

Free Speech, Human Rights And Western Values?
28 October 2003 at the Centre for the Study of Human Rights, LSE
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Free speech is an oddly Anglo- American or perhaps I should say civil libertarian version of the human right to free expression. Travelling as I do around the world there are very few places where people talk about the importance of free speech – as opposed to freedom of expression.

This isn't mere terminology.

Freedom of expression is one of the most valued human rights internationally.

Defined by A19 of the UDHR, and by A19 of the ICCPR. It is well protected in regional treaties and instruments - Article 10 of the ECHR, Article 13 of the American declaration, Article 9 of the African Charter on human and peoples rights (developed by a new declaration agreed in late 2002).

It is so valued because it is seen a foundation right – that without which makes it difficult to realize other rights and democratic freedoms. If you can't express yourself freely then it's almost impossible to do anything else.

Freedom of expression applies to any person or category of persons – an individual might find her or his freedom of expression restricted, so might women in some societies, or children, or politicians, or journalists, or writers or poets and musicians.

Freedom of expression is seen as a foundation right – underpinning other rights, but it is not fundamental and unrestricted. Most international standards – accept some regime of limitations to protect the rights and freedoms of others – whether it is not inciting murder or crime – as did Radio Mille Collines in Rwanda, for the protection of the reputation of persons, for the protection of morals (e.g. child pornography) etc.

Of course in each case there is a lot of debate about how to apply these restrictions - how to restrict the scope of government abuse, eliminate administrative discretion –, as is the case with any regime of restrictions.

But the overall picture is straightforward.

So the question is – is there something peculiarly “western” about this right?

It certainly has a long history in the west

Where a man cannot call his tongue his own, he can scarcely call anything his own Cato

Give me liberty to know, to utter and to argue freely according to conscience, above all liberties
Milton

But there is also a long tradition in African culture of challenging the chief, of speaking out and of the obligation of the chief to seek the views of those around them before arriving at decisions. As this is predominately oral, it's hard for us to map its form in the way we can with western history – but it would be foolish to assume that such traditions and values are exclusively western. Certainly the most elaborated declaration on freedom of expression comes within the African system of protecting rights.

What is distinctively western is the emphasis upon the traditional “liberal” justification for freedom of expression, which values it as an essential part of individual integrity (e.g. Milton). It sees expression as part of the same right as opinion – as necessary part of achieving human agency.

Elsewhere in the world, the view of freedom of expression is more instrumental. It underpins democracy, supports human rights, helps challenge corruption, attacks religious obscurantism and is essential to economic and social development. The Dutch govt have for example, included free expression as part of their development approach to eliminating structural poverty. Similarly the Scandinavians all take the same approach and support free expression programmes as a development tool. Only last week the Ethiopian Minister for Information was speaking to me about promoting community radio – not because he's a fan of free expression –

but as a developmental tool I rural areas – although of course, it will bring the human rights package with it.

Even this may be something of a caricature however. If you take the classic view of free speech – or rather opposition to censorship – that of Milton's *Aeropagitica*, his arguments are far more nuanced than you might expect.

(background this) John Milton wrote the classic defence of freedom of expression in the middle of the seventeenth century:-

censorship is a barrier to learning

truth can't be known unless all points of view are considered

freedom of expression necessary for material progress

no-one is wise enough to be a censor

truth will defeat falsehood in open competition

a nation's unity comes from blending individual differences, not imposing from above

This is a curiously contemporary argument.

So what's the difference between free speech and freedom of expression.

Free speech to me is the civil libertarian right to be left alone to say what you like without censorship. It implies that the highest state of being is the absence of the state – out of your hair and out of your life. It represents the Anglo-American hostility to remote and censorious government of the (17th and 18th centuries.

Freedom of expression is – of course a human right, one that requires state action to enact. Let's take one example – the role of the media – central to the exercise of the right of free expression (or free speech for that matter).

The media are important because they are
A vessel for transmitting ideas and opinions

a crucible that shapes a democratic culture (by reporting the views of opposition politicians and groups, by allowing debate, by asking awkward questions)

A watchdog guarding the people from the state, by subjecting the state to constant scrutiny.

But the broadcast media – to exist require a sophisticated and independent form of regulation – allocating airwaves, protecting public service principles, insisting upon local content (especially in poorer media markets), creating a level playing field for competition and deciding to what extent should foreign or monopoly ownership of the media be allowed. All of this requires considerable state intervention, regulation and sometimes prohibition.

Where free speech holds sway – as it does in the USA – you have media that is enslaved to the market, has no public service ethos, and has failed dismally to allow the expression of diverse views of recent conflict in Iraq. By contrast the heavily regulated UK market, with a large PSB, has made a much better attempt at representing a cross section of views.

Taking this view it possible to try and answer some of the questions posed in the rubric of this presentation. Is free speech always a good thing – yes within the limits set by international human right law – yes it is? Is it well protected in the west? Generally yes but with significant areas of concern – national security restrictions have always been too strong in the UK and are now a growing problem world wide – the defamation laws in Germany are far too extensive, there's more commitment to being transparent in newly liberated Eastern Europe than in the west – the media in Italy are a disgrace as are most public broadcasters in southern Europe. In freedom of expression terms as in most others, the place to be is Scandinavia.

But there's no doubt that the contrast between the west and the most restrictive regimes of the world – currently – with the odd exception like Burma – located in the Middle East is pretty dramatic. The reason Al- Jazeera has done so well in the Middle East is the appalling quality of the state owned media – filled with sycophantic nonsense about the ruling elite, spiced with some of the most lurid anti-Semitism and hate speech you are likely to find on the planet.

But some of the bravest advocates for freedom of expression also come from this region – Salman Rushdie found outspoken and heroic defenders in Egypt and Iran when he published *The Satanic verses*. Some of the most interesting media is coming out of China, where – despite

being partly of state owned, commercial pressures are forcing the media to compete for audiences and are driving a new culture of expression.

Free speech is a term that only has meaning in the west, coming as it does from a distinctively western civil libertarian history – honourable as it is. To make sense of the debate internationally you have to think of freedom of expression – a universal right valued throughout the world.