relationship between the concepts of press freedom and freedom of expression, but discussions on press freedom in the Human Rights Council are limited. The safety of journalists has garnered considerable attention from the UN in recent years, but even though this is a topic closely related to press freedom, the UN focus is on the humanitarian aspects of protecting journalists as civilians in armed conflict. Several other UN bodies are tasked with the monitoring of press freedom violations and the promotion of press freedom issues. Most monitoring work is done by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, while UNESCO deals with a broad range of tasks relating to freedom of expression and press freedom. Its efforts are most successful in the area of media development in developing countries and by drawing attention to press freedom issues once a year on World Press Freedom Day.

Despite these grassroots efforts, however, press freedom does not reach high priority status within the human rights debate at the UN. Compared to other rights, press

freedom garners little attention, a fate it shares with other civil and political rights. Yet, even those receive more coverage, particularly the right to freedom of religion. And of course, the press freedom debate seems to be subsumed by discussions on the right to freedom of expression. As the previous chapter argued, however, this situation needs to be remedied in order to highlight the special role that a free press plays in promoting and maintaining democracy and human rights. The press is a political institution that draws power from its mass audience and functions as a government oversight mechanism. As touched upon with regard to the Human Rights Council earlier in this chapter, promoting such institutions or practices can often not be reconciled with government interests. The following chapter will look closely at this circumstance and will advance an argument about why press freedom is neglected in the context of the UN human rights discussions.

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## **CHAPTER 4**

### **THE POLITICS OF PRESS FREEDOM**

#### Introduction

Chapter 3 has shown that press freedom in recent years has not been of much concern to the UN human rights debate. Although it is not completely absent from the agenda, it is confined to the margins of the discussion, usually subjugated to the debates on freedom of expression and freedom of information. Press freedom, in short, is neglected in the UN human rights context.

The resulting question, then, is why do states neglect press freedom? And why do the Western nations in particular not do more to promote press freedom as a human right? It is to be expected that China, Russia or other authoritarian states do not speak up for the civil and political rights of their citizens, let alone try to promote them internationally. Expectations for Western liberal democracies are different, however. The very notion of the international human rights regime rests on liberal values like equality, personal freedom and self-determination, after all. Western states are, in fact, the architects of the human rights order. And yet, press freedom, the guarantor of all other rights, is left on the sidelines.

This chapter, however, contends that when it comes to press freedom at the UN, idealism matters very little. Instead, what matters is state interests defined in the traditional sense of power, security and wealth. Press freedom is neglected because it undermines state power and this applies not just to authoritarian governments, but liberal

democratic ones as well. In the rare cases when the West stood up for press freedom at the UN it was not to champion an ideal of liberal self-determination, but because they saw some benefit to their strategic interests.

### Ideas

As outlined in chapter 2, press freedom is central to classical liberal philosophy. It is the foe of tyranny, precisely because it is the key to ensuring individual rights. Its presence or absence defines the status of state-society relations in any given country. If the press is free, civil society is thriving, as is democracy. A free press ensures that citizens are informed, that the government responds to the will of the people and that it does not abuse its power and violates the rights of its citizens.

The UN human rights regime is a reflection of Western liberal ideals that are safeguarded by the institution of a free press. The International Bill of Rights is based on the very idea of individual self-determination and the prevention of abuses of power that had led to the atrocious human rights violations during World War II. Consequently, the nature of the human rights discourse in general, and on press freedom in particular, reflects liberal ideals. Even at the UN, where press freedom does not come up often, the values of a free press in the context of protecting individual rights and supporting democracy find their way into the discourse occasionally. For example, the Declaration of Windhoek states that a free, independent and pluralistic press “is essential to the development and maintenance of democracy in a nation, and for economic



development.”<sup>1</sup> Similarly, the recent UNESCO report *Pressing for Freedom: 20 Years of World Press Freedom Day* points out that “[p]ress freedom is a cornerstone of human rights and guarantees other basic liberties due to its unparalleled capacity to encourage transparency and good governance.”<sup>2</sup>

It is difficult to isolate ideals from considerations of the national interest in liberal democracies in any policy area, but even more so when it comes to human rights. There is no denying the fact that these ideals inform the foreign policy behavior of Western states. In the case of the U.S. this dates back even further than President Wilson’s goals of making the world safe for democracy and building peace on “the tested foundations of political liberty.”<sup>3</sup> Liberal values have been enshrined in the concept of American exceptionalism since the nation’s birth. Therefore, this is not an argument challenging the notion that ideas influence Western policies, even when it comes to promoting press freedom. As the historical section of the chapter demonstrates, it can hardly be denied that Western delegates believed in the merits of the ‘free flow’ doctrine they advocated.

What ideational theories fail to explain, however, is why Western states do so little for press freedom. According to liberal theory in International Relations, state behavior is a result of state preferences that are determined by domestic circumstances. Consequently, if the domestic preferences for individual rights, democracy and a thriving civil society determine the behavior of Western states, they should promote press freedom at the UN. As the evidence in chapter 3 shows, they do so to some extent. For example, France champions the safety of journalists issue at the UN. Western countries

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<sup>1</sup> UNESCO, "Declaration of Windhoek," (May 3, 1991).

<sup>2</sup> UNESCO, *Pressing for Freedom: 20 Years of World Press Freedom Day* (Paris: UNESCO, 2013), <http://unesdoc.unesco.org/images/0022/002205/220525e.pdf>. 15.

<sup>3</sup> "President Wilson's War Message to Congress ", (Records of the United States Senate, Record Group 46, National Archives, April 2, 1917).

also routinely raise the issue of press freedom violations in other countries during the Universal Periodic Review process at the Human Rights Council. So, press freedom, after all, is not completely absent from UN human rights discussions and initiatives. Given the centrality of press freedom to democracy and human rights, however, these discussions and initiatives are not nearly prominent enough.

In short, the mere existence of a human rights framework is a triumph of ideas. Idealism explains the existence of press freedom (and human rights) discussions at the international level as well as the nature of the current discourse framing press freedom as an important ingredient for the individual right to freedom of expression. It does not explain, however, why there is so little of it.

### Norms

The human rights phenomenon is not easily explained by rationalist theories. In general, there is little strategic motivation for states to sign up to treaties that limit their own power without much of an incentive like reciprocity. Realists, therefore, regard human rights treaty compliance as a consequence of coercion or coincidence. But since states do sign up to international human rights treaties even when they are not coerced, this lack of explanatory power has given rise to ideational explanations, especially constructivist ones, which now dominate the human rights literature. They focus on ideas and norms, their formation, diffusion and influence.

Like liberals, constructivists are concerned with norms and ideas, but not whether or how they regulate state behavior. Instead, constructivists focus on the interactions

between agents and structures, which influence the formation of interests and identities and consequently create the social environment in which states and other agents exist. In short, norms and values matter because they have an effect on state preferences and interests. Assuming, then, that these interests shape state behavior and given that states tend to neglect press freedom, a constructivist would come to the conclusion that press freedom is of little normative importance, that it has not reached the status of an established human rights norm.

Some might argue that this is a rather common occurrence when it comes to human rights, that concerns for power and survival always outweigh the loftier goals of providing every human being with the means to secure their dignity. However, there are several examples of human rights norms that have gone beyond being a tool of regulating state behavior and even had an impact on state identity. One of those is the issue of racial equality. During the 1980s many states imposed sanctions on South Africa due to its apartheid policies, even though strategically and economically, interests would have dictated otherwise.<sup>4</sup> Women's rights is another example. In 1945, women were still widely regarded as second class citizens. By 1975, the idea that women deserve the same rights as men had become widely acknowledged and UN organized conferences, working groups and various other activities promoting gender equality became ubiquitous. Today nearly all countries (187) have ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Press freedom is not one of these norms, however. As argued in chapter 3, if press freedom would have reached the level appropriate for the 'right on which all other rights

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<sup>4</sup> Audie Klotz, *Norms in International Relations: The Struggle Against Apartheid* (Ithaca, NY: Cornell University Press, 1995). 3-4.

depend,' there would be international conventions, other legal instruments and a host of UN conferences and initiatives on the subject. Instead, press freedom does not even get an explicit mention in the International Bill of Rights, let alone its own treaty or even conference. This circumstance is even more astounding, considering that press freedom pre-dates the establishment of the UN human rights regime by several hundred years. In 1644, Englishman John Milton delivered his well-known Areopagitica speech against government censorship of the written word, which would later become the blueprint for the right of freedom of the press. By the end of the 18<sup>th</sup> century, the French and American revolutionaries recognized its importance and secured it constitutionally. Consequently, the question of why press freedom has not become an international norm that neither regulates state behavior nor has had much of an influence on the content or sources of state interests, the social fabric of world politics, and the human rights discourse is even more puzzling.

Martha Finnemore argues that normative shifts are not only due to structures, but also a result of agents who promote new norms.<sup>5</sup> In the case of press freedom, one would assume these agents to be the Western liberal states, led by the Americans, who, after all, cherish their First Amendment rights. National identity based on values, therefore, cannot explain why the U.S. does not lead the efforts to protect and promote press freedom as a human right.

Furthermore, if there is no established norm on press freedom or active agents who champion it, international organizations, such as the UN and UNESCO, can hardly be expected to teach or socialize other countries to adhere to these standards or even to

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<sup>5</sup> Martha Finnemore, *National Interests in International Society* (Ithaca and London: Cornell University Press, 1996). 24.

make them a more central part of the human rights debate. It is thus not surprising that we do not see the UN Secretary-General or UNESCO's Director-General be more outspoken about the central role of press freedom and urging heads of state or country delegates to call for a specific press clause in the International Covenant on Civil and Political Rights. The Human Rights Committee might have spelled out their interpretation that a free press is implied in the right to freedom of expression in their General Comment 34 in 2011.<sup>6</sup> But the UN executive staff has not picked up this interpretation. The only actors that seem to be working on popularizing freedom of the press as a human right are NGOs, and even those tend to be caught up in definitional problems, as the following chapter will show.

Looking at the UN rhetoric on press freedom further highlights the fact that there is no established norm on freedom of the press. First of all, rhetoric is limited when it comes to press freedom, even from the most liberal of liberal democracies, as is outlined below. Secondly, the existing rhetoric, usually concentrated on World Press Freedom Day, is murky at best. Press freedom gets mixed in with discussions of freedom of expression and information and even those concepts are not very well defined in the human rights context. The UN has been grappling with these definitional questions since the drafting of the Universal Declaration of Human Rights. To this day, however, the area of communication rights lacks clarity, a circumstance that is further complicated by new considerations over Internet freedom and everything that it entails. What is clear, however, is that the political aspect of the press and its power as a democratic institution, which makes it so valuable to the promotion of human rights, is very rarely addressed.

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<sup>6</sup> Human Rights Committee (September 12, 2011).

To sum up, constructivism is a useful guide for explaining instances of normative change in state behavior. The case of press freedom, however, is not such an instance. In the end, constructivists believe that press freedom, like anarchy, is what you make of it. States – even the liberal ones – make very little of it, which suggests that ideational concerns are not much of a driving force in this case. Instead, the neglect of press freedom in the human rights discourse comes down to old-fashioned power politics.

### Power

While norms, in theory, have dominated the way we think about human rights, the reality, particularly in the field of civil and political rights, is still firmly guided by state power. Realists, who attribute state behavior to the national interest as defined in terms of power, security and wealth, thus still offer the better explanation for the current status of civil and political rights. Sometimes interests in the realist sense overlap with idealist goals and values, but when it comes to promoting press freedom through the UN, these interests almost always trump ideas. The evidence from the case presented in this section will support this hypothesis.

According to realism, state interests are a result of strictly rational, cost-benefit considerations based on power politics, national security, and/or the economic well-being of the nation. Given that press freedom is currently not high on the Western agenda, one can assume that promoting press freedom is not in states' interests as defined by realism. If anything, a free press undermines the power of those in charge of running the government and their self-interests.

Realists argue that no matter what type of regime, its policies are determined by calculations that enhance its power. This is on display with press freedom in the UN context. Even the most liberal democratic states have a very limited agenda when it comes to promoting press freedom at the UN. Take for example the U.S., France, Sweden and Norway. The U.S. and France are the liberal pioneers in that their respective Bill of Rights and Declaration of the Rights of Man and of the Citizen and their constitutions translated the Enlightenment principles of political equality and individual freedom into blueprints for democratic government. Sweden and Norway are also champions of equality and liberal values, and they regularly top the various press freedom rankings for their exemplary free and independent media. They constitute the most likely cases to support liberal values like press freedom. If not even they, the most liberal, most likely states to pay attention to press freedom in their human rights policies do so, it is unlikely that other states would.

Speeches and statements by representatives of their missions to the UN, however, indicate that press freedom is not a high priority issue for them. The U.S. Mission to the UN publishes a list of its statements between 2009 and 2013.<sup>7</sup> Out of all of these statements, press freedom comes up once a year on the occasion of World Press Freedom Day. In 2013, a U.S. representative also delivered remarks at a Security Council Open Debate on the protection of journalists in armed conflict. It is notable, however, that even these remarks do not contain any reference to press freedom and simply stress the

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<sup>7</sup> United States Mission to the United Nations, "Statements 2013," <http://usun.state.gov/briefing/statements/c55549.htm>.

universal right to freedom of expression.<sup>8</sup> Women's issues, on the other hand, were covered in between 8 and 13 statements per year during that time.

The Swedish mission website does not cite any speeches or remarks on the topic, although the Swedish mission is a champion of freedom of expression on the Internet and the right to privacy in the digital age.<sup>9</sup> The French UN representatives have somewhat more resources dedicated to press freedom, although they are also framed by World Press Freedom Day and eclipsed by the issue of journalist safety, a topic that is close to France's heart as it pushed for the adoption of Security Council resolution 1738 on the protection of journalists in armed conflicts.<sup>10</sup> A search on the mission's French website returns 32 results for press freedom (*liberté de la presse*). To compare, women's rights (*les droits de femme*) shows up 43 times and food security or the right to food (*securité alimentaire*) 47 times.

The track record on press freedom is even worse for the Norwegian mission to the UN. None of the statements they publish on their website from 2011, 2012 and 2013 references press freedom or even related terms.<sup>11</sup> A search of their website for 'freedom of the press' returns one hit: an announcement of Norway lifting its ban on Myanmar in 2012, acknowledging that the country had made some progress in the area of freedom of

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<sup>8</sup> Rosemary A. DiCarlo, "Remarks by Ambassador Rosemary A. DiCarlo, Acting Permanent Representative to the United Nations, At a Security Council Open Debate on Protection of Civilians in Armed Conflict: Protection of Journalists," (July 17, 2013), <http://usun.state.gov/briefing/statements/212072.htm>.

<sup>9</sup> Permanent Mission of Sweden to the United Nations, "Sweden Abroad: UN," <http://www.swedenabroad.com/en-GB/Embassies/UN-New-York/>.

<sup>10</sup> A search for press freedom on the French Mission to the UN returns 12 documents: Permanent Mission of France to the United Nations in New York, "Press Freedom Website Search," [http://www.franceonu.org/spip.php?recherche=%22press+freedom%22&Submit=Ok&id\\_secteur=2&page=recherche](http://www.franceonu.org/spip.php?recherche=%22press+freedom%22&Submit=Ok&id_secteur=2&page=recherche).

<sup>11</sup> Permanent Mission of Norway to the United Nations, "Statements," <http://www.norway-un.org/Statements/>.



expression and freedom of the press.<sup>12</sup> On the other hand, there are at least six statements on women's rights each year and the overall website search shows 34 results for the 'status of women,' 58 results for 'women's rights,' 24 for 'freedom of expression' and 38 for food security.

These findings indicate that coverage of the topic is limited and usually appears in conjunction with event announcements surrounding World Press Freedom Day. They also demonstrate that press freedom is not addressed in any normative sense, but is linked to practical matters of protecting journalists, for example, rather than being discussed in the context of its place in the human rights framework.

There also seems to be a tendency to take the importance of press freedom for granted. Many of the cited documents share the implied understanding that press freedom and freedom of expression go hand in hand, and that press freedom is a necessary component for securing not just freedom of expression, but also democracy. At the same time, however, by focusing on issues such as journalist safety in conflict zones, the debate is put into the humanitarian context. In other instances, free expression or freedom of information take precedent over press freedom. It seems, however, that by circumventing discussions of the political aspects of having and championing a free press, governments protect their own power.

Observers might point out that this is not always the case; that the West does take a strong stand in favor of press freedom at the UN from time to time. However, even in instances when Western states did go out of their way to support it, they did so not out of purely idealistic reasons, but because the national interest in the sense of power, security

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<sup>12</sup> Permanent Mission of Norway to the United Nations, "Norway to Lift Sanctions Against Myanmar," [http://www.norway-un.org/NorwayandUN/Selected\\_Topics/Humanitarian-Efforts1/Norway-to-lift-sanctions-against-Myanmar/#.UppYY5TF1gw](http://www.norway-un.org/NorwayandUN/Selected_Topics/Humanitarian-Efforts1/Norway-to-lift-sanctions-against-Myanmar/#.UppYY5TF1gw).

or wealth dictated it. This is demonstrated clearly by taking a look at the history of press freedom at the UN.

*The Drafting of the Universal Declaration of Human Rights and the Early Days of the  
UN Human Rights Agenda*

Press freedom entered the international debate early on. What is more, deliberations always followed the same pattern. The League of Nations portrayed the press as a tool to usher in peace and a pre-condition for material disarmament.<sup>13</sup> A few years later, in 1932, the League focused on the press again, but this time it was during a conference to discuss the problem of inaccurate news, followed by another meeting in 1933 on the right to correct false information.<sup>14</sup> The emerging pattern was that the free flow of information ideal was introduced by the West, and then followed up by opposition from the Soviets, highlighting the many alleged dangers of a free press and requesting regulation.

During the initial stages of establishing the UN human rights framework, the press garnered a fair amount of attention, too. Following the experiences and consequences of the Second World War and its widespread propaganda campaigns the issue of freedom of information was close to the hearts of those tasked with drafting an international human rights regime. Members of the Commission on Human Rights “pointed out that it had often happened that newspapers and news agencies had poisoned

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<sup>13</sup> Cees J. Hamelink, *The Politics of World Communication: A Human Rights Perspective* (London: Sage Publications, 1994). 18.

<sup>14</sup> *Ibid.*, 19.

the mind of the public by twisting the facts.”<sup>15</sup> They felt that “in the future, measures be considered against deliberate and systematic, distortion of the truth.”<sup>16</sup> To do so, the Sub-Commission for Freedom of Information and of the Press was created. The Western delegates encouraged it “to get to work immediately because it was formulating one of the basic human freedoms.”<sup>17</sup> But the official mandate of the Sub-Commission was “to examine what rights, obligations, and practices should be included in the concept of freedom of information.”<sup>18</sup> Enthusiasm for advocating an unfettered press clearly was limited not just on the side of the Soviets, then.

Press freedom was a major talking point during the early stages of the drafting of the International Bill of Rights. But the debate occurred within the framework of discussing the concept of freedom of information and the accepted notion that the press needed restrictions, since its role came with certain responsibilities. Like the discussions of press freedom at the UN today, the drafting process of the Universal Declaration of Human Rights also suggests that no clear distinctions were drawn between press freedom and freedom of information. The former was simply regarded as being part of the larger idea of the free flow of information.

The first draft of the Universal Declaration of Human Rights was written by the Canadian John Humphrey, who served as Director of the UN Division of Human Rights. The Humphrey draft was based on numerous other drafts written by interest groups, NGOs, organizations of lawyers, and the like. At least one of these drafts, that of the

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<sup>15</sup> UN Economic and Social Council, "Report of the Commission on Human Rights to the Second Session of the Economic and Social Council," (May 21, 1946), 10.

<sup>16</sup> Ibid.

<sup>17</sup> UN Economic and Social Council, "Sixty-Eighth Meeting" (Lake Success, New York, March 14, 1947).

<sup>18</sup> UN Economic and Social Council (May 21, 1946) 11.

Inter-American Juridical Committee, includes the right to a free press specifically.<sup>19</sup>

Furthermore, a UN report summarizes:

The major part of the various drafts deals with the status of liberty. The rights listed are: life, personal liberty and its corollaries (prohibition of slavery and compulsory labour, sanctity of the home and secrecy of correspondence), freedom from wrongful interference, freedom of association and of assembly, freedom of speech and of opinion, freedom of information and of the press (sometimes qualified in the interests of responsibility), religious worship and nationality.<sup>20</sup>

The Humphrey draft, however, did not mention press freedom specifically, but clearly prohibited censorship and also highlighted the responsibilities of a free press.<sup>21</sup>

The following draft by Rene Cassin again included the press.<sup>22</sup> However, it did not grant freedom of the press like the American First Amendment did, because the emphasis was still on freedom of expression. It also emphasized the restrictions on freedom of expression, and the free press in particular, by saying “that the author, and the publishers, printers and others concerned shall be answerable for any abuse of this right by defamation of character or failure to present information and news in a true and impartial manner.”<sup>23</sup>

Although the article on freedom of expression was subject to heated deliberations in the Sub-Commission on Freedom of Information and of the Press, there does not seem to be any evidence that the specific inclusion of references to the press was considered

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<sup>19</sup> Article 3: “The right to freedom of speech and of expression includes the special and highly privileged right to freedom of the press.” Inter-American Juridical Committee, “Draft Declaration of the International Rights and Duties of Man,” (UN Economic and Social Council, January 8, 1947), 3.

<sup>20</sup> Division of Human Rights, “Analysis of Various Draft International Bills of Rights,” ed. Commission on Human Rights (UN Economic and Social Council, January 23, 1947), 4.

<sup>21</sup> Humphrey Draft in Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001). 272.

<sup>22</sup> Article 23 of the Cassin Draft: “There shall be freedom of expression by word of mouth, in writing, in the Press, in books or by visual, audible or other means; provided, however, that the author, and the publishers, printers and others concerned shall be answerable for any abuse of this right by defamation of character or failure to present information and news in a true and impartial manner.” Printed in *ibid.*, 277.

<sup>23</sup> Cassin Draft, *ibid.*

controversial. This suggests that the delegates considered press freedom as part and parcel of the freedom of information concept. Indeed, the U.S.-backed Philippine draft resolution from December 1946 that called for the convention of an international conference on freedom of information notes that “[f]reedom of information implies the right to gather, transmit and publish news anywhere without fetters.”<sup>24</sup>

Some U.S. delegates even advocated passionately for the inclusion of a free press clause in the International Bill of Rights:

It raises the banner of freedom of the press, where all citizens can see and respect it. Constitutional recognition prevents freedom of speech from remaining an ideal of radicals or of isolated thinkers like Milton and Mill, or of any other special group such as professors and newspaper owners. These men would probably cherish the ideal, without the first amendment, but that ideal would then lack a large portion of emotional force which it now possesses. Its embodiment in a very prominent place in the Constitution, proclaims it to every school-child.... What might otherwise be the forlorn hope of eloquent highbrows and frustrated lowbrows, has a strong hold upon everybody in the United States.<sup>25</sup>

Yet, the West failed to secure a place for the free press in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Whether this was intentional or happened in good faith because they considered press freedom as an intrinsic part of freedom of information is difficult to say. However, it does seem like the Western delegates had a good understanding of the role of the press within the broader free flow of information and democratic governance:

The Soviet delegations never understand that the free press in America has great advantages, even though we sometimes have to agree that it has disadvantages; but in the case where it fights the battles of the underprivileged, or of those people

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<sup>24</sup> UN General Assembly, "Calling of an International Conference on Freedom of Information," (December 14, 1946).

<sup>25</sup> U.S. Delegate Chafee, Sub-Commission on Freedom of Information and of the Press, June 9, 1947 (UN Document E/CN.4/Sub.1/32, p. 2), quoted in Achal Mehra, *Free Flow of Information: A New Paradigm* (New York: Greenwood Press, 1986). 18-19.

who temporarily are being exploited by individuals, its freedom is valuable to us all.<sup>26</sup>

Furthermore, the matter of a free press came up in various discussions. A U.S. delegate to the General Assembly pointed out that “[p]rogress was based upon the continual criticism of institutions. The existence of a free and diversified Press was one of the most important factors in that process.”<sup>27</sup> A Cuban representative supported this view with a similar statement in another meeting: “A free and independent Press in democratic and liberal States contributed to the development of civil responsibility and critical judgment.”<sup>28</sup>

Clearly then, the Western countries discussed the idea of press freedom in the context of individual rights and framed it as a vital ingredient for a healthy civil society, democratic governance and a public government oversight mechanism. But it became obvious very quickly that these values were not shared by the Soviets and that American idealism could not be reconciled with the Soviet position. Ideological clashes thus marked the discussions from the outset. The U.S. opposed any kind of restrictions on the press, while the Soviets claimed to be worried about the abuse of the press by fascists and wanted to impose limitations on the free press. The American position, defended by Mrs. Roosevelt, was “that a good press will compensate for a bad one; remove all restrictions and the public will be served.”<sup>29</sup> But the Soviets stood their ground:

The use of freedom of speech and of the Press for the purposes of propagating fascism and aggression or of inciting to war between nations shall not be tolerated.... In order to ensure the right of the free expression of opinion for large

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<sup>26</sup> Eleanor Roosevelt Papers 1949-1952, Vol. 2, Eleanor Roosevelt, ed. *The Eleanor Roosevelt Papers: The Human Rights Years, 1949-1952* (Charlottesville, VA: University of Virginia Press, 2012), 755.

<sup>27</sup> Quoted in Mehra (1986) 21.

<sup>28</sup> Quoted in *ibid.*

<sup>29</sup> John P. Humphrey, *Human Rights & the United Nations: A Great Adventure* (Dobbs Ferry, NY: Transnational Publishers, 1984). 51.

sections of the peoples and for their organizations, State assistance and co-operation shall be given in providing the material resources (premises, printing presses, paper, and the like) necessary for the publication of democratic organs of the Press.<sup>30</sup>

They also accused Western countries of pursuing a free flow of information policy in order to ensure “the most favorable conditions, in certain countries, for the activities of the Press monopolies.”<sup>31</sup> They complained that the Sub-Commission on Freedom of Information and of the Press had become a “loudspeaker spreading the expansionist ideas of Anglo-American monopolists.”<sup>32</sup> The Soviets even alleged that press corporations were used as cover-ups for Western propaganda and espionage activities.<sup>33</sup> This Soviet mistrust of the commercial ownership of media organizations in the U.S. would later resurface in the New World Information and Communication Order debate, but in those early stages of debating the right to freedom of information, ideological positions were already hardened.

As the East-West conflict intensified further, the Sub-Commission of Freedom of Information and of the Press was discontinued in 1952. This was a result of divisive debates between the West pushing for the free flow doctrine and the Soviets opposing it based on their argument that unrestricted press organizations are a tool of Western expansionism at the 1948 UN Conference on Freedom of Information. At this conference, three draft conventions were proposed: the Convention on the Gathering and International Transmission of News (“the American convention”), the Convention on the International Right of Correction (“the French convention”), and the Convention on

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<sup>30</sup> Commission on Human Rights, "Draft International Covenant on Human Rights: Recapitulation of Amendments to Articles 16, 17 and 18," (E/CN.4/272: UN Economic and Social Council, May 26, 1949).

<sup>31</sup> cited in Mehra (1986) 25.

<sup>32</sup> cited in *ibid.*, 26.

<sup>33</sup> *Ibid.*, 27.

Freedom of Information (“the British convention”). Only one of them, on the right of correction, was adopted by the General Assembly (in 1952). Although it became a binding international agreement, even this convention did not have much of an impact, due to the small number of states who ratified it and as a result of clumsy enforcement procedures.<sup>34</sup>

In light of these differences, Humphrey describes the encounter at the 1948 Conference on Freedom of Information as follows:

The atmosphere at the conference was highly political, the committee rooms becoming arenas for fighting the Cold War which (after the Prague coup d'état) had become more intense. Positions hardened and there was very little room left for compromise. As so often happens at the United Nations, it was a dialogue between the deaf.<sup>35</sup>

It became clear that no consensus could be reached and consequently the freedom of information debate disappeared almost entirely until the late 1960s. Although the issue of freedom of information and, within it, discussions of a free press, started out as a high priority at the UN, it fell victim to Cold War power politics between the West and the Soviet bloc, highlighting once more that the impact of ideals was limited.

### *The Great Global Media Debate of the 1970s and 1980s*

While the early stages of the freedom of information deliberations at the UN were marked by concerns over the role of the press as a tool for propaganda and war mongering, the New World Information and Communication Order (NWICO) discourse

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<sup>34</sup> Inger Österdahl, *Freedom of Information in Question: Freedom of Information in International Law and the Calls for a New World Information and Communication Order (NWICO)* (Uppsala: Iustus Förlag, 1992), 29. As of writing, 17 countries had ratified the convention.

<sup>35</sup> Humphrey (1984) 53.



primarily focused on the economics of the debate. As a result, ideological differences between the developing world, the communist East and the capitalist West became very prominent within the communication rights debate, which often framed the 'free flow' idea as a tool of Western cultural imperialism.

NWICO grew out of calls from the newly decolonized states for a New International Economic Order, which was first formalized at a summit of the Non-Alignment Movement in Algiers in 1973. The goal of the new economic order was to restructure the global economy in a more balanced way that would benefit developing nations, who felt disadvantaged in the current system dominated by Western industrialized nations and their transnational corporations. The Non-Alignment Movement called for – among other things – more favorable terms of trade, control over multinationals working within their borders, foreign aid, technology and knowledge transfers from industrialized nations, and full permanent sovereignty over their own territory including the right to nationalize foreign property.<sup>36</sup>

The concept of cultural imperialism was also a talking point at the 1973 Non-Alignment Movement summit in Algiers.<sup>37</sup> Consequently, the New International Economic Order and the emerging NWICO were closely linked from the outset. In 1976, a Non-Alignment Movement media seminar first declared the call for the New International Information Order.<sup>38</sup>

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<sup>36</sup> UN General Assembly, "Declaration on the Establishment of a New International Economic Order," (May 1, 1974).

<sup>37</sup> "Economic Declaration", (paper presented at the Fourth Summit Conference of the Non-Aligned Countries, Algiers, September 1973).

<sup>38</sup> Colleen Roach, "The Western World and the NWICO: United They Stand?," in *Beyond Cultural Imperialism: Globalization, Communication & the New International Order*, ed. Peter Golding and Phil Harris (London: Sage Publications, 1997), 95.

Since information in the world shows a disequilibrium favoring some and ignoring others, it is the duty of the non-aligned countries ... to change this situation and obtain the decolonization of information and initiate a new international order in information.<sup>39</sup>

The representatives of the developing countries did not make a secret of feeling culturally dominated by Western forces:

[T]he peoples of developing countries are the victims of domination in information and this domination is a blow to their most authentic cultural values, and in the final analysis subjugates their interests to those of imperialism.<sup>40</sup>

The colonialist, imperialist and racist powers have created effective means of information and communication which are conditioning the masses to the interests of these powers.<sup>41</sup>

The same Cold War rivalries that had derailed the discussion of freedom of information in the 1950s were at display in the New World Information and Communication Order debate. Now, however, the issue also pitted developing countries against the Western 'free flow of information' doctrine. Thomas McPhail summarizes the Third World criticism of the mass media in three categories: First, peripheral nations took a straightforward anti-capitalist approach, criticizing the commercial orientation of the media. Second, they criticized the one-way flow of information through the media from Western nations, primarily the U.S., to other nations without little reciprocity. Third, they feared "electronic colonialism."<sup>42</sup>

Consequently, the Third World, joined by the Soviets, saw the press primarily as a Western economic force that required regulation. The West, of course, opposed this characterization, pointing out that this was simply an excuse for authoritarian regimes to

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<sup>39</sup> Report of the 1976 Non-Aligned media seminar in Tunis, "Information in the Non-Aligned Countries," p. 30, quoted in *ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> McPhail (2010) 69.

curb free speech and free press at home to consolidate their power. Canada's Secretary of State, John Roberts, aptly summarized this position in 1978:

On every continent there are some people who think that governments should regulate journalists, should tell them, in the public interest, what to write, or should pass judgment on their accuracy. Canadians do not believe that either politicians or public servants should have anything to say in the management, direction or correction of the media. Quite the contrary. In their view, only a free press can guarantee that the decisions of the state power are in harmony with the wishes of the people. Governments have no means of knowing what the needs of society are for its own well-being, unless they are told by an informed public.<sup>43</sup>

By the mid-1970s, the positions of both sides had hardened and the conflict between the West, the Non-Alignment Movement and the socialist East unfolded in the UNESCO forum, no more pronounced than during the deliberations over the organization's Mass Media Declaration. The draft declaration had been introduced to UNESCO's agenda in 1972, before neither the New International Economic Order nor NWICO were even formulated, and it took until November 22, 1978 for it to pass. When it did under its full name, *Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War*, it was unanimous, but in no way uncontroversial.<sup>44</sup> Kaarle Nordenstreng identifies three stages in the tumultuous life of the declaration.<sup>45</sup> The first coincided with the offensive of the newly decolonized countries on the international stage, calling for a new global economic and information order, briefly

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<sup>43</sup> Quoted in *ibid.*, 69-70.

<sup>44</sup> Kaarle Nordenstreng and Lauri Hannikainen, *The Mass Media Declaration of UNESCO* (Norwood, N.J.: Ablex Pub. Corp., 1984). 1.

<sup>45</sup> *Ibid.*, 8.

outlined at the beginning of this section. The second phase was characterized by a Western counterattack starting in the mid-1970s.<sup>46</sup>

Western interests had been threatened from the beginning of the great media debate for several reasons. On the one hand, the U.S. national security strategy of containment aimed at stopping the spread of communism was undermined by non-aligned nations siding with the Soviets on the issue of the international flow of information. Given the prevalent anti-Western narrative of framing the free flow doctrine as a Western tool of exploitation and imperialism, the U.S. saw its power at the UN and in terms of global spheres of influence vis-à-vis the Soviets threatened.

At the UN, UNESCO had already started to move away from its intended technical mandate towards a more normative approach to the issue of communication rights. UNESCO's Director-General at the time, Amadou Mahtar M'Bow, contributed to forging close links between the New International Economic Order and the New World Information and Communication Order.<sup>47</sup> In an address to the 1978 General Assembly on the future agenda of UNESCO, he stated: "the establishment of a new international economic order constitutes ... one of the major contexts, and no doubt the largest, within which the activities of the Organization will take place."<sup>48</sup> His promotion of the New International Economic Order and NWICO did not go over well with the West, and UNESCO would indeed become the primary battleground for the ideological clashes over New World Information and Communication Order.

The British Managing Director of Reuters, Gerald Long, summed up the Western problem with UNESCO's newfound advocacy zeal:

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<sup>46</sup> Ibid., 15.

<sup>47</sup> McPhail (2010) 68.

<sup>48</sup> Quoted in *ibid.*

Unesco's aims are clear: it seeks money from those countries that have developed the technology of media communications, and which are for the most part committed to the view that information is an essential component of freedom, and makes plans to use that money to transfer media technology to the countries that do not have it, while encouraging them to use the technology to control information for the purposes of government. We are being asked to put up the money and provide the technical, human and operational resources to spread throughout the world that very view of information that is most repugnant to us. The fact that such a programme has not already been rejected out of hand shows that we would be wrong to underestimate the political skill of Unesco.<sup>49</sup>

The change in UNESCO's orientation and its poor reception by the West is linked to another set of interests that the West regarded as being threatened by the New World Information and Communication Order, as the following quote highlights:

UNESCO's public image was more negatively affected by its shift from a passive, pro-Western agency to an activist, pro-development, peripheral oriented agency. Its ideological commitment to fundamental change, through [the New International Economic Order], for example, was little understood and was perceived as a threat to the free markets and economic security that core nations had taken for granted since UNESCO's inception in the 1940s.<sup>50</sup>

Economic considerations played an important role in Western opposition to NWICO. Many Western media professionals and transnational media companies saw their interests threatened by the international calls for the new economic and information orders. An American delegate to UNESCO and later Director of the U.S. International Communication Agency pointed out some of the specifics in the calls for the New World Information and Communication Order that would hurt Western businesses:

There have been some preliminary definitions issuing from the Non-Aligned Movement that, frankly, we find unacceptable. They would entail such things as a wholesale withdrawal of radio frequencies from current users, and a possible abolition of international copyright for published works entering the Third World.<sup>51</sup>

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<sup>49</sup> G. Long, Speech at a Reuters dinner for media representatives at the Plaza Hotel on 13 May 1980. Quoted in Nordenstreng and Hannikainen (1984) 44.

<sup>50</sup> McPhail (2010) 68.

<sup>51</sup> Hearing before the Subcommittee on International Organizations of the Committee on Foreign Affairs U.S. House of Representatives, *UNESCO and Freedom of Information*, July 19, 1979, 4-5.

But Western strategic and economic interests in opposing the New World Information and Communication Order coincided with a genuine Western aversion towards restricting free speech and the free press. A U.S. member of the MacBride Commission, Elie Abel, neatly summarizes this confluence of moral reasoning against censorship, the fear of economic losses and the notion that NWICO is nothing short of a threat to U.S. national security:

If adopted, this version of the new world information order would have serious consequences for the United States. As Senator George McGovern once observed, "One way to attack a nation such as the United States which depends heavily on information and communications is to restrain the flow of information." Adopting [the Non-Alignment Movement's] proposal would mean accepting the idea of state control (i.e., censorship) over all news or information crossing a nation's borders. It would reduce greatly the amount of news about the world available to Americans and their Government. It might provide justification for countries to exclude from their markets American movies, television programs and advertising. It might even produce the extraordinary result of nationalizing information throughout the world, thereby enabling governments to tax or even prohibit computer conversations via satellites.<sup>52</sup>

As a result of these concerns, Western states staged their counterattack. They were supported by media organizations, which also saw their interests threatened and formed interest groups to lobby Western governments and international organizations on their behalf. Chief among these groups were the World Press Freedom Committee, the International Press Institute and the Inter-American Press Association. With the help of international news agencies and other commercial media outlets, these organizations launched a publicity campaign aimed at the Non-Alignment Movement and UNESCO.<sup>53</sup>

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<sup>52</sup> P.H. Power and E. Abel, "Third World vs. The Media," *The New York Times Magazine* September 22, 1980.

<sup>53</sup> Nordenstreng and Hannikainen (1984) 15-16.

This offensive was not an isolated incident; it was a matter of international politics overall.<sup>54</sup> The Western line became harder on other issues that concerned its interests. Détente of the early 1970s was replaced with “trilateralism” at the end of the decade, mobilizing the Western world to be more coherent and stronger when defending its interests.<sup>55</sup> This new strategy paid off, as they were able to stage enough opposition to the Mass Media Declaration that it was successfully stalled for a while.

Adopting more of a carrot than a stick approach, the U.S. also tried to get the more moderate developing countries onto its side by offering assistance and training for journalists, investments in communication infrastructure and other measures that would foster a knowledge transfer between advanced and developing countries. This ‘divide and conquer’ strategy led to the proposition of a “Marshall Plan of Telecommunications,” but many representatives from the developing world were not entirely convinced that the U.S. was sincere.<sup>56</sup>

Only three weeks after the Marshall Plan proposition, however, the Mass Media Declaration was passed, which some observers have characterized as a defeat for the West. U.S. efforts to de-politicize the debate by focusing on practical measures to reduce inequality in the field of communications rather than stressing normative considerations about the free flow of information certainly failed. They also did not do a lot to avoid the restrictive nature of the declaration.<sup>57</sup>

One of those normative debates emerged around the concept of the right to communicate. Originally attributed to Jean D’Arcy in 1969, it still lacks a clear

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<sup>54</sup> Ibid., 16.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid., 18-19.

<sup>57</sup> Ibid., 19.

definition. Due to the lack of consensus on these issues, the 1980 MacBride Report mentions the right to communicate only briefly and when it does, puts it in very vague terms:

Communication needs in a democratic society should be met by the extension of specific rights such as the right to be informed, the right to inform, the right to privacy, the right to participate in public communication – all elements of a new concept, the right to communicate. In developing what might be called a new era of social rights, we suggest all the implications of the right to communicate be further explored.<sup>58</sup>

Although hailed as a fundamental right that would encompass all the previously discussed communication rights (freedom of opinion, of expression, of the press), the right to communicate aimed to re-frame the issue of communication away from the mass media as a one-way information channel. Instead, D'Arcy wrote, "what matters is the establishment or re-establishment of true communication among human beings."<sup>59</sup> The existing formulations of communication rights and freedoms were no longer sufficient, he and other experts charged with investigating the right to communicate argued: "They concentrate on the content of communication. Their thrust is to ensure that the information contained in the message is available to all. The emphasis is on a one-way flow of information from the few to the many."<sup>60</sup>

Discussions like these, however, were loaded with the potential for ideological clashes, since they primarily stressed normative issues such as the place of communication rights in preserving cultural heritage and identity. The right to communicate debate, for example, was welcomed by the Third World, who regarded it as

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<sup>58</sup> International Commission for the Study of Communication Problems, "Many Voices, One World: Towards a New, More Just and More Efficient World Information and Communication Order," (London, New York, Paris: Kogan Page, Unipub, UNESCO, 1980), 265.

<sup>59</sup> Jean D'Arcy, "Preface," in *The Right to Communicate: A New Human Right*, ed. Desmond Fisher and L.S. Harms (Dublin: Boole Press, 1982), xxv.

<sup>60</sup> Desmond Fisher and L.S. Harms, eds., *The Right to Communicate: A New Human Right* (Dublin: Boole Press, 1982), 3.



a new collective right defending cultural sovereignty. But it was also supported by some in the West, most notably Sweden, who sponsored it at the UN. The MacBride Commission also concluded that the right was a central individual and social right:

Freedom of speech, of the press, of information and of assembly are vital for the realization of human rights. Extension of these communication freedoms to a broader individual and collective right to communicate is an evolving principle in the democratization process.<sup>61</sup>

Unsurprisingly, however, the right to communicate was less enthusiastically received by the U.S. and its allies, who saw it as relating to the New World Information and Communication Order proposals.<sup>62</sup> Moreover, the U.S. also tried to frame R2C as a communist ploy, despite the fact that the Soviets had their own reservations about the right. The American opposition was triggered, according to Cees Hamelink, by the link between the right to communicate and people's rights, a notion which they regarded as a threat to individual rights.<sup>63</sup>

Debates about the right to communicate continued at UNESCO throughout the 1980s, but never came to any satisfactory definition or implementation. In the 1990s, the debate disappeared almost completely, without any mentions in the Declaration of Windhoek or its successors.<sup>64</sup> But not even the Mass Media Declaration from 1978 had much of an impact.

Despite its unanimous passing, the Mass Media Declaration has little legal significance. Generally, declarations are important because they can be forerunners of binding treaties or can become international customary law. The power of a declaration depends on the way it is worded, that is, whether it is written in a way that is strong and

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<sup>61</sup> International Commission for the Study of Communication Problems (1980) 265.

<sup>62</sup> Hamelink (1994) 299.

<sup>63</sup> *Ibid.*, 300.

<sup>64</sup> *Ibid.*, 298.

obligatory. The importance of declarations also depends on whether it was adopted unanimously, whether it is referred to in later debates, or whether it intends to interpret or clarify existing legal principles or rules. The Mass Media Declaration has a poor record on most of these criteria.<sup>65</sup> And even the condition that it was a unanimous vote is weakened by the fact that the declaration was undermined by strong reservations from Switzerland, Denmark, Austria and the Netherlands as well as Third World countries, which wanted a more normative document.<sup>66</sup>

Even though the Mass Media Declaration passed, the West did not turn to drastic measures in response. They did not return to their uncompromising position that they had held during previous disputes at UNESCO meetings before and up to the Nairobi conference in 1976.<sup>67</sup> Their threat to withdraw from UNESCO entirely and the eventual follow-through by the U.S. and the UK were still six years away. Still, parallel to the deliberations on the declaration, at the same UNESCO session, the U.S. and moderate members of the Non-Alignment Movement cooperated. They intended to find a middle ground between the Marshall Plan project and the idea of developing countries to set up a fund at UNESCO for helping the improvement of communication in developing countries through a transfer of technological know-how.<sup>68</sup> This collaboration led to the creation of the International Programme for the Development of Communication two years later, apparently the lowest common denominator in terms of communication rights that all sides could agree upon.

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<sup>65</sup> Cees J. Hamelink, "MacBride with Hindsight," in *Beyond Cultural Imperialism: Globalization, Communication and the New International Order*, ed. Peter Golding and Phil Harris (London: Sage Publications, 1997), 73.

<sup>66</sup> Ibid.

<sup>67</sup> Nordenstreng and Hannikainen (1984) 90-113.

<sup>68</sup> Ibid., 20,44.

The “Great Global Media Debate” died during the 1980s, after the West waged another offensive with the help of the media and their lobbying groups that culminated with the 1981 Declaration of Talloires, which rallied Western governments and media and journalism organizations against the plan to place restrictions on press freedom. But as previous Western strategies on communication rights, this offensive also coincided with an overall shift in policy not just towards the UN, but the Soviets as well. The New World Information and Communication Order received its final blow when the West refused to compromise after calls for draft resolutions on communications issues became increasingly militant.<sup>69</sup> In the end, the U.S. and the UK even withdrew from UNESCO in 1984, UNESCO’s Director General M’Bow, who had been instrumental in the organization’s advocacy on behalf of the new information order, was unseated, and the NWICO concept met its demise.

To summarize briefly, while it seems that the Western representatives certainly believed in the merits of an unfettered press, their policies were not strictly guided by normative considerations either. On the one hand, they did regard the notion of placing restrictions on the right to freedom of information and expression as a way for Soviet leaders and Third World dictators to silence their domestic oppositions and continue their oppressive rule. On the other hand, however, the West was also driven by strategic and economic interests in opposing the proposed new information order.

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<sup>69</sup> Mehra (1986) 40.

*The 1990s and 2001*

Following the collapse of the Soviet Union, the economic incentive to champion the free flow of information evaporated. After all, the free market model had triumphed over the Soviets' command economy. Multinational media companies could now pursue their business interests in a globalized world characterized by an ever-increasing flow of information across borders. Or, as one expert put it, the <sup>70</sup> "came about – in reverse."<sup>71</sup> A new information order had already been established by CNN and other transnational corporations, so by the early 1990s, the new information order was a reality.<sup>72</sup> And with it the Western worries about regulations being imposed on their media MNCs dissipated.

Not for long, however, since the importance of strategic and economic interests is also highlighted by the Internet freedom debate that is currently the focus in the communication rights area. Even though the Cold War is over and the West is not trying to contain the Soviets anymore, there are certain parallels between the New World Information and Communication Order and Internet freedom debates at the UN. Looking at the question of why states support or oppose Internet freedom, it is obvious that the central concern is power. China, Russia and other authoritarian Internet freedom offenders are pushing for regulation of the medium. It is in their interest to maintain or extend censorship to online channels in order to consolidate their own power vis-à-vis their citizens. The Western countries, on the other hand, are interested in keeping information flowing freely. Part of it is due to their commitment to liberal values, but it is

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<sup>70</sup> Ibid.

<sup>71</sup> George Gerbner, Hamid Mowlana, and Kaarle Nordenstreng, eds., *The Global Media Debate: Its Rise, Fall, and Renewal* (Norwood, NJ: Ablex Publishing Company, 1993), xi.

<sup>72</sup> Ibid.

also in their interest to stand up to China and Russia and their growing global influence. And as during the New World Information and Communication Order debate, there is also a Western economic incentive to oppose Internet regulation due to the fact that many Internet MNCs are Western and their livelihood depends on a free flow of information.

But not just economic incentives disappeared. Politically it also did not pay to defend press freedom at the UN anymore. The West won the Cold War and there were no Soviets left to oppose or contain. Western liberal ideas seemed to have triumphed. The end of history had arrived. UNESCO had gotten rid of its trouble-maker Director-General M'Bow and took a more pro-Western, pro-free flow of information direction. Post-Soviet and non-aligned countries turned towards democracy and capitalism. To support them in this endeavor, UNESCO continued its media development programs through the International Programme for the Development of Communication, mostly funded by Western countries. UNESCO organized seminars on promoting an independent and pluralistic press in Africa, Asia, Latin America and the Caribbean, and the Arab States that led to the respective declarations on the issue of supporting a free press.

A sense of optimism abounded. A lot of trust was put into new information and communication technology and its democratizing power. After all, the Soviet Union had been brought down, as one story went, by the fax machine. "Too many people," Thomas Dine observes, "in both the post-Soviet states and in the West" believed that there was nothing that could keep the media from transforming unfree societies.<sup>73</sup> They believed "that democracy was secure, and that the future was one of unalloyed brightness."<sup>74</sup> But this optimism and confidence was premature and the West failed to use the 1990s and the

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<sup>73</sup> Dine (2001) 48.

<sup>74</sup> Ibid.

international goodwill towards its liberal values and advocate for a human rights discourse that goes to the political heart of the matter. Instead, the 1990s were a lost decade for the promotion of press freedom. Except for the International Programme for the Development of Communication, World Press Freedom Day and Windhoek and its successor declarations, press freedom and communication rights were of no interest to the West.

After the 9/11 terror attacks the cause of press freedom was even less likely to gain Western supporters on the international stage. For the U.S., the 'War on Terror' took precedence over concerns for promoting human rights. Even at home, civil liberties came under threat following the passing of the Patriot Act. Historically, this is not an isolated incident. In times of war, national security concerns tend to hold more sway than the protection of civil rights, particularly those that concern the press or freedom of expression. Governments have a stronger case to restrict these rights when there is a credible threat to the nation and its soldiers.

Enacting legislation to stifle freedom of information and of the press during war time was always controversial in the U.S. The Sedition Act of 1798, which restricted speech that was critical of the government, only lasted for a couple of years. It took more than a hundred years and World War I before a similar act, the Sedition Act of 1918, was passed. It, too, did not last long and came with a high political cost for the Democrats who proposed it.<sup>75</sup> But governments found other ways to control the press and the flow of information, always in the name of protecting its soldiers and the nation. Over the years,

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<sup>75</sup> Jeffery A. Smith, *War and Press Freedom: The Problem of Prerogative Power* (Oxford, New York: Oxford University Press, 1999). 221.

censorship techniques included news management, emphasizing secrecy, and denying access to journalists.<sup>76</sup>

The 2003 Iraq War is seen by many observers as the epitome of government media management. The Bush administration bullied reporters, isolated and limited critical reporting and was generally apt at manipulating the media, because they knew how the media operate and how to stay on message.<sup>77</sup> A report by the Reporters Committee for Freedom of the Press lays out in detail how the 'War on Terror' affects access to information and the public's right to know. It cites incidents of the U.S. military keeping journalists from access to soldiers, for example. It also concludes that the Bush administration went to unprecedented lengths in their efforts to manage the flow of information.<sup>78</sup>

Other Western countries were subject to similar trends. Deadly attacks on the transportation systems in Madrid and London also fuelled anxiety over terrorism and gave governments more tolerance and scope for implementing surveillance measures in the name of the safety of the nation and its citizens.

Even more than ten years after 9/11, its effects are still very pronounced when it comes to the national security vs. communication rights debate. Current Western administrations are also trying to control information. The Obama administration has been criticized for being the most aggressive in its 'war on leaks' since the Nixon years,

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<sup>76</sup> Ibid.

<sup>77</sup> David Dudge, *The War in Iraq and Why the Media Failed Us* (Westport, CT: Praeger, 2006). ix.

<sup>78</sup> Homefront Confidential: How the War on Terrorism Affects Access to Information and the Public's Right to Know (2005) 41.

which has the effect of intimidating government sources who could have important information relevant to public affairs and keeping them from sharing it with the press.<sup>79</sup>

In short, 9/11 was a watershed.<sup>80</sup> It changed Western priorities both in regard to their civil rights at home and in their policy agenda abroad. Fighting terrorism and keeping citizens safe started to become the go-to excuse for limiting civil rights, among them press freedom. It is no surprise, then, that press freedom did not gain much support in the context of the UN human rights discourse from the West following 9/11.

So although the U.S. rejoined UNESCO in 2003, the visibility of the press freedom issue did not increase. The World Summit on the Information Society in the early 2000s drew some attention to the issue of communication rights, but it was primarily focused on the Internet and not much came of it anyway. Press freedom rankings and the number of journalists killed in various countries are often brought up by Western states at the Universal Periodic Review process at the Human Rights Council, but actions to elevate the protection of press freedom to a central concern of the human rights discourse are lacking. It seems like press freedom, or rather the lack of it, is good enough for the West to be used as a measure to criticize other countries. But it is not good enough to them to act proactively and seriously address the political importance of press freedom as the basis for the implementation of all other human rights.

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<sup>79</sup> Leonard Jr. Downie and Sara Rafsky, "The Obama Administration and the Press: Leak Investigations and Surveillance in post-9/11 America," Committee to Protect Journalists, <http://cpj.org/reports/2013/10/obama-and-the-press-us-leaks-surveillance-post-911.php>.

<sup>80</sup> Ibid.



## Conclusion

The conclusion is thus clear: power and politics trump ideas or norms when it comes to press freedom at the UN. Kaarle Nordenstreng reached the same conclusion about the New World Information and Communication Order debate:

NWICO was not really about media or communication but basically about 'high politics.' The first lesson to be learned about the NWICO story is indeed that the determining factors are socio-economic and geopolitical forces rather than intellectual and moral arguments. In other words, power rather than reason sets the rules of debate.<sup>81</sup>

The New World Information and Communication Order debate dominated UNESCO in the 1970s and 1980s, but more than twenty years after its end, the same dynamics seem to be at play when it comes to the area of communication rights at the UN. Some might argue that this is a natural byproduct of any liberal project in a realist world, that "the international law of human rights all too often reflects a realist world."<sup>82</sup> But it is difficult to find an area of human rights that historically has been as contested as the one of communication rights. Other human rights, like women's rights for example, have made an enormous amount of progress since 1945, while press freedom and its cousins have been stuck in the same controversial debates and is still sidelined at the UN.

Compared to other human rights, press freedom had much more time to become an established international norm given its historical significance in fighting government oppression. Our thinking on issues such as slavery or racial and gender inequality have been overhauled. Even the concept of development, which is closely linked to other human rights such as food security, have undergone a process of rethinking. When it

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<sup>81</sup> Kaarle Nordenstreng, "The History of NWICO and Its Lessons," in *From NWICO to WSIS: 30 Years of Communication Geopolitics*, ed. Divina Frau-Meigs (Bristol, UK and Chicago: intellect, 2012), 36.

<sup>82</sup> Forsythe (2012) 317.

comes to press freedom or even freedom of information that is not the case. Internet freedom is the latest complication in the discourse, but the debate follows the same pattern as the discussion over freedom of information at the early stages of the UN and the New World Information and Communication Order debate during the 1970s. Strategic and economic interests defeat the notion that the free press is a key liberal institution that is essential for democracy and human rights.

A similar argument could be made for other civil and political rights, like the right to peaceful assembly or association. The UN human rights discourse steers clear of these subjects much like they prefer to stay away from any honest discussion of press freedom and its central political role. What this shows, though, is the broader realization that the human rights regime still inhabits an overwhelmingly realist world, one in which despite a vast net of transnational actors state power and interests still largely outweigh any normative progress. In many cases the existence of transnational actors and the effects of interdependence and globalization have had a mitigating effect on such normative progress in the sense that most states do not want to be seen as human rights violators and sign on to international treaties and obligations. In practice, it often looks differently, even in the case of such widely championed issue as women's rights. But in the case of press freedom states do not even pretend that it is something that needs to be protected or promoted in their rhetoric. And if they do, it is of marginal concern.

This is further reinforced by the fact that the West was trying to avoid normative discussions about the role of information and the press during the early stages of the International Bill of Rights and the New World Information and Communication Order debate. Granted, they probably knew that during the Cold War this would have been a

futile endeavor due to the opposing ideological points of view. However, Western policy on communication rights has not changed at all since the end of the Cold War. The early 1990s were marked by Windhoek and the related declarations in order to push for regional implementation of press freedom standards. Yet, these initiatives coincided with the enthusiasm for liberal values after the demise of communism. And once the initial euphoria wore off, not a lot happened in terms of expanding on issues of freedom of information or of the press. To this day, the International Programme for the Development of Communication is the main channel for grassroots media development at the UN. It was underfunded when it was founded and it is underfunded now. Compared to the rest of the UNESCO Communications and Information operations, under which press freedom falls, it is the most effective, however.

None of the evidence presented in this and the previous chapter supports the view that press freedom or even freedom of information or expression is a high priority for the UN or its Western liberal member states. What is more, the fact that the existing discourse is void of any real discussion of the role of the press, or media, as a key political institution can only lead to one conclusion: namely that states do not want to talk about it. Since a free press is a thorn in the side of every government, whether democratic or not, this may not be surprising. What is surprising, however, is that this matter has attracted such limited attention so far. A lot of the current human rights literature and observers agree on the fact that the needed human rights instruments are in place, and that the real battle now is to implement them. If this is truly the case, then what should be addressed are the underlying political issues of press freedom, freedom of information,

freedom of assembly and association and related rights, because they are the key to free, healthy and prosperous societies.

## CHAPTER 5

# NON-STATE ACTORS AND THE PROMOTION OF PRESS FREEDOM

### Introduction

Academics have dedicated many pages of scholarship to the role of the media in international affairs, because of their many influences on the world. The rise of the mass media, for instance, has contributed to the democratization of world politics: Foreign policy used to be in the hands of diplomats, now it is in the hands of everyone. The world has become a global village because mass media and information and communication technologies enable information to cross borders fast and easily. Thanks to the Internet this trend has been further amplified. These days it is not just information that spreads easily across borders, social movements do, too, and they are facilitated by the media, old and new.

Media coverage is also said to influence foreign policy, particularly in democracies, as a result of the CNN effect, for instance.<sup>1</sup> War reporting can have serious consequences for foreign policy as well, as the 2003 Iraq War has shown.<sup>2</sup> In some cases, the media are even powerful enough to incite war, as was the case in Rwanda in the early 1990s, when print and radio media broadcast hate speech against the Tutsis.<sup>3</sup>

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<sup>1</sup> See for example Piers Robinson, *The CNN Effect: The Myth of News, Foreign Policy and Intervention* (London, New York: Routledge, 2002).

<sup>2</sup> Lance W. Bennett, Regina G. Lawrence, and Steven Livingston, *When the Press Fails: Political Power and the News Media from Iraq to Katrina* (Chicago: University of Chicago Press, 2007).

<sup>3</sup> Allan Thompson, ed. *The Media and the Rwanda Genocide* (London, Ann Arbor: Pluto Press, 2007).

But plenty of studies have also found that the media can facilitate peace and promote human rights, as previous chapters of this dissertation have shown. With such a wide array of effects, the impact of the media on international politics is therefore significant. As advocates of press freedom, on which their livelihood and safety depends, however, the influence of the media is limited. This chapter examines the role of the media in the context of promoting freedom of the press and finds that it lacks advocates and resources, not just in the media themselves, but also in the NGO community and the public.

### The Public Attitude Towards the Press

The days when journalism was seen as an honorable field and journalists were viewed as the noble defenders of democracy are over. In 2011, 42 percent of people participating in a poll conducted by the Pew Center on the People and the Press in the U.S. said that the media hurt democracy (Figure 3). Overall, public trust in the media in the U.S. has declined steadily since the 1970s (Figure 4). The most recent polls find that the news media are among the least trusted institutions.

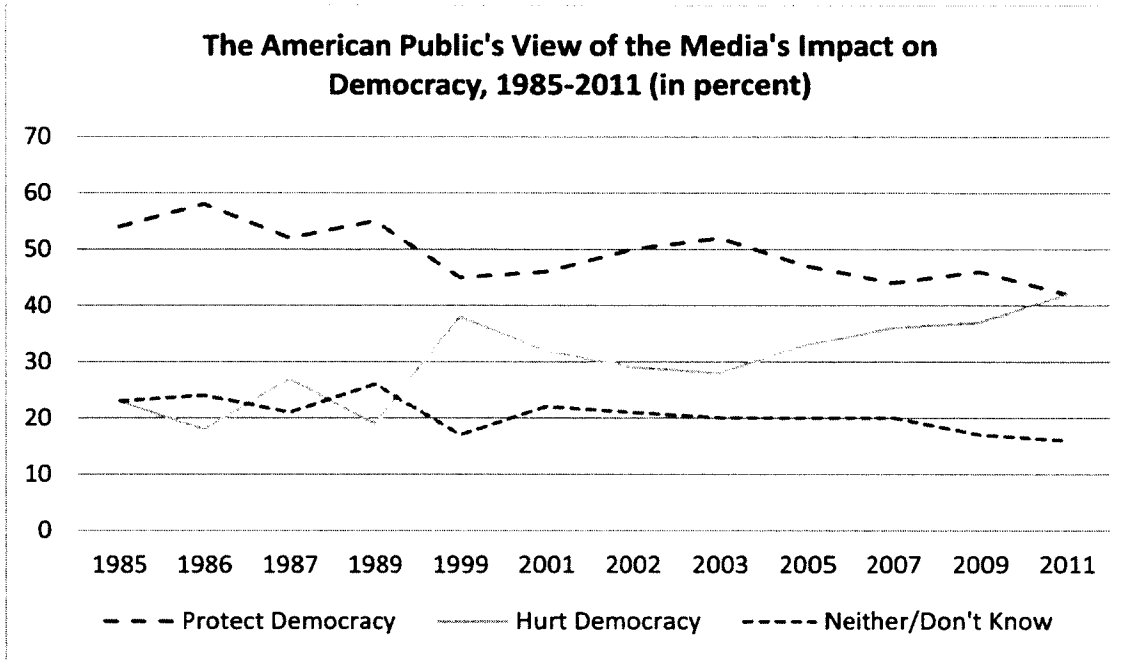


Figure 3. The American Public's View of the Media's Impact on Democracy, 1985-2011.<sup>4</sup>

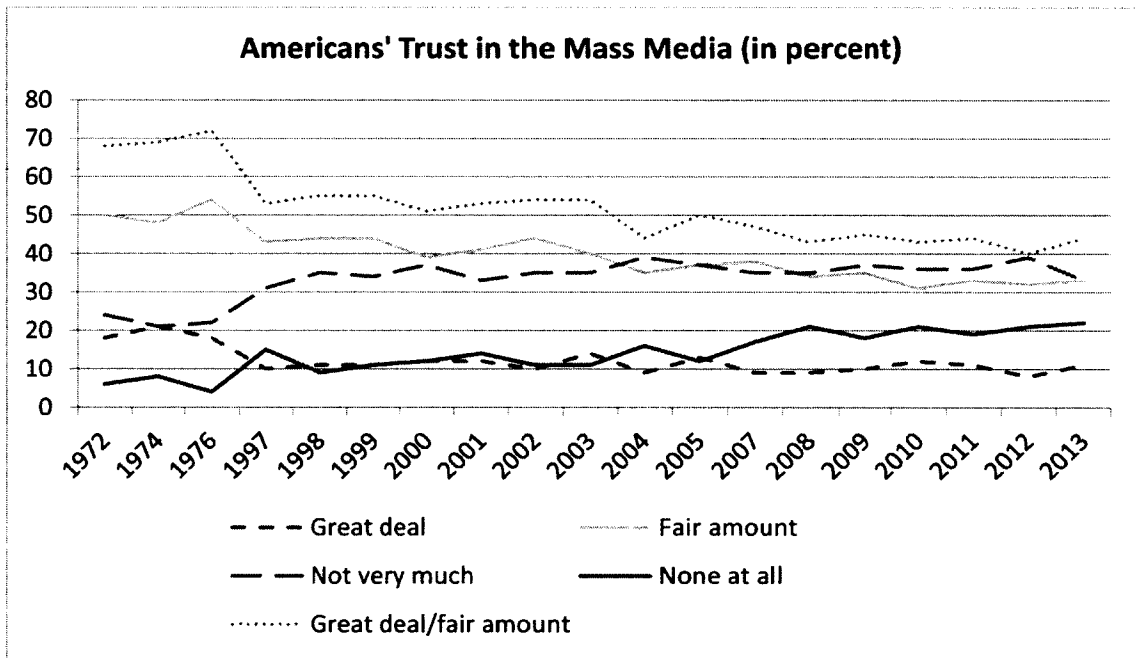
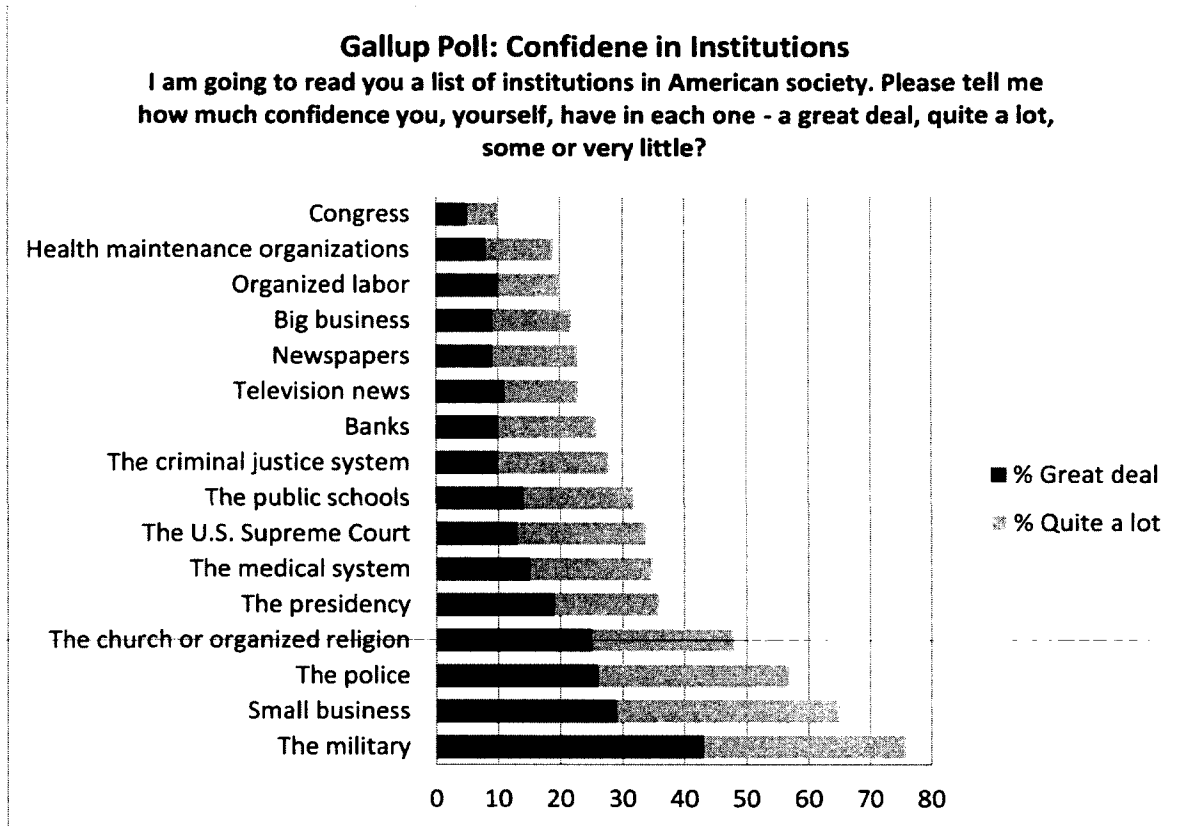


Figure 4. The American Public's Trust in the Mass Media.<sup>5</sup>

<sup>4</sup> Pew Research Center for the People & the Press, "Press Widely Criticized, But Trusted More Than Other Information Sources #11," <http://www.people-press.org/2011/09/22/press-widely-criticized-but-trusted-more-than-other-institutions/9-22-11-11/>.

In a 2013 Gallup poll, only 23 percent of the respondents said that they trusted television news and newspapers ‘a great deal’ or ‘quite a lot.’ This leaves the news media just ahead of big business and behind banks in terms of institutional trustworthiness (see Figure 5).



**Figure 5. The American Public’s Confidence in Institutions, 2013.<sup>6</sup>**

Young Americans are equally as skeptical about the media. A 2013 poll conducted by Harvard’s Institute of Politics found that only 11 percent of the approximately 3,000 surveyed young adults between the ages of 18 and 29 have

<sup>5</sup> Elizabeth Mendes, "In U.S., Trust in Media Recovers Slightly From All-Time Low," Gallup, <http://www.gallup.com/poll/164459/trust-media-recovers-slightly-time-low.aspx>.

<sup>6</sup> Gallup, "Confidence in Institutions," <http://www.gallup.com/poll/1597/confidence-institutions.aspx/>.



confidence in the media.<sup>7</sup> According to the poll, young Americans trust Wall Street more than they trust the media to do the right thing all of the time or most of the time.

This loss of trust development is not confined to the American media, however. Europe is following a similar trend. As Figure 6 shows, the number of people in the EU who 'tend not to trust' the media has gone up since 2003, with the press considerably ahead of other media outlets in terms of public confidence.

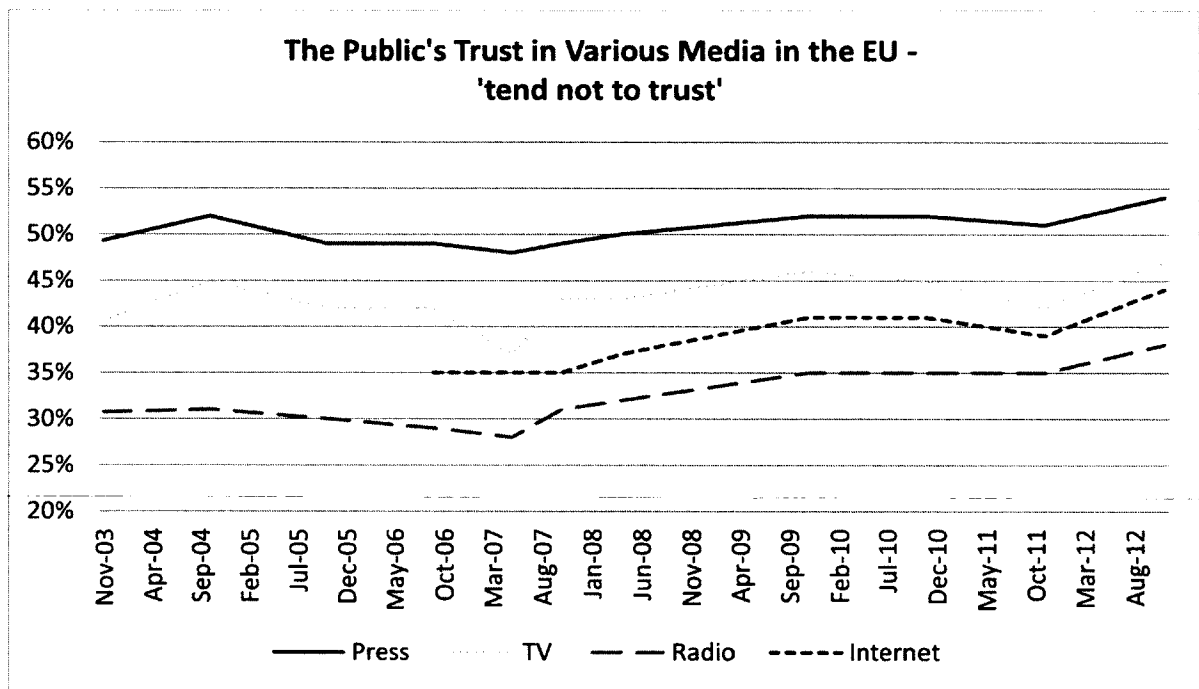


Figure 6. Public Trust in the Media in the EU.<sup>8</sup>

Where does this mistrust come from? Research carried out by the Pew Center for the People and the Press shows that negative views of the news media have increased considerably over the last 30 years. The number of survey respondents who think that the

<sup>7</sup> Harvard University Institute of Politics, Survey of Young Americans' Attitude Toward Politics and Public Service, (Cambridge, MA: Harvard University Institute of Politics, 2013), [http://www.iop.harvard.edu/sites/default/files\\_new/spring\\_poll\\_13\\_Exec\\_Summary.pdf](http://www.iop.harvard.edu/sites/default/files_new/spring_poll_13_Exec_Summary.pdf) 15.

<sup>8</sup> Data retrieved from "Eurobarometer Interactive Search System," European Commission, [http://ec.europa.eu/public\\_opinion/cf/index.cfm?lang=en](http://ec.europa.eu/public_opinion/cf/index.cfm?lang=en).

media often publish inaccurate stories, favor one side in their coverage, and are often influenced by powerful people or organizations is now in the 66, 77 and 80 percent range respectively (Figure 7). The vast majority of participants also said that news organizations tried to cover up mistakes (72 percent) as opposed to being willing to admit mistakes (18 percent). In 1985, 55 percent of respondents said the media were trying to cover up their mistakes, and 34 said they were willing to admit mistakes.<sup>9</sup>

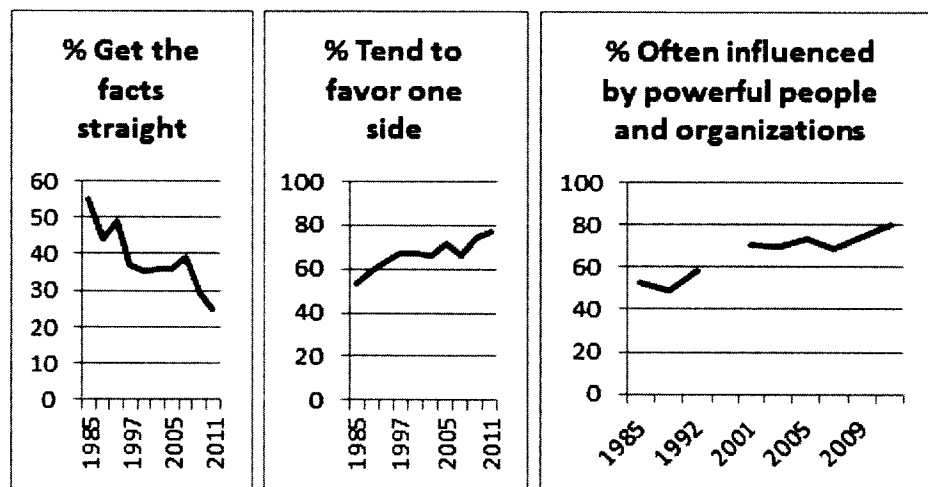


Figure 7. Public Evaluations of Press Performance in America, 1985-2011.<sup>10</sup>

Another study supports these findings, arguing that the loss of trust in the media is due to two main factors: elite opinion leadership (that is, partisan media criticism) and tabloid-style news coverage.<sup>11</sup> The consequences of this increasing public distrust of the media are far-reaching. But before addressing them, a closer look at the reasons why the

<sup>9</sup> Pew Research Center for the People & the Press, "Press Widely Criticized, But Trusted More Than Other Information Sources #10," <http://www.people-press.org/2011/09/22/press-widely-criticized-but-trusted-more-than-other-institutions/9-22-11-10/>.

<sup>10</sup> Pew Research Center for the People & the Press, "Press Widely Criticized, But Trusted More Than Other Information Sources #9," <http://www.people-press.org/2011/09/22/press-widely-criticized-but-trusted-more-than-other-institutions/9-22-11-9/>.

<sup>11</sup> Jonathan M. Ladd, *Why Americans Hate the Media and How It Matters* (Princeton: Princeton University Press, 2012).

public has lost confidence in the press, or news media, and the broader driving forces behind them is warranted.

*Business v. Audience Interests*

Journalism is vital for a functioning democracy, but it is also a business. As a consequence, it is driven by market forces. At the same time, news is not a commodity like any other, which creates problems like inadequate coverage of public affairs, the ‘race to the bottom’ or increased coverage that is biased and caters to people’s already formed opinions.

There are several characteristics that define the special nature of media products. First, like public goods, the news and other media products can be watched or read by anyone without limiting anyone else’s ability to watch or read the same news. Media products incur high first-copy costs, meaning owners and editors have to invest a lot of resources to create a news broadcast or article, but once it is published, it does not cost anything (or very little) to circulate it to any more readers or viewers.<sup>12</sup> These factors make it difficult for media organizations to adequately charge for their news services, so that they then, in turn, can invest these revenues into better public affairs coverage. What is more, not being able to exclude people who do not pay for their consumption of news might discourage news organizations to create certain types of news.<sup>13</sup> This is further reinforced by the fact that competitors can also use news stories once they are circulated,

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<sup>12</sup> Edwin C. Baker, *Media, Markets and Democracy* (Cambridge: Cambridge University Press, 2002). 8-10.

<sup>13</sup> James T. Hamilton, *All the News That's Fit to Sell* (Princeton: Princeton University Press, 2004). 9.

which also lowers incentives for original and investigative reporting, as these types of news take more time and resources.<sup>14</sup>

Second, news products create positive externalities. Those readers or viewers who are interested in learning about public affairs will learn about policies, candidate positions and other issues that will help them make better choices when they go to vote. This benefits society on the whole, since the votes of better-informed citizens might positively impact the lives of those who did not take the time to inform themselves on public affairs issues. However, since readers and viewers do not fully take into account the impact their reading or watching the news has on society, they will not be likely to express a great desire to consume the news, hence limiting the demand for it.<sup>15</sup>

Third, media products are peculiar in that although they cater to advertisers and audiences, they often only charge the advertisers. Since the value of a product is made up of the combined value of the product for the advertiser *and* the audience, this creates inadequate incentives for the broadcasters to spend resources on quality news programming. The fact that the media are heavily reliant on advertising creates further problems. They are often brought up in the context of the claim leveled against the media that powerful people or organizations have an impact on the nature of news coverage. Because the media rely on advertisers, they are more likely to modify their coverage in ways that do not alienate advertisers, thus potentially creating a conflict between the interests of the audience and those of the advertisers.<sup>16</sup> The influence of advertisers might also extend to considerations over which target audience the news should cater to. Young

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<sup>14</sup> Ibid., 3.

<sup>15</sup> Ibid., 10-13.

<sup>16</sup> Baker (2002) 11-12.

people are the most sought after advertising target group, but they are also often less interested in public affairs.<sup>17</sup>

Related to this third point is another concern many media critics bring up often: the fact that media ownership has become highly concentrated over the last three decades, to the point where only a handful of media multinationals own the majority of media outlets.<sup>18</sup> As a result of this consolidation, journalists are more likely to exercise self-censorship to avoid a clash with the owner's interests, critics say.

Fourth, media products are peculiar in that it is difficult for media organizations to give audiences what they want. The reason for this lies in the difficulty of assessing why or how audiences value news products.<sup>19</sup> Some readers or viewers are interested in local news, others follow politics in the capital, and another group would like to know the latest Hollywood gossip.<sup>20</sup> Differing interests combined with high costs and the fact that media products have to be consumed to be fully understood all contribute to the overall challenge of meeting the needs of the audience while also turning a profit.

Media outlets attempt to tackle this problem by reporting in predictable ways. Another way is to create brands, which are often focused on the personality of news anchors.<sup>21</sup> This trend has led to media criticism, however, decrying the cult of celebrity and the watering down of news coverage. In this context, the news media also gain the reputation for not being an independent watchdog, but rather a lapdog, as journalists rub shoulders with the rich and the powerful. As journalists become wealthy and/or famous,

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<sup>17</sup> Hamilton (2004) 4.

<sup>18</sup> Dwayne Winseck and Dal Yong Jin, eds., *The Political Economies of Media: The Transformation of the Global Media Industries* (London: Bloomsbury Academic, 2011), 8, 15.

<sup>19</sup> Baker (2002) 12.

<sup>20</sup> Hamilton (2004) 13.

<sup>21</sup> *Ibid.*, 2.

one expert points out, they “join the country club, and start spending time with people of power.”<sup>22</sup> They start out on the side of the people, but as they become friends with the powerful, they stop challenging power, the argument goes.

Another consequence of the business side of journalism and its need to be profitable is the chase for additional consumers, which results in a ‘raise to the bottom’ because the content will often reflect the preferences of those viewers or readers who are least interested in public affairs reporting.<sup>23</sup> The result is more sensational, tabloid-style news coverage that Ladd identifies as one of the main reasons for public distrust in the media.

Interestingly, the very economic and technological forces that drove the broadcast media towards more partisan coverage in the 1990s were also behind the decline of the partisan press in the 19<sup>th</sup> century. Back then, the availability of high-speed printing presses made it possible to reach many more customers and in order to reach them and gain more attention from advertisers, the newspapers refrained from covering events in a partisan manner.<sup>24</sup> The standard of journalistic objectivity was born.

In the 1990s, however, this trend started to reverse, particularly in the area of broadcast news. Because the television networks saw increased competition from cable channels, programmers started to focus on the marginal viewers and other attractive advertising target groups, who were more interested in soft news programming and issues that fall on the liberal side of the political spectrum.<sup>25</sup> The same rationale was behind the emergence of the Fox News Channel. Due to the fact that more and more channels

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<sup>22</sup> William Serrin, *The Business of Journalism*, ed. William Serrin (New York: The New Press, 2000). x.

<sup>23</sup> Hamilton (2004) 2.

<sup>24</sup> *Ibid.*, 3.

<sup>25</sup> *Ibid.*

competed for viewers, it was not necessary to appeal to a big audience anymore, and the channel's coverage started catering to its conservative viewer base.<sup>26</sup>

With the influx of partisan news, and radio channels and network news aiming at marginal audiences, it is no surprise that many Americans regard the current news coverage as extremely biased. While media bias is real, the assumption that the media are pushing an ideological agenda is not. They are simply driven by market forces.

This is the reason why many observers point out that press freedom in the West is primarily threatened by economic factors, rather than political ones. Because media organizations have to turn a profit and are threatened by financial cuts, they have fewer resources to invest in public affairs coverage and investigative reporting due to the reasons listed above in more detail. In short, press freedom is threatened not because the government is trying to control the flow of information, but because the need for profit, and consolidated ownership by rich and powerful individuals undermines the independence of the press.

While economic trends are certainly influential, political control still poses the primary threat to press freedom. This claim is supported by Freedom House statistics. Freedom House rankings are based on three categories: the legal environment, the political environment and the economic environment of the country in question.<sup>27</sup> In the 2013 edition of the organization's Freedom of the Press report, Western states score better in the economic category than in the political one. This shows that despite worrying economic trends in the Western media landscape, political forces are more threatening to press freedom – even in the West.

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<sup>26</sup> Ibid.

<sup>27</sup> Freedom House, "Freedom of the Press 2013 - Methodology," <http://www.freedomhouse.org/report/freedom-press-2013/methodology>.

Ladd's finding that partisan media criticism is one of the major contributors to the increasing public distrust of the news media in the U.S. further highlights the political threat, which press freedom faces. What it comes down to is the fact that those in power are undermining the press. Politicians have various ways of doing so, from giving out so-called gag orders and passing legislation on confidentiality of journalistic sources to managing access to official press conferences and other government events and information. Another, rather successful, way has been to criticize the media in ideological terms, that is, liberals and conservatives alike condemning the news media for being too biased. Or, to put it in Craig Crawford's words: "[p]oliticians won the war against the media with a simple rule: first, attack the messenger."<sup>28</sup>

### *Consequences of Public Distrust in the Press*

The consequences of this sad state of affairs in media popularity are significant. A recent American study found that those who distrust the media are less likely to accept new information from the news media and more likely to turn to partisan outlets for new information. This means their beliefs also tend to be more partisan and less accurate, which in turn has an impact on the political system and society as a whole, as citizens become less informed.<sup>29</sup> Furthermore, due to this negative effect on political learning, electoral outcomes are also impacted. When voting, people who distrust new information rely more on party identification and less on actual circumstances, like the current

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<sup>28</sup> Craig Crawford, *Attack the Messenger: How Politicians Turn You Against the Media* (Lanham, MD: Rowman & Littlefield, 2006). 15.

<sup>29</sup> Ladd (2012) 138.



economic situation. Therefore, media distrust has effects on the way the public holds the government accountable in elections.<sup>30</sup>

Media distrust affects press freedom as well. If the public does not trust the media, they are less likely to stand up for the freedom of the press or that of the media. And if the public does not stand behind them, then who does? Politicians are very unlikely candidates, because they would like nothing more than to control the flow of information. As will be discussed later in this chapter, it is also difficult for the media to take a stand because they are supposed to be objective. If they do lobby governments for legislation they are blamed for being in cahoots with the rich and powerful, or for being guided by their rich owners.

This is not to say that the media do not deserve their share in taking the blame for the increase in public mistrust. The false Benghazi report by CBS' *60 Minutes* and misleading reports by various media outlets in the wake of the Boston marathon bombings did not help the reputation of the American television news in 2013.<sup>31</sup> Neither did the actions by the *News of the World* reporters in the UK and Rupert Murdoch's attempts at keeping politicians from investigating the scandal in recent years.

But despite such regrettable episodes and growing concerns over economic driving forces behind the news media, it is worth noting that there never was a golden age of journalism free from economic influences. What is more, the vast majority of journalists is still very much interested in serving the public. Journalism schools still teach codes of conduct and professional ethics. And, by and large, news media

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<sup>30</sup> Ibid., 176.

<sup>31</sup> Bill Carter, "The F.B.I. Criticizes the News Media After Several Mistaken Reports of an Arrest," *The New York Times* April 17, 2013. <http://www.nytimes.com/2013/04/18/business/media/fbi-criticizes-false-reports-of-a-bombing-arrest.html>

organizations adhere to them. Luckily, polls also show that the public still recognizes these circumstances. Journalists have fallen drastically in the public esteem, with only 28 percent of the public saying that journalists contribute a lot to society.<sup>32</sup> But the public also regards the news media as highly professional and believes that journalists care about how good a job they do.<sup>33</sup> Overall, the American public thinks that the watchdog role of the press has its merits and keeps political leaders “from doing things that should not be done.”<sup>34</sup>

The consolidation of media ownership is a reality and certainly has its drawbacks, but not all of its consequences might be negative. For example, consolidation of ownership might mean that news desks can tap into greater resources and invest time and effort into investigative reporting. This new state of media structure also comes with a trend towards absentee stockholders, which means a lot of the day-to-day decision-making is left to professional managers and editors who care about more than making profits.<sup>35</sup>

In the end, it is important to remember that news media trends, like the rise of news anchor celebrities, biased coverage and ownership consolidation, are first and foremost about people and their preferences and not about the media themselves. James Hamilton argues:

I believe the more fundamental truth is that our problems lie not in our media stars but in ourselves. Those making efforts to improve media markets need to

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<sup>32</sup> Pew Research Center on Religion & Public Life, "Public Esteem for Military Still High," <http://www.pewforum.org/Other-Demographics/Public-Esteem-for-Military-Still-High.aspx#journalists>.

<sup>33</sup> Pew Research Center for the People & the Press, "Press Widely Criticized, But Trusted More Than Other Information Sources #8," <http://www.people-press.org/2011/09/22/press-widely-criticized-but-trusted-more-than-other-institutions/9-22-11-8/>.

<sup>34</sup> Pew Research Center for the People & the Press, "Press Widely Criticized, But Trusted More Than Other Information Sources #6," <http://www.people-press.org/2011/09/22/press-widely-criticized-but-trusted-more-than-other-institutions/9-22-11-6/>.

<sup>35</sup> David Demers, *Global Media: Menace or Messiah?*, Rev. ed. (Cresskill, NJ: Hampton Press, 2002). 7.

recognize that news emerges not from individuals seeking to improve the functioning of democracy but from readers seeking diversion, reporters forging careers, and owners searching for profits.<sup>36</sup>

If the public doesn't want a free press then there won't be one.<sup>37</sup> And if the public does not stand behind the press, its surrogate, then there is no reason why Western governments should promote press freedom internationally in the context of promoting human rights and democracy. While other human rights issues, like equality of women and minorities, have broad domestic constituencies and thus more visibility, press freedom advocates find themselves marginalized and with limited resources. More often than not the first thing they hear when championing the press, is that the media are no good, biased and run by big business. But by focusing exclusively on the negative aspects of the press in the West, we undermine its status as a political institution that is the very basis for the democratic systems in Western liberal states. As one observer puts it:

Corporate and global media are almost always portrayed as organizations that work to the disadvantage of all except a small group of political and economic elites. Even when a series of investigative news reporting uncovers wrongdoing and the political system makes statutory changes that benefit the disadvantaged, critics typically see this as an anomaly that has virtually no impact on changing the power structure, even in the long run.<sup>38</sup>

In reality, it is the opposite. Free and unfettered news media, whether global, corporate, or local, work to the advantage of all except a small group of political elites. Even if they slip up or chase after ever more profit promising formats, the good they bring far outweighs the bad. Government officials and their access to legitimate violence is a far greater threat to political and civil rights than media conglomeration or a rogue reporter here or there.

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<sup>36</sup> Hamilton (2004) 6.

<sup>37</sup> Altschull (1990) 111-12.

<sup>38</sup> Demers (2002) 94.

The good news is that the awareness that the news media are fulfilling an important political role by keeping politicians in check still remains. In many developing and emerging countries journalists are, of course, leading human rights defenders, who try to inform their fellow citizens about the things they need to know and speak truth to power, in states where this can cost them an extended time in prison or even their life. Western publics will have to adjust their attitude towards the press and its freedom, if they want to truly help these human rights defenders and make any advances in implementing, protecting and promoting civil and political rights internationally – and at home.

#### Non-Governmental Organizations

There are, of course, non-governmental organizations that are on the case of promoting and protecting press freedom. But even here the work that is done is limited. As of September 2013 there were 36 non-governmental organizations working on media and communications related issues registered in consultative status with the UN Economic and Social Council (ECOSOC) and other UN agencies.<sup>39</sup> To compare, there are 349 organizations registered that work on women's rights issues. There are also several big human rights organizations that promote freedom of expression, freedom of information and, to a lesser degree, press freedom.<sup>40</sup> However, they do not dedicate significant resources to the advancement of press freedom and related issues.

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<sup>39</sup> A list of these organizations is attached as an appendix.

<sup>40</sup> These organizations are Freedom House, Amnesty International, Human Rights First, Human Rights Internet, Human Rights Watch and Internet Society.

The communications NGOs can be broadly divided into two subcategories. On the one hand there are the NGOs that mainly represent business interests of various media organizations. The most notable of these are the Inter-American Press Association, the International Press Institute, the World Press Freedom Committee, the Association for the Promotion of the International Circulation of the Press, the International Federation of Journalists, the International Federation of the Periodical Press, and the International Publishers Association.

Most of these are not very active at the UN, however. A search of the UN's Official Document Search shows that with the exception of the World Press Freedom Committee all of these organizations are almost exclusively mentioned in UN documents relating to the annual listing of NGOs in consultative status or the quadrennial report that is required to maintain their status. The World Press Freedom Committee is also mentioned in a Universal Periodical Review on Tunisia from 2008, to which it contributed.<sup>41</sup> Mostly, however, the World Press Freedom Committee entries date back to the 1990s. If they are more recent, they usually refer back to the Committee's activities in the 1980s, when it was very active in opposing the proposed New World Information and Communication Order.

The second category is made up of NGOs that are concerned with human rights violations, particularly in the field of freedom of expression and press freedom. The most prominent are the Committee to Protect Journalists, Reporters Without Borders/Reporters Sans Frontières and Article 19: International Centre against Censorship. The latter two are considerably more active at the UN than the industry NGOs. Article 19, which gained

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<sup>41</sup> Human Rights Council, "Summary Prepared by the Office of the High Commissioner for Human Rights," (A/HRC/WG.6/1/TUN/3: UN General Assembly, March 11, 2008).

consultative status in 1991, comes up 208 times in the Official Document Search. Some documents are related to NGO status, but most results are from ECOSOC documents (154) and the rest come from the Human Rights Council (54). Reporters Without Borders is even more active, evidenced by nearly 700 Official Document Search results. Most of them, roughly 500, are Human Rights Council documents and 78 of those are written statements submitted by Reporters Without Borders on topics such as the status of press freedom worldwide,<sup>42</sup> the safety of journalists,<sup>43</sup> or the situation of press freedom in specific countries.<sup>44</sup>

Despite the best efforts of organizations like Reporters Without Borders, however, groups working on press freedom and related issues make up only a very small part of the overall community of human rights organizations. Even Freedom House, which does high profile work on the status of global press freedom with its annual Freedom of the Press reports, also has an agenda of other issues that it champions at the UN. Overall, the Official Document Search returns 804 documents on Freedom House, but only 119 feature a mention of press freedom or freedom of the press. Yet, 334 mention the Internet, Internet freedom or Internet censorship. This is hardly surprising, given the fact that Freedom House has also been monitoring the state of freedom on the Internet since 2009. However, it also shows the relative priority given to press freedom on the agenda of many human rights NGOs when they lobby various UN bodies.

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<sup>42</sup> Human Rights Council, "Written Statement Submitted by Reporters Without Borders International," (A/HRC/23/NGO/37: UN General Assembly, May 17, 2013).

<sup>43</sup> Human Rights Council, "Written Statement Submitted by Reporters Without Borders International," (A/HRC/24/NGO/32: UN General Assembly, September 4, 2013).

<sup>44</sup> Human Rights Council, "Written Statement Submitted by Reporters Without Borders International," (A/HRC/13/NGO/88: UN General Assembly, February 24, 2010).

The low priority given to press freedom is further demonstrated by the fact that Human Rights Watch features a press freedom section on its website, but does not employ an expert on the topic. In fact, the only expert on free speech issues is someone with expertise in Internet freedom. Similarly, the website of Human Rights First has a whole section entitled Internet Freedom and Privacy, but press freedom is absent. Searching their website brings up only 58 results on press freedom altogether.<sup>45</sup>

Many of the human rights NGOs mentioned above, while active in raising awareness of press freedom violations, are not directly supported by the media. Many of their members are journalists and a lot of their leadership and employees are, or were, as well. However, as listed in Table 2, the most active organizations at the UN in this regard, tend not to be funded by the media, or if they are, contributions from media organizations only make up a small part of their budget. Reporters Without Borders, for example, relies mainly on its own publications (45.4 percent) for its budget. Donations from corporate entities (which could or could not be media companies) make up 17.8 percent of their most recent budget.<sup>46</sup> Article 19, however, does not seem to count any media organizations among its donors, according to their annual reports. Instead, it is funded primarily by government and foundation grants.<sup>47</sup>

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<sup>45</sup> "Human Rights First - Google Custom Search,"

[http://www.google.com/cse?cx=001648087321990522602%3AAbthlnzx1is4&ie=UTF-8&q=%22freedom+of+the+press%22&siteurl=www.humanrightsfirst.org%2Four-work%2Fbusiness-and-human-rights%2Finternet-freedom-and-privacy%2F&ref=www.humanrightsfirst.org%2F&ss=3620j1529928j24&oq=%22freedom+of+the+press%22&gs\\_l=partner.3...98688.102245.0.102433.22.22.0.0.0.125.1434.18j4.22.0.gsnos%2Cn%3D13...0.3620j1529928j24..1ac.1.25.partner..19.3.110.jfH9yNKWHol#gsc.tab=0&gsc.q=%22press%20freedom%22.](http://www.google.com/cse?cx=001648087321990522602%3AAbthlnzx1is4&ie=UTF-8&q=%22freedom+of+the+press%22&siteurl=www.humanrightsfirst.org%2Four-work%2Fbusiness-and-human-rights%2Finternet-freedom-and-privacy%2F&ref=www.humanrightsfirst.org%2F&ss=3620j1529928j24&oq=%22freedom+of+the+press%22&gs_l=partner.3...98688.102245.0.102433.22.22.0.0.0.125.1434.18j4.22.0.gsnos%2Cn%3D13...0.3620j1529928j24..1ac.1.25.partner..19.3.110.jfH9yNKWHol#gsc.tab=0&gsc.q=%22press%20freedom%22.)

<sup>46</sup> Reporters Without Borders, *Reporters Without Borders: For Freedom of Information*, (Paris: Reporters Without Borders, 2011), [http://issuu.com/rsf\\_webmaster/docs/plaquette\\_issuu\\_gb/19?e=0](http://issuu.com/rsf_webmaster/docs/plaquette_issuu_gb/19?e=0). p. 19.

<sup>47</sup> Article 19, "Funders," <http://www.article19.org/pages/en/funders.html>.

NGO	Members Leadership	Donations Membership fees from media?	partly government funded?	UN consultative status
<b>Inter-American Press Association (IAPA)</b>	Publications or newspaper chains	yes	unknown	ECOSOC, since 1953
<b>International Press Institute (IPI)</b>	editors, media executives, leading journalists	yes	yes	ECOSOC, since 1993
<b>World Press Freedom Committee (WPFC)</b>	national and international news media organizations	yes	unknown	UNESCO
<b>Committee to Protect Journalists (CPJ)</b>	media executives, journalists	yes	no	
<b>Reporters Without Borders (RWB)</b>	journalists	corporate, foundations	yes	ECOSOC, since 1993
<b>Article 19</b>	human rights/NGO experts	no	yes	ECOSOC, since 1991
<b>Journalists for Human Rights (jhr)</b>	human rights/NGO experts, journalists	no	yes	
<b>IFEX</b>	representatives of IFEX network organizations	no	yes	
<b>Reporters Committee for the Freedom of the Press (RCFP)</b>	journalists, lawyers	corporate, foundation and individual	no	
<b>Association for the Promotion of the International Circulation of the Press (DISTRIPRESS)</b>	press distribution companies	Yes, in the form of membership dues	no	UNESCO
<b>International Federation of Journalists (IFJ)</b>	Journalist associations and trade unions	Yes, in the form of membership dues	no	ECOSOC, since 1953
<b>International Federation of the Periodical Press (FIPP)</b>	Media owners, associations, service providers and individuals	Yes, in the form of membership dues	no	UNESCO, WIPO <sup>48</sup>
<b>International Publishers Association (IPA)</b>	Publishing companies and organizations	Yes, in the form of membership dues	no	UNESCO, WIPO

**Table 2. International Press Freedom NGOs.**

<sup>48</sup> WIPO stands for World Intellectual Property Organisation



The Committee to Protect Journalists, on the other hand, wants to remain independent from government influence and does not accept government funds of any kind.<sup>49</sup> Instead, it is funded to a large degree by media organizations and corporations.<sup>50</sup>

There are also three other notable organizations that work on behalf of journalists and press freedom, although they do not have consultative status at the UN. These are the Canadian Journalists for Human Rights, the American Reporters Committee for Freedom of the Press and the global network for defending and promoting freedom of expression, IFEX. The American Reporters Committee for Freedom of the Press provides free legal support to journalists. Journalists for Human Rights is a media development organization aiming “to make everyone in the world fully aware of their rights.”<sup>51</sup> The IFEX network campaigns “for the free expression rights of all, including media workers, citizen journalists, activists, artists, scholars.”<sup>52</sup>

While these organizations can record some victories in their field, overall the impact of freedom of expression and press freedom NGOs at the UN is limited. This can be seen by the lack of high profile items on the UN human rights agenda relating to freedom of expression and press freedom. In some cases, their work is even openly undermined, as in the case of Reporters Without Borders.

In 2003, ECOSOC suspended Reporters Without Borders’ consultative status with the United Nations Commission on Human Rights, the predecessor of the Human Rights Council, for one year, after some of the NGO’s activists had protested the decision to let known human rights violator Libya chair the commission. ECOSOC did not even invite

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<sup>49</sup> Committee to Protect Journalists, "Membership," <http://www.cpj.org/zinfo/membership2.html>.

<sup>50</sup> Committee to Protect Journalists, "Current Supporters," <http://www.cpj.org/zinfo/contrib02.html>.

<sup>51</sup> "About jhr," Journalists for Human Rights, [http://www.jhr.ca/en/aboutjhr\\_learnabout.php](http://www.jhr.ca/en/aboutjhr_learnabout.php).

<sup>52</sup> "What We Do," IFEX, [http://www.ifex.org/what\\_we\\_do/](http://www.ifex.org/what_we_do/).

Reporters Without Borders to explain their actions and among those that voted in favor of suspension were countries like South Africa and Brazil, while Argentina, Ecuador, Japan and Senegal abstained.<sup>53</sup> This shows that it is not only the authoritarian regimes that make life more difficult for those who aim to promote human rights.

It is difficult to measure NGO impact on the issue of press freedom in the first place, since most of them have not focused on this issue specifically. The tagline for Reporters Without Borders is “for freedom of information.” Article 19 states on its website that “[f]reedom of expression and freedom of information are fundamental human rights that are central to freedom and democracy.”<sup>54</sup> Even for these organizations there is no mention of press freedom, which gets mixed in with the theme “Censorship, Violence & Press Freedom,” and is not even specifically addressed on the theme’s webpage.<sup>55</sup> Similarly, IFEX lists several free expression issues on its website (access to information, attacks, censorship, digital rights, freedom of assembly, free expression and the law, and impunity). But press freedom is absent.

The work of these NGOs is further complicated by limited financial and human resources, which leads them to focus primarily on such issues as media development and protecting journalists from getting killed, imprisoned and harassed, rather than pushing for more normative debates about the central role of press freedom in the human rights discourse.

NGOs like Reporters Without Borders do a great deal of work advocating for their issues by lobbying international bodies. But they also collaborate with Western

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<sup>53</sup> "Reporters Without Borders Suspended for One Year from UN Commission on Human Rights," Reporters Without Borders, [http://ar.rsf.org/article.php3?id\\_article=7619](http://ar.rsf.org/article.php3?id_article=7619).

<sup>54</sup> Article 19, "What We Do," <http://www.article19.org/pages/en/what-we-do.html>.

<sup>55</sup> Article 19, "Censorship, Violence & Press Freedom," <http://www.article19.org/pages/en/censorship-violence-press-freedom-more.html>.

governments, providing them with information on the status of press freedom in various countries so that government officials can adequately address the situation at international meetings if they choose to do. Media corporations or associations also lobby Western governments, but their efforts are primarily focused on domestic issues and legislation.

### The Media and the Promotion of Press Freedom

The most surprising gap of all is that the media themselves are not that focused on promoting press freedom either. The news media follow professional codes of conduct for the most part, but do not often talk about the importance of press freedom. Lobbying activities by the printing industry in the U.S. is also limited, particularly when compared to other sectors of the communications industry.

In the U.S., the Communications and Electronics sector has ranked in fourth or fifth place in terms of expenditures on government lobbying over the past 16 years with an annual spending between 350 and 400 million dollars in recent years.<sup>56</sup> However, when looking at the breakdown of the sector, it becomes apparent that the printing and publishing industry has consistently been the lowest spender (see Figure 8) in the sector. The Computers and Internet industry far outspends newspapers, magazine publishers and other printing and publishing interests. In 2013, for example, the Newspaper Association of America spent 690,000 dollars on lobbying efforts according to the Center for

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<sup>56</sup> Center for Responsive Politics, "Ranked Sectors," OpenSecrets.org, <http://www.opensecrets.org/lobby/top.php?showYear=a&indexType=c>.

Responsive Politics.<sup>57</sup> Google, on the other hand, spent nearly 11.5 million dollars.<sup>58</sup> This does not indicate that the press has a lot of influence on U.S. government policies through lobbying efforts, particularly if one assumes that more money means more influence.

Such lobbying activities also do not necessarily mean that media organizations advocate for matters of press freedom. Most of the subjects they lobby for relate to copyright, science and education issues. Nonetheless, there have been a few freedom of the press and free flow of information bills for which newspapers and other media organizations lobbied in 2013, like the Freedom of Information Act, which would establish a federal shield law for journalists.

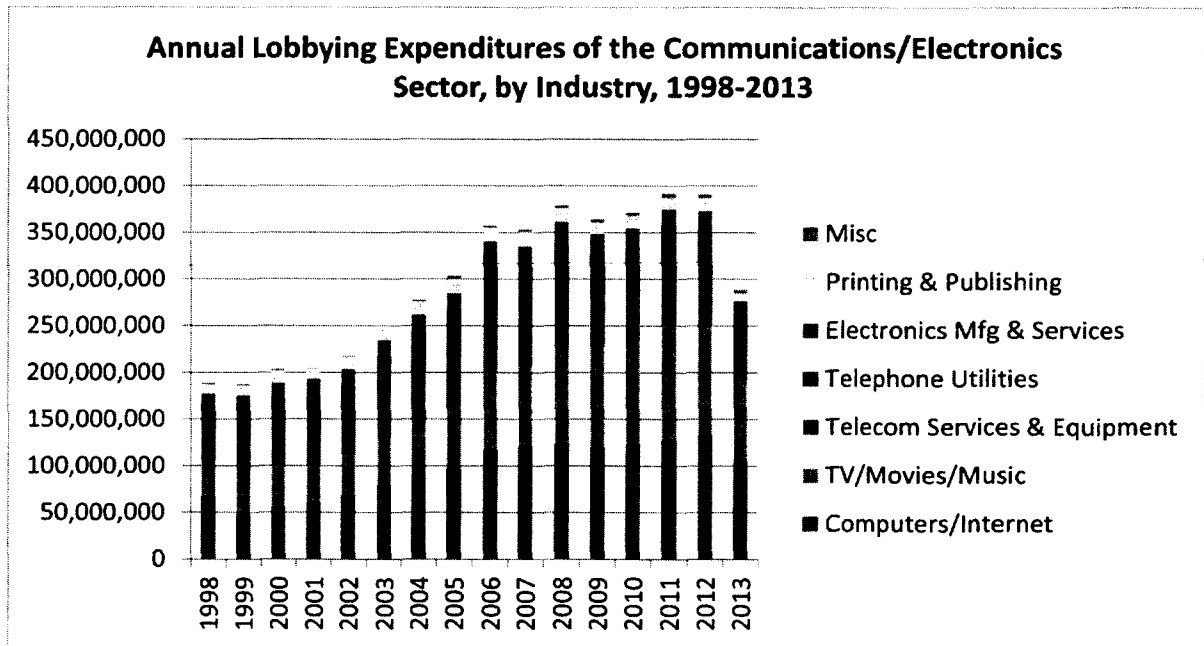


Figure 8. Annual Lobbying Expenditures of the Communications/Electronics Sector, by Industry, 1998-2013.<sup>59</sup>

<sup>57</sup> Center for Responsive Politics, "Newspaper Assn of America," OpenSecrets.org, <http://www.opensecrets.org/lobby/clientsum.php?id=D000054676&year=2013>.

<sup>58</sup> Center for Responsive Politics, "Google Inc," OpenSecrets.org, <http://www.opensecrets.org/lobby/clientsum.php?id=D000022008&year=2013>.

The Freedom of Information Act of 2013 has not passed, however, and this was not the first year the act was introduced in Congress. This indicates that the printing and publishing industry does not have much influence on government policies on freedom of the press. Influence of lobbying efforts are difficult to measure, of course, but events in 2013 have further underlined that the U.S. government has the upper hand when it comes to press freedom issues. The Department of Justice seized AP phone records, and Bradley Manning was, among other things, charged with 'aiding the enemy' for leaking classified documents to WikiLeaks. Although he was cleared of it, the fact that he was even charged with this serious offense sent a chill down many a journalist's spine, worrying about the future of investigative reporting in the U.S. At the end of the day, it seems, there is only so much NGOs and media corporations can do in terms of exercising influence over legislators, especially if the public is ambivalent about the role and benefits of the news media, and the media themselves are not a very active promoter of press freedom.

The news media are not openly campaigning for press freedom, given the nature of news making. Journalists are supposed to be objective, not push an ideological agenda. Journalism ethics and codes of conduct help ensure that journalists meet the obligations of accurate, independent and accountable reporting that come with their jobs. Most codes of conduct focus on the practical aspects of the day to day work of a journalist. But some also compel journalists to uphold and defend the principle of press freedom. The media have access to the public at their disposal, of course, but at the same time they are committed to objectivity, which has been discussed at length in both the academic and

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<sup>59</sup> Data compiled from Center for Responsive Politics, "Communications/Electronics," OpenSecrets.org, <http://www.opensecrets.org/industries/lobbying.php?cycle=2014&ind=B>. 2013 numbers include data up to the end of October.

journalist community as a concept, but boils down to its contemporary form of making sure all sides of an issue are equally presented, without any judgment or emotion. And covering press freedom is no exception, even though it goes straight to the very core of the news media's professional codes of conduct.

The *New York Times* archive contains 9,770 articles indexed for the subject of freedom of the press since 1851. This is not a bad result compared to other topics such as religious freedom (2,790 articles), freedom of assembly (3,530 articles), equal rights (3,760 articles), and freedom of information (5,750 articles). Free speech, however, trumps press freedom quite considerably with 55,100 articles.<sup>60</sup>

Between 1990 and 2007, an average of 49 stories per year appeared on freedom of the press (see Figure 9), a meager number. The results are slightly better, when including the *New York Times* blogs in recent years, but even those do not increase the number as much as one might expect, with the archive registering 580 blog entries on press freedom overall.<sup>61</sup> In 2008, the number of articles doubled and remained at an annual average of 103 articles since then. This rise might be explained by the increasing threats on press freedom globally and in Russia and China particularly, as these two countries feature most prominently in the *New York Times* coverage on press freedom in 2008. The highest number of articles appeared during 2011 as a result of the Arab Spring and more importantly, the breaking of the *News of the World* hacking and bribery scandal in the UK.

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<sup>60</sup> Results gathered from the *New York Times* online search tool at "New York Times Online Search Tool - Freedom of the Press Articles,"

<http://query.nytimes.com/search/sitesearch/#/%22freedom+of+the+press%22/since1851/articles/>.

<sup>61</sup> "New York Times Online Search Tool - Freedom of the Press Blogs,"

<http://query.nytimes.com/search/sitesearch/#/%22freedom+of+the+press%22/since1851/blogs/>.

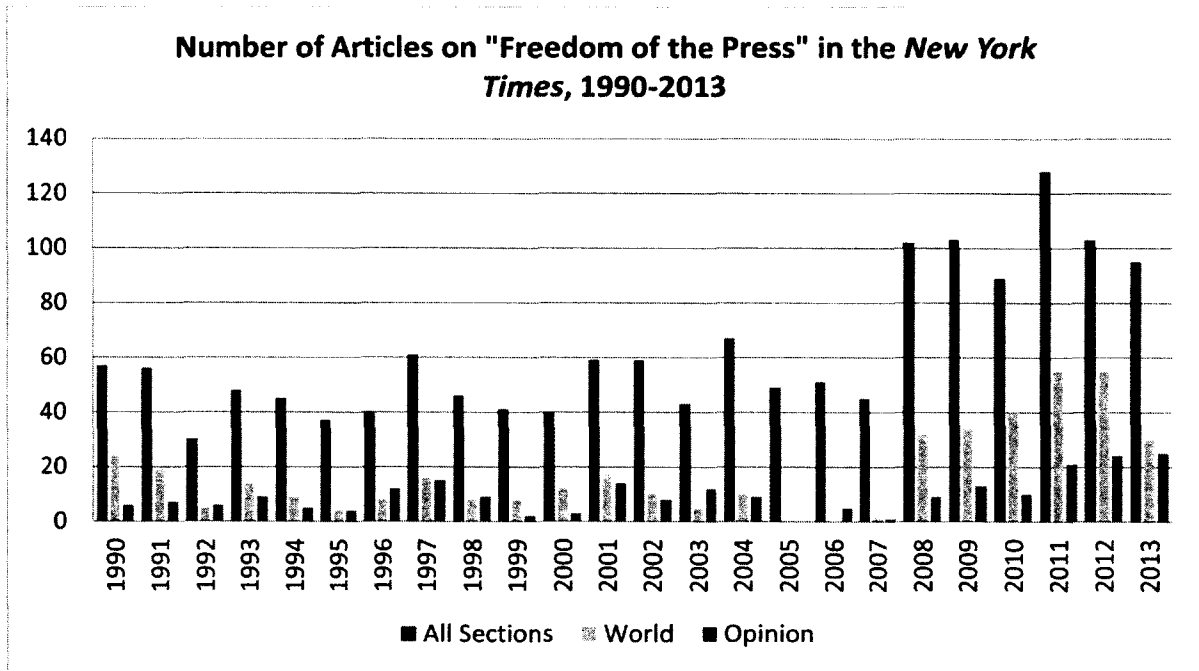


Figure 9. Number of Articles on “Freedom of the Press” in the *New York Times*, 1990-2013.<sup>62</sup>

Most of these articles are, as one might expect, objective reports on domestic press freedom issues. Only a small percentage of articles, however, appear in the opinion section of the paper, where journalists are allowed to take sides and defend the value and system of press freedom. It has been said, though, that the editorial pages do not have as large an audience as the news sections.<sup>63</sup>

Searches of other newspapers paint a similar picture. According to the Factiva database, the *Washington Post* published 1,599 articles on freedom of the press and/or press freedom since 1990. For the British *Guardian* it were 3,330 articles and the database counted 2,216 in *The Times*. The French *Le Figaro* published 612 articles on “liberté de la presse” during this time. The volume of articles published by news agencies like Reuters and AP is in general higher, which explains the bigger number of press

<sup>62</sup> "New York Times Online Search Tool - Freedom of the Press Articles".

<sup>63</sup> J. Herbert Altschull, *Agents of Power: The Media and Public Policy*, 2nd ed. (New York: Longman Publishers USA, 1995). 63.

freedom related articles for these two outlets (11,261 for AP and 7,834 for Reuters). Reuters for example, delivers more than two million unique stories per year.<sup>64</sup> Nearly eight thousand articles on press freedom over the span of thirteen years, thus does not constitute a significant share of Reuters' overall output. Overall, therefore, these numbers show that the topic of press freedom garners only moderate coverage in major print news outlets. It is also interesting to note that when searching within the press freedom results for UN related coverage, the results are even more limited, as Table 3 shows.

Human rights gain the highest amount of coverage in the context of press freedom, but the UN in general, and UNESCO in particular, are only subject of a small number of articles. In fact, a search for press freedom and the Human Rights Council returns no results whatsoever. There also does not seem to be a lot of connections drawn between press freedom and individual rights when it comes to news coverage of the topic. And lastly, even the UN's flagship press freedom awareness raising campaign, World Press Freedom Day, receives a measly amount of coverage in most of the surveyed publications, given it has been around since 1993.

In terms of professional conduct of journalists and news outlets, these findings are good news. They show that the press is not abusing its resources to advance their own political and ideological agenda by publishing article after article on press freedom or starting publicity campaigns against anyone who threatens press freedom. They are still offering their audience fair and balanced accounts. Not even the opinion and editorial pages are filled with this one topic, no matter how close to the hearts of journalists and editors it might be.

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<sup>64</sup> Thomson Reuters, 2013 Fact Book, (New York: Thomson Reuters, 2013), [http://ar.thomsonreuters.com/\\_files/pdf/IR\\_FactBook.pdf](http://ar.thomsonreuters.com/_files/pdf/IR_FactBook.pdf). 67.



	freedom of the press - press freedom	press freedom - freedom of the press - United Nations	World Press Freedom Day	press freedom - freedom of the press - UNESCO	press freedom - freedom of the press - human rights	press freedom - freedom of the press - individual rights
<b>New York Times</b> <sup>65</sup>	1,885	318	10	144	588	42
<b>Washington Post</b>	1,599	137	19	31	486	19
<b>The Guardian</b>	3,330	57	42	31	574	20
<b>The Times (London)</b>	2,216	61	14	24	550	21
<b>Le Figaro</b> <sup>66</sup>	612	38	2	23	211	2
<b>AP</b>	11,261	589	274	190	2,361	49
<b>Reuters</b>	7,834	619	174	111	2,162	14

**Table 3. Number of articles on press freedom and UN related coverage in seven major international publications since 1990.**<sup>67</sup>

In the UK, despite their access to audiences, the newspapers were unsuccessful in creating enough public opposition to reject the imposition of a royal charter creating a press regulator in 2013. This new regulator will have greater powers than its predecessor, will draw up a code of standards and will be able to fine the press in violation of these standards up to one million British pounds.<sup>68</sup> This shows that the findings on the limited coverage of press freedom above are also bad news, since promoting press freedom is also in the public interest. After all, press freedom is the key to self-government and individual rights, without which democracy cannot be sustained. But if the press does not promote press freedom more visibly – and they do not do so for good reason – then who will?

<sup>65</sup> Discrepancies between the results from the Factiva database and the *New York Times* online archive might be due to overlap between the search terms 'press freedom' and freedom of the press' in the latter.

<sup>66</sup> French search terms were used.

<sup>67</sup> "Factiva," Dow Jones, <http://global.factiva.com/sb/default.aspx?lnep=hp>.

<sup>68</sup> "Press Regulation: Privy Council Grants Royal Charter," *BBC News*(October 30, 2013), <http://www.bbc.co.uk/news/uk-24746137>.

In some cases, the press even undermines its own interests and status as a political institution. For instance, while the majority of British newspapers strongly opposed the implementation of legislation that would regulate the press following the release of the Leveson report in November 2012, the *Guardian* expressed a favorable view toward the proposed legislation.<sup>69</sup> What is even worse, however, are the actions by the *News of the World* reporters, editorial and executive board that led to the Leveson inquiry in the first place. They hacked (or allowed their employees to hack) into phones of victims of the 2005 London terror attacks, relatives of deceased soldiers and others, bribed police officers to gain stories, topped off by owner Rupert Murdoch pressuring high-level politicians to not investigate the scandal.

Such misbehavior can have dramatic consequences not just for the press in the UK, but in less democratic places around the world. As then-editor in chief of the *New York Times*, Bill Keller, puts it: "Despots love to see a free press behaving badly."<sup>70</sup> It gives them an excuse to make the case against an unfettered press. And their argument is further fueled by a Western response to such scandals that advocates press regulation, as demonstrated by the following quote by a spokesman for Robert Mugabe's oppressive Zimbabwean regime:

[T]he hacking scandal should serve as a lesson to the Third World that the concept of free media is a myth, saying people should judge from the way the British government has reacted to the scandal that even the West can not practice what they preach.<sup>71</sup>

<sup>69</sup> "Press Regulation: Lord Justice Leveson Throws the Ball Back," *The Guardian* (November 29, 2012), <http://www.guardian.co.uk/commentisfree/2012/nov/29/press-regulation-lord-justice-leveson-editorial>.

<sup>70</sup> Bill Keller, "Why Tyrants Love the Murdoch Scandal," *New York Times* (July 24, 2011), <http://www.nytimes.com/2011/07/31/magazine/why-tyrants-love-the-murdoch-scandal.html>.

<sup>71</sup> "Media Practitioners Warned," *Zimbabwe Broadcasting Corporation News* (July 18, 2011), <http://www.zbc.co.zw/news-categories/local-news/10497-media-practioners-warned.html>.

The press and its freedom, in short, are easily criticized and criticism often comes from more than just the government, and sometimes from the media themselves. This is not to say that the media do not stand up for press freedom. Many newspapers in the UK strongly and publicly opposed the establishment of the new press council, albeit unsuccessfully. At the international level, news organizations occasionally even join forces in criticizing the press freedom practices of governments. In 2010, for example, several major news agencies (the AP, Reuters, Bloomberg and Agence France-Press) wrote a letter to South African president Jacob Zuma to protest the planned 'protection of information' bill and further legislation that would establish a media tribunal in order to punish inaccurate reporting.<sup>72</sup> Such instances of united action are rare, however.

What is more, news agencies have been the target of international criticism themselves for most of the last century. Since World War II they have been at the center of the communications debate at the UN as well. Because the major news agencies originated in Europe and the U.S., the Soviets and Third World countries leveled allegations of colonialism and bias against them for two main reasons. First, they argued that the agencies focused only on news that was relevant to colonial powers. Second, they worried that agency coverage of the Third World was almost exclusively negative, reporting mainly about civil wars, famines and natural disasters. Since people's perceptions are defined by what they read and see in the media, Third World countries were concerned about negative coverage by the Western news agencies.<sup>73</sup>

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<sup>72</sup> "Global News Agencies Uneasy Over South Africa's Press Freedom," *Christian Science Monitor* (September 7, 2010), [http://www.csmonitor.com/World/Africa/Africa-Monitor/2010/0907/Global-news-agencies-uneasy-over-South-Africa-s-press-freedom/\(page\)/3](http://www.csmonitor.com/World/Africa/Africa-Monitor/2010/0907/Global-news-agencies-uneasy-over-South-Africa-s-press-freedom/(page)/3).

<sup>73</sup> McPhail (2010) 274.

These two arguments were central to the New World Information and Communication Order debate in the 1970s and 1980s. The days of the New World Information and Communication Order also provide an instance in which the Western media did indeed get organized and rallied in favor of protecting press freedom, particularly when they saw their business interests threatened. As Table 2 shows, as in other industries, there are non-governmental organizations that advocate for the interests of their members working in or owning media enterprises. In this context, a closer look at the World Press Freedom Committee and its actions during the New World Information and Communication Order debate is in order to highlight that the media can be effective in opposing international attempts at curbing press freedom.

The World Press Freedom Committee began operations in May 1976 as a non-governmental organization aimed at coordinating the policies and actions of the International Press Institute and the Inter-American Press Association.<sup>74</sup> One of the NGO's first major tasks was to stage protests in response to the Inter-American Press Association's ban from a 1976 UNESCO conference in Costa Rica. They did so by setting up office across from the conference hotel, monitoring developments, issuing statements, briefing reporters, and generally getting the word out about a conference that otherwise might not have garnered any public attention.<sup>75</sup>

Other successes followed. The threat of a publicity campaign led by the World Press Freedom Committee was able to persuade the UNESCO leadership to meet with media organizations and discuss their concerns over allegations of media imperialism and

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<sup>74</sup> Dana Bullen and World Press Freedom Committee, *Voices of Freedom: The Story of the World Press Freedom Committee* (Reston, VA: World Press Freedom Committee, 2002). 2-4.

<sup>75</sup> *Ibid.*, 7.

threats to establish greater media regulation.<sup>76</sup> In 1981, the World Press Freedom Committee was able to raise enough awareness to gain media attention and news coverage of a UNESCO meeting discussing the licensing of journalists that was supposed to be held in secret.<sup>77</sup> They also worked with the U.S. government and media organizations like newspapers and news agencies to coordinate the U.S. response to the 1976 UNESCO conference in Nairobi.<sup>78</sup> The World Press Freedom Committee also started to implement media assistance projects in Third World countries to improve news media around the world and to help eliminate many misconceptions that existed about the international news agencies and the Western press.<sup>79</sup>

The organization's objections to UNESCO's Mass Media Declaration fell on deaf ears initially, but after increased rallying and lobbying efforts, the revisions proposed by the World Press Freedom Committee were passed. Although the result was not perfect in the eyes of the Western media lobby, the Committee's efforts brought some success.<sup>80</sup> The biggest achievement for the World Press Freedom Committee, however, was the Declaration of Talloires, signed by 63 delegates from 21 countries from around the world in May 1981.

At Talloires, delegates from independent news organizations gathered to declare that international efforts to regulate the media be abandoned and set out to propose and implement practical steps to help the media in the Third World. They declared: "Press freedom is a basic human right. We pledge ourselves to concerted action to uphold this

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<sup>76</sup> Ibid., 13.

<sup>77</sup> Ibid., 41-43.

<sup>78</sup> Ibid., 11.

<sup>79</sup> Ibid., 17.

<sup>80</sup> Ibid., 22-25.

right,” and laid out global press freedom principles.<sup>81</sup> These principles were further consolidated in the 1987 ten-point Charter for a Free Press.

Since then, however, efforts by the World Press Freedom Committee have become fewer. This is to a large degree due to the end of the Cold War and the end of the New World Information and Communication Order debate. The West won and with it capitalism and Western media multinationals. While the World Press Freedom Committee and other organizations were still active on issues such as opposing insult laws during the 1990s, the threat of media regulation had largely disappeared and with it the visibility of the World Press Freedom Committee and its friends. This shows that although media organizations rally when their interests are at stake, these interests are most important when they coincide with business interests and, in the case of New World Information and Communication Order, with the political position of the Western governments. The World Press Freedom Committee and company might have been able to raise awareness of UN efforts to constrain press freedom; their overall successes were limited, however. Not the threat of media NGOs incentivized UNESCO to rethink its press freedom policy, but the withdrawal of the U.S. and UK from the organization, and ultimately the end of the Cold War, did.

So while the media provide a useful service to the promotion of Western values in general, they are, politically speaking, not much of an influential force internationally, even when their most basic principle, press freedom, comes under attack. Western media products export Western values, and are thus influential in a cultural sense. As a unified political actor on the international stage, however, their impact is minimal. In a brief

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<sup>81</sup> "Declaration of Talloires," World Press Freedom Committee, <http://www.wpfc.org/DeclarationofTalloires.html>.

overview of a global understanding of the media, Jean Seaton writes that they should help monitor and hold accountable NGOs because they “act in our name, with our money, and what they do influences everyone’s future.”<sup>82</sup> For the same reasons, they should also monitor and hold accountable the UN, which might also explain the reluctance of UN bureaucrats to elevate press freedom to more than a tool to promote and monitor freedom of expression. All office holders, after all, are interested in sustaining their power, and press freedom often runs counter to this interest. It would not be surprising, if the UN leadership is no exception. In any case, the absence of a strong lobby for press freedom at the UN suggests that the media should take on more than simply its cultural and economic role and become more of a political actor in the international arena.

### Conclusion

Press freedom is being attacked across the globe, it is neglected as a human right at the UN and it has only a small number of highly visible organizations that work on its behalf. Governments try to undermine press freedom to control the flow of information and consolidate their power. The media and journalists themselves (mostly) uphold the principle of press freedom through their work, by adhering to journalistic standards of fairness, accuracy, transparency and objectivity. But because they are sworn to these principles, there is a limited degree to which they can use their news outlets for publicity campaigns for the issue of press freedom, even if they wanted to. The NGO community is active in areas such as the safety of journalists, media development and more general

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<sup>82</sup> Jean Seaton, "Global Understanding," in *Power Without Responsibility: Press, Broadcasting and the Internet in Britain*, ed. James Curran and Jean Seaton (London, New York: Routledge, 2010), 323.

freedom of expression issues. But their resources are limited, especially those focusing on press freedom, and particularly when compared to the resources that go into the promotion of other human rights.

The public, which should support a free press, is turning increasingly against it in Western democracies. The public view is increasingly that the news is biased and inaccurate and journalists are controlled by the rich and powerful and news reporting is only an afterthought to making profits. Arguments like these are ubiquitous in the press freedom debate in the West. Economic forces are causing the news media to undermine press freedom themselves, the argument goes. But the much more worrying trend is that Western politicians are increasingly successful in undermining the news media. Their preferred techniques used to be things like managing access to officials and information. These days they engage in partisan media criticism to turn the public against the media, or they exploit the misbehavior of some journalists to constrain all of them.

The politicians are winning the upper hand against the one of the institutions that is meant to represent the voice of the people. This has serious consequences not only for the media, but for democracy itself. Public distrust of the news media leads to a neglect of press freedom on all fronts, a trend that needs to be corrected as soon as possible, if the state-society balance is to remain a democratic one in the West, and if the principle of a free press is to be exported to other parts of the world. Mistrust of the press leads to people, organizations and governments not caring about the press and this development is reinforced by the emphasis on the Internet and the widespread view that the Internet is the cure-all to the problems with the press. But as chapter six will show, the press is not obsolete in the age of the Internet. On the contrary, it is needed more now than ever.



## **CHAPTER 6**

### **PRESS FREEDOM IN THE INTERNET AGE**

#### Introduction

Press freedom is neglected by states and the human rights community. Government interests in sustaining their own power runs counter to promoting a watchdog press. The UN debate on press freedom, when it happens, is mired in power politics and finger-pointing. The few NGOs working on behalf of press freedom grapple with limited resources. And the media, particularly those dealing in news, face a whole onslaught of complications: Increasing tabloidization, the steady replacement of hard news by soft news, shrinking newsrooms, rising public mistrust of the media, falling viewer- and readerships. In addition, the advent of new information and communication technologies have brought about a news media landscape that is as much influenced by citizen journalists, political bloggers and social media as by traditional reporters and news outlets.

The area of communication rights has always been murky. There has been talk about free speech, freedom of expression, freedom of information, the right to communicate, and press freedom. Clear definitions of these are rare, however, and even more rare are distinctions drawn between these concepts. With the advent of the Internet, the field of communication rights has become even more complex.

Reporters Without Borders changed its official tagline from “Reporters Without Borders for Press Freedom” to “Reporters Without Borders for Freedom of Information”

in 2005 to be more inclusive of bloggers and other Internet activists who also face threats in many countries due to publication of their political opinions. However, the debate is a complicated one and one that is constantly evolving.<sup>1</sup> Other NGOs have also been putting more weight on issues of Internet freedom in recent years.<sup>2</sup>

At the UN, the World Summit on the Information Society, which was held in 2003 in Geneva and 2005 in Tunis and has generated numerous follow-up meetings, focused specifically on the digital divide and its implications for the world. Press freedom did not play any significant role in the WSIS deliberations. The most recent outcome reports from 2012 and 2013, while heavy on the issue of Internet freedom, feature no mention of press freedom or even journalists, despite discussing the action line ‘access to information and knowledge.’<sup>3</sup>

Western governments have also put more international rhetoric and resources into Internet freedom than they have into press freedom. In 2010, then-Secretary of State Hillary Clinton spoke about the importance of Internet freedom and what the U.S. was doing and would do to support it globally:

We are making this issue a priority in at the United Nations as well, and included internet freedom as a component in the first resolution we introduced after returning to the UN Human Rights Council. [...] I'm announcing that over the next year, we will work with partners in industry, academia, and non-governmental organizations to establish a standing effort that will harness the power of connection technologies and apply them to our diplomatic goals.<sup>4</sup>

A 2013 White House factsheet on the Obama administration’s international leadership on human rights states that: “With over 120 million in Internet freedom grants

<sup>1</sup> Delphine Halgand, "Personal Interview," (November 19, 2013).

<sup>2</sup> HRW’s only expert in the field of free speech, for instance, is Cynthia Wong on Internet freedom. Since 2009, Freedom House is also producing a Freedom on the Net report.

<sup>3</sup> ITU, "WSIS Forum 2012 Outcome Document: Identifying Emerging Trends and a Vision Beyond 2015," (Geneva: ITU, 2012). And ITU, "WSIS Forum 2013: Outcome Document," (Geneva: ITU, 2013).

<sup>4</sup> Hillary Clinton, Remarks on Internet Freedom, (Newseum, Washington, D.C. January 21, 2010), <http://www.cfr.org/internet-policy/clintons-speech-internet-freedom-january-2010/p21253>.

since 2008, the United States has made Internet freedom a central program and foreign policy priority.”<sup>5</sup> A comparison of the issue pages on Internet freedom and freedom of the press by the Department of State shows where the administration’s focus lies. The Internet freedom page outlines in detail what actions and initiatives the Department of State has taken to support online freedom internationally.<sup>6</sup> The page on press freedom, on the other hand, is only two paragraphs long and simply lauds journalists for their important and often dangerous work.<sup>7</sup>

Media development assistance from global donors amounted to nearly half a billion dollars in 2010.<sup>8</sup> With 222 million dollars the U.S. spent considerably more on media assistance in 2010 than in previous years. However, most of the funds went into establishing and supporting independent media in Afghanistan and Iraq, and media assistance made up only 0.4 percent of the total U.S. foreign aid spending.<sup>9</sup> What is more, the Center for International Media Assistance found that, especially since the Arab Spring, more investment had flown towards digital technology and the Internet, often at the expense of traditional journalism training.<sup>10</sup>

Does this mean, then, that press freedom has become obsolete in the digital age? Is the reason why states and the human rights community neglect press freedom that

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<sup>5</sup> White House, "Fact Sheet: Obama Administration Leadership on International Human Rights," <http://www.whitehouse.gov/the-press-office/2013/12/04/fact-sheet-obama-administration-leadership-international-human-rights>.

<sup>6</sup> United States Department of State, "Internet Freedom," <http://www.state.gov/e/eb/cip/netfreedom/index.htm>.

<sup>7</sup> United States Department of State, "Press Freedom," <http://www.state.gov/j/drl/press/index.htm>.

<sup>8</sup> Center for International Media Assistance, "Empowering Independent Media: US Efforts to Foster a Free Press & an Open Internet Around the World," (Washington, D.C.: National Endowment for Democracy, 2012), 14.

<sup>9</sup> *Ibid.*, 12.

<sup>10</sup> *Ibid.*, 14, 17.

Internet freedom is a panacea to abuses of all communication rights? The answer to both questions is a clear no. This chapter will outline why.

### Internet Freedom vs. Press Freedom

Internet freedom and freedom of the press clearly belong to the communication rights category. But despite the fact that they are related, and often equated in their importance for protecting freedom of expression, they are still two different concepts. To put it in the words of a former UNESCO Assistant Director-General, “while what we often call “new media” technologies always imply the fundamental right to freedom of expression for the individual, they do not necessarily imply freedom of the press.”<sup>11</sup>

The Internet and other new media technologies make it easier for people to spread or publish their own opinions, be it through text message, social media status update or a blog. As argued in more detail in chapter 2, however, giving everyone the means and right to freely express themselves, does not automatically grant press freedom. The reason is simple: “One can safely say that contestation around press freedom in general is fundamentally around public power – and in particular about journalism, the form of communication that deals with power.”<sup>12</sup>

One of the central aspects of promoting press freedom is that a free press has a mass audience. When information and opinions are published by the press they are more

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<sup>11</sup> Abdul Waheed Khan, "The Same Principles Apply to the New and Old Media," in *New Media - The Press Freedom Dimension: Challenges and Opportunities of New Media for Press Freedom* (Paris: UNESCO and World Press Freedom Committee, 2007), 76.

<sup>12</sup> Guy Berger, "New Media and Old: A Need to Share Common Press Freedom Interests," in *New Media - The Press Freedom Dimension: Challenges and Opportunities of New Media for Press Freedom* (Paris: UNESCO and World Press Freedom Committee, 2007), 14.

likely to reach a critical mass, which is necessary to affect political change, and thus has an impact on the power relationship between the state and society. It is hardly surprising that governments prefer to support Internet freedom rather than press freedom, given that freedom of expression is not necessarily a threat to state power, while press freedom almost always is. Again, Russia under Putin deserves to be mentioned here, since he claims to be fully supportive of freedom of expression, but only to the point where it does not affect his power. As a consequence, the few independent journalists remaining active in Russia are stifled by the government, most recently by the introduction of a series of repressive measures expanding regulatory tools.<sup>13</sup>

Of course, these days there are political bloggers and other activists who primarily reach their audience through the Internet, and some have audiences big enough to threaten state power. This explains why more and more netizens are targeted by authoritarian regimes and thrown in jail or even killed. According to numbers from Reporters Without Borders 38 netizens and citizen journalists were killed in 2013.<sup>14</sup> The year before it was 49, a drastic increase from 10 reported netizen killings in 2011.

One reason why the international community tends to pin its hopes on the Internet and new media is the fact that in many authoritarian countries the traditional media are firmly in the hands of the state. Supporting new media and ICTs in those countries thus promises to give more power to people. For instance, when the Mubarak regime shut off the Internet in Egypt for a day in 2011 during the Arab Spring, Google went live with a speak-to-tweet service that Egyptians could use to stay connected via Twitter by simply

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<sup>13</sup> Freedom House, "Freedom of the Press 2013: Russia," <http://www.freedomhouse.org/report/freedom-press/2013/russia#.UubJrfQo5As>.

<sup>14</sup> Reporters Without Borders, "2013: Netizens and Citizen Journalists Killed," <http://en.rsf.org/press-freedom-barometer-netizens-and-citizen-journalists.html?annee=2013>.

calling one of the provided phone numbers, without the need for an Internet or cell phone connection.<sup>15</sup>

Nonetheless, the traditional media should not be forgotten, since they are still the best way to reach a mass audience. During the Arab Spring, for instance, satellite TV, particularly Al Jazeera, played a crucial role in scaling the protest movement up from a few hundred to several hundreds of thousands.<sup>16</sup> Supporting press freedom is thus still as relevant as ever, despite the advances new media have made in giving people the means to free expression.

This becomes even more obvious when considering that the latest Freedom House report on the Internet found that “[d]igital media in several of the 60 countries covered was relatively unobstructed when compared to the more repressive or dangerous environment for traditional media.”<sup>17</sup> At a 2007 UNESCO conference co-sponsored by the World Press Freedom Committee on new media and press freedom, experts pointed out that there is silo thinking among the realms of the old and new media.<sup>18</sup> And although Internet freedom and press freedom are two sides of the same coin and should be advocated together, the trend in recent years is going towards more emphasis on Internet freedom.

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<sup>15</sup> Official Google Blog, "Some Weekend Work That Will (Hopefully) Enable More Egyptians to Be Heard," <http://googleblog.blogspot.com/2011/01/some-weekend-work-that-will-hopefully.html>.

<sup>16</sup> Alterman (Fall 2011) 104-10.

<sup>17</sup> Sanja Kelly et al., *Freedom on the Net 2013: A Global Assessment of Internet and Digital Media*, (Washington, D.C.: Freedom House, October 3, 2013), [http://freedomhouse.org/sites/default/files/resources/FOTN%202013\\_Full%20Report\\_0.pdf](http://freedomhouse.org/sites/default/files/resources/FOTN%202013_Full%20Report_0.pdf). 26.

<sup>18</sup> Berger (2007) 17.

## Freedom of Information vs. Press Freedom

The Internet and other information and communication technologies have also had an impact on how people think about freedom of information. Due to these technologies the flow of information has not only accelerated, but also expanded. There is so much information available at all times now that the Internet age is also becoming the age of information overload. And so the sense-making and educational role of the press is needed now more than ever.

Although some might regard the press as obsolete in an age where governments can communicate directly with citizens through websites and social media, it still has a vital task to fulfill in informing and educating the public. In Western democracies, in theory, citizens simply need a computer or smart phone and Internet access in order to read up on government policies, legislation, other public affairs topics or about what is happening abroad. Governments and other organizations publish policy papers, speeches, statistics and other data constantly through their websites. As do plenty of political bloggers and activists. But, as the Ian Katz character puts it in the movie *The Fifth Estate* in reference to WikiLeaks, “[a]nyone can take a bundle of information, toss it up on a website and call it news. But people buy our papers for something a little more discerning.”<sup>19</sup>

Indeed, as we grapple with information overload, we need journalists to sift through information, tell us what is important, and package it in a way that is accessible and understandable. Having freedom of information and an Internet accessible to all does

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<sup>19</sup> The character of former Guardian deputy editor Ian Katz, as quoted in *The Fifth Estate*, (Dir. Bill Condon: Walt Disney Studios Motion Pictures, 2013).

not guarantee an informed public. Many people do not have the time or interest to immerse themselves in public affairs research in order to make informed decisions. In fact, studies have shown that the Internet, too, is making the information-rich richer, and the information-poor poorer. Even though it is easier to access information, the new information resources that are a result of the Internet are more likely to be used by those who are politically knowledgeable and from a higher socioeconomic status.<sup>20</sup>

But the average citizen also needs the necessary information about the pressing issues of public life in order to participate in political decision-making. In the words of two journalism experts: "Journalism goes where its audience cannot or will not."<sup>21</sup> And that applies as much to far away countries as to the depths of information and data we are confronted with in the digital age.

Of course, the digital revolution has brought many improvements. Now that practically anyone with a phone and Internet access can take and upload pictures or videos to Twitter or YouTube, and citizen journalists can contribute to traditional news websites or get political on their own blogs, more voices can get heard. New media can provide information and points of views that enrich the public sphere, voices that might not be able to be heard through traditional communication channels.

Furthermore, in some cases citizen journalists and bloggers can act as additional fact checkers or watchdogs, thus making the press more accountable as well. Those that are worried about the press getting too powerful or irresponsible should welcome citizen journalism as a tool to ensure that the press is doing its job of informing and educating

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<sup>20</sup> Jennifer Brundidge and Ronald E. Rice, "Political Engagement Online: Do the Information-Rich Get Richer and the Like-Minded More Similar?," in *Routledge Handbook of Internet Politics*, ed. Andrew Chadwick and Philip N. Howard (Abingdon, UK: Routledge, 2009), 149.

<sup>21</sup> George Kennedy and Daryl Moen, eds., *What Good Is Journalism? How Reporters and Editors Are Saving America's Way of Life* (Columbia, MO: University of Missouri Press, 2007), 1.



citizens on public affairs. Ideally, the Internet can bring journalism closer to the people, making sure that the press stays in touch with its constituency, the public.

Accounts of the demise of the press, on the other hand, seem premature. For all the positive developments the Internet and ICTs have brought, there are also considerable drawbacks. In authoritarian regimes, the Internet can become as much a tool of government oppression as of democratization, as Evgeny Morozov convincingly argues in *The Net Delusion*.<sup>22</sup>

In the developed world, too, the Internet has not just affected democracy positively. Some have argued that instead of enhancing the diversity of the public sphere, the Internet creates “echo chambers,” in which people’s existing attitudes and opinions are reinforced rather than challenged or changed.<sup>23</sup> Conclusive empirical evidence to support these arguments is still lacking, but the notion that the Internet is a “breeding ground for extreme opinions” has been around almost as long as the Internet.<sup>24</sup> In addition, some find excessive personalization and the increasingly widespread option to filter news according to personal preferences and interests concerning. They argue that it keeps people from stumbling upon information or points of view that they would otherwise not come across. The public debate thus becomes poorer instead of richer.<sup>25</sup>

Other studies have also found that online politics has been less open and diverse than expected: Although countless political bloggers are active and a lot of citizen-created content is available online, there has not been a shift from big outlets to smaller

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<sup>22</sup> Evgeny Morozov, *The Net Delusion: The Dark Side of Internet Freedom* (New York: Public Affairs, 2011).

<sup>23</sup> Cass R. Sunstein, *Republic.com 2.0* (Princeton and Oxford: Princeton University Press, 2007). xi.

<sup>24</sup> Geert Lovink, *Networks Without a Cause: A Critique of Social Media* (Cambridge, UK: Polity Press, 2011). 17.

<sup>25</sup> Sunstein (2007) 4-6.

ones.<sup>26</sup> In fact, the majority of the top 25 news sites in the U.S. in 2011 were made up of newspaper websites (eleven), broadcast network television or cable news sites (six) and the Reuters website.<sup>27</sup> Even Google News, which only a few years ago at its launch was seen as the biggest threat to traditional news outlets, directs most of its traffic to legacy news sites.<sup>28</sup>

In this context it should also be noted, that only a small percentage of bloggers focuses on politics to begin with, “most are focused on describing their personal experiences to a relatively small audience of readers.”<sup>29</sup> This means that there are a lot of new voices out there, but politics or even public affairs are not a high priority for their online musings. It also means that ordinary citizens may be able to write things online, but it is highly unlikely that others will see it.<sup>30</sup> Or, in the words of another observer, “[w]hen everyone broadcasts, no one is listening.”<sup>31</sup> Indeed, the fact that the information-rich are getting richer, and political debate and participation is firmly in the hand of the well-off and well-educated, is backed up by more recent surveys.<sup>32</sup>

New media has also had negative effects on traditional journalism, which is also a reason why the two are commonly being pitted against each other. With the advent of the Internet, newspapers experienced a dramatic loss of advertising revenues and thus had to cut costs, which allows for fewer resources and investment into investigative reporting.

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<sup>26</sup> Matthew Hindman, *The Myth of Digital Democracy* (Princeton: Princeton University Press, 2009). 133.

<sup>27</sup> Kenneth Olmstead, Amy Mitchell, and Tom Rosenstiel, "Navigating News Online: The Top 25," Pew Research Journalism Project, <http://www.journalism.org/2011/05/09/top-25/>.

<sup>28</sup> Kenneth Olmstead, Amy Mitchell, and Tom Rosenstiel, "Navigating News Online: Google Drives Most Users," <http://www.journalism.org/2011/05/09/google-drives-most-users/>.

<sup>29</sup> Amanda Lenhart and Susannah Fox, *Bloggers: A Portrait of the Internet's New Storytellers*, (Washington, D.C.: Pew Internet & American Life Project, July 19, 2006), <http://www.pewinternet.org/Reports/2006/Bloggers.aspx>.

<sup>30</sup> Hindman (2009) 142.

<sup>31</sup> Lovink (2011) 7.

<sup>32</sup> Aaron Smith, *Civic Engagement in the Digital Age*, (Washington, D.C.: Pew Research Center, April 25, 2013), [http://pewinternet.org/~media/Files/Reports/2013/PIP\\_CivicEngagementintheDigitalAge.pdf](http://pewinternet.org/~media/Files/Reports/2013/PIP_CivicEngagementintheDigitalAge.pdf).

Furthermore, websites like YouTube and Twitter have, much like the arrival of cable news before them, made it much more difficult for journalists to keep up with the constant stream of news and work to deadlines. As a result, substance has been suffering as a consequence of placing more and more emphasis on speed and scoops to keep up.<sup>33</sup>

To be fair, the news media had done a pretty good job of undermining themselves, even before the Internet came along. Practices such as horserace campaign coverage or the general 'he said she said' reporting style justified under the cherished but misguided journalistic principle of objectivity had already helped to erode the quality of hard news reporting. Increased competition and financial imperatives, as discussed in the previous chapter, led to tabloidization and further damaged the news media output and consequently its reputation.

It does not come as a surprise, therefore, that many see the press as having passed its zenith, or worse, that it is, or in the near future is going to be, obsolete. Defenses of the press and their vital work have been rare in recent years. If they do occur they usually come from experienced journalists themselves, often offering prescriptions for how the press can improve its work and adapt to the new media environment. For example, Charlie Beckett, a former British journalist for the BBC and Channel 4 News, defends journalism as follows:

Journalism matters. We live in a much more interconnected world where information is ever-more critical to our lives. And it is journalism that conveys that data and allow us to debate its significance.<sup>34</sup>

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<sup>33</sup> Peter Hamby, "Did Twitter Kill the Boys on the Bus? Searching for a Better Way to Cover a Campaign," Shorenstein Center on the Press, Politics and Public Policy, [http://shorensteincenter.org/wp-content/uploads/2013/08/d80\\_hamby.pdf](http://shorensteincenter.org/wp-content/uploads/2013/08/d80_hamby.pdf).

<sup>34</sup> Charlie Beckett, *SuperMedia: Saving Journalism So It Can Save the World* (Chichester: Blackwell Publishing, 2008). 4.

He suggests the implementation of “networked journalism,” a compromise between old and new versions of journalism that is taking advantage of new technologies in order to let professionals and amateurs, like citizen journalists, cooperate towards a more efficient, inclusive and accountable type of journalism.<sup>35</sup> Andrew Chadwick advocates a similar approach, as he argues for more emphasis on hybridity when addressing media systems in the U.S. and UK. Instead of talking about old or new media, he contends, it is more useful to focus on how these media forms overlap, how and where distinctions between them are dissolving and how this affects political communication.<sup>36</sup>

Thomas Patterson, a scholar on the subject on media and politics and participant in a new initiative to strengthen journalism education and practice, also has not yet given up on the traditional news media, despite acknowledging the many ways in which the press has been failing the American public over the last two decades:

As I see it, citizens need journalists more than ever, precisely because there is so much information available, of such varying quality and relevance. The contribution of the reporter cannot be compared with that of the scholar or policy analyst, much less that of the talk show host or blogger. Each has a place in our public life, but none of the others are equipped to do what journalists do. Journalists are in the daily business of making the unseen visible, of connecting us to the world beyond our direct experience. Public life is increasingly complex, and we need an ongoing source of timely and relevant information on the issues of day. That’s why we need journalists.<sup>37</sup>

This goes back to a debate that Walter Lippmann and John Dewey were engaged in nearly a century ago. Lippmann argued that the world had become so complex that it was difficult for the average citizen to grasp it. Lippmann’s solution was to have elites run foreign affairs, whereas Dewey thought that democracy was too vital a process to be

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<sup>35</sup> Ibid., 14.

<sup>36</sup> Andrew Chadwick, *The Hybrid Media System: Politics and Power* (Oxford, New York: Oxford University Press, 2013). 4.

<sup>37</sup> Thomas E. Patterson, *Informing the News: The Need for Knowledge-Based Journalism* (New York: Vintage Books, 2013). 6.

limited just because technology was advancing rapidly. Although they differed on their prescriptions, they agreed that in order to educate the American public, journalists should be well trained in the complexities of modern societies.<sup>38</sup> Since their debate in the 1920s, the world has become even more complex, but the point they make about the press and its educational responsibility is still relevant. Patterson takes it up and calls again for knowledge-based journalism, this time as a solution to the crisis in journalism itself.

So despite the current wave of criticism aimed at the traditional news media, there are still those that have not given up on promoting the press. But they also seem to wonder why not more people do so: "As a journalist you are constantly being told that the news media have enormous power to shape society and events, to change lives and history. So why are we so careless as a society about the future of journalism itself?"<sup>39</sup> After all, not only journalists have a dog in this fight, the public has, too. But it seems as if we have given up on journalism because new technologies handed everyone the capability to post their every thought or picture online. What often fails to be stressed, however, is the difference between amateurs and professionals.

Snapping a picture and putting it on YouTube or watching a presidential speech and tweeting one's reactions to it live, is not the same as journalists leaving their desks, building rapport with sources, verifying facts and then presenting, in Carl Bernstein's words, "the best obtainable version of the truth." What most citizen journalists and bloggers provide is more information, not necessarily a way to make sense of it. Most of them, particularly in the Western democracies, are not going to go out into the real world,

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<sup>38</sup> Leonard R. Sussman, "20 Years in the Fight on Censorship," in *New Media - the Press Freedom Dimension: Challenges and Opportunities of New Media for Press Freedom* (Paris: UNESCO and World Press Freedom Committee, 2007), 74.

<sup>39</sup> Beckett (2008) 2.

or take risks to tell the story. Without the press as an institution, who is going to cover the city hall beats or the police departments? Journalism is not just about high-level politics or uncovering scandals; it is also about keeping an eye on the day-to-day workings of the public authorities, so that those they are supposed to be serving know what they are up to.

Although the functions of the press are still very much needed, they do not garner much attention or even respect any more. It seems that the press has become a relic of the un-networked past, while the future will be monitored and served by the Fifth Estate.

#### Fifth Estate vs. Fourth Estate

The Fifth Estate are new digital technologies like the Internet and citizen journalists, bloggers, hackers, etc. that constitute an addition to the four existing estates. They create a space “for networking individuals in ways that enable a new source of accountability in government, politics and other sectors.”<sup>40</sup> One criticism that is often leveled against the press these days is that journalists are getting too cozy with those in power, or become part of the elite establishment as well. The Fifth Estate is seen as an antidote to this trend. In the digital age, the sources do not need the press anymore; they can go straight to the people and can bypass another one of the traditional gatekeepers, the press. But an equally problematic question is who holds the Fifth Estate accountable?

Journalists and traditional news media work according to codes of conduct and ethics that have developed over centuries. Many journalists still believe that they are providing a public good with their work, even if poll numbers suggest a negative trend in

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<sup>40</sup> William H. Dutton, "The Fifth Estate Emerging Through the Network of Networks," *Prometheus* 27, no. 1 (2009), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1167502](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1167502).

this regard.<sup>41</sup> The Fifth Estate, at least for now, is a loose network of citizens armed with smart phones, political bloggers (that might or might not have their own agenda), whistleblowers with access to online submission platforms, and computer geeks who know how to use these platforms to leak information. All of these people might have noble goals, but they are not bound by professional codes of conducts, or anyone to account to. If we do not like what they do, we cannot simply change the channel or cancel our subscription. Sure, we can stop reading their blogs, but there is not much the average citizen can do to stop a hacker. All we can do is trust that they will do the right thing, whatever that might be.

The WikiLeaks phenomenon highlights precisely this dilemma. At the height of its influence in 2010, the organization was firmly led by Julian Assange and his morals. At WikiLeaks, paradoxically a secretive organization that advocates transparency, the lines between activism and journalism became blurred, a circumstance that is not bound to disappear quickly in an era where information can come from a lot of different, often unverified, sources. But despite these unresolved questions, WikiLeaks also demonstrates that the Fourth and Fifth Estate are not adversaries, despite the fact that current punditry likes to belabor the adversarial relationship between the two. In reality they often complement each other. For example, the Fourth Estate is useful in keeping the Fifth Estate in check and vice versa. Or a Fourth Estate strapped by financial pressures and shrinking newsrooms can benefit from collaborating on investigative reporting with

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<sup>41</sup> "Bottom-Line Pressures Now Hurting Coverage, Say Journalists," Pew Research Center's Project for Excellence in Journalism, <http://www.people-press.org/2004/05/23/bottom-line-pressures-now-hurting-coverage-say-journalists/>. Also "The Web: Alarming, Appealing and a Challenge to Journalistic Values ", Pew Research Center for the People and the Press, <http://www.stateofthedia.org/files/2011/01/Journalist-report-2008.pdf>.

representatives of the Fifth Estate. Furthermore, the events surrounding WikiLeaks have shown that the Fifth Estate still relies on the Fourth Estate for legitimacy and audience.

In 2010, U.S. analyst Bradley Manning, in the possession of hundreds of thousands of classified documents, called the Afghanistan and Iraq war logs, and diplomatic cables of the U.S. Department of State, submitted them to the anonymous WikiLeaks platform, which was aimed at protecting whistleblowers. WikiLeaks was determined to publish them, but decided to work with several traditional news organizations in different countries, most notably the *Guardian*, *The New York Times* and *Der Spiegel*.

This cooperation once more underlined the benefits of having the press as an institution with a mass audience, legitimacy, professional standards and expert knowledge. WikiLeaks, with its handful of staff and volunteers would have not been able to sift through the documents the way the news media were able to. The journalists worked with the U.S. authorities to decipher the abbreviation-laden documents, edited and interpreted what they meant for U.S. foreign policy and diplomacy, published them to the local audiences in their languages, and, most importantly perhaps, went to great lengths to redact names and other information that could have identified any sources and jeopardized them.

In short, journalism, and the investigative kind in particular, requires more than just information or facts. As one observer puts it:

Traditional investigative journalism once consisted of three phases: unearthing facts, cross-checking them, and backgrounding them into an understandable discourse. WikiLeaks does the first, claims to do the second, but omits the third entirely. This is symptomatic of a particular brand of the open-access ideology in which content production itself is externalized to unknown entities “out there.”<sup>42</sup>

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<sup>42</sup> Lovink (2011) 179.



Citizen journalism and crowd-sourcing are valuable new tools, but they do not replace, at least for now, the standards and expert knowledge of the traditional news media. Some have argued that the 'cult of the amateur' is leading to an overreliance on citizen journalism and crowd-sourced outlets like Wikipedia, an example of the blind leading the blind, "perpetuating the cycle of misinformation and ignorance."<sup>43</sup> Already, people often cannot distinguish between what they read on a random blog and objective political reporting by professional journalists.<sup>44</sup> Such criticism might come mainly from grumpy old technophobes, but they have nonetheless a point: hyping new media and sounding the death knell for traditional journalism is not going to serve the public interest.

What is needed is cooperation, not least because the traditional media are still the main pathway to public attention.<sup>45</sup> But not just the sense-making and educational role of the press is still needed; its watchdog function is still vital as well. And, rather than pitting the Fourth and the Fifth Estate against each other, they can be most useful to the public if they combine their resources. Because in the digital age we do not only have to worry about human and civil rights violations from public authorities or governments; we also have to worry about the increasing influence of tech companies that are gaining more and more insights into our lives and have a growing impact on privacy and free speech issues.

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<sup>43</sup> Andrew Keen, *The Cult of the Amateur: How Blogs, MySpace, YouTube, and the Rest of Today's User-Generated Media Are Destroying Our Economy, Our Culture, and Our Values* (New York: Double Day, 2007). 4.

<sup>44</sup> *Ibid.*, 3.

<sup>45</sup> Yochai Benkler, "WikiLeaks and the Networked Fourth Estate," in *Beyond WikiLeaks: Implications for the Future of Communications, Journalism and Society*, ed. Benedetta Brevini, Arne Hintz, and Patrick McCurdy (Basingstoke: Palgrave Macmillan, 2013), 28.

Jeffrey Rosen, for instance, draws attention to the so-called Deciders of Silicon Valley, those people at Google, Facebook, Twitter and other technology companies who determine the various companies' content policies. In short, he argues, "[t]heir positions give these young people more power over who gets heard around the globe than any politician or bureaucrat—more power, in fact, than any president or judge."<sup>46</sup> They are deciding on free speech issues on a daily basis, thus defining what constitutes hate speech, pornography or unacceptable violence and consequently shaping social norms. Their approach might be the better option than installing regulatory bodies, but the issue nonetheless brings up questions of accountability and corporate social responsibility.

In an ideal world, one in which tech companies subscribe to corporate social responsibility policies, the Googles and Facebooks have a responsibility to protect user privacy, but in many cases that might go against their business interests. Facebook sells user data to advertisers so that those can target users better. Google wants to expand the user base of its social network website, so it integrates it with other Google services, whether the user wants it or not. It is unlikely that we can count on them to tell us about their motives or the implications of their policies. Not even the top executives of the tech companies are sure that corporate social responsibility will win the day. According to a 2012 survey of more than one thousand Internet stakeholders, views are mixed on whether social responsibility can trump political and economic incentives to cooperate with governments on monitoring or tracking people.<sup>47</sup>

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<sup>46</sup> Jeffrey Rosen, "The Delete Squad: Google, Twitter, Facebook and the New Global Battle over the Future of Free Speech," *The New Republic* (April 29, 2013), <http://www.newrepublic.com/article/113045/free-speech-internet-silicon-valley-making-rules>. and Jeffrey Rosen, "The Deciders: The Future of Privacy and Free Speech in the Age of Facebook and Google," *Fordham Law Review* 80, no. 4 (2012).

<sup>47</sup> Janna Q. Anderson and Lee Rainie, *Corporate Responsibility: How Far Will Tech Firms Go in Helping Repressive Regimes?*, (Washington, D.C.: Pew Internet & American Life Project, July 5, 2012),

Only recently a U.S. court ruled in favor of Verizon against the FCC, which until now had enforced the principle of net neutrality, meaning that broadband providers had to give equal access and bandwidth to all lawful content.<sup>48</sup> The mere fact that Verizon has been going to great lengths to make its case highlights that business interests are more important to ICT companies than even the most cherished principles; in this case even the principle on which the whole project of an open Internet was founded. These cases underscore why we need a watchdog press now more than ever to tell us the whole story, not just about what the government is doing, but also about what the new tech giants, who dominate already so much of our lives, are up to. This is particularly true since there are obvious possibilities for governments to exploit the services of the tech companies for their own ends. American and British surveillance programs are only one example of this.

### Conclusion

To stress the point once more: this chapter is not an argument against the Internet, other new technologies and media, or the Fifth Estate, as there can never be too many estates checking up on each other. Rather it is a call to not forget the traditional media and the important job journalists do for society. The Internet has brought positive changes, but it is not an adequate replacement for traditional news media. Far from being obsolete in the digital age, the press still provides important functions for society. There might be a glut of information available these days, but the press is still needed to provide

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[http://www.pewinternet.org/~media/Files/Reports/2012/PIP\\_Future\\_of\\_Corporate\\_Responsibility\\_070512.pdf](http://www.pewinternet.org/~media/Files/Reports/2012/PIP_Future_of_Corporate_Responsibility_070512.pdf).

<sup>48</sup> Dan Roberts, "Appeals Court Rules Against FCC's Right to Protect 'Net Neutrality'," *Guardian* (January 14, 2014), <http://www.theguardian.com/technology/2014/jan/14/net-neutrality-internet-fcc-verizon-court>.

citizens with context and interpret the information that they are confronted with. In a world as complex as ours such a role is indispensable, even if citizen journalism and crowd-sourcing have become a staple of the new era of news production, the bulk of the job of creating news content and distributing it to the masses still falls to the legacy news outlets.

Whether this will remain so, is too early to tell. Although many observers surely have an obituary written for journalism already, stashed away in a folder on their computer, ready to whip out the next time another newspaper closes down or a journalist at one of the remaining ones makes a mistake. Granted, the press is often not helping its own case, particularly in recent years, but the public narrative on the news media seems overwhelmingly negative. Instead of trying to support the institution that is meant to represent the voice of the people, many have jumped on the Internet bandwagon, hoping that it will solve all the problems that are associated with the traditional media. Gatekeepers can now be circumvented and everyone has the opportunity to express their political views.

The problem is that freedom of expression on the Internet is not the same as press freedom. The press has a mass audience, online it is difficult to get heard, let alone have enough of an impact to challenge government policies. The multitude of voices online can also not be equated with that of journalists with expert knowledge, their ability to put things in perspective, educate the wider public and present the “best obtainable version of the truth.” In the vast world of online blogging and citizen journalism, each voice becomes just one more version of the truth. Journalists need to makes sense of it.

To give up on the idea of press freedom because the Internet has come along and given us all a voice online, therefore, would be a grave mistake. Political authorities, and increasingly economic actors, need to be checked, and the most effective way to do so, is still with the help of a free press. In the digital age, the press is needed more than ever, and promoting and protecting press freedom should be of the highest priority to activists who want to keep the political power in the hands of the people.

## CHAPTER 7

### CONCLUSION

Press freedom is under attack worldwide and it has been for some time now. Almost daily new stories about journalists being killed or harassed emerge. But the free press is not only threatened in countries in crisis. Democracies, too, are responsible for the global decline of press freedom. This month, Reporters Without Borders released its 2014 World Press Freedom Index and the findings are not pretty. The U.S. dropped thirteen ranks to 44<sup>th</sup> place due to increased government attempts at using journalists to identify sources or whistleblowers.<sup>1</sup> The fact that the Department of Justice seized phone records of journalists at the *Associated Press* in 2013 also did not help the U.S. scores.

In Europe, things do not look much better. While the Northern European countries remain at the top of the rankings, South Europe has almost collectively dropped in the rankings. Greece and Hungary have been worrying cases for several years, but this year France and the U.K. also fell in the ranks. In France, publishing the assets of certain elected officials is now punishable by imprisonment.<sup>2</sup> The low point of the UK's 2013 press freedom violations came when government officials supervised the destruction of the *Guardian's* computer hard drives with information from Edward Snowden.<sup>3</sup> This scenario sounds more like something that could occur under an authoritarian regime, not like something that we expect a Western democratic government to do. And of course the press freedom situation in the non-democracies is even worse.

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<sup>1</sup> Reporters Without Borders, "World Press Freedom Index 2014," <http://rsf.org/index2014/en-index2014.php#>.

<sup>2</sup> Reporters Without Borders, "World Press Freedom Index 2014: EU and Balkans," <http://rsf.org/index2014/en-eu.php>.

<sup>3</sup> *Ibid.*

Clearly, then, the ‘right on which all other rights depend’ is experiencing considerable setbacks. Surprisingly, however, it has garnered very little attention in the context of the international human rights debate. Press freedom lacks legal institutionalization in international human rights law. The creators of the Universal Declaration on Human Rights did not include an explicit provision for the freedom of the press. For the UN, press freedom falls under Article 19, which is focused on the individual right to freedom of expression. The UN framework does not treat press freedom as an end in itself. Rather, the media are treated as a means to an end. For example, they can help protect the right to information, guarantee freedom of expression, foster understanding and friendly cooperation among people and states, publicize and mitigate humanitarian disasters’ or promote human and economic development. In other words, the media and press freedom are treated as a channel to secure other human rights. The press is not treated as a political institution that requires its own protection.

This UN discourse is reflected in the academic literature on human rights. In fact, press freedom is virtually absent in the academic discussion on human rights. And where it is discussed, it is of marginal concern, just as at the UN. The most prominent human rights volumes lack any reference to freedom of the press. Press freedom fares only slightly better in human rights reference works and is mentioned only in passing in many more notable human rights books. Coverage of press freedom in academic human rights journals is even more limited.

Generally speaking, older texts on human rights do not feature significant discussion on press freedom, free press or the media. When they do it is mostly connected to the right to free speech and mostly superficial. Newer texts tend to

acknowledge the importance of the media and particularly the Internet, but do not address press freedom in depth either. In general, the power of the press is either taken for granted in the context of other human rights, or the drawbacks and dangers of the media are highlighted.

This marginal existence of press freedom in the human rights debate is remarkable given the fact that history and philosophy have recognized press freedom as central to democracy and human rights for well over four hundred years. Throughout this period, thinkers and practitioners have made the case for the necessity of press freedom as the basis for human rights and self-government, values to which the Universal Declaration of Human Rights is clearly committed. Securing a free press also emerged as a constitutional concern in the U.S. and France at the end of the 18<sup>th</sup> century, when revolutionaries fought to overcome tyranny and establish equality, values that are also fundamental to UN objectives.

Democratic politics are based on the principle that the people are the ultimate sovereign; that the government responds to the will of the public. Without an unfettered press it is difficult for the voice of the people to be heard and for the government to be held accountable. Indeed, the institution of a free press, or the Fourth Estate, is the greatest safeguard the public has against official misconduct, and for ensuring that they receive the information they need in order to make government accountable to them.

The press is a political institution that acts as a facilitator for public opinion, which in turn acts as a check on official power. By shining a light on those in power, the free press is also an antidote to corruption. Furthermore, the press also fulfills a social function by fostering a sense of community, engaged citizens and tolerance. This



highlights that the role of the press goes beyond a political watchdog function towards promoting an open, tolerant society that goes hand in hand with democratic politics.

In addition to its status as the Fourth Estate and social role, the press is also an important provider of not just information, but context as well. For the democratic process to function, the public needs to be informed not only about its government's conducts and policies, but also about important issues and debates. The press aides the democratic dialogue in this context, but it does more than simply providing information. It is also needed to make sense of the vast amount of information that the government and other institutions release every day. This demonstrates why it is important to distinguish between the right to freedom of information and the right to a free press. Even in the unlikely case of absolute government transparency and free flow of information, a lot of information might still end up in the vast depths of the Internet, if it were not for the press to gather, interpret and publish the most relevant information.

Press freedom is also often treated as a corollary to freedom of expression, but it is important to distinguish between the two concepts as well; while they are closely connected, they are not the same. Freedom of expression protects the individual's right to express what is on his or her mind, but does not guarantee that these views reach a larger audience and become politically relevant. The key to understanding press freedom in its own right is the fact that the press possesses power that it draws from its mass audience and its resulting status as the people's surrogate and government oversight mechanism. It thus protects the very core of the kind of government-citizen relationship that the human rights framework is aiming to promote: a system in which the will of the people is the basis of the authority of the government.

Despite these essential benefits, states are not very active when it comes to protecting or promoting press freedom as a human right, or even as the basis of other rights. This might not come as much of a surprise in the case of Russia or China, but the liberal Western states also do not treat freedom of the press as a political priority. The press freedom rankings support this observation, but they primarily show how states treat press freedom at home. In order to assess the way states value freedom of the press internationally, this study examined in detail the treatment of press freedom at the United Nations.

Looking at the UN offers critical insights into the international treatment of the freedom of the press, since the UN is the central global forum for the human rights discourse and implementation. There is no other institution with comparable reach and political power that works on behalf of press freedom and could elevate freedom of the press to an international human rights priority.

The analysis shows two things. First, press freedom is, at most, a marginal issue in the international human rights discourse. The human rights regime on press freedom is weak. Article 19 of the International Covenant on Civil and Political Rights does not specifically grant the right to a free press and press freedom related declarations from the 1970s and 1990s are not legally binding. The work of the various UN human rights bodies on the protection and promotion of press freedom is also limited. While the Human Rights Committee and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression have made some progress in their efforts to support press freedom, the topic is largely marginalized in the work of the Human Rights Council. This leaves UNESCO as the UN organ where most work on press freedom is

done. The agency is tasked with many other issue areas that tend to carry a higher priority than press freedom, and thus focuses its limited resources in this area mostly on media development in developing countries and on drawing attention to press freedom issues once a year on World Press Freedom Day.

Second, the findings show that press freedom historically has only garnered significant attention when Western strategic interests were threatened. This demonstrates that Western actions when it comes to press freedom are instrumental, rather than normative. This is further underlined by the fact that when press freedom was introduced to the human rights debate in the early days of the UN, and even prior, it did not take much for the West to cave to demands from the Soviets that the press freedom debate focus on the responsibilities of a free press. When the idea of press freedom was brought up by the West or its allies, pushback from the Soviets and the Non-Alignment Movement would return the focus to the dangers of a free press and the need to regulate it. While the West saw these attempts for what they were – authoritarian regimes trying to consolidate their power – they barely went out of their way to pursue their opposing free flow doctrine.

Furthermore, if the West had been pursuing a proactive policy on promoting press freedom, the period following the Cold War should have seen continuing Western initiatives on promoting press freedom. The Cold War was won, the Soviet Union collapsed and many of the former Non-Alignment countries turned towards capitalism and democracy. But instead of a Western agenda of promoting key civil and political rights headed by the ‘right on which all other rights depend,’ the UN saw the fading of press freedom from its human rights agenda.

This neglect of press freedom, particularly by Western states, is surprising because one would expect ideas to matter to the West and influence their interests and politics, particularly when it comes to human rights. After all, the UN human rights regime is a reflection of Western liberal ideals. Preventing abuses of power and supporting individual self-determination, the basis for democracy and human rights, are essentially guarded by press freedom. And yet, the liberal West treats freedom of the press like nothing more than a step child.

The academic literature on human rights has stressed ideational explanations not only for the existence of a human rights regime, but also to shed light on why states comply with human rights. Since realist explanations of the human rights phenomenon reduce state behavior in this context to results of coercion or coincidence, constructivist alternatives emphasizing the explanatory power of norms and identities have gained traction.

According to ideational theories, norms and values matter because they influence state preferences and interests. Since press freedom has a long tradition in Western liberal thought, one might be forgiven the assumption that the 'right on which all other rights depend' would have more of an effect on the human rights policies of Western states than this study finds. The evidence suggests, however, that when it comes to press freedom state behavior is first and foremost guided by strategic interests and considerations of power. This is not to say that Western foreign policy is free from normative concerns, but it shows that the press freedom ideal has very limited influence on Western human rights policy. This is surprising because the idea of press freedom has been around much longer than gender or racial equality, for example. The Founding Fathers championed press

freedom at a time when women and black people were still considered second-class citizens.

What, then, accounts for this paradox? The answer comes down to power. No politician really likes the press; even those who have praised the benefits of the free press and wanted it included in the First Amendment tend to complain about the press once they were in office and learned how inconvenient a government watchdog can be for those in charge. The press, with its mass audience and mandate to provide a public good, is a thorn in the side of every government that wants to sustain or consolidate its power.

But states are not the only ones who do not pay enough attention to press freedom. There is no significant domestic constituency for press freedom in Western states. Most people seem to look at championing press freedom as an issue that only concerns people in places that are ruled by dictators, in which journalists are being thrown in jail, otherwise harassed or straight out killed. But that is not so. Protecting and promoting press freedom in the West is just as important as promoting it around the world, because it is the basis for democracy.

The public does not fully appreciate the role of the press. The news media are perpetually plagued by a bad reputation, but it has gotten particularly bad over the last three decades.<sup>4</sup> Increasing tabloidization of the news and perceived bias have caused the public to lose trust in the media.

NGOs, too, are mostly focusing on freedom of expression issues, particularly Internet freedom, instead of the protection of press freedom. And those that do, have limited human and financial resources.

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<sup>4</sup> See section “The Public Attitude Towards the Press” in Chapter 5 for detailed statistics.

Not even the media themselves are very successful in advocating press freedom. For the most part, the media and journalists uphold the principle of press freedom through their work, by adhering to journalistic standards of fairness, accuracy, transparency and objectivity. But perhaps because they are sworn to these principles, they rarely use their news outlets to campaign for press freedom.

Economic pressures have further contributed to the widespread notion that the news media business is undermining the principle of press freedom all by itself, even without the help of power-grabbing politicians. The public and many observers complain about the increasing sensationalism of the news and obvious grabs for higher viewer- and readerships, trends that are embodied by Fox News and MSNBC's blatant bias, CNN's fascination with all things social media and touch screen, and the dumbing down of newspapers in favor of more lifestyle rather than investigative reporting.

Even as a lobby, the organizations behind the news media are not very influential. Although media organizations used to rally when their interests were at stake, as was the case with the World Press Freedom Committee during the New World Information and Communication Order debate, these interests are most important when they coincide with business interests and with the political position of Western governments. The media lobby might have been able to raise awareness of UN efforts to constrain press freedom, but its overall success was limited. It was not the threat of media NGOs that incentivized UNESCO to rethink its press freedom policy, but the withdrawal of the U.S. and UK from the organization.

In short, the free press is not just under attack in authoritarian and developing countries. It faces many challenges in the West itself and curiously lacks adequate

support from the human rights community, NGOs and the public, considering that press freedom is the basis of all other human rights.

The findings of this project have a variety of implications both for the idea and implementation of press freedom and the idea of democracy and human rights in International Relations, not only in developing countries, but in liberal democracies as well.

Looking at press freedom, it becomes clear that power and interests still matter, even when it comes to human rights. The fact that press freedom is only of marginal concern to the human rights community and Western states, underscores the realist notion that international organizations are, in fact, extensions of state interests. It also means that there is a limit to the idea of universal human rights, as civil and political rights, and press freedom at the core, are still contested. The more universal rights, like protecting the innocent or making sure every person has enough food to survive, are the rights that all states can, at least in theory, agree on. The crux of human rights, however, is still very much subject to state interests, and state concerns of sustaining power and sovereignty. Press freedom, and other civil and political rights, strike precisely at the core of these.

Furthermore, the findings suggest that the impact of transnational actors on promoting human rights, in this case the media and media NGOs, is limited. There is neither a bottom-up nor a bottom-down movement when it comes to press freedom. States avoid press freedom issues, and transnational and domestic actors have difficulty framing press freedom in a way that allows them to mobilize for the issue, since it is not even explicitly mentioned in Article 19 of the International Covenant on Civil and Political Rights. Additionally, the area of communication rights, with its related concepts

of freedom of expression, freedom of information, press freedom and Internet freedom, also continues to lack definition and clarification, which would make advocating for any or all of these rights easier. What works for other human rights in the advocacy context, does not work for press freedom, it seems. This raises the question of whether advocates and the public have fully recognized the importance of promoting freedom of the press.

Further research in this context could illuminate the specifics of why press freedom has largely disappeared from the human rights agenda. To do so, a closer look at country cases like France and in Scandinavia to examine historic and contemporary public attitudes towards press freedom would be insightful. Similarly, examining human rights NGOs and their attitude and practices regarding press freedom in more detail would shed more light onto why press freedom is not a higher priority for human rights advocates. An analysis of how and why media companies and lobby organizations do or do not fund research or advocacy efforts on press freedom would also provide more insights into the peculiarities of the neglect of press freedom in the human rights discourse. While this project was aimed at opening up the debate on press freedom in the context of human rights, further research on the issues raised in this dissertation could help built an even stronger case for a renewed focus on press freedom.

The finding that press freedom is only of marginal concern in the context of human rights has implications for the future of the Western liberal order as well. If not even the most liberal democratic states think it necessary to stand up for core human rights like press freedom, then how can the West expect to protect liberal values in an international system that is increasingly characterized by ‘the rise of the rest’? China and Russia are not exactly known for cherishing individual rights and personal freedoms, and



other authoritarian states find the Chinese and Russian approach marked by centralized power and the protection of state sovereignty at the expense of human rights appealing.

There are already new coalitions forming at the UN. China, Russia and the Organization of the Islamic Conference join forces on issues of blasphemy, aimed at curtailing freedom of expression rights and guarding 'traditional values.' Many of the states that are growing more powerful do not care about normative policies. It is unlikely that human rights as a concept will disappear from international relations, since in overall terms they have become an established norm. But there is nonetheless the danger that the human rights discourse and implementation might stagnate if core human rights, like press freedom, which truly challenge government power and encourage democratic politics, are continued to be neglected.

In the 21st century, the status of state-society relations first and foremost hinges on communication rights. The events of the Arab Spring and the role of the media, old and new, have made this trend clear. But the implications of the power struggle between state and society unfolds primarily in the West. Crackdowns on press freedoms in the U.S. and the UK, along with unfettered data surveillance programs, have brought this reality to the fore. What has been less discussed, however, is the fact that nothing short of democracy and human rights is at stake.

The issue of press freedom lies at the heart of democratic government. The French revolutionaries and American Founding Fathers realized it. However, in the centuries since, and particularly in recent years, the idea of press freedom has lost traction. Media development in developing countries is something that is supported by the West and international organizations, but attempts at repairing the free press in the West is largely

the domain of journalists themselves. And normative discussions of press freedom as central to human rights are absent from the international discourse and in the West almost entirely.

This can, in part, also be attributed to the rise of the Internet and the fact that many regard new information technologies as a quick fix to eliminate traditional gatekeepers, enhance diversity of voices, and generally protect the individual right to freedom of expression. Freedom of expression or Internet freedom, however, is not the same as press freedom. Press freedom is inherently political and a tool to foster democratic governance.

Blogs and social media publish primarily information, not necessarily context. Even less often they deal in political context. There are bloggers that investigate, fact-check, and explain. But there is no guarantee that they will be heard. It is easy to get published online, but difficult to be heard and even more difficult to be heard by a critical mass. And if political bloggers do gain a mass audience, it is likely that they face the same restrictions as the mass media. Framing the press freedom debate within the context of freedom of expression or Internet freedom, therefore, ignores the wider social and political consequences of protecting the free press as a structural necessity of the modern state, and underestimates its significance as the basis of other political and civil rights.

Governments are much more adept at drawing this distinction between freedom of expression and of the press than the human rights community is. They recognize the political power of the press, as increasing government crackdowns on journalists and press freedoms demonstrate. They claim to uphold the universally recognized individual right to freedom of expression, but only as long as it remains politically irrelevant. The

free press is what takes free speech to the politically relevant level, however. Not (yet) the Internet, but news media with the power to reach and mobilize a mass audience.

Since promoting press freedom clearly runs counter to government interests, more than the promotion of probably any other human right would, it is unlikely that states can be counted on to become serious about protecting the free press on their own. This suggests that non-governmental actors need to take a more prominent role in the promotion of the freedom of the press. Human rights NGOs should dedicate more resources to press freedom and aim to elevate the issue to more than an annual talking point on World Press Freedom Day. They should become more vocal about the important functions the free press fulfills for politics and society. Media companies could support this important NGO work by dedicating more of their revenues to these human rights organizations.

It is vital that the narrative that the Internet will cure all of our free speech issues is challenged and that the public is made aware of the fact that the press is working in their interest. What it comes down to in the end, is that the problem with press freedom, is a problem with the public in Western societies. If the public does not want or cherish a free press, there will not be one.

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## APPENDIX

*Media, communications and press freedom NGOs with consultative status at ECOSOC as  
of 1 September 2013*

Inter-Press Service International Association (1991)  
 Feminist Press (1999)  
 Inter-American Press Association (1953)  
 International Eurasia Press Fund (2007)  
 International Press Institute (1993)  
 Press Council (2004)  
 Presse embleme campagne (2010)  
 Syrian Center for Media and Freedom of Expression (2011)  
 European Alliance of Press Agencies (1969)  
 Union internationale des journalistes et de la presse de langue française (2001)  
 Association for the Promotion of the International Circulation of the Press (UNESCO)  
 International Federation of the Periodical Press (UNESCO, WIPO)  
 International Press Telecommunications Council (ITU, UNESCO)  
 World Press Freedom Committee (UNESCO)

Aframedianet (2011)  
 Foundation for Responsible Media (2013)  
 International Association for Media and Communication Research (2008)  
 International Catholic Organisation of the Media (1951)  
 International Federation of Multimedia Associations (2004)  
 Morality in Media (2004)  
 Peace Family and Media Association (2011)  
 Population Media Center (2013)  
 Public Fund “Medialife” (2012)  
 Women in Media and Entertainment (2000)  
 PCI-Media Impact (1974)  
 Asian Media Information and Communication Centre (UNESCO)  
 International Research Institute for Media, Communication and Cultural Development (UNESCO)

Dominican Union of Journalists for Peace (1995)  
 International Federation of Journalists (1953)  
 Réseau malien des journalistes pour la lutte contre la corruption et la pauvreté (2004)  
 International Federation of Free Journalists (1969)  
 International Federation of Agricultural Journalists (FAO)  
 Latin American Federation of Journalists (UNESCO)

Reporters sans frontières international (1993)  
 Article 19: International Centre against Censorship (1991)

Japanese Association for the Right to Freedom of Speech (2012)

Freedom House (1995)

Amnesty International (1964)

Human Rights First (1991)

Human Rights Internet (1983)

Human Rights Watch (1993)

Internet Society (2010)

*Source:* UN Economic and Social Council, “List of non-governmental organizations in consultative status with the Economic and Social Council as of 1 September 2013,” E/2013/INF/6, 4 October 2013.

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