

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

A Free Press for a Global Society

28/02/2010 08:22 by admin

By Lee C. Bollinger

At Columbia's commencement last spring, I asked the 12,000 graduates to consider one of the most daunting questions their generation will face in the increasingly interconnected world they will inherit: How will they—and we—realize on a global scale the principles of freedom of speech and press that have defined their experiences at an American university, where the prerogative to speak out on any topic and to pursue ideas has been the norm? That is not an easy question for any of us to answer. Rapid globalization, driven by the combined forces of expanding free-market economies and new communications technologies (principally, of course, the Internet), means that creating a system of free expression of news and knowledge is no longer only a moral issue of spreading human rights. It is also a very practical challenge of getting access to the ideas and information we need to function as a society dealing with a myriad of border-crossing challenges, including financial recession and climate change, terrorism and infectious disease.

On the one hand, the Internet offers unparalleled opportunities for enhanced communication and sharing of knowledge. But it has not rendered censorship obsolete, and it presents determined governments with dangerous new tools for surveillance and repression of civic life both online and off. Consider some of these contradictory developments of recent months:

We have seen a secretive North Korean government sentence two American journalists to 12 years of hard labor in prison for what it said were hostile acts of reporting the news, before they were released to former President Clinton.

We have witnessed the inspiring demand for democracy by Iranian citizens met not only with violence but also with a fierce government crackdown on both domestic and international news media, as well as on access to the Internet. Indeed, a number of governments in different hemispheres have used a variety of means to control or penalize news outlets that are critical of political leaders. With Google's highly public confrontation with China over government efforts to censor search results and intrude on individual user privacy, we have just the latest example of the twosided nature of the revolution in information technology.

Yet, on the other hand, we have also seen compelling examples of how new technologies provide new ways to escape the censor's shroud: the millions of Chinese Internet users who have learned how to "scale the great fire wall" and use the World Wide Web

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

unrestricted; the extraordinary tweets and cellphone videos uploaded by Iranians after accredited journalists were deported or barred from covering last year's post-election demonstrations; the brave journalists in Latin America who blog about their governments and societies. Like the underground samizdat—the mimeographed manuscripts quietly shared among dissidents and intellectuals during the Soviet era—the Web has allowed free speech to avoid the reach of the most authoritarian regimes.

With respect to the news media, in this age of global publication, the problems we face are threefold: overcoming censorship, protecting access for the media and the newsgathering process, and building the capacity of the media to provide us with the professional journalism we need to build a healthy global society. The United States has developed two remarkable sets of institutions, the press and universities, each of which in its own way generates the knowledge needed for meaningful self-government and creative problem solving. One primarily provides information focused on the immediate, that is, "news." The other concentrates on deeper understanding and analysis of our world through rigorous scholarship.

But the challenges of globalization and economic change threaten to leave both of those essential institutions behind, in some cases without the resources and, in others, without the intellectual capacity to help us truly understand the world we face and its potential.

We generally take for granted the cacophony of voices in our own society, especially now that anyone can, and often does, have a personal online soapbox. But we should not forget that America is radical among nations in our free-speech tradition. In the stirring language of the U.S. Supreme Court's famous decision in 1964, *The New York Times v. Sullivan*, we have over the past century put our faith in a system that is "uninhibited, robust, and wide-open." We should also remember that it was not always so. Laws protecting state secrets, forbidding speech deemed "dangerous" and "offensive," and favoring reputation over free expression went largely unchallenged for much of our history. It wasn't until 1919 that the court even took a case on the meaning of free speech—upholding the Espionage Act of 1917 and allowing the Socialist presidential candidate Eugene V. Debs to be jailed simply for the "act" of voicing his support for resisting the draft during World War I. Here at Columbia, President Nicholas Murray Butler comfortably informed the university that vocal opposition to the war would be grounds for dismissal.

It took several decades for our judiciary to give us the remarkably unrestricted freedom we have today. Our elected government acted

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

in many ways to do the same: For example, by creating a system of broadcast regulation in 1934 that did not permit censorship but did include requirements to serve the public interest, and by later creating and financing a public broadcasting system and, in the case of state legislatures, enacting shield laws for reporters.

Over the course of the 20th century, the country was remaking itself as we moved from a collection of individual states with local jurisdiction over local problems to a national society able and compelled to face up to increasingly national issues. As a society, we became more inclusive and pluralistic, making dialogue an even greater necessity, and our means of communication expanded. We had the good sense to know that we had to create and fortify a national public forum, protected against the chilling effects of local laws or censorship. Collectively, we bet our future on a simple proposition, that people behave better when they know more.

By the 1970s, a long line of U.S. Supreme Court rulings had firmly established in constitutional law the values of a freer and more open society. During this period, our major newspapers and broadcasters were able to deliver an ever-increasing volume of fairly high-quality news and information, in large part because they reaped monopoly and oligopoly profits as either the only daily newspaper in a locale or one of a small number of local stations or networks. Quality news and public affairs were therefore affordable (or, in the case of broadcasters, made a condition of federal regulation). So for several decades, we enjoyed both a legal regime that protected a free press, and an economic situation that made journalism a reliably profitable business.

A decade into the 21st century, we see repeated examples of how much of the world does not take the same view of freedom of speech and press that we now do. And as we have all seen in recent years, the very same technology—the Internet—that is making global communication so pervasive is simultaneously undermining the financial model of the traditional news media as we have known it. Unfortunately, at the very moment when we want and need more serious reporting on global issues, we are getting less of it as the news media pull back, closing foreign bureaus and decreasing coverage of international news.

What, then, can be done to encourage a truly global forum of free speech and a free press abroad, while also sustaining quality international reporting here in America? And what special role should American universities play in that effort? Let me offer a few suggestions.

First, we must start with a new perspective. Nothing ever really begins to change until people begin to think differently, and in this case, we need to move beyond seeing free speech and a free press as exclusively a matter of human rights. Second, we must realize that

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

we have a collective need for the free flow of information and ideas essential for dynamic economic markets to function efficiently, for governments to tackle societal challenges effectively, and for scholars to achieve research advances. As the declining economic fortunes of the news business have forced American newspapers and network news divisions to shutter their bureaus abroad, we must increasingly depend on foreign news organizations for a significant part of our international coverage. One result is that censorship in one country can effectively lead to inhibiting speech everywhere. For example, although the British are now in the process of re-examining their libel laws, which strike a very different balance than ours do between free speech and individual reputation, we have seen how "libel tourism"—when plaintiffs choose opportune jurisdictions in which to file suit—can effectively chill speech anywhere. That is because the Internet has meant that to publish anywhere is effectively to publish everywhere, and thus to be exposed to the law everywhere. Executives of Google have been indicted in several jurisdictions around the world because of the offensive or allegedly defamatory content appearing on sites to which they link. German laws criminalizing Nazi speech are threatening the way people report events on Wikipedia.

Putting aside issues of censorship, the fact is that we already depend on the foreign news media for much of our international news, especially on television and radio, through rebroadcasts of the BBC and BBC World Service on PBS and NPR. Such news comes courtesy of the British citizens who pay a TV license fee to support the BBC. Meanwhile other government-supported broadcasters, like China's CCTV, are developing their own global presence reflecting their own values and perspectives. The United States' official international broadcasters, like Voice of America and Radio Free Europe, were developed during the cold war, primarily as tools of our anticommunist foreign policy, and they remain barred from airing within American markets, reflecting our distinctive tradition of wariness toward government propaganda.

At the same time, America has never made the kind of serious investment in public broadcasting that most other nations have—and that was originally promised by the creation of the Corporation for Public Broadcasting in 1967. In a new world of borderless communications, we need to consider reforming the Voice of America and Radio Free Europe to develop a true publicly financed global, independent, and high-quality journalism enterprise infused with our First Amendment traditions. That means we need to overcome our instinctive resistance to public support of the press. The fact is that our news media have never operated in a purely free market. They have benefited at various times from economic monopolies, technological monopolies over the airwaves and cables, and favorable postage rates. We have also long had a hybrid system of publicly regulated commercial broadcasting and publicly financed

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

nonprofit broadcasting.

To take another dimension of the problem, the message we must convey to other countries is that we cannot have an economic relationship unless we also have the openness to information and ideas that ultimately is the foundation for that relationship. We need to become more committed to the development of international legal institutions governing free speech and a free press. Starting at home, the Supreme Court could build on the essential values of *Times v. Sullivan* by extending its interpretation of the First Amendment to a global public forum—for example by finding a right of news gathering in war zones. To be sure, there will always be active debate about how much one nation's legal system should cite precedents from elsewhere. But we should recognize that our court's voice is respected in much of the world and can be highly influential.

Ultimately we want to develop and expand global legal norms and create legal structures for resolving the differences about freedom of the press, and we have a base to start from with Article 19 of the Universal Declaration of Human Rights. As early as 1948, decades before the Internet, the drafters of the declaration recognized that some sort of international framework would be essential for protecting the right of free expression in an increasingly interconnected world. Similarly, the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in 1966, provides, "Everyone shall have the right to freedom of expression; this freedom shall include freedom to seek, receive, and impart information of all kinds, regardless of frontiers." Within the context of international human-rights law, that language is unique in its implication that citizens of one nation may have a right against other nations.

To be sure, the real meaning of any legal norm cannot be understood without considering the mechanisms for enforcement. There, the record of human-rights reporting is disappointing and the barriers to enforcement significant. The free-speech and freepress provisions of regional treaties and conventions, like those of the Organization of American States, have achieved the greatest level of legal effectiveness. But clearly we must also look to other international structures with greater leverage. It is especially appropriate for us to make press freedom a critical element of international-trade and investment law and policy. Last month, after Google's very public confrontation with China, Secretary of State Hillary Rodham Clinton gave what was actually a longplanned address on global Internet freedom, explicitly making the link between our economic relationship with China and censorship there. "Countries or individuals that engage in cyberattacks should face consequences and international condemnation," she said. "By

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

reinforcing that message, we can create norms of behavior among states and encourage respect for the global networked commons." The World Trade Organization provides one possible avenue, as do regional and bilateral agreements such as the North American Free Trade Agreement and the United States-Peru Trade Promotion Agreement. Of course some member countries have long resisted having "social clauses" linked to trade. But cases involving media and communications have nonetheless already come before the WTO: A recent decision found that China had violated its obligations by restricting distribution of certain communications through state-controlled agencies. There are many other specific examples of how we can begin to place free speech and free press in their unique role within a globalized economy.

Universities must consider a range of programming and partnerships to produce quality journalism. That is already happening as more universities and their journalism schools join local news media to create new online outlets. We can play a major role in training journalists from abroad. Indeed, one of the things I have found over the past few years working on a book about a global free press is that independent, fearless reporting exists even in societies where censorship continues and free-press traditions have yet to take firm root. As so many of us in higher education strive to become more global in our perspective, we need to integrate, more than we do now, in every field of study, and in every center of policy making, a sense of how vital it is that there be the freedom of thought, speech, and press that we have come to enjoy throughout our society.

We must also take the long view, because it will take time to achieve these goals, just as it took us nearly a century to bring our own First Amendment rights and the system of a free and independent press to their full meaning. While we face serious challenges, on balance, such engagement enhances the free exchange of ideas and free speech values. Ultimately, the best defense we have against global censorship is probably going to be getting more quality information to more people, because the more people know, the more they are likely to want to know.

For those of us committed to a system of higher education with the dual mission of discovering new knowledge and training a new generation of global citizens, there is no more important task than creating a global society in which ideas matter, knowledge can be pursued freely, dissent can be heard, and objective news can be gathered and published. Americans can neither take those rights for granted nor be satisfied to enjoy them while they are denied to others.

Lee C. Bollinger is president of Columbia University and author of

Rallying For Democracy

<http://www.rallyingfordemocracy.org>

Uninhibited, Robust and Wide-Open: A Free Press for a New Century (Oxford University Press).