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**THE IMPACT OF THE MEDIA ON  
AMERICAN DEMOCRACY**

By

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## ABSTRACT

The media industry is one of the largest private sector employers in the United States, and the news media make up the largest segment of that industry. Generating information, not just delivering it, is a growth business in the United States. The American news business used to be a largely domestic enterprise, but no longer. The American news industry is a developed participant in the American culture, as well as in the democratic political system and its free market economy.

The impact of the media has been most spectacular in the democratic political systems. The media could help expand the reach of democratic ideals thus the issue is to make the right decisions to head in that direction. The media is a useful tool that will lead nations to make the right decision in that direction.

This research focuses on the impact of the media on the American democracy and portrays the American media experience in promoting democracy. It analyzes the power of the media to break down hierarchical power structures, to enhance freedom of the individual, to increase voter participation, to produce informed decision makers who are more responsive to the desires of the citizenry.

This research studies the constitutional protection of American Media as a free press guaranteed in the First Amendment, "Congress shall make no law...abridging the freedom of speech, or of the press...." The Fourteenth Amendment, added to the Constitution in 1868, has been interpreted to apply that protection of freedom of expression to every governmental body, from Congress to local government boards; from that we can now know that the media went as a free media under the protection of the First Amendment of the American Constitution.

## DECLARATION

I certify that this thesis submitted for the degree of Master in Arts is the result of my own research, except where otherwise acknowledged, and that this thesis (or any part of the same) has not been submitted for a higher degree to any other university or institution.

Iyad Muhsen Dajani

January 13th, 2005

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## DEFINITION OF TERMS

- **Fourth Estate:** Term frequently attributed to 19th century historian Carlyle, though he himself seems to have attributed it to Edmund Burke: “Burke said there were Three Estates in Parliament; but, in the Reporters' 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, .... 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 law-making, 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”
  
- **Mass Media:** All the channels of communication as books, records, movies, newspapers, magazine, radio, and television which carries a message to the general public. The Media in the United States consists of Books which is about 40000 books which are published each year by 1500 publishing companies, newspapers which are about 1800 daily newspapers which are published in the states ,radio stations which are 4500 AM Stations and 2800 Fm Stations, motion pictures which are seven major studios which dominate film distribution and they finance most films and book into 12000 local theaters and 4000 are circulated all around the U.S. finally, Magazine which are about 10000 magazines are published each year.

## **Introduction**

Over the past few decades the media with its technological advances have changed our lives in ways that would have been impossible to imagine few decades ago. It reminds one of the statement uttered by President Gerald Ford in his presidential debate with Jimmy Carter back in 1976 that the “Soviet Union did not dominate Poland”. This remark was exploited by the media making viewers judge Carter the winner by 61 to 19 after the news professionals ridiculed Ford’s comment - a matter which may have cost him his presidential bid. Now we know that President Ford was more right than he knew!

The gain in power yielded by advances in the media technology in modern times is enormous. Its impact on the American democratic system is still to be determined. The media uses technical advancements to widen its reach and multiply its audience and raise the level of progress. Decades of growth and change led to a break in the trend: a crucial assuage from limited to unlimited resources causing a great systematic enlargement of the transfer of knowledge. Innovations in communication technology are so influential on domestic affairs and world affairs that no one could easily ignore their impact. No doubt, the spread of technology boosted individual freedom and power and strengthened the civil community.

Technological media innovations in communications have changed the character and cost of this medium. These trends have an enormous impact on 20th century society. In the realm of information, time means both money, as well as, political and economic advantages. Information communication and services would never be the same.

Among the items at the center of innovative media that alter how we receive and use information is the television. Combined with other media devices such as the radio, newspapers, cable networks, the television offers vast electronic networks for information.

In the United States today, one can watch television news while driving a car, or may arrange to receive news messages on a wristwatch, or may buy a videophone which allows callers to see each other. The influence of the media on the American society is large. The introduction of satellites is seen as a positive force for linking the American people with the international community and in turn admitting the world to the American culture and experience challenging both values and principles.

New information technologies could help expand the reach of democratic ideals. The issue is to make the right decisions to head in that direction and the media is a useful tool that will lead nations to make the right decision in that direction.

### **Statement of the Problem**

The questions that this thesis would attempt to address: What is the impact of the media on American society? What are the limits of freedom that the media should enjoy in performing its functions? Why do Americans zealously guard the right for the media to be free, independent and powerful even to the point of being cruel and crude? What special responsibilities does the press incur in return for the protected status its freedom enjoys? Does the media in the United States strengthen democracy or does it undermine it.

### **Research Objective**

The roles of American media are to inform, to educate, to reform, to entertain, to incite, to investigate, to help people form opinions, and to be a watchdog. The scope of this research is to evaluate the impact of the media on American democracy, to study the role of free and independent media in democratic societies, to recognize the important role the media plays in democratic transition and consolidation, to identify the media rights and responsibilities in American democracy.

### **Statement of the Problem**

The questions that this thesis attempts to address are: What is the role of US Constitution in protecting the freedom of the media? What is the impact of the media on American society? What are the limits of freedom that the

media should enjoy in performing its functions? Why do Americans enthusiastically guard the right for the media to be free, independent and powerful even to the point of being cruel and crude? What special responsibilities does the press incur in return for the protected status its freedom enjoys? Do the media in the United States strengthen democracy or does it undermine it? Should there be legal restrictions to limit the power of the media?

### **Significance of the problem**

James Madison wrote, "A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both." A free press is thus an essential part of a democratic society; it enables the people to make informed choices. Government control of print and broadcast media may leave little scope for dissenting opinions and, therefore, public debate. Thus the contribution of the media to democracy is very significant, it reflects the pluralism of the country itself.

### **Statement of Hypothesis**

The constitution has a vital affect on establishing the media as the Fourth Power in United States. There is a common understanding that a strong connection exists between mass communication and democracy. The freer is the media, the more impact it has on the democratic life in American societies.

### **Research Methodology**

A Case Study Methodology; such as case of the Pentagon Papers, a qualitative research methodology by understand the role of media in the American democratic experience which allows us to know of the experience of US to compare it with Palestinian experience.

### **Research Limitations**

I have tried in my research to safeguard against potential biases that I may hold. Being a young Arab Palestinian, all my observations, analysis and interpretations are filtered and influenced by my views, politics, values, culture, and perspectives. Another limitation is the fact that I am neither an American journalist nor an American citizen as well as someone who never lived in the US to experience the impact of the media personally, a third

limitation is my limited access to information such as the most recent books on the topic.

### **Review of Literature**

In the last decade, the impact of the media has been most spectacular in authoritarian political systems. Economist George Gilder makes the case that the media breaks down hierarchical power structures. Similarly, Alvin Toffler predicts in his book *The Third Wave* (1980) that new technology enhances freedom. According to him, direct electronic plebiscites will reduce voter apathy, eliminate political party 'middle men', and produce prompt decisions that are directly responsive to the desires of the citizenry. In his perceptive book *Democracy and Its Critics* (1989), Robert A. Dahl, professor of political science at Yale University, argues that a democratic transformation - i.e. significant increase in citizen participation in political and economic life - requires us to reduce existing inequalities with respect to knowledge, information and cognitive skills. In his book, *Breaking the News: How the Media Undermine American Democracy*, James Fallows (New York: Pantheon Books, 1996) looks at how the media undermines American democracy by its monopoly of the news and calls for a professional standards in U.S. journalism. In his book, *Corporate Media and the Threat to Democracy*, Robert Machesney (New York; Seven Stories, 1996) offers a critical and scholarly account of both new and old developments that threaten public access to the airwaves.

My research departs from such approaches and looks at the issue from a totally different perspective in analyzing the impact of the media on American democracy.

**Chapter 1**  
**United State Constitution and the Media**  
**In American Democracy**

The first broadcast in the world was probably done by Reginald Fessenden in 1906 from a transmitter south of Boston, Massachusetts. Radio broadcasting began on a regular basis in late 1920, when several stations first went on the air, primarily to sell radio receivers (the first stations were owned by major electrical manufacturers). In 1922, the number of stations shot up from about 30 to more than 500 -- with 30 to more than 500, with no overall supervision or regulation about access to spectrum. The public craze for radio dates to this time. Only after much pressure from radio operators did the U.S. Congress finally agree to set up a regulatory scheme to license stations in 1927.

Until 1941, broadcasting consisted only of AM stations and networks. In 1926 to 1928, both the CBS and NBC networks began operation, rapidly establishing the pattern of advertising-supported entertainment programs that still characterizes the American system of electronic media.

Before the United States entered World War II December 1941, FM (or VHF) radio and television broadcasting was approved for regular operation. Only a few stations of either service got on the air before a wartime freeze on most civilian construction, which lasted until 1946.<sup>1</sup>

From 1945 to 1952, the industry and the Federal Communications Commission (FCC) grappled with allocation problems for FM and television,

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<sup>1</sup> See: Jack Fuller, *News Values: Ideas for an Information Age*. (Chicago: University of Chicago Press, 1996).

and getting both services up and running. FM was moved from its old allocation to the present 88-108 MHz in 1945.

Television networks owned by ABC, CBS, and NBC began regular operation in 1948. Then, just as the public's appetite for television was at its height, the FCC had to suspend accepting applications for new television stations from 1948 until 1952, while crucial decisions were made to add UHF frequencies to the 12 VHF channels already in use to allow more television stations in more communities and to reserve some frequencies for noncommercial TV stations. In a parallel proceeding, color television standards were issued late in 1953 (though color was not commercially important until the late 1960s).

The number of stations on the air grew slowly after 1952 as both television and AM expanded. For much of that decade, FM radio stagnated due to lack of original programming, limited numbers of receivers, and almost total disinterest in the secondary radio service by advertisers because of tiny audiences. Only after 1958 did the number of FM radio stations begin to climb as interest in high-fidelity sound aided its expansion, which was pushed further by agreement on FM stereo standards early in 1961 and requirements after the mid-1960s that most FM stations program differently from co-owned AM operations. That gave the medium an identity of its own for the first time, and by 1979, more people listened to FM than AM. A decade later, three quarters of all radio listening was to FM stations.

Competition for broadcasting was slow in developing. The first community antenna television (CATV, now usually called cable) systems began operation in the Rocky Mountains and in the Appalachians, where small towns could not get signals from distant markets and were too small to support stations on their own. Only a tiny proportion of Americans were "on cable" until well into the 1970s<sup>2</sup>.

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<sup>2</sup> Ibid.

In 1975 came two separate developments that would show the way to a more competitive future in electronic media. Sony placed the first Betamax VCRs on sale, and Home Box Office, a pay-cable service, announced plans to begin use of a domestic communications satellite (**domsat**) transponder to deliver its signal across the nation.

Fifteen years later, two-thirds of all American households had VCRs and could "time-shift" their viewing, about 60 percent had "basic" cable television service that supported by advertising, about 30 percent subscribed to one or more pay cable networks, and virtually all national electronic media program services were distributed to stations and cable systems by means of domsats<sup>3</sup>.

Cable program networks expanded rapidly after the late 1970s, with Cable News Network (CNN) and others beginning operation by 1980. At the same time, the number of noncommercial and independent (of network affiliation) stations grew, giving viewers more choice of programming.

Broadcasting in America is based on a system of privately owned local radio and television stations and cable television systems. While these outlets are widely diversified in their ownership, nearly all subscribe (contract for) one or more national program services or networks.

In round numbers, there are nearly 12,000 broadcast stations in the country more than 5,000 AM and 5,000 FM stations and nearly 1,500 television stations. Major markets often have 30 or more radio stations and five to seven television stations<sup>4</sup>.

Federal regulation allows any company or individual to control up to 12 AM, 12 FM, and 12 television stations, no more than one of each kind in a

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<sup>3</sup> Ibid.

<sup>4</sup> Timothy Cook, *Governing with the News: The News Media as a Political Institution*. (Chicago: University of Chicago Press, 1998).

given market. There are no ownership limits on the number of cable systems or subscribers' one company can control. One owner cannot control a television station and cable service in the same marketplace. Most television stations sign a contract with a national network in order to carry its programs. Fewer radio stations are network affiliates<sup>5</sup>.

There are four major television broadcast networks which are ABC, CBS, NBC, and Fox, which each owns a few stations in large markets called O&Os, for owned-and-operated and is affiliated by contract with about 200 other stations across the country.

There is no ownership connection between the networks -- they are held independently of one another. Network programs are beamed to O&O and affiliate stations by means of satellites. The broadcast networks (except Fox) each operate news divisions that present daily newscasts and specials. Entertainment programming is leased from independent companies.

There are nearly 60 cable networks, all of which are distributed nationally by means of domestic satellite transponders that beam signals to the "headends" of cable systems for distribution to homes. Of these networks, a few are pay networks Home Box Office, owned by Time Warner, is the oldest and largest, where viewers subscribe by paying a monthly fee averaging nearly \$10 to \$50 a month. The rest are advertiser supported services such as Turner Broadcasting System, the Discovery Network, and the USA Network.

The electronic media industries are not large. About 100,000 people work directly in radio or television broadcasting, mostly for local television stations. The typical radio station may have just two or three employees in small markets and up to several dozen in bigger cities. Increasing use of automation has cut the size of station staff.

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<sup>5</sup> Ibid.

Television outlets have anywhere from 25 to several hundred employees. Cable systems have many employees in customer relations and repair, but only a few are needed in technical operation and program categories.

Most commercial television stations devote between 10 and 12 minutes per hour to advertising, usually less in prime-time hours. Radio stations carry more advertising -- often 18 to 20 minutes per hour. Cable advertising is relatively undeveloped thus far<sup>6</sup>.

Most of this article deals with commercial broadcasting, since that is the most widely available and most listened to service. But there is an alternative service in both radio and television noncommercial service.

The first noncommercial radio stations went on the air in the 1920s and, experimentally, even earlier. Many school systems and universities operated stations but most had given up their licenses by the early 1930s under financial pressure, lack of sure need for the facilities, and demands for their frequencies from commercial operators. By the end of World War II, there were only about 25 AM educational stations on the air.

The key to that expansion of the noncommercial radio was a rising federal government funding role. Prior to 1963, there was no federal funding for noncommercial radio. The chief national supporter, through grants, was the Ford Foundation. Formation of the Corporation for Public Broadcasting (CPB) in 1967 and its creation of National Public Radio (NPR) a year later gave the noncommercial stations their first nationwide identity.

The creation of CPB and its formation of the Public Broadcasting Service (PBS) helped give the scattered noncommercial television stations a national identity. Increased federal funding and those national programs pushed the

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<sup>6</sup> Robert S. Peck is staff director of the American Bar Association Commission on Public Understanding About the Law, and an author, editor, and lecturer on constitutional law.

number of noncommercial stations to well over 300 by 1990. Several states operate networks of public TV stations, enabling statewide coverage of important events.

Until recently, about half of all money helping to support the noncommercial stations and networks came from taxes -- federal funds through the Corporation for Public Broadcasting or state taxes in support of stations in that state. Tax support by 1990 amounted to under 40 percent of total revenues. The remainder comes from businesses providing program grants (called underwriting), individual donations, foundations, and other sources.

Public broadcasters agree that their chief problem is and always has been to raise sufficient money to operate. They note that public radio and television in the United States operate with a fraction of the revenue of commercial broadcasting. Some critics have suggested that the lack of a clear agreement on the role of a noncommercial service in the largely commercial American system is at the heart of the continuing quest for funds.

The Corporation for Public Broadcasting and the two network operations, National Public Radio for radio and the Public Broadcasting Service for television, largely represent noncommercial broadcasting in the Washington policy arena. NPR connects some 250 noncommercial radio stations -- the larger and better-financed outlets. It provides popular news programs in the early evening and weekday mornings. NPR produces much of what it provides to stations. On the other hand, PBS only operates the interconnection of the television network. All PBS programs are produced by a few major public TV stations (such as those in Boston, New York, San Francisco, and Washington), overseas broadcast systems (especially those in Britain), and independent producers. Through a complicated "Station Program Cooperative" voting process each year, PBS member stations vote their support dollars for programs<sup>7</sup>.

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<sup>7</sup> **American Society of Newspaper Editors.** ASNE is the leading organization of daily newspaper editors in the Americas.

<http://www.asne.org>

Critics say that as the number of channels received in most houses increases, and as VCR ownership surges past two-thirds of all American homes, noncommercial broadcasting is too expensive to continue to support. Those who desire such programs can receive them less expensively by means of videotapes or other methods, while the channels now held by noncommercial stations could be put to far more efficient use by others.

The development of children's, science, and other specialized cable networks has only added pressure on noncommercial broadcasters to justify why they should continue to enjoy reserved channels and other exemptions from rules that apply to other broadcasters.

The chief and continuing problem for the electronic media generally is the appetite of stations and channels for program material. The entertainment programming that occupies most network time and makes up the majority of syndicated programming is produced by independent companies, most based in southern California.

Prime time is the most important competitive showcase for television network programming and is largely devoted to comedy and drama programs. Schedules are set early each year to begin the new TV season in September. Unsuccessful programs those with low ratings are replaced throughout the year as needed.

Local network affiliates simply carry network programming in prime time and many daytime hours. Remaining time is nearly all filled with other entertainment programming chiefly game shows and reruns of network material offered to stations on a syndicated basis (the station buys the rights to air a program two or three times over a given period, usually exclusive rights for that city. Virtually no television entertainment programming is produced locally it is far too expensive.

Two provisions of the American Constitution govern the regulation of communications. The Commerce Clause Article I, Section 8 gives Congress the right to regulate commerce between and among the states and between

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the states and foreign countries. The First Amendment to the Constitution guarantees freedom of speech and the press. From these two precedents, both over 200 years old, comes all governmental activity in communication.

Congress first passed laws regulating wireless in 1910 and 1912. Only in 1927 was the first law passed specifically to regulate the licensing of broadcasting stations. The law created the all-important "public interest, convenience, and necessity" (PICON) standard by which licensing and other regulatory decisions are judged<sup>8</sup>.

Congress felt broadcasting needed regulation, in part because the industry itself had requested it to reduce interference on the air, but also because there was (and is) insufficient spectrum to accommodate all who wish to broadcast. Further, the electromagnetic spectrum is held to be a natural public resource, and thus government oversees its use by licensing services needing spectrum.

Congress passed the more comprehensive Communications Act, which brought telephone and broadcasting regulation under one agency and which still governs federal regulatory policy, though it has been amended several times since. That law continued the "PICON" standard and established the FCC.

The Federal Communications Commission consists of five commissioners who are appointed by the president and approved by the U.S. Senate, and some 1,800 civil servants who provide the legal, engineering, and economic expertise required to regulate modern telecommunications. The FCC's annual budget is about \$110 million, relatively small by federal government standards. The FCC's Mass Media Bureau of some 300 people oversees broadcasting. Its chief function is to license stations<sup>9</sup>.

Broadcast stations are licensed for seven years (radio) or five years

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<sup>8</sup> Americas. <http://www.asne.org>

<sup>9</sup> Ibid

(television), and these licenses may be and usually are renewed time and again. The licensing of services is the single most important function of the FCC. Cable systems, on the other hand, are franchised by local communities, and there is little federal regulation of cable.

The FCC has the authority (delegated by Congress) to set technical standards for telecommunication services. Until the early 1980s, companies and industry groups would test competing systems for a given standard and would recommend a standard to the FCC which would usually then approve mandate that standard. The standards for black-and-white and color television the NTSC system and stereo FM were derived in this fashion.

With its decision on AM stereo broadcasting in early 1982, the FCC moved away from that approach, leaving it to the undefined "marketplace" to decide on a specific standard. The very limited success of AM stereo suggests that the marketplace approach does not work well in this case.

There is little regulation of programming in America. The primary reason for this is the First Amendment to the Constitution. There are federal limits on the use of obscene program materials, and there are requirements on access by candidates for political office. Otherwise, the amount and type of programming provided by stations and cable systems are a matter of managerial choice, not government fiat. Most particularly, there is no government control over the broadcasting of news and public affairs programs.

## **The Electronic Age in American Media**

The newspaper arrives one morning, but something is missing. There is no familiar delivery person tossing the folded papers into dimly lighted driveways. In fact, there is no paper at all. This newspaper is electronic -a digitalized blend of text, graphics, color photos, sound, and full-motion video dancing across a book-size, portable computer screen. And it is wireless, so you can even take it to the bathroom.

This futuristic vision of the American newspaper is no longer science fiction. Newspapers are launching themselves into cyberspace with the enthusiasm they once had for Linotype machines. The Kelsey Group, a Princeton, New Jersey, media consulting firm, says more than 2,700 newspapers up from only 42 in 1989 are dabbling in electronic ventures. This includes everything from telephone delivery of personal ads and sports scores to fax on demand for readers desperately seeking restaurant reviews. The biggest gamble is to develop a true electronic newspaper, a mission that raises some jackpot questions: What is so special about a computerized paper, and will a substantial number of people pay to read one?

If there is urgency about this, it is because Americans have clearly fallen out of love with the old fashioned kind of paper. About half the population does not subscribe to one, while almost 50 percent of what should be the future generation of readers those ages 18 to 24 don't read newspapers at all. Big metropolitan newspapers have been sliding into decline since their heyday of authority in the 1920s, when many Americans were able to choose among competing papers; today, by contrast, many communities lack any newspaper at all<sup>10</sup>.

Newspapers such as the *Atlanta Journal-Constitution*, the *Detroit Free Press*, and the *Chicago Tribune* have already opened shop on national information services Prodigy, CompuServe, and America Online, respectively. The *Palo Alto Weekly* in California was the first American paper to post its editorial content in the dense undergrowth of the Internet, the global network of computer networks with some 20 million users worldwide.

Readers of these computerized papers don't see the familiar display of headlines and stories. California's *San Jose Mercury News*, for example, with its Mercury Center on America Online, presents a screen of small graphical boxes, each with a label like Entertainment, Bay Area Living, or Sports.

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<sup>10</sup>Jack Fuller, *News Values: Ideas for an Information Age*. (Chicago: University of Chicago Press, 1996)

Selecting any box automatically pulls that material on-screen. The opportunity for extensive browsing is a key feature of computerized newspapers, says Bill Mitchell, director of electronic publishing for the *Mercury News*. "We're trying to create a newspaper with more dimensions, with in-depth material linked to stories in the paper," says Mitchell. Various stories in the paper version of the *Mercury News* are tagged at the end with graphic symbols indicating that more information is available online: full texts of speeches, for example, or additional photos and related wire service articles that did not appear in the paper edition. Readers can also print out articles and retrieve photos and search through back issues of the paper -- without having to rummage through the garbage<sup>11</sup>.

The ability to direct readers to vast amounts of information is what most distinguishes electronic newspapers from the traditional model. Paper newspapers are severely limited by space and publishing costs. But material that won't fit on paper court documents, legislative records, lengthy interviews can be tucked into a corner of cyberspace at minuscule cost, available to readers at a keystroke.

Many readers who are already overwhelmed by information may find the promise of more data a hollow blessing. And indeed, the goal of electronic newspapering is ultimately to ease the consumer's data burden. One feature of electronic newspapers, for example, will be customized "news filters" that will deliver specialized information. Readers interested in everything from chess tournaments to obscure medical news will be able to have customized information automatically delivered to their computer screens along with the day's top news stories. Publishers are wagering that people will find this "Daily Me" feature of electronic newspapers worth paying for.

Electronic newspapers are also involving readers in two-way conversations, a historic departure from the traditional one-way flow. Most online

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<sup>11</sup> Vic Sussman writes for *U.S. News & World Report*.

newspapers have popular chat areas where readers can converse with writers and editors.

Journalists and publishers disagree about the value of interactivity. Gordon Thompson, a technology manager for the *New York Times*, thinks it is probably inevitable but fears it could overwhelm reporters, who "should be interviewing Boris Yeltsin, not becoming E-mail buddies." But Dan Gillmor, a technology columnist for the *Detroit Free Press*, calls his online activity "one of my most valuable tools." He routinely puts his electronic mail addresses at the end of each column and spends two hours or more a day wandering through cyberspace. Reporters and controversial columnists could wind up as online personalities<sup>12</sup>.

The future newspaper is going to be a versatile, wireless, flat-screen device he calls the "portable information appliance," or PIA. This magazine-size computer will offer a high-quality vertical display; readers will use a pen like pointer to browse, retaining the newspaper's serendipitous power to "expose you to things you didn't know you wanted." The PIA will also display books, magazines, tax and insurance forms, and ads and is likely to be marketed much as computers are.

No one knows the future of the foldable paper newspaper. Bill Johnson, publisher of the *Palo Alto Weekly*, believes electronic newspapers won't replace the traditional model certainly not in small towns, where papers have less competition and play a vital role in holding the community together. But Stephen Isaacs, acting dean of the Columbia Graduate School of Journalism, which recently added a cyberspace component to its curriculum, disagrees. "Flattened trees are not going to be the medium for newspapers much longer," Isaacs says. He sees electronic newspapers as liberating for reporters and readers alike because information flow will no longer be limited by

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<sup>12</sup> Carter, T. Barton et al. *The First Amendment and the Fifth Estate: Regulation of Electronic Mass Media*. 3d Edition, Westbury, NY: The Foundation Press, 1994.

space. Electronic newspapering will usher in "the golden age of journalism," says Isaacs. "It's just too bad the journalists don't know it yet."

## **The Media Industry**

The media industry is one of the largest private sector employers in the United States, and the news media make up the largest segment of that industry. Generating information, not just delivering it, is a growth business in the United States. The American news business used to be a largely domestic enterprise, but no longer. The satellite delivery of 24-hour Cable News Network broadcasts and same day publication of newspapers such as the Wall Street Journal all around the world are indicatives that the U.S. media has a new global reach.

American journalism itself has undergone a fundamental transformation in the recent decades, as a result of the new technology and partly as a result of the changes in the society that it has chosen to oversee. This is not surprising, since change itself is a hallmark of American culture. Whether it chooses to call itself an observer or not, the American news industry is a full-fledged participant in that culture, as well as in its country's democratic political system and its free market economy.

The American press started in the 18th century as a small instrument of the literate elite and an unapologetic participant in partisan politics. It was a pamphleteering press, operated by colonial postmasters and opinionated printers. It was not for at least another century that the American press had transformed itself into a fairly non-ideological communications instrument.

The American press is well known for its outstanding characteristic of independence from government and its reliance on public acceptance and public approval for its financial survival.

Today, the press is referred as the media the plural for "medium" that means transportation as a reflection of its many components in the electronic age. Because it is no longer the written word but sight and sound that dominate the communications industry.

Some recent studies claim that 65 percent of Americans depend on television for their daily diet of news. Nevertheless, that statistic can be misleading because it assumes that television fully satisfies the public's appetite for news. But included are the readers of newspapers and magazines, listeners to the radios, and receivers of vast array of newsletters and brochures much of it unsolicited advertising in their mailboxes. Now they must deal with the newest member of the communications family which is the fax and the VCR, the computerized mail, and something called interactive video, and it is no wonder that Americans complain about "no time in the day" to do all the things they want or need to do<sup>13</sup>.

The American news business is currently facing what the psychiatric profession calls an "identity crisis." This is particularly true in the newspaper industry, which is watching its role and its revenue as it is shrinking in the electronic age. The evidence that I would like to imply about America's reading habits that are diminishing largely as a result of television and home video due the enhancement of the electronic media.

One of the most descriptive varieties for the American media is that it reflects the pluralism of the country itself. Nevertheless, the media in the United States can be combined by some common threads. Here are some of its most important common threads:

The American news industry is a **business**.

The industry views itself as a **public trust**.

The news industry is largely **unregulated**.

There is no uniform **definition of news**.

The mainstream press is generally **non-ideological**.

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<sup>13</sup> Fallows, James. *Breaking the News: How the Media Undermine American Democracy*. New York: Pantheon Books, 1996.

America's press tradition is **community based**.

The American press and broadcast industries are mostly profit-seeking enterprises and must be financially healthy in order to survive. Only a small percentage are subsidized meaning less than 20 percent of the broadcast industry would be subsidized and less than 1 percent of the print media. Most broadcast industries depend on commercial advertising for the bulk of their income which is about 75 percent. As an example 1991, the media as an average earned \$130 billion in advertising revenue<sup>14</sup>.

A newspaper owner/publisher is often more a business person than a journalist, while the editor is usually the keeper of the paper's news mission. The publisher, who has the ultimate say in what the product looks like, may not want to carry news that will hurt his business, while the editor in the American system is usually ruled by the saying: "*If it's news, publish it.*" In the best of the business, the publisher gives the editor ultimate authority over the news.

The "**public's right to know**" remains at the core of America's free-press philosophy and guides the way it conducts itself, particularly in relations with government. Some call this relationship "adversarial." Others prefer to think of it more benignly as simply a monitoring role, without the influence of opposition.

There is also a federal **Freedom of Information Act** (FOIA), which gives requesting citizens, usually journalists, access to government records and documents not classified for security reasons.

The American press enjoys as one of its important roles being the "watchdog of government," which gives it its nickname "the forth estate" after the three official branches of the government (legislative, judicial, and executive). It is also this role that prompted Thomas Jefferson, one of the founders of American democracy, to say more than 200 years ago that if he

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<sup>14</sup> Ibid

had to choose between government without newspapers or newspapers without government, he "should not hesitate a moment to prefer the latter."

The American media is far more vulnerable to legal action from private citizens, whose right to privacy can be in direct confrontation with what the press calls the public's "right to know." Libel is a civil rather than a criminal offense in the United States, but the enormous size of monetary awards and penalties levied by the courts in recent years has had a "chilling" effect on journalistic enterprise, according to many in the news industry.

Credibility surveys vary on the question of which the American people trust more their press or their government. The answer varies with time and circumstance. Following the Watergate scandal in the early 1970s, the press enjoyed a high degree of public confidence. But following scandal coverage that led to a senator's withdrawal from the 1988 presidential race, the press came under sharp criticism on charges of exceeding the bounds of good taste and privacy.

One of the most important characteristics of the American press is that it is unregulated mean that a serious publication like the *New YorkTimes* and a fictional tabloid sold in supermarkets both call themselves newspapers. There is no law, no government agency, and no person to say otherwise, because there is no licensing requirement for newspapers to operate and no enforceable definition of what constitutes a legitimate news publication.

The American news industry and journalistic profession do not regulate themselves in the same sense as the legal and medical professions do, for example. The press does not require minimum standards for membership, does not issue or revoke licenses, and does not regulate professional standards. Rather, each news organization and journalist association adheres to its own codes and standards.

There is no official regulation of the press, there are unofficial "checks" and "balances" against journalistic excess, both outside and inside the industry. The external checks include libel laws and self-appointed press monitors. Competition also tends to help keep news organizations "honest." The

internal checks include the appointment by some newspapers of an "ombudsman" to investigate public complaints, publish self-criticism, and enforce internal standards.

There is no universally accepted definition or set of definitions for "news" in the American media. This is because there is no single role designated for the press. Among the roles the American press has chosen for itself are to inform, to educate, to reform, to entertain, to incite, or all of the above.

There was a time in America when few would argue with the cantankerous editor who declared: "News is what I say it is." With renewed attention to the desires of the buying public, such editors are hard to find today. Perhaps the greatest source of pride in American journalism is the tradition of investigative reporting, largely aimed at exposing abuses of power. The Pulitzer Prize, the most coveted award in American journalism, is given annually for superior investigation and public service. In recent years, the business community has come under the kind of press scrutiny that was traditionally reserved for government, even though access to business information is usually harder to obtain<sup>15</sup>.

One of the main features that distinguishes the American press from many others around the world that the mass-circulation papers, magazines and broadcasting stations are affiliated with political organizations, parties and movements, that made the source of professional pride and resulted in an economic self sufficiency.

The American press has always had a local, rather than a regional or national, character. Although new technology has broadened this horizon considerably, the U.S. media still concentrate to a large degree on the needs and interests of viewers, listeners, and readers in the immediate

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<sup>15</sup> Krinsky, George A. et al. *Hold the Press: The Inside Story on Newspapers*. Baton Rouge, LA: Louisiana State University Press, 1996.

neighborhood. There are strong economic reasons for this, but it is also a reflection of American provincialism.

The American media will remain a strong force in public life. Modern society has become too dependent upon quick and reliable information for it to be otherwise. But the shape of that future remains uncertain.

In just a handful of years, the American news business has already undergone tremendous changes as a result of a transformation in technology, market forces, and public tastes. Too many new players have entered the information field for journalism to ever be the same as it was. But the profession never really stood still for long anyway.<sup>16</sup>

Whatever happens, it will be the public that decides the future of the American news industry. That, free-press advocates say, is the beauty of the system.

## **Constitutional Protection of American Media**

A free press, as guaranteed in the First Amendment, plays a watchdog function in a democratic society: bringing people the information they need to exercise independent judgment in electing public officials who favor policies the people support. James Madison, who is regarded as the "Father of the U.S. Constitution" and was the fourth president of the United States, wrote: "A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both." A free press is thus an essential part of a democratic society; it enables the people to make informed choices.

Freedom of expression also recognizes that citizens can best influence their government's direction when they work together. The drafters of the First Amendment, understanding this, assured people the right to gather peaceably

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<sup>16</sup> Cohen, Henry , "Freedom of Speech and Press: Exceptions to the First Amendment." *CRS Report for Congress, 95-815*. (Washington, DC: Congressional Research Service, Library of Congress, July 17, 1995).

and to submit their grievances to the government for action. The First Amendment right to petition for redress of grievances has its roots in the English legal tradition and the confrontation of the barons at Runnymede, England, who forced King John to subscribe to the Magna Carta in 1215<sup>17</sup>.

There are many cases for the war of constitution in the American press arena, which it would be permissible to evaluate, one of the most important cases is *Tinker v. Des Moines School District*. A 13-year-old girl in Iowa named Mary Beth Tinker, had heard Senator Robert F. Kennedy suggest that Americans wear black armbands to protest the Vietnam war and in support of a proposed Christmas truce. Mary Beth and a group of friends who attended different schools in the city decided to wear armbands to school later that week. Mary Beth was aware that she was risking suspension from school. The school board, two days earlier, had voted to suspend students wearing armbands as a "disruptive influence." And Mary Beth's algebra teacher had warned his students that he would expel any student who came to class with an armband. On December 16, 1965, a determined Mary Beth and several students at other schools wore armbands. When she entered her afternoon algebra class, Mary Beth was sent to the principal's office and was promptly suspended. Mary Beth and other students brought a lawsuit, claiming that the suspensions violated the First Amendment to the U.S. Constitution, which guarantees "freedom of speech." The students lost at the trial court level. The judge ruled that the armband policy was reasonable, designed to prevent disruptions in the classroom by students who disagreed with the stand of Mary Beth and her friends. The issue went before the United States Supreme Court three years after the students had been suspended. There, the students won. The Supreme Court noted, in its opinion *Tinker v. Des Moines School District*, that neither "students nor teachers shed their constitutional rights at the schoolhouse gate." Still, the Supreme Court

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<sup>17</sup> Creech, Kenneth C. *Electronic media law and regulation*. Butterworth-Heinemann, 3rd edition, 1999.

declared that these rights must be applied carefully "in light of the special characteristics of the school environment."<sup>18</sup>

In upholding the students for the First Amendment rights, the Court found that school officials sought to punish the students for a silent, passive, expression of opinion, unaccompanied by any disorder or disturbance. Any departure from absolute regimentation may cause trouble and that any variation from the majority's opinion may inspire fear and any words spoken in the class or in the lunchroom or on the campus, that deviate from the views of another person may start an argument or cause a disturbance. the court judged "the Constitution of the United States says that Americans must take the risk of different opinions and that the history of the constitution says that it is this sort of hazardous freedom this kind of openness that is the basis of national strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious society." The Court further stated: "In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved....Students are entitled to freedom of expression of their views<sup>19</sup>."

Incredible as it may seem, this small controversy, generated by five students suspended for wearing armbands, was of such significance that the nation's highest court found it necessary to examine the issue and settle it by reference to the U.S. Constitution, the supreme law of the land. In their battle with school officials, these young students were guaranteed the same free expression rights that the New York Times and the Washington Post, two leading American newspapers, had available when the federal government

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<sup>18</sup> Harrison, Maureen. *Freedom of the Press Decisions of the United States Supreme Court*. San Diego, CA: Excellent Books, 1996.

<sup>19</sup> Ibid.

sought to prevent publication of a classified study about U.S. involvement in Vietnam that came to be known as the "Pentagon Papers."

In 1971, the newspapers had received copies of the study from a former government employee. On June 13 of that year, the *New York Times* began publishing articles based on the study. When the government learned of this, the Department of Justice went to court asking for an order to prevent publication, which was granted. The government did not accuse the newspapers of preparing to reveal military secrets. Instead, it asserted that the government should be the sole judge of national security needs and should be granted appropriate court orders to enforce that view. The newspapers claimed that the constitutional guarantee of freedom of the press meant that they could not be censored. They also argued that the government was merely trying to prevent antiwar activists from benefiting from information in the documents that was more embarrassing than militarily sensitive.

On June 30, the Supreme Court ruled in favor of the newspapers in *New York Times v. United States*, and the documents were subsequently published. The Court said that it is not enough for the president to say national security would be jeopardized by publication. The Constitution, the Court held, has a "heavy presumption" against interference with press freedom. While it may be possible for the government to convince the Court that dire consequences would result from publication of classified documents by newspapers, the government had failed to prove that result in this instance<sup>20</sup>.

The First Amendment's protection of freedom of expression, validated in the *Tinker* and *New York Times* cases, enables the American people to engage in an uninhibited form of debate. The words of the First Amendment

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<sup>20</sup> Harrison, Maureen. *Freedom of the Press Decisions of the United States Supreme Court*. San Diego, CA: Excellent Books, 1996.

are deceptively simple: "Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Fourteenth Amendment, added to the Constitution in 1868, has been interpreted to apply that protection of freedom of expression to every governmental body, from Congress to local government boards; finally we can now know that the media went as a free media under the protection of the First Amendment of the American Constitution.

The Constitution's protections and the tradition of liberty enjoyed in the United States have allowed public expressions to be bold and daring. They are powerful enough to protect both the *New York Times* and a 13-year-old girl in Iowa named Mary Beth Tinker<sup>21</sup>.

### **Rights and Responsibilities granted by U. S. Constitution**

The First Amendment explicitly forbids Congress to single out the news media for regulation or punishment that would not be imposed on others, but sometimes the government may choose to recognize special privileges for journalists. As a practical matter, this may be as simple as granting reporters the right to cross police lines at disaster scenes upon presentation of a "press pass" or proof of their employment. The question may take on constitutional dimensions, however, in the context of testimonial privileges, similar to those that protect members of certain professions, such as physicians and clergy, from being compelled to reveal confidential communications received in the course of their work. Although the Supreme Court has declined to recognize an all-encompassing journalist's privilege under the First Amendment (*Branzburg v. Hayes*, 408 U.S. 655 (1972)), 31 states and the District of Columbia have passed statutes that provide varying degrees of protection for reporters who wish to protect confidential sources and

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<sup>21</sup> Robert S. Peck is staff director of the American Bar Association Commission on Public Understanding About the Law, and an author, editor, and lecturer on constitutional law.

unpublished information, and most state courts have granted common law privileges to journalists, as well<sup>22</sup>.

But who is a "journalist"? This has been a question that American courts have been loath to answer. After all, if the government can define who is entitled to act as a journalist, it can control who gathers and disseminates news. Yet, with the advent of the Internet, which allows anyone with access to a computer and a modem to publish his or her opinions to the world, how will the law determine who is entitled to claim those rights? The Internet is a medium that crosses borders instantaneously, enabling information and ideas to be disseminated in the twinkling of an eye. Determining whose standards and laws will apply to the speech and the speakers who use it to communicate will be one of the major jurisprudential challenges of the 21st century.

It is not easy to live with a free press. It means being challenged, dismayed, disrupted, disturbed, and outraged every single day. And some days, Americans aren't so sure that the nation's founders made the right decision 200 years ago when they embraced a free press.

Where does a free press come from? Some would argue that it is a fundamental human right. And yet, history has demonstrated that, except for a very short period of time, it has been a right honored more in the breach than in the observance. James Madison has rightly been called "the Father of the Constitution," and of the First Amendment in particular, but the Constitution and the Bill of Rights have never been self-executing documents. They depend upon an independent judiciary to interpret them and to bring them to life.

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<sup>22</sup> Epstein, Lee, and Thomas G. Walker. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 2d Edition. Washington, DC: CQ Press, 1995.

## **The Right to Know**

The right to know, freedom of speech and freedom of the press is constitutionally protected. They represent, as former U.S. Supreme Court Justice William Brennan once wrote, "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."<sup>23</sup>

It is the self-appointed role of the American press to inform the public about government activities, thereby sparking debate. Reporters continually look for stories that will play on the front page stories about corrupt government officials, or agencies that fail to do what is required by law, or government policies gone wrong. The press maintains that it gets little cooperation from government. Officials prefer to release information that reflects favorably on their activities and to duck embarrassing questions. The relationship between government and the press is, at bottom, adversarial, and most reporters prefer it that way.

Over the years, reporters have developed ways of getting at the truth. They rummage through records that are unquestionably public, such as the Congressional Record or the minutes of meetings held by public boards. Reporters develop sources in government, officials they trust and who trust them, and who will talk "off the record" about what is really going on. They exploit the "leak," information given to them surreptitiously by sometimes disgruntled government employees who want to draw attention to illegal activity. They build stories by interviewing scores of people, none of whom knows the real purpose of the questions posed.

In 1966, the U.S. Congress passed the Freedom of Information Act (FOIA), giving reporters a new way of getting information on government activities.

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<sup>23</sup> [Fighting for a Free Press is 'Worth the Fight'](#)  
by Charles W. Corey (04/09/97)

By law, they can demand to see government records not just the ones that have traditionally been open to the public, but, with a few exceptions, all that are records generated by government operations<sup>24</sup>.

The kind of records that were under the FOIA were such as the study done for the Atomic Energy Commission on cancer rates among 30,000 workers in an atomic weapons facility, federal audits issued two weeks before the National Aeronautics and Space Administration's 1986 Challenger disaster that revealed improper equipment monitoring at the Marshall Space Flight Center, and audits of defense contractors that disclosed federal tax dollars being used for travel and entertainment expenses.

Before the Freedom of Information Act became law, such records would never have been made public. The law favored the government's right to say who could examine and copy its records. In 1789, when the federal government was first established, department heads were given responsibility for keeping and safeguarding records and, by extension, prescribing their uses. In the beginning, officials relied on the common-law practice of opening public records only to those who had an interest in them, commonly called the need-to-know doctrine. State and local governments followed this common-law rule as well.

Over the years, the power of state and local government officials to deny access to records had been whittled down by legislation and court decisions, generating a patchwork of law and regulation that few reporters could master. All too frequently, a reporter found that he or she had no clear-cut right to certain information. On the federal level, Congress made an attempt to liberalize rules of access to federal records in 1946. The Administrative Procedure Act of that year said that matters of official record should be made available to the public, but added that an agency could restrict access to its

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<sup>24</sup> **Electronic Journal of the U.S. Information Agency  
Volume 2, Number 1, February 1997**

documents "for good cause found" or "in the public interest." The need-to-know doctrine still lived.

The need to know principle was complicated but it had to work, the way that it worked was that a government official would make a judgment yes or no, on whether someone requesting a particular document or report needed to know what was in it by virtue of his or her position, or job, or what he or she intended to do with the information. And there was no appeal from some official's denial of access to the records. As a practical matter, this put a reporter or a citizen at the mercy of some officious clerk.

One of the studies on the right to know law is the study by Richard A. Bumstead who is a Washington-based writer with the U.S. Information Agency, he wrote that In the early 1970s, he was working as a free-lancer writer in the northeastern U.S. state of Massachusetts, trying to put together a story on the costs of running state-supported colleges, whose campuses are scattered throughout the state. He had a hunch that some colleges were receiving a disproportionate share of the budget at the expense of other schools a theory that, if true, would have made a good story. He wanted to compare each college's expenditures to determine if any campus was favored. He appeared at the one place that had these figures in a central file the state board of higher education in Boston. He wanted to see the college budgets for last year of colleges, he politely said to each of the several people he was shunt to. Invariably he was asked two questions: "Whom do you represent?" and "Why do you want this information?"<sup>25</sup>

He always replied, truthfully, that he represented himself, and what he wanted the information for depended on what he will find answers that no one found satisfactory. Finally, the assistant to the deputy chancellor for education in the state suggested that he write a request to the chancellor

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<sup>25</sup> Abrams, Floyd. "Performance of the Press; the First Amendment Guarantees only that We Have our Freedoms -- Not that They Will Be Exercised Wisely." *American Lawyer*, vol. 17, no. 5, pp. 83-89.

himself, and he would consider it in due time, that of course was a classic brush-off for him. He always got this kind of response before and had learned to keep his temper in check. Whom does he represent and what he was going to do with the information had no bearing whatsoever on his own request. On the other hand a new Massachusetts law had given him or any person the right to examine and copy any document generated by the state government in going about its business with certain understandable exceptions, such as law enforcement records.

He wrote a letter to the chancellor, citing the law, and asked to be shown these documents within two weeks. On the appointed date, a clerk ushered him into the board room and gave him the documents he wanted to examine, no questions asked. It was the first brush of a rather obscure state agency with the Massachusetts open records law. No longer was a person in Massachusetts required to establish a need to know what was in records. He or she had the right to know.

Today, all states have right-to-know statutes. They include three essential elements: presumption of a public right of access to government records, placing the burden of proof on government officials who want to withhold information; enforceability of this public right in court; and statutory exemptions to disclosure of certain information, such as tax returns.

One of the famous stories published in 1989 was about the *Constitution*, the leading newspaper in Atlanta, Georgia which suspected that local banks were not lending an equitable amount of money to blacks to buy homes in black neighborhoods a form of discrimination prohibited by federal law. But how to prove it? Asking bank officials would have produced a noncommittal but politic answer, something like "I am sure our bank's lending policies conform to the law." And, indeed, their records may not have been organized to provide a ready answer even if bank officials volunteered to research the question<sup>26</sup>.

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<sup>26</sup> Carpenter, Ted G. *The Captive Press: Foreign Policy Crises and the First Amendment*. Washington, DC: Cato Institute, 1995.

But there was one untapped source. Under federal law, banks are required to report each home loan to the Federal Financial Institutions Examination Council. Here was a federal record of bank home loan lending practices in Atlanta, accessible under FOIA rules.

The Constitution filed a FOIA request for the data and received seven computer tapes listing 109,000 real estate loans made in Atlanta over the prior six years. The newspaper then arranged for a computer center to match the data with census tracts, which give the racial composition of inhabitants. The findings startled Atlanta, which prided itself on its race relations: Whites received more than five times as many home loans from Atlanta's banks as blacks of the same income.

"The numbers you have are damning,"<sup>27</sup> said the chairperson of a leading Atlanta bank. "Those numbers are mind-boggling. Atlanta bankers are discriminating against the central city, but it's not a willful thing." After months of "uninhibited, robust, and wide-open" public debate, Atlanta banks revised their lending practices and committed millions of dollars to home mortgages in black areas. And the Constitution won a Pulitzer Prize, one of America's highest journalistic awards, for making imaginative use of the right-to-know law.<sup>28</sup>

**What special responsibilities does the press acquire in return for the protected status its freedom enjoys?**

The First Amendment to the U.S. Constitution has a much quoted clause which guarantees the protection of the press from any harm that reads as follows: "**Congress shall make no law...abridging the freedom of speech, or of the press.**" From that fundamental precept in what is known as the Bill

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<sup>27</sup> Freedom of the Press Said to be Under Attack in Belarus  
By David Pitts (04/19/97)

<sup>28</sup> Electronic Journal of the U.S. Information Agency  
Volume 2, Number 1, February 1997

of Rights derives what is perhaps the most basic ethical tenet of journalism in the United States which that **the press is independent of government**.

The Founding Fathers were suspicious of the tendency of government, even the best-intentioned government, to become tyrannical at times. Governments are composed of human beings, and human beings can and do commit wrongs. For this reason, the authors of the First Amendment envisaged the press, despite all of its imperfections, as a kind of critic, with a role apart and distinct from that of government.

Clearly, nothing in the Bill of Rights says that newspapers and government cannot cooperate on occasion. But the intent of the founders was that the press and government should not become institutional partners. They are natural adversaries with different functions, and each must respect the role of the other. Sometimes a free press can be a distinct annoyance and an embarrassment to a particular government, but that is one of the prices of liberty. A free press is responsible to its readers and to them alone.

Independence is at the very heart of any statement of ethical principles respecting the conduct of the press. The proprietors of a newspaper may choose to ally it with a particular political party or interest, but an increasing number of newspapers and journals in the United States are politically independent as well as independent of government. This means not that they refrain from endorsing a certain political party or a candidate for public office, but rather that they owe no prior allegiance and that they make the endorsement voluntarily, as an exercise of their independence.

From this follows that an independent press must cherish that role by resisting pressures of all kinds from local as well as national government, from special interest groups in the community, from powerful individuals, from advertisers. This is a noble standard that is sometimes more difficult to follow in a small community than in a large one. It may be relatively easy for a large, well-financed newspaper to risk the displeasure of a particular interest group or advertiser. But on a small paper, where the support of such

an advertiser or interest has a direct bearing on the ability of management to meet the payroll, it takes courage to resist pressure<sup>29</sup>.

From this also flows the principle that the newspaper and its staff should exemplify independence in their actions. Not only should they be independent in fact, but they must be seen to be independent. A newspaper that rewards its friends with unwarranted, flattering stories or fawning editorials will not long be respected. A newspaper whose reporters also are on the payroll of a special interest group or who accept free trips or lavish gifts will find it hard to be convincing in its criticisms of corruption or other unethical practices in government.

Admittedly, in small communities, journalists sometimes may encounter problems in maintaining an independent role. There are pressures to participate in volunteer services, in clubs and business associations, and even in local government. Conflicts of interest may arise frequently.

A newspaper has the right to be partisan, or untruthful, or bigoted, or whatever else its conscience allows it to be. And although newspapers are answerable to the laws of libel, within a very large compass they continue to set their own responsibilities. The underlying idea is that, from the clash of opinions and ideas presented by a free press, ultimately something resembling truth emerges.

In practice, however, truth does not always emerge unless someone digs it out. And there is no single patented version of what constitutes truth. In a community where only one newspaper exists -- which increasingly is the pattern in the United States -- a reader may not encounter differing opinions unless the newspaper chooses to present them. Radio and television are not always effective substitutes.

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<sup>29</sup> Carpenter, Ted G. *The Captive Press: Foreign Policy Crises and the First Amendment*. Washington, DC: Cato Institute, 1995.

But this is not such a calamity as it once would have seemed, because there is more and more sense of professionalism among American journalists. This means recognition of the importance of fair and balanced reporting in which opinions that differ from those of the writer, or the newspaper, or a government official are nevertheless accurately portrayed.

American newspapers today recognize the responsibility to open their letters columns and opposite-editorial pages to all views. Many newspapers receive far more letters than they can publish and therefore must choose what they regard as a fair representation, editing for libel, decency, and germaneness. Many newspapers employ ombudsmen, who act as a sort of public advocate in listening to complaints, offering remedies, and appraising the performance of the paper. Most newspapers also recognize their responsibility to correct errors promptly, often in a box that appears in the same location in each issue.

Reporters enjoy no special rights beyond those of other citizens. They must be aggressive in pursuing facts. Indeed, one of the most important functions of a free press is to serve as a **watchdog**. But its staff members have no dispensation to be rude or discourteous. Television has many sins of its own, but one thing it purveys very quickly to viewers is whether reporters at a news conference are behaving arrogantly or with unnecessary brusqueness. Some, lamentably, seem to have become actors who view their function as making the news, not merely reporting it<sup>30</sup>.

The truth sometimes has many sides. No one has a monopoly on it. Even in the dedicated pursuit of truth, error is frequent, and innocent persons may suffer. A cardinal journalistic sin, in my view, is that we journalists tend to take ourselves too seriously and have an inflated view of our own importance. Therefore, Reports some time are mistaken so they should pursue the truth in a way that they can know always they might be mistaken

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<sup>30</sup> **Fighting for a Free Press is 'Worth the Fight'**

by Charles W. Corey (04/09/97)

as to take the advice of Oliver Cromwell gave to the to the General Assembly of the Church of Scotland in 1650: "I beseech you, in the bowels of Christ, think it possible you may be mistaken.

## **Rights and Responsibilities of the Press**

### Libel Law in the United States

In 1637, an English writer named William Prynne made the unfortunate mistake of writing a book that criticized the queen. Brought before a panel of judges, the hapless Prynne was found guilty of libel and ordered to spend the rest of his life in prison. As an added punishment, he had his ears lopped off before he was hauled off to jail.

Libel is a legal term that describes a written form of defamation, which the dictionary defines as a "false or unjustified injury to someone's good reputation. American television networks, for example, are sometimes sued for libel even though news reporters and correspondents "speak" their words to a viewing and listening audience rather than to a reading audience.

For the United States, the laws that control libel and slander first began to take shape even before the colonies gained their independence from Britain. One of the most famous American cases involved New York publisher John Peter Zenger, who was imprisoned in 1734 for printing political attacks against the colonial governor of New York. Zenger's lawyer established a legal precedent by arguing successfully that truth is an absolute defense in libel cases. Up until then, it had never mattered much whether the allegedly libelous statements about someone were true or false. Since the Zenger case, however, someone can sue successfully for libel only if the defamatory information is proven to be false<sup>31</sup>.

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<sup>31</sup> **The Committee to Protect Journalists**

CPJ is nonprofit, nonpartisan organization dedicated to the global defense of press freedom.

<http://www.cpj.org>

The Zenger case established another precedent that remains in place today. Libel cases, which are part of civil (rather than criminal) courtroom proceedings, may be heard by juries, and it is up to the jury to decide whether a publication has printed libelous information about someone. If so, it is also up to the jury to decide how much the libeled individual has suffered and what kind of monetary damages he or she is entitled to receive as compensation. In the United States today, about 90 percent of all libel trials are heard before juries.

The 18th-century framers of the U.S. Constitution guaranteed freedom of the press by writing that protection into the First Amendment of the Bill of Rights. Even so, the Supreme Court of the United States the highest court in America for years refused to protect the media from libel lawsuits by relying on the First Amendment. Instead, libel laws varied from state to state without a single coherent rule in the nation.

That all changed in 1964 when the Supreme Court issued a ruling that revolutionized libel law in the United States. The famous decision in *New York Times Co. v. Sullivan* once and for all created a national rule that squared more fully with the free press guarantees of the First Amendment. In its ruling, the Court decided that public officials no longer could sue successfully for libel unless reporters or editors were guilty of "actual malice" when publishing false statements about them<sup>32</sup>.

What is malice when it comes to proving libel? Retired Justice William J. Brennan, Jr., who wrote the *Sullivan* decision, defined it as "knowledge that the [published information] was false" or that it was published "with reckless disregard of whether it was false or not." In other words, public officials no longer could sue for libel simply by proving that something that had been broadcast or printed about them was false. Now they would have to prove

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<sup>32</sup> LaMont, Sanders "Listening to Readers: Lending an Ear," *The American Editor*, No. 803, September 1999, pp. 4+

that a journalist had knowingly printed false information while making little, if any, attempt to distinguish truth from lies.

The Supreme Court later extended its so-called Sullivan rule to cover "public figures," meaning individuals who are not in public office but who are still newsworthy because of their prominence in the public eye. Over the years, American courts have ruled that this category includes celebrities in the entertainment field, well-known writers, athletes, and others who often attract attention in the media.

For purely private individuals, the test for proving libel is not as difficult. Although Supreme Court rulings such as the *Sullivan* decision apply everywhere in the United States, most states continue to have their own libel laws that cover private individuals. Usually those laws require that public figures who believe they have been libeled prove that a journalist has been negligent when publishing false information about them. Negligence, like malice, is a legal term that generally means carelessness on the part of a reporter or editor. Because private individuals have more reason than public officials to be left alone in the media, American libel laws recognize that they are entitled to more legal protection against false statements made about them.

Every year hundreds of libel lawsuits are filed against newspapers, magazines, and radio and television stations in the United States. Typically, these cases are brought by current or former public officials, by entertainers, or by business executives who feel they have been damaged by critical media publicity, usually accusing or suggesting that the person has engaged in unlawful, improper, or questionable activities.

In December 1990, for example, a judge on the Pennsylvania Supreme Court won a \$6 million libel verdict against the *Philadelphia Inquirer* newspaper because of a series of articles it carried in 1983 that suggested he was guilty of influence peddling. And in one of the largest libel verdicts ever reached against the media, a former district attorney from Texas named Victor Fezell was awarded \$58 million in April 1991 after a Dallas television

station accused him of accepting bribes to fix drunken driving cases. "This verdict sends a message to the rest of the media to get your facts straight," Feazell said after the jury announced its verdict<sup>33</sup>t.

A jury in Chicago, Illinois, awarded businessman Robert Crinkley \$2.25 million in May 1991 because a *Wall Street Journal* article falsely linked him to bribery payments made to foreign officials. Crinkley said the newspaper story prevented him from being hired after he left his former employer. The jury agreed that he was a victim of libel even though the newspaper published a correction to its original story. The award was thrown out in September 1991 by circuit court judge Howard Miller. Miller ordered a new trial on damages after ruling that the evidence in the case was insufficient to support such a large award. Crinkley's lawyer began planning his appeal.

In these and other cases, the person bringing the libel suit has the burden of proving that he or she has been libeled. In other words, a public figure must prove that a reporter not only published false information but also did so recklessly and maliciously without attempting to determine whether it was true. Libel cases are not limited to disputes between the media and the people they cover. In July 1989, the American Express Company admitted to spreading false information about an international banker who controlled New York's Republic National Bank. When the banker's attorney threatened to sue for libel, American Express confessed to its role and agreed to donate \$8 million to charities as a settlement in the case<sup>34</sup>.

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<sup>33</sup> Glasser, Theodore L. "Public Journalism and the Prospects for Press Accountability." (Special issue on Communitarian Journalism). *Journal of Mass Media Ethics*, vol. 11, no. 3, Summer, 1996, pp. 152-159.

<sup>34</sup> Jennings, Marianne. "In search of journalistic ethics". *USA Today*, Vol. 129, No. 2662, July 2000, pp. 56-57.

In the wake of Westmoreland's case, several legal experts have criticized the way libel matters are handled in the American legal system. Some of them blame media organizations for relying so strongly on the First Amendment's free press guarantees. Daniel Popeo, a lawyer in Washington, says that the First Amendment unfairly protects the media but not the "victims" of unfair media coverage.

Journalists respond with their own set of complaints about libel lawsuits. The courts have made it difficult for most people to win libel cases. But the threat of being sued also causes many news organizations to shy away from publishing controversial stories. Large media outlets like CBS or the *New York Times* have the financial resources to battle expensive libel lawsuits. But smaller newspapers and television stations find it more difficult to afford such a costly burden.

The ongoing debate over libel has prompted at least one proposal for a new set of libel laws that would make it easier for public officials and others to prove their cases. The proposal drafted by a private committee of lawyers, law professors, and media representatives also would eliminate large financial awards that can be assessed against media groups found guilty of libel.

Over the past quarter of a century, the courts have favored the media in libel matters, but such victories have been hard fought and costly, absorbing millions of dollars in attorney fees and thousands of hours in lawyers' offices and courtrooms, according to Roslyn Mazer, a media lawyer in Washington.

Bruce Fein, former general counsel for the Federal Communications Commission, a U.S. government regulatory agency, is one of the lawyers who helped to draft the proposed set of libel laws. Fein says the ultimate goal is to ensure more accurate reporting by journalists so that members of the public are better informed about important public events. But he also thinks it is important that the media still have wide latitude in deciding what to

publish. "In a democratic society," says Fein, "everyone has to take some lumps in the media."<sup>35</sup>

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<sup>35</sup> From the publications of Steven Pressman who is a legal writer and editor in San Francisco, California.

## Chapter 2

### The Media and Legal Restrictions

#### Freedom of Information Act

In early 1975, the FBI assigned a handful of employees the task of handling an anticipated influx of Freedom of Information Act requests due to new legislation. Although the Freedom of Information Act had been in effect since 1967, it did not apply to investigatory files compiled for law enforcement purposes, thus generally exempting FBI files from public access.

By the end of 1975, amendments to the Freedom of Information Act had become effective and the Privacy Act of 1974 also became effective. The passage of these laws provided for broad access to FBI records which previously had been severely limited.

The task of responding to these Freedom of Information-Privacy Acts (FOIPA) requests became a very large one indeed. Some single requests have resulted in the processing of thousands of pages of records. In very simple terms, when a request is received it is logged into a computer and assigned a number for tracking purposes; it is acknowledged; an indices search is conducted to determine if the FBI has responsive records; and the file(s) is located and reviewed to determine if it is fact "ident" or the correct file<sup>36</sup>.

Once a file has been identified as being responsive to a request, it is photocopied, and the work copy is reviewed by an analyst to determine if

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<sup>36</sup> **Journalists Need Freedom, But Require Public Trust As Well**

By Jim Fisher-Thompson (05/05/97)

any portions should be withheld from the requester under any various exemptions permitted by the FOIPA. The analyst uses a colored marker to delete any exempt material, writes in the margins the particular exemption cited, and has the work copy re-copied using a photocopier with a special filter. The portions that appeared in translucent color on the work copy are black on the release copy. The release copy is mailed to the requester upon receipt of payment of fees, if applicable.

This labor intensive process has been repeated thousands of times since 1975. In the past twenty plus years, the FBI has handled over 300,000 requests and over six million pages of FBI documents have been released to the public in paper format. Currently, an automated document processing system is under development that will replace the "marker pen" method and allow for documents to be released in electronic format. For the FOIPA pages were not still released to the public, they were several selected FBI cases which may be of interest to the public. These documents had appeared in paper form in a traditional reading room in Washington, D.C. As time and resources permit, additional cases will be created in electronic format to be viewed by the public<sup>37</sup>.

Like all federal agencies, the Department of Justice is required under the Freedom of Information Act (FOIA) to disclose records requested in writing by any person. However, agencies may withhold information pursuant to nine exemptions and three exclusions contained in the statute.

The FOIA applies only to federal agencies and does not create a right of access to records held by Congress, the courts, or by state or local government agencies. Each state has its own public access laws that should be consulted for access to state and local records.

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<sup>37</sup> Ibid

Each federal agency is responsible for meeting its FOIA responsibilities for its own records. Likewise, each Department of Justice component is responsible for processing FOIA requests for the records that it maintains.

## **Communications Decency Act**

In a landmark 1997 decision, the Supreme Court ruled that the Internet is a unique medium entitled to the highest protection under the free speech protections of the First Amendment to the US Constitution.

This gives the Internet same free speech protection as print. The Internet is the first electronic media to achieve this because of low barriers to access, abundance, many speakers, no gatekeepers.

The Court struck down the Communications Decency Act (CDA), Congress' first attempt to censor speech online. Writing for the court, Justice John Paul Stevens held that "the CDA places an unacceptably heavy burden on protected speech" and found that all provisions of the CDA are unconstitutional as they apply to "indecent" or "patently offensive" speech. In a separate concurrence, Chief Justice William Rhenquist and Justice Sandra Day O'Connor agreed that the provisions of the CDA are all unconstitutional except in their narrow application to "communications between an adult and one or more minors"<sup>38</sup>.

The Communications Decency Act (CDA), passed in February 1996, imposed broadcast-style content regulations on the open, decentralized internet and severely restricted the first amendment rights of all Americans.

The CDT strongly opposed this legislation because it threatened the very existence of the Internet as a means for free expression, education, and political discourse. Although well intentioned, the CDA was ineffective and failed to recognize the unique nature of this global, decentralized medium.

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<sup>38</sup> **Communication Decency Act.**

<http://www.epic.org>

The CDA prohibited posting "indecent" or "patently offensive" materials in a public forum on the Internet including web pages, newsgroups, chat rooms, or online discussion lists.

This would have included the texts of classic fiction such as the "Catcher in the Rye" and "Ulysees", the "7 dirty words", and other materials which, although offensive to some, enjoy the full protection of the First Amendment if published in a newspaper, magazine, or a book, or in the public square.

It is also important to note that the CDA was not about child pornography, obscenity, or using the Internet to stalk children. These were already illegal under current law.

On Wednesday June 12, 1996 at 9:00 am, a panel of three federal judges in Philadelphia, PA granted the Citizens Internet Empowerment Coalition's (CIEC) request for a preliminary injunction against the Communications Decency Act (CDA). In a unanimous decision, the judges ruled that the CDA would unconstitutionally restrict speech on the Internet.

## **Homeland Security Act**

Homeland Security, Department of (DHS), an executive department of the United States federal government, created by law in November 2002 and officially established in January 2003. The department's mission is to help prevent terrorist attacks in the United States, reduce the country's vulnerability to terrorism, and assist in recovery after an attack. The department was created in response to the September 11, 2001, terrorist attacks against the World Trade Center and the Pentagon as a way to oversee and coordinate security functions previously performed by dozens of different government agencies.

The DHS has its headquarters in Washington, D.C The department is led by a secretary who is nominated by the president of the United States and approved by the United States Senate. The secretary is a member of the president's Cabinet. A deputy secretary assists the secretary.

The department has four main divisions known as directorates, each administered by an undersecretary. The Directorate of Border and Transportation Security is responsible for preventing terrorists from entering the United States; for protecting air, land, and sea transportation systems; and for enforcing immigration laws.

The Directorate of Emergency Preparedness and Response is responsible for coordinating the federal government's response to terrorist attacks and major disasters and for assisting in recovery.

The Directorate of Science and Technology is charged with overseeing efforts to protect the United States from attacks involving chemical, biological, radiological, and nuclear weapons. It also conducts and funds research related to homeland security.

The Directorate of Information Analysis and Infrastructure Protection is responsible for analyzing intelligence from a vast array of federal, state, and local agencies in order to detect terrorist threats and identify vulnerabilities in the country's infrastructure.

Many major government agencies are part of the DHS. These include the United States Coast Guard, which protects the country's ports and waterways; the Federal Emergency Management Agency (FEMA), which plans for and responds to disasters; and the Secret Service, which protects the president, vice president, and other officials and investigates counterfeiting and financial crimes.

Other agencies making up the DHS are the Bureau of Citizenship and Immigration Services (created from parts of the former Immigration and Naturalization Service), which handles immigrant visa petitions as well as naturalization, asylum, and refugee applications; the Transportation Security Administration, which oversees airport security; and the United States Customs Service, which inspects passengers, vehicles, and cargo entering or leaving the United States.

There were debates over how to best structure the federal government to prevent terrorist attacks on U.S. soil began even before the September 11 attacks. In 1998 the U.S. secretary of defense created the U.S. Commission on National Security/21st Century (also known as the Hart-Rudman Commission for its cochairs, former U.S. senators Gary Hart and Warren Rudman) to assess global threats to domestic security and develop a national security strategy.

This commission reported in February 2001 that homeland security functions were “scattered across more than two dozen departments and agencies, and all fifty states,” and it warned of future attacks against U.S. citizens on their own soil. It recommended the creation of a new National Homeland Security Agency integrating FEMA, the Customs Service, the U.S. Border Patrol, and the Coast Guard to coordinate government homeland security activities.

The September 11 attacks prompted intense scrutiny of the federal government’s efforts to prevent terrorism. Authorities were alarmed that important clues to the attacks were overlooked or never connected, and that the terrorists involved in the attacks had entered and remained in the United States without raising suspicions.

In October 2001 President George W. Bush established the Office of Homeland Security within the White House to coordinate counterterrorism efforts.

However, some members of Congress argued that the office, created by executive order and without budgetary authority, lacked sufficient power to alter the procedures and priorities of other federal agencies involved in fighting terrorism. Congressional legislators pressed for a new Cabinet-level agency, based largely on the recommendations of the Hart-Rudman Commission, which would analyze all terrorism related information and direct the government’s counterterrorism efforts.

Although George W. Bush initially opposed the idea, it gradually gained bipartisan support, and by mid 2002 he had embraced it. The Department of Homeland Security was created by the Homeland Security Act of 2002, signed into law on November 25, 2002. By combining dozens of federal agencies into one department, the act marked the largest reorganization of the federal government since the National Security Act of 1947 created the present day Department of Defense, the Central Intelligence Agency (CIA), and the National Security Council.

The DHS was officially established in January 2003. Former Pennsylvania governor Tom Ridge, who headed the White House Office of Homeland Security, became the DHS's first secretary.

## Chapter 3

### The Free Press Rights and Responsibilities

The First Amendment to the United States Constitution provides that "Congress shall make no law...abridging the freedom...of the press." Although the First Amendment specifically mentions only the federal Congress, this provision now protects the press from all government, whether local, state or federal.

The founders of the United States constitution wrote the First Amendment to distinguish their new government from that of England, which had long censored the press and prosecuted persons who dared to criticize the British Crown. As Supreme Court Justice **Potter Stewart** explained in a 1974 speech, the "primary purpose" of the First Amendment was "to create a fourth institution outside the government as an additional check on the three official branches" the executive branch, the legislature and the judiciary.

Supreme Court Justice Potter Stewart mentioned several landmark cases in which the Supreme Court held in its courts one of these cases are the Pentagon papers case. Those cases upheld the right of the press to perform its function as a check on official power, which at the end it is seen as a fourth power outside its government checking governments' official powers.

The First Amendment protects the press giving it a power that protects and checks official powers by publishing whatever is important for the public to know. I would like to discuss some cases that protect the freedom of the press making it check the powers of the government.

## Case of the Pentagon Papers:

### Case Study: The Pentagon Papers

There is no Supreme Court case better illustrates the potential conflict between the imperatives of press freedom and national security than that of the Pentagon Papers of 1971, the Defense Department's top-secret study of the growth of United States military involvement in Vietnam, there were leaks by a government official to *The New York Times*. On June 13 of that year, the newspaper began publishing articles based on the documents. When the government learned of this, the Department of Justice asked for a temporary restraining order, which was granted. *The New York Times* received a telegram from the U.S. attorney general warning that the publication of the information violated the Espionage Law. The attorney general also claimed that further publication would cause "irreparable injury to the defense interests of the United States."<sup>39</sup>

Following a whirlwind series of further hearings and appeals, the *New York Times* ended up before the Supreme Court which ruled that the publication of the Pentagon Papers could continue. The court held that any prior restraint on publication "bear[s] a heavy presumption against its constitutional validity," and held that the government had failed to meet its heavy burden of showing a justification for the restraint in *New York Times Co. v. United States*, 403 U.S. 713 (1971). The New York Times resumed the publication of the series, and eventually won a Pulitzer Prize, the profession's highest honor, for the public service it performed by publishing the reports of the pentagon papers.

In its petition to the court, the executive branch of the government asserted that it should be the sole judge of national security needs and should be granted a court order to enforce that viewpoint. The newspaper countered

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<sup>39</sup> Rudenstein, David. *The Day the Presses Stopped: A History of the Pentagon Papers*. Berkeley, CA: University of California Press, 1996.

that this would violate First Amendment press freedoms provided for under the U.S. Constitution. It also argued that the real government motive was political censorship rather than protection of national security.

On June 30, the Supreme Court in *New York Times v. the United States* ruled in favor of the newspaper, and the documents were subsequently published. The Constitution, the justices asserted, has a "heavy presumption," in favor of press freedom. The Court left open the possibility that dire consequences could result from publication of classified documents by newspapers, but said that the government had failed to prove that result in this instance.

The publication of the Pentagon Papers helped fuel the debate over the wisdom of U.S. involvement in Vietnam; however, most observers agree that the publication of the papers did not do injury to the national security of the United States.

The Pentagon Papers case proves the value of the First Amendment says Jim Goodale, general counsel to *The New York Times* during the time of this landmark decision. "It serves as a shield against an overzealous government." Goodale points out that the government has sought to stop publication of classified documents in other cases. Although it has won temporary restraining orders in some instances, he says he knows of no case where a court order to prevent publication has been "permanently granted."<sup>40</sup>

***Case of New York Times Co. v. Sullivan, 376 U.S. 254 (1964).***

The Supreme Court handed *The New York Times* another landmark First Amendment victory, in the seminal libel case which is *New York Times Co. v. Sullivan, 376 U.S. 254 (1964)*. This action was brought by an elected official who supervised the Montgomery, Alabama police force during the height of the civil rights movement in the 1960s. The official claimed that he was defamed by a full-page advertisement, published in the New York

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<sup>40</sup> Ibid

*Times*, accused the police of mistreating non-violent protestors and harassing one of the leading figures in the civil rights movement, the Rev. Martin Luther King.

The Supreme Court found that even though some of the statements in the advertisement were false, the First Amendment nevertheless protected the *Times* from the official's suit. The court considered the case against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open, and that it may well include heated, caustic and sometimes unpleasantly sharp attacks on government and public officials. In light of this commitment, the court adopted the rule that a public official may not recover damages for a defamatory falsehood related to his official conduct unless he proves that the statement was made with 'actual malice' that is, with knowledge that it was false or with reckless disregard of whether it was false or not. The court later extended this rule beyond public officials to cover libel suits brought by all "public figures."<sup>41</sup>

Case of *Curtis Publishing Co. v. Butts and Associated Press v. Walker*, 388 U.S. 130 (1967)<sup>42</sup>)

Although the *Sullivan* case is best known for the "**actual malice**" rule, the Supreme Court's decision included a second holding of great importance to the press. Noting that the challenged advertisement attacked the police in a general way, but not the official specifically, the court held that an otherwise impersonal attack on governmental operations could not be considered a libel of the official who was responsible for the operations.

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<sup>41</sup> Garry, Patrick M. *Scrambling for Protection: The New Media and the First Amendment*. Pittsburgh, PA: Pittsburgh Press, 1994.

<sup>42</sup> **Goodale, James C.** "The Supreme Court Tunes in on Indecent Speech." *New York Law Journal*, vol. 215, no. 23, February 2, 1996, p. 3.

Case of *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988). The First Amendment also protects the right to parody public figures, even when such parodies are "outrageous," and even when they cause their targets severe emotional distress. In *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988), the court considered an action for "intentional infliction of emotional distress" brought by Jerry Falwell, who is a well-known conservative minister who was an active commentator on political issues against Larry Flynt, the publisher of *Hustler*, a sexually explicit magazine. This case figures prominently in the critically acclaimed film "The People vs. Larry Flynt," which opened in the U.S. in 1996.

The *Hustler* case arose from a parody of a series of Campari liqueur advertisements in which celebrities spoke about their "first times" drinking the liqueur. The *Hustler* magazine parody, titled "Jerry Falwell talks about his first time," contained an alleged interview in which Falwell stated that his "first time" was during a drunken, incestuous encounter with his mother in an outhouse. The parody also suggested that Falwell preached only when he was drunk. The Supreme Court held that the First Amendment barred Falwell's contention that a publisher should be held liable for an "outrageous" satire about a public figure. The court noted that throughout American history, "graphic depictions and satirical cartoons have played a prominent role in public and political debate."<sup>43</sup>

Although the Supreme Court opined that the *Hustler* parody at issue bore little relation to traditional political cartoons, it nonetheless found that Falwell's proposed "outrageousness" test offered no principled standard to distinguish between them as a matter of law. The court emphasized the need to provide the press with sufficient "breathing space" to exercise its First Amendment freedom. The court added that "if it is the speaker's opinion that

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<sup>43</sup> **Kirtley, Jane E., ed.** *The First Amendment Handbook*, 4th Edition. Reporters Committee for Freedom of the Press, c1996. (Electronic version can be found at the [Reporters Committee](#) homepage.)

gives offense, that consequence is a reason for according it constitutional protection. For it is a central tenet of the First Amendment that the government must remain neutral in the marketplace of ideas.”

The protection of the First Amendment extends beyond press reports concerning major government policies and well-known public figures. The Supreme Court has held that if the press "lawfully obtains truthful information about a matter of public significance then [the government] may not constitutionally punish publication of the information, absent a need to further a state interest of the highest order," Smith v. Daily Mail Publishing Co., 443 U.S. 97 (1979).

Applying this principle, the Supreme Court has employed the First Amendment to strike down state laws which threatened to punish the press for reporting the following: information regarding confidential judicial misconduct hearings,<sup>44</sup> Landmark Communications, Inc. v. Virginia, 435 U.S. 829 (1978); the names of rape victims, Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975); and the names of alleged juvenile offenders, Smith v. Daily Mail Publishing Co., 443 U.S. 97 (1979). The court also struck down a law which made it a crime for a newspaper to carry an election day editorial urging voters to support a proposal on the ballot, Mills v. Alabama, 384 U.S. 214 (1966).

The First Amendment also prevents the government from telling the press what it must report. In Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974), the Supreme Court considered whether a state statute could grant a political candidate a right to equal space to reply to a newspaper's criticism and attacks on his record. The court struck down the law, holding that the First Amendment forbids the compelled publication of material that a newspaper does not want to publish. The court held that the statute would

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45 Hachten, William A. *The Troubles Of Journalism: A Critical Look At What's Right And Wrong With The Press*. Lawrence Erlbaum Associates, 2nd edition, 2001.

burden the press by diverting its resources away from the publication of material it wished to print, and would impermissibly intrude into the functions of editors.

The Supreme Court has not, however, afforded similar protection to the broadcast media. In a pre-*Tornillo* case, *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969), the Supreme Court upheld a Federal Communications Commission rule that required broadcasters to provide a right of reply under certain circumstances. The court justified this regulation by citing the scarcity of the broadcast spectrum and the government's role in allocating frequencies.

The First Amendment generally prevents the government from restraining or punishing the press, the First Amendment usually does not require the government to furnish information to the press. However, the federal government and the state governments have passed freedom of information and open meetings laws which provide the press with a statutory right to obtain certain information and to observe many of the operations of government. In addition, the First Amendment does furnish the press with the right to attend most judicial proceedings.

The First Amendment also provides journalists with a limited privilege not to disclose their sources or information to litigants who seek to use that information in court. In *Branzburg v. Hayes*, 408 U.S. 665 (1972),<sup>45</sup> the Supreme Court held that reporters did not have a privilege to refuse to answer a grand jury's questions that directly related to criminal conduct that the journalists observed and wrote about.

However, the court's opinion noted that news gathering does have First Amendment protections, and many lower courts have applied a qualified

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<sup>45</sup> **Citizens Must Constantly Push for a Free Press** by Charles W. Corey (04/26/96)  
[Http://www.findlaw.com/scripts/getcase.pl?navby=case&court=US&vol=408&page=66](http://www.findlaw.com/scripts/getcase.pl?navby=case&court=US&vol=408&page=66)

First Amendment privilege to situations in which the need for the journalist's information was less compelling than in *Branzburg*. These courts require litigants to prove that the material sought is relevant to their claim, necessary to the maintenance of the claim, and unavailable from other sources. In addition, more than half of the states have adopted statutes called "Shield Laws," which provide a similar privilege to journalists.

Although the press normally must obey generally applicable laws, the First Amendment prevents the government from enforcing laws which discriminate against the press. For example, the court has struck down a law which imposed a special tax on large newspapers, *Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue*, 460 U.S. 575 (1983) , and a law which imposed a tax on some magazines but not others based on their subject matter, *Arkansas Writers' Project, Inc. v. Ragland*, 481 U.S. 221 (1987<sup>46</sup>) .

### **The Role of the Media in a Democracy**

The media are increasingly intertwined with the practice of democracy in America. Government officials and political candidates use the media to advance their agendas. Americans rely more and more on the media to judge how our leaders campaign, govern, shape public policy, and communicate their ideas. Curiously, this increase in media influence corresponds to a decrease in voter participation.

In order to be well-informed citizens and active participants in our democracy, young people must understand both our governing processes and the role of the media in those processes. American youth have a great deal of exposure to the media in the realms of entertainment and culture, yet most do

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**47 Meyer, Philip** *Ethical Journalism: A Guide for Students, Practitioners, and Consumers*. Lanham, MD: University Press of America, 1987.

not understand how the media, politics, and public policy interact with each other and thereby affect their lives.

It is a fact of contemporary life that any critical incident will immediately fall under the withering spotlight of news media attention. It is also predictable that journalism will come under sharp criticism for its intrusiveness, its hunger for instant news, its tendency to offer explanations before the facts are in.

Early in the television age, those moments when millions of Americans were rapt to the same images at the same time on their TV screens were thought to be unifying ones. The perception was of a nation coming together through this new medium to share a common experience and common feelings of sorrow when John F. Kennedy was assassinated the event that marked the coming of age of television news or of excitement, adventure, and admiration during the Apollo 11 astronauts' first steps on the moon.

The sense of television as a unifying force at moments of crisis persisted as late as the 1986 explosion of the space shuttle Challenger. Today, though, even while broadcast images reach a far greater audience at even greater speeds, the coverage often seems to divide, not unify. Instead of reassurance, crisis journalism, both broadcast and print, often generates rancor and resentment. CIAG's executive director, Gregory Saathoff in 1999, recalled that at the FBI's 1999 school shooting symposium, attended by teachers and administrators from eighteen schools that had experienced shooting incidents or attempted shootings, the commonality was that unanimously, the schools felt wounded by the media coverage. That was one thing that various schools seemed to agree on.

What has changed? The news media advances in live broadcasting technology and the appearance of round the clock news channels have transformed the industry. News, especially news of explosive and dramatic events, is gathered and transmitted so swiftly that journalists, the public, and the officials who are responsible for managing a crisis are given virtually no

time to reflect or consider their response to the information pouring in on them.

Robert Riggs of WFAA-TV in Dallas, one of two working journalists attending CIAG's discussions, suggested that changes in the media may have changed the audience, too.

The electronic media have radically transformed our perceptions of the world. From the era of the printed word, which orders everything on a linear basis with a beginning, middle, and an end, we have moved into a digital world in which we are clothed and bathed in the electronic news media. That has conditioned people to respond instantly.

The media processes new information immediately, rather than think out the situation. The media makes us live in a succession of current fleeting moments.

For decision-makers, this media environment eliminates the time between receiving information and responding to it. The flow of information can now accelerate beyond their ability to make the responses demanded of them. And now the Internet is giving the public the ability to participate and create even more pressure for that instantaneous response. The editor of a new online web site called APBnews.com (APB stands for All Points Bulletin) summed it up this way: "The deadline here is always now."

A major challenge of covering a critical incident through the media, especially in the first minutes and hours, is to avoid repeating inaccurate or exaggerated reports an easy policy to state but often a difficult one to follow, given the pressure for speed and the insatiable demand for new details. Beyond just keeping inaccurate information out of print and off the air, the media also has a key role in reassuring an alarmed and anxious public by dispelling false rumors as quickly and authoritatively as possible.

Journalists often get the brunt of criticism for spreading misinformation during a crisis, but it is important to recognize that rumors often reach the press from law enforcement and other public officials who, in many cases,

could and should have been more disciplined and careful in their own assessments of early, unverified reports.

The public, conditioned by movies and TV police dramas where battles or crimes or shootouts or disasters are invariably far more comprehensible and coherent than they are in real life, often does not appreciate how murky and unreliable information usually is in a critical incident. FBI agent Dwayne Fuselier's account of reaching the scene of the Columbine High School shooting offered an example:

“We found the sheriff of Jefferson County, and offered him any assistance. Quite frankly, at that time, they weren't sure what they had. The briefing I got was six to eight shooters, hostages perhaps taken, multiple students injured and perhaps killed, snipers on the roof .... This was about an hour and a half after the first shots were fired.”

In fact, by then, the shooting had ended and the two shooters had died, by their own hands, thirty or forty minutes before.

Even if reporters covering a story are careful, commentators may not be. The "guest analysts" invited to discuss a critical incident on radio or television interview programs or who are quoted by newspapers may be experts in their fields, but ordinarily have no first-hand knowledge of the event they are commenting on. The journalists conducting these interviews almost never frame questions to seek information; instead, they ask for even encourage speculation, predictions, and quick conclusions even when it is obvious that all the facts are not yet in. Often, the choice of commentators predetermines the thrust of the commentary. After the explosion of TWA Flight 800, for example, terrorism experts were the guests of choice on many talk shows or as analysts on news programs. Inevitably, in the resulting interviews, both questions and answers tended to take for granted that Mideast terrorists had blown up the plane, an assumption that turned out to be untrue.

Former Deputy Attorney General George J. Terwilliger 3rd, who appeared as a commentator for CNN on the Ruby Ridge and Waco sieges

and on the Oklahoma City bombing, recalled his concern about the impact such instant analysis may have on the audience.

This is what he said “I felt a very strong responsibility to be part of giving the public reassurance about what was going on, to not have a sense of panic develop that the country was suddenly out of control. It is hyperbole to suggest that one incident could lead to that. But there was so much rank speculation and loose thought going around that I started to say things on the air about what the FBI was capable of and what the Justice Department was capable of and how law enforcement could react. I really had a sense of responsibility to reassure a public that was doubting. I think that is a legitimate function, perhaps not for reporters, but certainly for commentators. If we were in the middle of a war, for example, I don't think that would be a good time for a former general to go on the air and start doubting the capability of our military forces and our equipment and whatnot. [Violent incidents are] a kind of war, in a way a war for control of the domestic theater, and while I think it would be absolutely wrong to lie or mislead people, I don't think it is necessarily the time and place for a lot of second-guessing. That can come later.” General Rowny suggested that reporters, too, may have to exercise restraint at times when immediate reporting even if accurate might exacerbate a crisis or endanger hostages or others:

I think that those of you in the media, when people have done a good job, should exercise your influence to reward them, to give them some prizes or something. I am thinking of an incident just a couple of weeks ago in Dundalk [Maryland]. I happen to have been raised, not born but raised, in Dundalk. You remember this Joseph Palczynski who was holed up in a house with three hostages, a kid and two older people. There was a woman there from a station in Baltimore who obviously knew a lot more than she was reporting and yet realized that giving this information to this man who was holding people hostage would work against them, and she just stood fast and held on. I think a person like that should be rewarded and it should be

explained to those who think that we have to immediately know everything that is going on, that we really don't<sup>47</sup>.

In a critical incident, government officials will often feel that controlling information is crucial for successfully managing the crisis. In such situations, asked former Army secretary Marsh:

What is the media's responsibility? The First Amendment protections are so absolute and very important that it's difficult to answer. I don't know whether the press can provide their own discipline or not. The press is going to have to help us find an answer.

The issue of how the news media report on violent incidents, and if and how coverage should sometimes be restrained, "has a first cousin,"

Marsh added: whether there should be any restraint or self-restraint on the portrayal of violence in entertainment programming, which is also protected by the First Amendment. The industry denies any connection between violence on television or movie screens and violence in the society, but Marsh observed:

It is hard for me to understand how you can use TV to sell automobiles and soap and cereal, believing that it impacts on viewers, and not also perceive that the presentation of violence impacts on viewers.

Those who have been involved in critical incidents are frequently critical of the news coverage they see after witnessing events first hand. Often, reporters appear to have settled on a story line before they even arrive on the scene, and rather than seeking new information, seem to be interested only in confirming their preconceptions. At Columbine High School, William Kowalski recalled, principal Frank DeAngelis felt that the journalists who

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<sup>47</sup> Jane B. **Singer** , "Virtual Anonymity: Online Accountability and the Virtuous Virtual Journalist." *Journal of Mass Media Ethics*, vol. 11, no. 2, Spring, 1996, pp. 95-107.

interviewed him were looking for particular responses "and when they didn't like the answers, it just got extremely difficult." Several weeks after the shooting, Kowalski reported, DeAngelis gave yet another interview to a young intern for the Denver Post and commented, when it was over, that she was "the first person I have talked to from the media who really wanted to hear my side of the story."

Because the press will invariably report conflict and lawyers and potential plaintiffs in the all but inevitable lawsuits will invariably seek out reporters to publicize their claims of negligence or misconduct) the media can be seen as a force for division, instead of unity and healing. Dwayne Fuselier said about the continuing Columbine coverage: "I am disappointed in what I see as not attempting to provide factual information, but only the emotion of the situation, quite frankly to sell papers. I feel disappointed. I feel we are being undermined by someone that this community needs help from."

In the pressure cooker of a critical incident, the way information is handled or mishandled at the moment of crisis can have lasting effects. With instant news a fact of life, those managing a crisis need to be aware of media coverage and act right away to shape the coverage, as Barb Monseu learned on the day of the Columbine shooting:

When you are in a critical incident, in a crisis, in a tragedy, the way it plays out, the movie that everyone sees, is what they get from the media. Other than the people immediately involved, that's how the rest of the world will see it.

On April 20th [1999] I was a very busy person, thinking about a lot of things, trying to the best of my ability to deal with the situation at hand. It never occurred to me to go talk to the media. I didn't even know what people were seeing, that it was playing twenty-four hours on TV. When I finally did get to talk to the media, because no one had gone out there, myself or the principal or someone else, they had already made the assumption that we were hiding something. But if we made a mistake in not going out, they made a mistake in not asking us why we didn't get out and in growing

distrustful. We needed to have somebody prepared with a communication plan. That's what we are sharing with other people now. As we talk to other school districts, we say right away, who is going to be your person that gets information out to people? If we'd done that, who knows what we would be seeing in the paper now.

A persistent charge against the media is that journalists are aggressive, insensitive, unsympathetic, and intrusive when interviewing victims of a violent or tragic event. The distasteful image of a reporter shoving a microphone in front of a grieving mother or traumatized survivor and barking "How do you feel?" has undoubtedly contributed to the well-documented decline in public respect and trust for the news media. Over the last decade or so, though, many news organizations have tried to train reporters to approach victims more respectfully and sensitively.<sup>48</sup>

Little things count. Calling the victims back to verify quotations and facts. Insuring that photos are returned immediately we emphasize to reporters and editors these days how much treasured these photos are. Calling the funeral home or family representatives beforehand instead of invading a private funeral. Not retelling gruesome details on anniversaries or key dates unless they are vital to the story, and not rerunning bloody images on anniversaries.

Hight reminded his listeners that journalism today is under critical scrutiny not just from outside the profession, but from inside it as well, and that journalists too are concerned that an inevitable and healthy skepticism can warp into damaging cynicism:

Between the government and the media there will always be a natural skepticism. It will always be there, and thank God that it is there. Yet we

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<sup>48</sup> **Robert M. O'Neil**

"Tainted Sources: First Amendment Rights and Journalistic Wrongs."  
(Undercover Newsgathering Techniques: Issues and Concerns) *William and Mary Bill of Rights Journal*, vol 4, no. 3, pp. 1005-1025.

[also] have a commonality as citizens of this country. Just as government agencies serve the taxpayers, we also serve the citizens of the country through our words and through our images. One thing that worries me is the cynicism that exists in my industry and the cynicism that exists toward my industry as well. We as journalists treasure our independence. We are skeptical of each other at times. There are various movements that are examining what we do and how we do it.... A responsible media must be sensitive to the needs of the community and ethical in our coverage. Please note three words that I emphasize to our newsroom on a continual basis. Those are accuracy, balance and clarity.

### **The People, the Press, and the Government**

Alexander Hamilton, one of America's Founding Fathers, once said that freedom of the press, "whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion." Would you agree with that?"<sup>49</sup>

There are two arguments to emphasize: first, Hamilton was right that the public has the need to know what is going around were that is the value of a journalist's work, and it is when repudiated by the public, when regarded as cynical and domineering, thrown into doubt and confusion. The journalist writing or, in more recent times, broadcasting if not for the benefit of the public? it loses the public, then the journalist loses his or her mandate. Put in purely commercial terms, if the public stops buying a newspaper, the newspaper goes out of business. Public support, therefore, is crucial in the marketplace. The second was that I would like to emphasize on is that Hamilton had it wrong though he accurately reflected the conservative views of his time for implying that public or the government's approval of a journalist's work is crucial. Public opinion can swing to the left or the right, but a journalist should be pursuing a fair rendition of truth without regard to

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<sup>49</sup>Timothy E. Cook, *Governing with the News: the News Media as a Political Institution* (Chicago: University of Chicago Press, 1998), p. 264.

popular moods. What we have learned in the United States after more than 200 years is that a free and unfettered press is the best underpinning of a society free to be liberal or conservative. The journalist should not be swayed by public opinion, only by the pursuit of truth, as close as he or she can get to it.

### **Freedom of the Press:**

The freedom of the press in the United States is not the consequence of First Amendment guarantees alone. A free press should have a legal, constitutional guarantee, but that is not all it needs. It needs an independent judiciary and an independent legislature -- independent of the arbitrary power of the president or prime minister or chairman of a political party. Independence of governmental authority is the key. This is admittedly very difficult to achieve without the economic means to buy space and time.

One of the cornerstones of press freedom in the United States is the abundance of privately owned, profitable media. But does the desire for profits make it difficult for private media, particularly television, to cover the news with the depth and seriousness it deserves? There would appear to be a contradiction between serious news and the demands of the marketplace -- increasingly so, as one watches prime-time television news magazines and even the evening newscasts. The salvation, however, lies in the technology itself, which produces a vast menu of choices. The viewer can now watch not just the three evening newscasts, whose joint rating has dropped to less than 50 percent of the audience, but also many other news programs on cable, such as CNN, CNBC, MSNBC, and more immediate, direct access to the Internet. It takes more time and effort initially for the viewer to find quality programming, but it does exist. It merely awaits the viewer's discovery<sup>50</sup>.

The press should be neither adversarial nor friendly. The press should go about its business of collecting and reporting the news without fear or favor

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<sup>50</sup> **Ibid.**

from the government. It should keep its distance. as an example the Washington press corps, without doubt the most powerful and influential in the world, is too cozy with governmental officials. Competition is so severe that journalists feel the need to cultivate and nurture sources, and sources take advantage of the situation to play one journalist off against another. Beware of all those smiles!

Under what circumstances are governments justified in limiting access to information, and are journalists within their rights in publishing such information? Governments are fully justified in limiting access to information considered too sensitive for general distribution, and journalists are fully justified in pursuing such information and publishing or broadcasting such information. This is a never-ending struggle between two rights:

The government's right and obligation to protect national security; and the people's right to know, based on the journalist's ability to get the news. However, theory retreats before reality. If the publication of a story, in the journalist's view, runs the risk of jeopardizing lives, then the journalist should decide not to publish or broadcast. But the decision must belong to the journalist, not to the government. This is true and it doesn't give us satisfaction to know it is up to the journalist.

The glory of the free press is that it does not play favorites. A good idea is rewarded. The world changes in time of the communications revolution, opening doors but more important opening minds to new ideas. Today is only a prelude to the excitement of tomorrow.

### **Media Conscience and Accountability**

The First Amendment to the United States Constitution, grants the press broad rights and makes government regulation, beyond the limited scope of libel laws, a virtual impossibility. As valuable as a free, independent press is to the proper functioning of America's democracy and it is impossible to overstate its importance in that respect. Many Americans believe that

independence also implies a responsibility for the press to regulate itself, or at least to make itself more accountable and open to public scrutiny.

American courts once granted broad latitude to the press in order to encourage discussion of public and governmental affairs. In the late 1960s and 1970s, it was extremely difficult for public officials and public figures to win libel judgments against news organizations. But in more recent years, concerns that the press has misused that latitude to invade the privacy of public figures, whose private conduct may have no bearing whatever on the democratic process, it has resulted in court decisions that have narrowed the media's latitude. Public perceptions of the media have changed;. Readers and viewers routinely return low ratings when they are asked to assess the credibility of the media; more and more Americans seem inclined to judge the quality of the media by the conduct of its least responsible practitioners<sup>51</sup>.

A recent case in which a U.S. supermarket chain successfully challenged the covert methods employed in a television news investigation of the market's alleged improper food-handling practices -- but not the accuracy of the network's story -- promises to ignite yet another round of scrutiny of media methods, regardless of how the case is decided on appeal.

News organizations in the United States are responding, albeit often reluctantly, to increasing consumer complaints in a number of ways that demonstrate their accountability, **says Bob Caldwell**, who has been a writer, editor and ombudsman with The Oregonian, the largest daily newspaper in the Pacific Northwest.

Independent press is to the proper functioning of America's democracy -- and it is impossible to overstate its importance in that respect -- many Americans believe that independence also implies a responsibility for the press to

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<sup>51</sup> **Povich, Elaine M.**

*Partners and Adversaries: The Contentious Connection Between Congress and the Media.* Washington, DC: Freedom Forum, 1996.

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A broad grant of latitude was given to the press by American courts in order to encourage the discussion of public and governmental affairs. It was extremely difficult for public officials and public figures to win libel judgments against news organizations. Through the years that came by the press has misused that latitude to invade the privacy of public figures whose private conduct may have no bearing whatever on the democratic process which resulted in court decisions that have narrowed the media's latitude. Public perceptions of the media have changed. Readers and viewers routinely return low ratings when they are asked to assess the credibility of the media; more and more Americans seem inclined to judge the quality of the media by the conduct of its least responsible practitioners.

Newspapers have come a little further down the road from the days in which they debated whether even to acknowledge their common, everyday errors, but not very far. *Gary Gilson, the executive director of the Minnesota News Council, points out that most newspapers treat corrections perfunctorily.*

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thinks more news organizations should follow the example of *The New York Times*, which offers, along with daily corrections, occasional lengthy examinations of the paper's journalistic quality in a feature called *Editors Notes*.

The Minnesota News Council investigates complaints about the news media, conducts hearings and issues findings in a quasi-judicial process. It receives its financial support from the news media, Minnesota businesses and other non-governmental sources. Since its inception, the 24-member council (12 from news organizations and 12 from other walks of life) has considered 1,560 complaints and adjudicated 107. It has found against the news media in roughly half of its cases.<sup>52</sup>

The Minnesota News Council's approach to disputes about media quality recently received national attention when the popular CBS-television magazine show, *60 Minutes*, featured the council's decision to criticize a Minneapolis-St. Paul television station for its handling of an investigation into Northwest Airlines, which has its headquarters in Minneapolis.

The council's findings suggested that the station took good information Federal Aviation Administration reports that were critical of the airline's maintenance practices and mishandled it. The station overlaid the maintenance story with a broad, and baseless, tale of intrigue and employee intimidation that, the news council found, unfairly tarred Northwest Airlines.

Viewers of *60 Minutes* could easily have concluded that the council's role was partly to intimidate the Minneapolis television station, thus exerting a chilling effect on its willingness to pursue news stories aggressively. But the general manager of the station (who took over after the Northwest Airlines report) said the station would continue to support the council and its efforts.

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<sup>52</sup> Teeter, Dwight and Don R. Le Duc. *Law of Mass Communications: Freedom and Control of Print and Broadcast Media*. 8th Edition. Westbury, NY: Foundation Press, 1995.

Interestingly, both the station and Northwest Airlines are financial contributors to the Minnesota News Council. Gilson said the *60 Minutes* story has prompted a flurry of interest in the news council's activities from around the country, mostly from people outside the news business.

The news council plays two roles that should be considered vital to the news media: It independently explains to the public how the media work and it serves as an alternative to the courts as a method of resolving disputes. People with complaints before the Minnesota council, for example, must agree in advance to forego legal action against the media companies that are the targets of their complaints. Considering what newspapers and television stations spend on attorneys' fees and libel insurance, they should be receptive to the news council idea.

Attempts to start a national news council and an effort to establish councils in Oregon and Washington state in recent years have failed. Outside of Minnesota, the Honolulu (Hawaii) Community Media Council which was established about the same time appears to be the only functioning news council in the United States.

### **Acknowledging the Contribution of Journalists**

Across the river from Washington, D.C. stands a memorial to journalists killed covering the news around the globe. Their fate and the work of a free press are of concern to a number of organizations that assist journalists worldwide.

In the midst of high-rise office buildings across the Potomac River from the monuments of Washington stands a steel and glass structure that looks like a whirlwind shooting up into the morning sun, its panels reflecting rainbow colors. It too, is a monument: a memorial to slain journalists.

Built by the Freedom Forum, a nonpartisan organization devoted to press freedom, the Freedom Forum Journalists Memorial commemorates the life and death of journalists around the world.

Some of the journalists listed on the memorial were killed covering wars, natural disasters or violent crimes; others fell ill while on assignment. Some were murdered to silence their reporting. Journalists who died as a result of accidents unrelated to an assignment are not listed on the memorial, nor are those who contributed to the violence that resulted in their deaths.

Journalists have "inspired countless movements of liberation," and their work "sustained the fight against slavery, fascism, communism, and apartheid," the first lady continued. The purpose of journalism "is to report the truth about the world around us," and that often has proved a dangerous endeavor, she added.

In a letter, then-U.N. Secretary-General Boutros Boutros-Ghali commended the Freedom Forum for building the memorial. "The United Nations is committed to the unhindered flow of information and opinions in all parts of the world, both between and within nations," he said<sup>53</sup>.

The Freedom Forum plans ceremonies on World Press Freedom Day in May each year to add the names of more journalists to the memorial. In addition to the memorial, Freedom Park displays a number of icons of freedom, such as huge concrete chunks of the Berlin Wall, a ballot box from South Africa, and a replica of a boat used by two Cuban refugees' husband and wife who risked everything to sail the lonely sea to freedom.

The Journalists Memorial stood as a reminder that people put themselves in danger every day just to report the news. On a wall facing the memorial, the words of Thomas Jefferson sum up the ultimate challenge: "To pursue the freedom of the human mind...and freedom of the press, every spirit should be ready to devote itself to martyrdom."

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<sup>53</sup> Glasser, Theodore L. "Public Journalism and the Prospects for Press Accountability." (Special issue on Communitarian Journalism). *Journal of Mass Media Ethics*, vol. 11, no. 3, Summer, 1996, pp. 152-159.

## **CHAPTER 4**

### **Exploring the Role of Free and Independent Media in American Democracy**

#### **Promoting free media in American Democracy**

One of the scopes that American Foreign policy worked through its policies abroad is to promote an open media and it was an important component of U.S. foreign policy throughout the world. The free press has had an important role to play in forging the great supremacy of the United States and had its role in elevating it to the position of world leader in democracy and human rights.

The right of the press to freely publish, editorialize, critique, and inform is a fundamental principle of American democracy. In fact, the form of government Americans enjoy today would not have been possible without a great compromise known as the Bill of Rights, the first 10 amendments to the U.S. Constitution. The first amendment declares that "Congress shall make no law...abridging the freedom of speech, or of the press." Freedom of the press exists not merely because it is codified in law. It exists and flourishes today because the American people cherish it.

Free and independent media can have a positive influence in any country, including those newly emerging democracies. Free press is essential in achieving stable, democratic government, like that enjoyed by Americans. Promoting human freedom is achieved promoting the freedom of the press.

For people to play an active role in the politics of their country, they must be informed and that information should be true. A simple example as voting can be difficult without enough good information.

A free press transmits to the people information about their leaders, the candidates for public posts, and even the practices of national figures.

American support for free press is grounded in the belief that with a full and complete understanding of the state of affairs in their country and in the world, Americans would choose for themselves those institutions, policies, and practices that best preserve and protect fundamental civil and human rights.

The United States supports free and independent media which should be responsible in four ways.

Firstly, The United States supports the development of free and Independent media because the right to a free press, and the freedoms of thought and speech that free press entails, are fundamental and universal human rights that ought to be enjoyed by all people based on their humanity in all around the world, thus this belief is displayed in the U.S. Constitution, in the Universal Declaration of Human Rights, and in the United States' history of combating censorship and media control domestically and abroad<sup>54</sup>.

Secondly, a free press is essential for true and full democracy to emerge. Only a free press can provide voters with the information they need to choose the best leaders. Free media ensure that governments will represent the interests of their citizens and that citizens can hold their governments accountable for their actions. Sometimes the governments use state-controlled media to present a distorted set of facts meaning media without protection, governments can coerce private media into publishing or not publishing vital information which then would act in a distorted way on decision making that is important to the public.

A free press allows the expression of many editorial opinions and commercial advertisements. This environment is a "marketplace of ideas" where citizens and consumers choose and support those ideas that are better

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<sup>54</sup> Voakes, Paul. "Civic Duties: Newspaper Journalists' Views on Public Journalism", *Journalism and Mass Communication Quarterly*, Vol. 76, No. 4, Winter 1999, pp. 756-774

than others. Such a system ensures the best result without silencing any viewpoint.

Thirdly, breaking through and open economic growth results in improvements in standards of living, education, and health care which means a better and freer life in a country that is generally more stable and peaceful. The president of the World Bank Group, James D. Wolfensohn, wrote in the book's introduction that "to reduce poverty, we must liberate access to information and improve the quality of information. People with more information are empowered to make better choices."<sup>55</sup>

Free media promote the exchange of successful business practices, create trading partners, and can make economies more efficient by disseminating useful technology. Open reporting also preserves the support and trust of investors, both domestic and foreign.

Finally, the promotion of free and Independent media is essential that the actions and intentions be reported accurately. The United States strives to promote democracy and human rights, eliminate hunger and disease, and maintain security in the world. Unfortunately, U.S. actions or policies in support of those goals are sometimes misrepresented by state-controlled media or private groups. To combat anti-Americanism, to build trust, and to better educate people worldwide about America, it is critical that a free and media accurately report U.S. actions that rolled the united states in to democracy. free media serve as a check on powerful governments, while preserving the integrity of a nation's economy and accurately accounting for U.S. actions abroad. In the United States, every human has a right to receive accurate information about his or her government, other governments, and the state of the world.

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<sup>55</sup> Found at the **Newspaper Association of America**, an Internet gateway to a wide range of World Wide Web sites for North American and international newspapers, news weeklies, business publications, and alternative news sources. <http://www.naa.org/hotlinks>

## **The role of free media in a democracy**

The move towards democracy and free markets is being carried out in earnest across the globe, especially since the end of the Cold War, but the outcome is not at all predictable as dark forces emerge after surviving for decades under the mask of repression.

**Watchdog Role:** Independent free media carry out the major role of being a “watchdog” over government and in the process educating people about the issues that affect their lives.

The road to the existence of a free and functioning media, associated with any successful democracy, turns out to have equally strong links with market economies capable of growth, job creation, and poverty alleviation. There is a link of a functioning media to economic progress, a flourishing press gets better economic outcome.

The state of the economy itself impacts the health of the media, most directly by affecting the audiences and advertisers that news organizations look to for their financial independence. Experiences in various countries illustrate the ways that press is embedded in the economy, both contributing to it and drawing from it - at least when laws, policies, and business acumen of media managers permit<sup>56</sup>.

## **The impact of democracy on the media in the United States**

Media in the United States both reflect the values and complexion of the society and work to preserve the basic tenets upon which that society has been constructed. The First Amendment to the U.S. Constitution provides the basis for freedom of the press in America. That impact of this constitutional protection of press freedom and analogous provisions in the constitutions of

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<sup>56</sup> de Burgh, Hugo, editor

INVESTIGATIVE JOURNALISM: CONTEXT AND PRACTICE  
Routledge, 2000, 336 p.

the 50 states, few press laws are in force in the U.S. The ones that do exist tend to provide additional protections and legal rights for journalists in categories not required by the Constitution, such of those are mostly acts done within the constitution like Act of 1974, regulating the collection and broadcasting of personal information contained in any federal agency's files, and the Privacy Protection Act of 1980, establishing protection from police searches of newsrooms, are examples of such laws. Additional examples include federal and state Freedom of Information and "sunshine" laws, such as the 1966 federal Freedom of Information Act, which opens up executive-branch records to public and press scrutiny<sup>57</sup>.

The freedom of the press in the United States has been determined principally by court decisions interpreting the tone of the First Amendment. In general, the U.S. courts have held that the press has a "watchdog" role over government and is not subject to prior restraint or registration. On the other hand, defamation, obscenity and publication of national security secrets have been generally determined not eligible for protection under the First Amendment.

The watchdog role was made understood by a variety of court opinions which have founded that the press has an important function as a guardian of democracy and as a check upon governmental abuse. U.S. Supreme Court Justice Hugo Black perhaps best summarized this vital theme of American constitutional law in his final concurring opinion in the 1971 "Pentagon Papers" case were the government's power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people.

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<sup>57</sup> Abrams, Floyd. "Performance of the Press; the First Amendment Guarantees only that We Have our Freedoms -- Not that They Will Be Exercised Wisely." *American Lawyer*, vol. 17, no. 5, pp. 83-89.

The courts have rejected most attempts by the government to impose prior censorship. The best-known recent example of such a government attempt was the Nixon administration's call for a permanent injunction against publication of the "Pentagon Papers" by *The New York Times* and *The Washington Post*, based on the claim that publication of the highly classified documents on the history of U. S. involvement in Vietnam would cause grave damage to the United States. In a 6-3 vote, the Supreme Court determined that the government failed to meet the "heavy burden of showing justification of such a restraint."<sup>58</sup>

However the libel acts of the media on society over the course of U.S. history, courts have ruled that the press is not protected by the First Amendment when it uses defamatory language, that which injures the reputation of individuals and institutions. Until 1964, the legal standards for defining and remedying defamation, including libel and slander, were left almost entirely to the states. However, in that year the Supreme Court, in the "The New York Times versus Sullivan" case, decided that the press was liable for defamatory falsehood against public officials only if such officials could prove "actual malice." This decision made it harder for plaintiffs to obtain verdicts against the press, because in addition to showing that the language to which they objected was false, they also had to show juries that the publication or journalist had knowingly published falsehoods.

The U.S. has no official secrets act, but the courts have held that the First Amendment does not protect media that print or broadcast military and atomic secrets. Nevertheless, if a journalist obtains such classified information, the government faces a heavy burden in attempting to convince a court to restrain publication in advance, as the "Pentagon Papers" case demonstrated.

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<sup>58</sup> O'Neil, Robert M. "Freedom of Expression and Public Affairs in Australia and the United States: Does a Written Bill of Rights Really Matter?" *Federal Law Review*, vol. 22, no. 1, March 1994, pp. 1-12.

After wrestling for many years in the attempt to reconcile the right of the public to know what is happening in the nation's courtrooms, the right of the press to gain access to judicial proceedings and records, and the right of an accused person to a fair trial, the U.S. Supreme Court ruled in the 1976 "Nebraska versus Stuart" case that the press cannot be barred from reporting what takes place in a courtroom open to the public, except in exceedingly rare instance.

American courts have gradually approved expanded media coverage of courtrooms. Between 1965 and 1980, for instance, 11 states decided to permit photographic and electronic coverage of the courtroom on a permanent basis. In the 1980 "Chandler versus Florida" case, the U.S. Supreme Court unanimously held that the Constitution does not prohibit a state from experimenting with electronic and photographic coverage of trials. By 1992, 45 states permitted electronic media coverage of trials on either a permanent or an experimental basis. Access to trials became so widespread in 1992 that the "Courtroom Network," a cable TV station, began transmitting trials, many of them live, 24 hours a day to 5.5 million American homes. In a contrary move, the U.S. Judicial Conference, a policymaking body representing U.S. federal judges, voted in September 1994 to maintain the ban on cameras in federal court rooms<sup>59</sup>.

Because of its special characteristics, radio and TV broadcasting has been subjected to stricter regulations than the print media, and the courts have upheld the view that such regulation does not violate the First Amendment. A rationale for stricter regulation of broadcasting is that the airwaves are a scarce resource owned by the public and that listeners and viewers are members of a "captive" audience, unlike the users of the print media. The recent explosion of media sources, however, has weakened this theory.

In 1934, Congress set up the current oversight agency of the broadcasting industry, the Federal Communications Commission (FCC). Although

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<sup>59</sup> Ibid.

enacted before television became a mass medium, the legislation has not been substantially amended since. The law vested in the FCC not only "watchdog" functions, but licensing and rulemaking powers, subject to "public interest, convenience, and necessity."

The FCC specifically applied antitrust laws to broadcasting and called for revocation of any station license from an owner accused of monopolistic practices. The FCC has over the years issued regulations limiting ownership of stations within any one city and, in 1975, issued an order that required divestiture of cross-owned newspaper-television stations or newspaper-radio stations in single markets. The FCC has also determined that foreign corporations may not hold more than 25 percent of the voting stock of any broadcasting operation in the United States.

The FCC, in December 1994, opened public comment on proposals to gradually increase the national TV audience limits of any one network from 25 to 50 percent, (TBF -- clarify) given the heightened competition between cable and satellite TV operators. The FCC proposals also would relax restrictions on owning two TV stations in large markets and would permit companies to own TV and radio stations in the same market.

Recognizing the increasing convergence between media, the Clinton administration has proposed a new telecommunications policy to open up the so-called "Information Superhighway." In a January 11, 1994, speech, Vice President Gore outlined the administration's proposals to encourage competition in the information marketplace, including a recommendation that telephone and cable TV companies be allowed to enter each other's businesses. These proposals did not pass in the 103rd Congress. In January 1995, The new Republican Party leadership of the 104th Congress proposed an even more sweeping rewrite of the 1934 Communications Act, which would do away with the court decree breaking up the communications giant

AT&T, as well as federal and state laws barring phone and cable companies from each other's markets<sup>60</sup>.

## **Impact of the Media on American Elections**

America's media have become an increasingly important factor in the electoral process. Tens of thousands of daily and weekly newspapers and hundreds of weekly and monthly periodicals give wide coverage to electoral campaigns. Endorsements by the major publications are eagerly sought by national candidates. However, since 1960, the dominant medium by far has been television. In that year, John F. Kennedy defeated Richard M. Nixon in one of the closest presidential elections in American history, and many observers credit Kennedy's strong performance in the televised debates between the two candidates as a determining factor in his victory.

Young and telegenic, Kennedy was the first president to fully recognize television's potential and to exploit it effectively. On the other hand, Walter F. Mondale, the unsuccessful Democratic Party candidate for president in 1984, admitted. "I never warmed up to television, and television never warmed up to me." His victorious Republican opponent, Ronald Reagan -- nicknamed the "Great Communicator" -- performed masterfully on the home screen during his two presidential terms, thanks to years of experience as a television and film actor.

The presidential campaign of 1992 marked a change in the power of the big three networks -- CBS, NBC, and ABC -- to dominate coverage and campaign messages. The candidates that year turned frequently to cable TV, especially Cable News Network (CNN), as an important alternative media vehicle. Independent candidate Ross Perot, for instance, announced his

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<sup>60</sup> [AJR NewsLink](http://www.newslink.org/)

*American Journalism Review site containing links to 4,000 national, local, and international newspapers, magazines, and television and radio broadcasts*

<http://www.newslink.org/>

availability on CNN's "Larry King Live" show, and Democratic candidate Bill Clinton chose MTV to showcase his talent as a saxophone player. As the ability of cable TV to cover a campaign 24 hours a day has become more apparent, the major networks have shifted emphasis to interpreting and analyzing campaigns rather than trying to cover them exhaustively. Although the "Big Three" networks were still clearly in control in 1992 with 55 percent of the audience for evening news programs, or 22 million U.S. households, cable TV began to play a role in the election process that will surely increase throughout the decade.

As television has become more expensive and sophisticated, both major parties have spent increasing sums on experts to teach candidates how to make the best possible use of the medium, especially the crucial televised debates that have become a staple of presidential campaigns since 1960. In addition to the Kennedy-Nixon debate, the third debate between President Carter and then-candidate Ronald Reagan is widely considered to have been crucial to the election outcome. The two major parties, Democrats and Republicans, have also allocated large budgets for advertising agencies to create brief TV commercials to showcase their candidates' messages and discredit their opponents. The 1988 Bush campaign ads, for instance, clearly played a large part in Bush's victory over Michael Dukakis<sup>61</sup>.

In casting their campaigns, politicians make increasing use of opinion polls. First tried by a Harrisburg, Pennsylvania, newspaper in 1828, polls have become a fixture of America's electoral process. Although opinion polls have become more sophisticated over the years, they have failed dismally on several occasions to predict who would win the presidency. The best-known example is the defeat by Harry Truman in 1948 of Thomas E. Dewey, whom pollsters had confidently picked and whom the Chicago Daily Tribune erroneously declared the winner the day after the election. In spite of their

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<sup>61</sup> **[Journalists Need Freedom, But Require Public Trust As Well](#)**

By Jim Fisher-Thompson (05/05/97)

failings, opinion polls conducted by the major national newspapers, usually in conjunction with a national TV network, have become an important tool for political strategists to fine-tune their campaigns and identify opponent's weaknesses.

The media put candidates for national office in the U.S. under intense scrutiny, which has often led to the downfall of those candidates. A leading Democratic candidate in 1988, Senator Gary Hart was forced to withdraw from the campaign when the press revealed that he was having an affair with a young woman. In 1992, for the first time, a president, George Bush, was asked by a reporter whether he had ever committed adultery. Such increasingly intrusive behavior by the U.S. press has generated considerable debate about the extent to which the press should be allowed to delve into the private lives of national officials or candidates for national office. There seems to be no clear-cut conclusion to the debate, but the tendency is toward an ever-increasing scrutiny by the media into the private, as well as the public, lives of leaders.

## CHAPTER 5

### Media Ethics in American Democracy

The watchdog role of the American press came to the fore in the 1960s during the Vietnam War and during the Watergate investigation of the early 1970s. In the former case, the press played a major role in accelerating the U.S. exit from an unpopular war, and in the latter case, two persistent reporters from The Washington Post, Bob Woodward and Carl Bernstein, succeeded in uncovering facts that led to the resignation of President Nixon. As a result, Woodward and Bernstein became media celebrities, and their book about the investigation, *All the President's Men*, was made into a movie.

For a time thereafter, the trend toward greater investigative journalism flourished. However, some excesses in the early 1980s caused the American public to doubt press credibility. For instance, a young Washington Post reporter, Janet Cooke, won a Pulitzer Prize (the top U.S. journalism award) for her moving portrayal of an eight-year-old heroin addict named Jimmy. Later, it was learned that she had fabricated the article, and the Pulitzer Prize was withdrawn.

In the face of polls showing increased public distrust of the press beginning in the late 1970s, many editors showed renewed interest in codes of ethics and other forms of self-regulation. Journalistic codes of ethics outlining how the press should behave have been in use in the United States since 1923, when the American Society of Newspaper Editors (ASNE) approved the first one, revised most recently in 1975. The Society of Professional Journalists/Sigma Delta Chi and the Associated Press Managing Editors have adopted similar codes. These ethical codes of the three major newspaper professional organizations offer important guidelines, calling on journalists to perform with intelligence, objectivity, accuracy and fairness. However, they are only voluntary and lack sanctions for noncompliance.

Some newspapers have experimented with another vehicle for improved ethical performance, the ombudsman, a concept that originated in Scandinavia. An ombudsman is an individual appointed by a newspaper to investigate complaints concerning the paper's coverage and practices and to publish the results of the investigation. In 1967, The Louisville Courier Journal (Louisville, Kentucky) became the first U.S. newspaper to adopt the system. Among the national elite dailies, however, only The Washington Post implemented an independent ombudsman office with powers to look into abuses or failures by the newspaper and act on complaints by readers. In 1985, the Organization of Newspaper Ombudsmen had an active roster of 30 ombudsmen, and the median circulation of the papers for which they worked was about 130,000. Since then, however, many papers have discontinued the system<sup>62</sup>.

The news council concept, also imported from Europe (the United Kingdom), represented another attempt at press self-regulation that had mixed results. The most ambitious U.S. experiment was the National News Council, launched in 1973 with funding by various private foundations. It had the backing of The Washington Post, The Wall Street Journal, The Christian Science Monitor, CBS, The Associated Press, and United Press International. The Council acted as an alternative for libel and other judicial action. It investigated complaints against media organizations in which the plaintiff agreed not to bring civil actions against the accused. Its funding terminated, however, in 1984, and only a few news councils at the state level, such as the Minnesota News Council, have continued to operate successfully.

These experiments, though laudable, did not measurably improve the American public's perception of the press. Polls immediately following the

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<sup>62</sup> Singer, Jane B. "Virtual Anonymity: Online Accountability and the Virtuous Virtual Journalist." *Journal of Mass Media Ethics*, vol. 11, no. 2, Spring, 1996, pp. 95-107.

U.S. dispatch of troops to the Caribbean island nation of Grenada in 1984 and participation in the Persian Gulf War of 1991 indicated that the American public overwhelmingly supported the restrictions by the U.S. military on media coverage of the two conflicts. While reporters had almost unlimited access to battle situations in Vietnam, they were highly restricted in Grenada. Then, under an agreement reached with the U.S. Department of Defense following Grenada, they operated under a "pool" arrangement in the Persian Gulf War, with designated representatives providing footage and reports from the front to media representatives away from combat areas. The Defense Department cited security concerns and the small battlefronts in both cases as reasons for the restrictions.

Ethical questions continue to haunt American media. One of the hottest current issues for American journalists is where to draw the line between the individual's right to privacy and the public's right to know. For example, when *The Village Voice* was offered a free-lance article in July 1991 exposing the homosexuality of a high Defense Department official, editors of the New York City weekly rejected the piece as an unwarranted invasion of privacy. One month later, the same editors permitted a *Voice* columnist to summarize the allegations, including the official's name. They cited as their rationale the fact that the man's identity was so widely circulated by other news organizations that continued restraint would have been a futile exercise. On the other hand, *The Washington Post* chose to cover the controversy without citing the official by name, because of its policy of "not writing about personal lives of public officials unless the personal aspects begin influencing their jobs."<sup>63</sup>

"America's hometown papers, whether large or small, chronicle the daily life of our nation, of our people .... Put it all together, and community newspapers do not just tell the story of American freedom, (they) are that story."<sup>64</sup>

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<sup>63</sup> Garcia, Jason, "Ethics Hotline," *American Journalism Review*, Vol. 23, No. 2, March 2001, p.

<sup>64</sup> Colin Powell, U.S. Secretary of State, Speech to the American Newspaper Association, March 25, 2001

The United States constitutional guarantees of free press and free expression have ensured a press largely without governmental regulation. This does not mean media without standards. It is always noted that U.S. experts explore the central role of media ethics as the core values which shape the functioning of U.S. journalism therefore impacting ethics in the American way of life.

In the American system, free media is an essential source of the information that is at the heart of a free society. This critical role endows the media with its own power, which, when used irresponsibly, can threaten a free society that's the power of the media.

In many nations, the government takes on the role of primary regulator of the media. The United States has relied on market forces, competition, responsibility, and a highly evolved set of self controls that is called journalism ethics.

Media ethics provide a process by which individual mistakes and excesses are corrected without jeopardizing the ultimate objective of a free media and that is to provide a healthy check on centers of power in order to maintain a free and enlightened society.

Broadcast media and the Internet have created a new set of challenges that are on occasion addressed in the United States in a governmental regulatory framework, but always in the context of basic constitutional principles and protections of free press.

The Media has a vital role to provide the public with knowledge and understanding. The journalists practice their craft in a world that is both technologically and geographically changing, systematic standards must guide their work. Only in that way will journalists serve their society in an ethically responsible and constructive fashion.

### **The Media as the Fourth Estate in the U.S.**

In constructing the framework for U.S. government, the Constitution establishes a balance of power between the legislature, the judiciary, and the

executive (the president and the administration). Each branch is imbued with separate and distinct powers that establish a system of checks and balances. The Founding Fathers painstakingly designed this governmental architecture to create a system in which the distribution of power among the branches would contribute to stability.

In the early years of the republic when this system of checks and balances was devised, a daring journalistic community had already become established. A bold and scrappy press was an influential force in denouncing the rule of an English king and leading Colonial America into its revolution against the British Empire. With journalistic freedom protected in the 1791 Bill of Rights, the press became an assertive force during the first decades of nationhood.

The U.S. media today is frequently known as the Fourth Estate, an appellation that suggests the press shares equal stature with the three branches of government created by the Constitution.

The independent judiciary has been an essential partner in protecting freedom of the press. Several critical court cases have been landmarks in establishing the rights of the press to pursue information and to publish government documents or derogatory information about public figures. For instance, the U.S. Supreme Court sided with the newspapers, rather than the government, in permitting the publication of what came to be known as the Pentagon Papers. Newspapers printed these confidential Vietnam War documents, unofficially obtained, over the government's objections<sup>65</sup>.

The U.S. Supreme Court also has held that the media should have some First Amendment protection from the laws of libel -- lest fear of lawsuits and possible monetary damages might disincline media owners from fully reporting on public matters. In order for a public figure to win a defamation

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<sup>65</sup> Altschull, Herbert. *From Milton to McLuhan: The Ideas Behind American Journalism*. New York: Longman Publishing Group, 1990.

case against a media defendant, the plaintiff must show "actual malice," which the courts have defined as knowledge that the published statement was false or as "reckless disregard of whether it was false or not."

The genuine independence of U.S. federal judges is a key factor in the evolution of the legal protections enjoyed by the media. Federal judges are appointed by the president and approved by the Senate. Once in office, they remain for life, deliberately sheltered from outside pressure exerted by political interests or by executive or legislative branch officials. Judges' salaries cannot be reduced and it is virtually impossible to remove them.

Market has a major role that is in shaping the information served up to the U.S. public in newspapers, on radio and television, and now on the Internet. The media are profit driven enterprises. While nonprofit and advocacy organizations have significant voices in the U.S. media, most of the public's primary sources of information in major urban newspapers, the weekly news magazines, and the broadcast and cable networks are in business to make money.

The protections of the First Amendment are extended not directly to journalists who do the newsgathering, but to the owners of the media outlets through which this information is disseminated. Media owners may choose to give enormous freedom to their editors and reporters; there is no law that doesn't give them that right to do so. A newspaper's journalists have no more legally enforceable rights to have their stories printed than readers have rights to have their letters printed for that matter, to buy space in the newspaper to promote a point of view the owner wishes to censor.

The First Amendment right to speak, the U.S. Supreme Court has ruled, includes the media owner's right to censor everyone else's speech in his or her medium. This is true even if it is the only newspaper, radio station, or TV station in town. The net effect is that the only citizens who have an absolutely unrestricted First Amendment right to disseminate their views in the press are those few who own media outlets.

Balancing the cost of high quality journalism against corporate profits is one of the significant challenges in U.S. journalism today. When businesses threaten to sue over critical investigative journalism pieces or to cancel advertising, an editor or news director must decide whether to use a provocative story, even if it risks the loss of revenue or the loss of his or her own job. Thus self-censorship resulting from this dilemma, and others, may be the most prevalent form of censorship influencing the content of U.S. media today.

Given the central role of independent journalism in a democratic society and the absence of a constant regulator, citizens, interest groups, and journalistic associations have launched independent, nongovernmental efforts to monitor and report on media quality. None of them, of course, has any meaningful enforcement power, but they are effective in re-enforcing the principles of fairness, truth, and accuracy in reporting. That way of work is always referred to as what is called about the American press as a Watchdog that affects the fairness in the three powers.

Many publications have found it useful to create the position of ombudsman a semi-independent employee to whom readers can go with their complaints about the publication and the quality of its news coverage. The ombudsman may report on those complaints and how they were resolved in the pages of the publication.

Few institutions are more important to a democratic society than a free and independent media. Such freedom requires the public, elected officials, and civic organizations to support truth, fairness, and balance in reporting and to insist that media outlets honor the principles that empower them.

## **The Role of Investigative Journalism on American Democracy**

Through American history reporters played critical roles in revealing what became the most serious U.S. political scandal in the post-World War II period as Washington journalists pursued the clues left at a petty burglary in the Watergate office building, following them all the way to the White

House. The reportage led to congressional investigations and the ultimate resignation of President Richard Nixon. Watergate was held as the mirror that reflected the best that journalism could offer to democracy in America.

Major urban newspapers in the United States have produced articles that have revealed corruption, injustice, and environmental mismanagement. Local and network television news frequently produce investigative stories, which generally focus on diverse types of consumer fraud, in areas such as health care, social services, and home mortgages<sup>66</sup>.

Understanding the concept of investigative journalism which is the mean for publicizing information about wrongdoing that affects the public interest. Denunciation result from the work of reporters rather than from information leaked to newsrooms.

Investigative journalism used to be associated with lone reporters working on their own with little, if any, support from their news organizations, recent examples attest that teamwork is fundamental. Knowledge of public information access laws is crucial to find what information is potentially available under "freedom of information" laws, and what legal problems might arise when damaging information is published.

Technologies assisted reporters to get all kind of information which was referred to it as computer-assisted reporting (CAR) it was considered extremely valuable which assisted them to find facts and to make reporters familiar with the complexities of any given story.

The centrality of the media in contemporary democracies makes political elites sensitive to news, particularly to "bad" news that often causes a public commotion. The publication of news about political and economic wrongdoing can trigger congressional and judicial investigations.

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<sup>66</sup> Walsh, Kenneth T. *Feeding the Beast: The White House versus the Press*. New York: Random House, 1996.

Journalism can contribute to accountability by monitoring the functioning of Governmental institutions. It can examine how well these institutions actually fulfill their constitutional mandate to govern responsibly in the face of press reports that reveal dysfunction, dishonesty, or wrongdoing in government and society.

Investigative reporting retains important agenda setting powers to remind citizens and political elites about the existence of certain issues. There are no guarantees, however, that continuous press attention will result in congressional and judicial actions to investigate and prosecute those responsible for wrongdoing. It contributes to democracy by nurturing an informed citizenry. Information is a vital resource to empower a vigilant public that ultimately holds government accountable through voting and participation. With the ascent of media-centered politics in contemporary democracies, the media have eclipsed other social institutions as the main source of information about issues and processes that affect citizens' lives. Democracies must meet certain requirements for investigative journalism to be effective and to provide diverse and comprehensive information.

### **Understanding the Role of Media as Watchdogs**

The role of journalism in American democracy has evolved to include its function as a watchdog of the government, meaning that journalists are expected to investigate when elected officials abuse the rights and freedoms of average people. Retired *Washington Post* correspondent Murrey Marder declared at the 1998 Nieman Watchdog Journalism Conference, "Fear of the abuse of power was the galvanizing force in the American Revolution and continues to be the strongest justification for a challenging and thoroughly independent press." Marder maintained that Americans don't trust their media because the media are far too secretive about the way journalism works.

There is a tension amongst these variables; encouraging a watchdog press, encouraging criticism of that press while not stifling it, and maintaining freedoms for the press and its critics. "To journalists, it is self-evident that

investigative reporting informs the public, exposes corruption, and rights wrongs," noted **Jane E. Kirtley**, professor of media ethics and law at the University of Minnesota, in an article published in the *Columbia Journalism Review*<sup>67</sup>.

Freedom of the press in the United States belongs to the person who owns the press (or television station or magazine or newsletter). Some national media, including mainstream newspapers, cable networks, and news broadcasts, tend to make objectivity or fairness the ultimate news value because that's what their audiences expect. Magazines, newsletters, and other media may have different news values -- advocacy of an idea, such as human rights or family values, or the promotion of an industry, such as fashion or automobiles. The media owner decides what the news values will be.

The watchdog role is best performed by outside groups, even if those groups have their own agendas. Others believe that those inside the media industry are best equipped to levy criticism, particularly because they are the most likely to be respected by journalists. In one way or another, however, all these watchdogs contribute to the on-going conversation of what it means to have a free press in a free society.

"In this country the press is the oxygen of democracy," Hoyt said in an interview. "To the extent that the press is vigilant, that's how well society works. We see our job as encouraging and inspiring the press to do its important work well."<sup>68</sup>

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<sup>67</sup> The Reporters Committee for Freedom of the Press. *The First Amendment Handbook*The Committee, 1999Available at <http://www.rcfp.org/handbook/viewpage.cgi>

<sup>68</sup> [Editor & Publisher's MediaINFO](http://www.mediainfo.com/)  
*An online media directory that includes a database of all media-- associations, magazines, newspapers, news services, radio, and television stations with a Web presence*  
<http://www.mediainfo.com/>

Journalism reviews act as media watchdogs inside the industry. These reviews are primarily written by media professionals for media professionals, are housed at universities, and do not claim to hold a particular perspective on the news or a specific agenda for its transformation.

Professor of Communication Studies Whitworth College, Spokane, Washington: “Watchdog groups that oversee the ethical decisions and practices of journalists and media organizations are often driven by values and agendas of their own that must be evaluated in order to understand their criticisms.”

Some believe that the watchdog role is best performed by outside groups, even if those groups have their own agendas. Others believe that those inside the media industry are best equipped to levy criticism, particularly because they are the most likely to be respected by journalists. In one way or another, however, all these watchdogs contribute to the on-going conversation of what it means to have a free press in a free society.

## **The Media in the Era of the Web**

Bob Giles, Publisher of *Nieman Reports* Nieman Foundation for Journalism Harvard University once said, “Online journalism is feisty and combative, but its style and round-the-clock news cycle raise questions about how cyber-journalism can offer reporting compatible with journalism's highest standards” .

Web technology has strengthened the traditional watchdog functions of journalism by giving reporters efficient ways to probe more deeply for information. The capacity to search documents, compile background and historical context, and identify authoritative sources has expanded the reporter's toolbox. It also has introduced a fundamentally different culture built on interactivity, fewer rules, and fewer limits.

The roadrunner so called the internet speed that worked in timeliness speed is now part of the strength of newspapers. Were wire services built their reputations on being first with the big stories, which people typically found

in their local papers. The immediacy of television took that edge from the printed press. Now the Web has established its own advantages of speed and timeliness that impacted the media in enabling newspapers to come full circle by posting breaking news and extending their brand identities through such innovations as online afternoon editions<sup>69</sup>.

Web journalists argue that the Olympian tones of the traditional press don't work online. They liken their new medium to the true spirit of the First Amendment to the U.S. Constitution, assuring freedoms of speech, press, and assembly. Online scribes observe that their new medium is reminiscent of a time when newspapers were feisty and combative.

Ann Compton of ABCNews.com explained how much the web media influenced the free press and free media in the United States she said: "We write more brightly. We throw in more slang. There is richness to the dot-com coverage that you really can't do on television." Similar comparisons can be made between the Web and daily newspapers<sup>70</sup>.

There are standards online for newspapers that are influenced by three developments, First is the reality that the dominant news Web sites will be run by the old media meaning the concept of the traditionally news will be impacting the media via the web, news organizations has to make sure that they have the resources to build powerful Web sites and to insure that these platforms reflect the rigorous standards by which their print publications are written and edited.

Second are efforts by online press to craft standards for the Web as creating associated organization to oversee those standards as for example The Online News Association that its purpose is to develop strong guidelines, including

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<sup>70</sup> Greenwald, Marilyn, and Joseph Bernt, editors  
THE BIG CHILL: INVESTIGATIVE REPORTING IN THE CURRENT MEDIA  
ENVIRONMENT  
Iowa State University Press, 1999, 280 p.

recommendations for how news organizations can be applied and monitored via the web.

The third and perhaps the most far-reaching influence on journalistic standards is the interactivity that results when journalists put their e-mail addresses on the Web. E-mail can bring instant feedback to a story just posted as well as to one that is read in the newspaper over coffee in the morning. Some reporters are constructing barriers to such engagement with readers, preferring instead to not have e-mail or to be shielded by a filter that lets through only the messages they think they want to have.

The impact of the email on the newspapers organization it enables reporters and editors to hear from people who may know something about the story and who can share an authoritative perspective, provide additional sources, or raise the possibility that the story may be unbalanced or unfair, which enables it to contribute to the satisfaction on the performance of the journalist him self.

**Lastly, Jon Katz**, a Web commentator who writes for Slashdot.com, said, "The surprising thing to me is the degree to which I am held accountable by readers for what I am doing. Whatever you are writing, your column makes its way to the most knowledgeable people on the subject ... What you learn is your column is not the last word, it's the first word."

## **Understanding the Ethical Minefield of the Media**

Robert Steele and Jay Black the editors of the American society of newspaper commentated on the codes of the ethics in the American media and said, " Codes of ethics can help newsroom staffers make sound decisions and build journalism credibility about the many ethical problems they may encounter in their work. The American Society of Newspaper Editors (ASNE) asked two leading media ethicists to analyze 33 current codes of ethics assembled by its Ethics and Values Committee. The goal was to highlight the most common and useful aspects of these documents to help

editors evaluate their own code of ethics, if they have one, or help them create one, if they choose<sup>71</sup>”.

Most newspapers with clearly pronounce principles and stated values, combined with strong ethical decision-making skills, can better serve their readers and the public interest. Therein lays an essential connection to credibility.

Those codes of ethics where cited by the ASNE member newspapers which included a wide range of approaches for handling moral dilemmas. Some are heave on time honored tradition and others venture into impact of the new technologies in the turn of the new century.

Most of the codes are long lists of "do's and dont's," salted with an occasional element on the decision-making process. Some of those written codes are explained as a decidedly user-friendly stance, reading like conversations between colleagues who respect one another's quests for excellence. The other way which is much more negative in tone, loaded with "thou shalt-not's" and infused with a paternalistic tone implying that staffers are inclined to get away with anything not specifically forbidden by the codes.

The most popular subject in these codes is conflict of interest, which includes issues ranging from accepting gifts and travel junkets to political involvement and community activity. More often those codes deal with the subjects of sources and matters of manipulation of photographs. Fewer deal with corrections and plagiarism.

Most of the newspaper codes of ethics, like those of most professional institutions, try to serve at least two important functions: public relations and education. A good newspaper code promotes ethical thought and behavior within the newspaper, showing newcomers where the landmines are and

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<sup>71</sup> Zacchino, Narda. “Readers Notice Ethical Lapses,” *Quill*, Vol. 88, No. 4, May 2000, pp. 28-29.

reminding veterans of the newsroom's values and norms. It also justifies journalists' activities to the public at large, especially during times of diminished credibility and intensified public scrutiny. These functions are often reflected in the codes' preamble.

## Conclusions

American decision makers are exposed to news through the mass media. They watch television news, or hear political news on the radio or read it in newspapers and news magazines and read all articles that are imposed on the internet that made the media era more powerful impacting the decision makers. With explosion of news information, decision makers have become very selective of the news items that bombard them for hours every day, focusing on a selected item of news that are of interest to their citizens of constituents.

Until the early 1960s most of the American people as well as the decision makers got their news information from news radio or news and radio channels and other governmental news broadcasters. Today television has nudged out newspapers and radio stations as the public most important source of news, but television news is also rated as more trustworthy than any kind of newspaper. The public in general, as well most decision makers, prefer television to newspapers as a source of news.

When sources of news conflicts or different reports of the same news story from radio, televisions, the magazines and the newspapers, of the four versions people are most inclined to believe the television; television is becoming the most credible news source than all other media combined together.

Television is not perfect, but it injects political converge with depth, spontaneity, realism, and credibility. It has grown so much in the last few decades due to advances in technology and in response to societal changes.

Technology using a variety of modern technological breakthroughs has resulted in better and quicker televisions reporting. Using a variety of modern technological innovations, televisions reporters are providing their audience with timely informative and useful news and analyses. A major characteristic of television is that it is a communicator of ideas as well as a teller of stories through pictures. It can explain difficult ideas using graphics and animation pictures made ever more so sophisticate and beautiful through

computer and programmed through the graphical programs on the computers.

No doubt, television has become the primary source of information on current policy issues and major events for both the decision makers and ordinary citizens. The 1990-91 reflected the dominance of television as people from all parts of life and in different parts of the world sat glued to their television sets to monitor visually the daily developments of the Gulf crisis. In response to the potency of television politicians are playing much greater role in domestic and international issues. Television plays a major role in summits and heads of governments and political leaders. Summits always attract great publicity and with television present to convey it to the rest of the world, it is difficult for decision makers to contemplate bringing a summit to an end prematurely without achieving anything substantial.

Many do not have the time due to the pressures of work to plow through printed matter when they can watch it live in colored picture on televisions.

Increased exposure to television news has numbing effect on a person's choices. Reading diplomatic classified reports produces impact on decision makers but not so much as watching the events unfold on television. For example millions of Americans watching the network news one night during the Vietnam War witnessed a South Vietnamese army officer (a U.S. ally) executing a captured young Viet Cong prisoner. This striking one-minute news fragment which the television conveyed to the American public medium had tremendous impact on the turn of events in the one minute televisions showed the American public as well as the decision makers the truly ugly face of war. This scene helped to mobilize American sentiment for withdrawal of US troops from Vietnam.

Television tends to cast abstract issues in personal terms to enhance the visual image that the medium is required to convey. Thus influencing the positions of decision makers watching television on public issues.

### **Technological Innovations and the Internet:**

A majority of decision makers is exposed to news through at least one of the mass media. They watch television news, or hear political news on the radio or read it in newspapers and news magazines and read all articles that are imposed on the internet that made the media era more powerful impacting the decision makers. With explosion of news information through the internet, decision makers have become very selective of the news items that bombard them for hours every day, focusing on a selected item of news that are of interest to their citizens of constituents.

Nowadays most people as well as decision makers got their news information from news broadcasted on the internet through major internet and more other governmental news broadcasters on the internet. Today the internet has nudged out all television as the public most important source of news, and the most trustworthy than any kind of newspaper or television broadcasting stations.

The Public in general, as well most decision makers, prefer internet to newspapers or radio or television as a source of news. When sources of news conflicts or different reports of the same news story from radio, televisions, the magazines and the newspapers, of the four versions people are most inclined to believe that searching for the right information through the internet where the public can search for the truth of the information in all government papers that are printed on the internet or use the internet to look for the information that were broadcasted by the other media and search for what is right then the public can conclude the right story from the wrong one.

Internet is becoming the most widespread news source than all other media combined together because the searcher can search for the right needed information. Internet is perfect and reliable. It injects political converge with depth through all WebPages and search engines that are used to look for the truthful information, and is considered credible. It has grown so much in the

last few years due to advances in technology that makes it resourceful all around the world.

A major characteristic of the internet that it has the free of speech and the free of ideology where every one could send his problem or advertise himself or get more information that any other library and its a communicator of ideas as well as a teller of stories through animations programmed on the internet. It can explain difficult ideas using graphics and animation pictures made ever more so sophisticate and beautiful through computer and programmed that are on the internet.

No doubt, the internet has become a primary source of information on current policy issues and major invents for both the decision makers and ordinary citizens all around the world.

In conclusion, the independence of the media must be established within any democratic society as to build the right for the people to protect them selves from the governments grievance, and we should adapt the press to the free market, journalists should always uphold standards of responsibility. People must learn to live with a free press. They must learn how to resolve their differences without placing the acceptance of the idea of free editorial judgment under too great a strain. It is not easy to live with this free exchange of ideas, especially where this tradition is absent. The rewards of this freedom, however, are great. Only with freedom of communication is a democratic society possible. Without freedom of communication, the state is deaf and so are the people.

President Thomas Jefferson once remarked: "The only security of all is in a free press." In 1823 Jefferson said: "The force of public opinion cannot be resisted when permitted freely to be expressed. The agitation it produces must be submitted to. It is necessary, to keep the waters pure."

The United States promotes the democratic role of the media in a variety of ways:

American prospective journalists and editors are taught the basic principles of the free press such as objectivity, accuracy, and fairness. In fact, one of the greatest lessons they are taught is that the role of a working journalist in a free society is to criticize government policy and that even the president of the United States is not immune from the scrutiny of a free press.

American journalists and editors are educated locally and are sent overseas to learn from local experts in journalism and work on the style of reporting, accuracy, balance, fairness, gathering information, writing clearly, separating commentary from reporting and protecting sources. American journalists usually receive guidance in how to tackle delicate issues such as ethnic conflict, women's right and health hazards.

Getting away from government control, American media outlets earn their own way, pay decent salaries, and cover production costs from newsprint to transmitters.

Drafting new laws by journalists, publishers, human rights advocates, or legislators to protect the press's ability to cover government and other topics without fear of harassment. Formation of professional associations of journalists, editors, and media owners.

Providing government protection for individual members while they carry out typical professional functions such as setting standards encouraging members to improve quality and reliability and pushing for greater access to public documents, meetings, and interviews with public officials.

Government assistance in some cases includes financial support for capital investments such as buying presses, transmitters, broadcast equipment, and newsroom computers. While the primary government aim is to assist private, independent media, in some cases assistance does go to train staff and managers at state-owned media as well. However, the long-run goal of this assistance is to make media more independent, more professional, and possibly to become privatized.

All those aspects develop a protection body for the free media and protect it from any kind of harm or damaged on the news itself.

Americans rely more and more on the media to judge how their leaders campaign, govern, shape public policy, and communicate their ideas. The media plays a unifying force at moments of crisis.

The news media advances in live broadcasting technology and the appearance of round the clock news channels have transformed the industry that had a wide impact that reflected the life in American democracy.

Only a free press can provide voters with the information they need to choose the best leaders. Free media ensure that governments will represent the interests of their citizens and that citizens can hold their governments accountable for their actions.

The watchdog role was made understood by a variety of US court opinions which have founded that the press has an important function as a guardian of democracy and as a check upon governmental abuse. The media has a vital role to provide the public with knowledge and understanding. The journalists practice their craft in a world that is both technologically and geographically changing, systematic standards must guide their work. Only in that way will journalists serve their society in an ethically responsible and constructive fashion.

There is no universally accepted definition or set of definitions for "news" in the American media. The American press has a local, rather than a regional or national, character. U.S. media concentrates to a large degree on the needs and interests of viewers, listeners, and readers in the immediate neighborhood. There are strong economic reasons for this, but it is also a reflection of American concerns. A free press is thus an essential part of a democratic society; it enables the people to make informed choices.

American news business has undergone tremendous changes as a result of a transformation in technology, market forces, and public tastes. Too many

new players have entered the information field for journalism to ever be the same as it was. The technological innovation of the media boosted individual freedom and power strengthening the civil community.

The American press has a local, rather than a regional or national, character. U.S. media concentrates to a large degree on the needs and interests of viewers, listeners, and readers in the immediate neighborhood. There are strong economic reasons for this, but it is also a reflection of American concerns.

American news business has undergone tremendous changes as a result of a transformation in technology, market forces, and public tastes. Too many new players have entered the information field for journalism to ever be the same as it was.

The public has the need to know what is going around were that is the value of a journalist's work. A free and unfettered press is the best foundation for a society to be free, liberal or conservative. Independence from governmental authority is the key for the freedom of the press. It needs an independent judiciary and an independent legislature independent of the arbitrary power of the president or prime minister or chairman of a political party.

The desire for profits, make it difficult for private media, particularly television, to cover the news with the depth and seriousness it deserves. Media can contribute to accountability by monitoring the functioning of governmental institutions.

The media plays an important role in democratic transformation - i.e. significant increase in citizen participation in political and economic life - requires us to reduce existing inequalities with respect to knowledge, information and cognitive skills. Information could help expand the reach of democratic ideals. The media is a useful tool that will lead nations to make the right decision in the direction of democracy. It is not easy to live with a free press. It means being challenged, dismayed, disrupted, disturbed, and outraged every single day.

The media will remain a strong force in public life. Modern society has become too dependent upon quick and reliable information for it to be otherwise. It is not easy to live with this free exchange of ideas, especially where this tradition is absent. The rewards of this is freedom, however, are great. "Only with freedom of communication is a democratic society possible. Without freedom of communication, the state is deaf and so are the people," wrote Thomas Jefferson.

Building an independent and responsible media is an evolutionary process that will take decades in countries that have not had a tradition of tolerance for a wide range of competing views. I hope free media revolutionize the whole world were it will take all countries to work on democracy through first the free media. World Bank President, James D. Wolfensohn, wrote that "to reduce poverty, we must liberate access to information and improve the quality of information. People with more information are empowered to make better choices."

Alexander Hamilton maintained, "what ever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion." The public has the need to know what is going around were that is the value of a journalist's work. A free and unfettered press is the best foundation of a society to be free liberal or conservative.

The right to a free press, and the freedom of thought and speech that free press entails, are fundamental and universal human rights that ought to be enjoyed by all people based on their humanity in all around the world. Thus this belief is displayed in the U.S. Constitution, in the Universal Declaration of Human Rights, and in the American people history of combating censorship and media control domestically and abroad.

### **Recommendations for further investigations**

In this research, I have investigated the impact of the media on American democracy through the eyes of Americans. But it will be very useful if further study is conducted to look at the impact of the media on American democracy through the eyes of non-Americans, such as Europeans and

writers from the developing world in which democratic systems are emerging.

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By Jim Fisher-Thompson (05/05/97)

#### **Heavy Hand of Censorship No Longer on Mozambique's Press**

Remarks by Mozambique President Joaquim Chissano (04/22/97)

#### **Freedom of the Press Said to be Under Attack in Belarus**

By David Pitts (04/19/97)

#### **Fighting for a Free Press is 'Worth the Fight'**

by Charles W. Corey (04/09/97)

#### **Africa's Journalists Face Political Threats, Violence**

By Joan Mower (02/24/97)

#### **May 3 Marks World Press Freedom Day**

by David Pitts (05/02/96)

#### **Citizens Must Constantly Push for a Free Press**

By Charles W. Corey (04/26/96)

## INTERNET SITES ON DEMOCRACY

## Related Sites for Organizations Devoted to Freedom of the Press

### **Committee to Protect Journalists (CPJ)**

Supports journalists who have been subject to human rights violations. Serves as a liaison with press groups worldwide and exchanges information. Releases reports on press conditions in countries around the world and maintains a database and speakers' bureau. Produces a publication, released in March each year, titled, *Attacks on the Press*, a comprehensive country-by-country breakdown of threats to free press.

### **Freedom Forum**

Supports journalism education for reporters around the world. Also promotes free press rights through projects, programs and publications and by funding grant proposals. Also operates the Freedom Forum Media Studies Center and the Freedom Forum Journalists Memorial.

### **Freedom House**

Surveys free press and other political rights and civil liberties throughout the world. Publishes a widely-disseminated and respected annual report on relative freedom in countries around the world. Holds seminars on freedom of the press and other civil liberties topics. Maintains an archive on press freedom issues.

### **International Center for Foreign Journalists (ICFJ)**

Formerly known as the Center for Foreign Journalists, the ICFJ works to strengthen quality of journalism worldwide through professional training and exchanges. In particular, ICFJ designs fellowship programs for American and foreign journalists, the most prominent of which is the Knight-Ridder International Press Fellowship Program.

### **International Women's Media Foundation (IWMF)**

Works to strengthen the role of women in the news media worldwide based on the belief that the press cannot be truly free unless women enjoy the same opportunities as men to cover issues of importance to the public. Strives to create networks among women dedicated to journalism. Sponsors programs

for women journalists in Eastern and Central Europe, Russia, Africa, Latin America and the United States.

### **The Organization of News Ombudsmen**

With an international membership of 64 active and associate members in the United States, Canada, Japan, Israel, Spain, Brazil, Sweden, Ecuador and Paraguay, the Organization of News Ombudsmen establishes and refines standards for the job of news ombudsman or reader representative on newspapers and in other news media; aids in the wider establishment of the position of news ombudsmen on newspapers and elsewhere in the media; provides a forum for the interchange of experiences, information and ideas among news ombudsmen; develops contacts with publishers, editors, press councils and other professional organizations, provide speakers for special interest groups and respond to media inquiries.

### **The Reporters Committee for Freedom of the Press**

The Reporters Committee for Freedom of the Press has played a role in virtually every significant press freedom case that has come before the U.S. Supreme Court, as well as in hundreds of cases in U.S. federal and state courts. The Committee has also emerged as an international resource in free speech issues, disseminating information in a variety of forms, including a quarterly legal review, a bi-weekly newsletter, a 24-hour hotline, and various handbooks on media law issues.

### **Reporters Sans Frontieres**

Which countries flout press freedom? Who are the criminal gangs and fundamentalist groups that murder reporters? What are the new faces of censorship? Reporters Sans Frontieres brings the answers, with the latest facts and figures, maps and copies of banned newspapers. Also publishes a report on infringements of press freedom throughout the world.

### **World Press Freedom Committee (WPFC)**

As a coordination group of more than 30 national and international news media organizations, supports freedom of the press, especially in Eastern Europe and in the Third World. Encourages news media everywhere to adopt

high professional standards and performance. WPFC also administers the Fund Against Censorship, which investigates and protests governmental attempts to censor the press and assists with legal challenges to press censorship.

### **American Society of Newspaper Editors**

ASNE is the leading organization of daily newspaper editors in the Americas.

<http://www.asne.org>

### **The Committee to Protect Journalists**

CPJ is nonprofit, nonpartisan organization dedicated to the global defense of press freedom.

<http://www.cpj.org>

### **Facsnet**

Facsnet is devoted to improving the quality of information reaching the public through the news, and providing educational programs, publications, and online resources.

<http://www.facsnet.org>

### **The Freedom Forum**

The Freedom Forum is an international, nonpartisan foundation dedicated to freedoms of press and speech.

<http://www.freedomforum.org>

### **The International Press Institute**

The International Press Institute is a global network of journalists, editors, and media executives, dedicated to freedom of the press and improving the standards and practices of journalism.

<http://www.freemedia.at/index1.html>

### **Investigative Reporters and Editors, Inc.**

IRE works to maintain high professional standards and provides educational services to reporters, editors, and others interested in investigative

journalism.

<http://www.ire.org>

### **Newspaper Association of America**

An Internet gateway to a wide range of World Wide Web sites for North American and international newspapers, news weeklies, business publications, and alternative news sources.

<http://www.naa.org/hotlinks>

### **The Organization of News Ombudsmen**

ONO is a nonprofit, international corporation devoted to maintaining contact with news ombudsmen worldwide.

<http://www.infi.net/ono>

### **The Pew Center for Civic Journalism**

A center for innovative journalistic endeavors striving to create and refine better ways of reporting the news in order to engage citizens in community life.

<http://www.pewcenter.org>

### **The Pew Research Center for the People and the Press**

An independent opinion research group, sponsored by The Pew Charitable Trusts, that studies public attitudes toward the press, politics and public policy issues.

<http://www.people-press.org>

### **The Poynter Institute**

The Poynter Institute is a school for journalists, dedicated to the promotion of excellence and integrity in the craft and leadership of successful journalistic enterprises.

<http://www.poynter.org>

### **Radio-Television News Directors Association**

RTNDA is an association for electronic journalists. In cooperation with the Radio-Television News Directors Foundation, RTNDA promotes excellence in electronic journalism through research, education, and training for news

professionals and journalism students.

<http://www.rtnda.org>

### **The Reporters Committee for Freedom of the Press**

A nonprofit organization dedicated to providing free legal help to journalists and news organizations.

<http://www.rcfp.org>

### **The Society of Professional Journalists**

The Society of Professional Journalists is the largest and most broad-based U.S. journalism organization, dedicated to encouraging the free practice of journalism and stimulating high standards of ethical behavior.

<http://www.spj.org>

### AJR NewsLink

*American Journalism Review site containing links to 4,000 national, local, and international newspapers, magazines, and television and radio broadcasts*

<http://www.newslink.org/>

### Editor & Publisher's MediaINFO

*An online media directory that includes a database of all media--associations, magazines, newspapers, news services, radio, and television stations with a Web presence*

<http://www.mediainfo.com/>

### FACSNET

*Journalism resources and education.*

<http://www.facsnet.org/>

### InfoBeat

*Free e-mail delivery of news headlines and summaries filtered to meet subscriber's requests; includes Web links to the full-text stories for in-depth information*

<http://www.infobeat.com>

### International Center for Journalists (ICFJ)

*Electronic source for the latest on media developments in Central & Eastern Europe, the Baltics and the Balkans, the Newly Independent*

*States and Eurasia, Latin America and Africa*

<http://www.icfj.org>

Internet Resources for Journalists

*Starting points for journalists using the Internet and for anyone interested in learning more about journalism and press organizations*

<http://www.snpa.org/NF/omf/snpa/resource.html>

Library of Congress Newspaper and Current Periodical Reading Room

*A portal to international news sources available via the Internet.*

<http://lcweb.loc.gov/rr/news/lists.html>

Media Central

*News and information for media professionals*

<http://www.mediacentral.com>

The National Press Club Homepage

*Contains links to news services and directories selected by professional journalists*

<http://npc.press.org/>

NewsDirectory.com

<http://www.newsdirectory.com/>

Newseum: The Interactive Museum of News

*The only interactive museum of news*

<http://www.newseum.org>

Newspaper Association of America

*Provides information on the newspaper industry in the U.S. and links to major and regional newspapers in America*

<http://www.naa.org/>

NewsWatch.org

*Views on the news and links to media watch organizations*

<http://www.newsWatch.org/>

Poynter Online

*An extensive list of online resources, bibliographies, and other information relevant to journalists as prepared by the Poynter Institute*

*for Media Studies*

<http://www.poynter.org/>

The Reporters Committee for Freedom of the Press

*Non-profit organization which provides information and the latest developments in the media and the law*

<http://www.rcfp.org>

The Ultimate Collection of News Links

*Over 7,000 links to newspapers and magazines around the world*

<http://www.pppp.net/links/news>