



Posters from eYeka competition in support of World Press Freedom Day 2012

Toolbox II: When is freedom of expression at risk?

Imagine if you want to stop someone from saying or publishing something, what can you do? Can you think of the different ways to stop the information from being produced, disseminated, and received? We ask you these questions not to encourage you to silence ideas, but to let you be aware of the various tactics commonly employed to stifle freedom of expression.

Key Concepts:

- When a license to publish or to broadcast is being denied
- When there are physical or emotional intimidations
- When access to information is being unduly denied or limited
- When defamation, libel, or slander suits are being abused
- When there are restrictive laws and regulations

*I disapprove of what you say,
but I will defend to the death your right to say it.*

Voltaire
(1694-1778)

French Enlightenment writer and philosopher

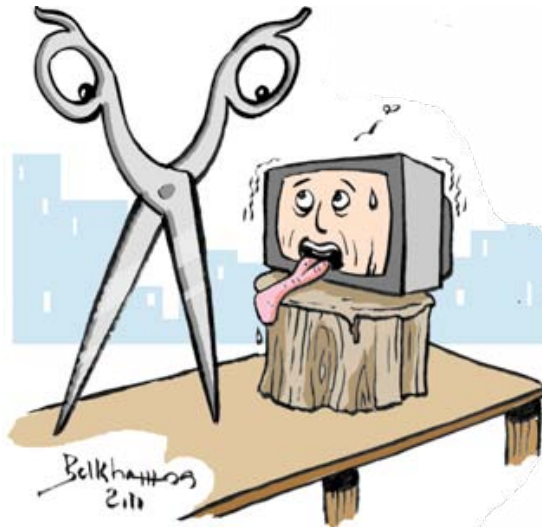
How would we know when freedom of expression is being threatened? One way is when certain actions are being taken by those in power against the media or certain groups because of conflicting political stands or beliefs. The following are some of the most commonly employed tactics to “silence” voices.

1. When a license to publish or to broadcast is being denied

One of the earliest media to be regulated through licensing was print. Almost 500 years ago, Queen Mary of England put in place a Royal Charter, which was a set of rules designed to prevent ordinary people from exercising the art of printing unless they were members of a special organization called the Company of Stationers, which comprised of printers, book binders and book

sellers⁷. Offenders who printed without permission were imprisoned and fined. Incidentally, the idea of copyright also developed in tandem with the development of print license. Nowadays, a declining number of countries still practice the historical tradition of licensing print. In other words, you cannot start to print and sell your own newspaper unless you have obtained a printing license. The issuance of printing licenses becomes a problem when the dominant political group, in an attempt to control the flow of information, deliberately makes it difficult for opposing political groups to obtain a printing license. This is part of the reason (political) opposition groups are often forced to publish only on the Internet⁸.

In most countries, a license is also required before you can start broadcasting, whether it is radio or television. However, unlike print, licensing for broadcasting historically started due to technological limitations. Radios and televisions are broadcast through certain frequencies, and each radio station or television channel is given a unique frequency. For example, when you turn the dial on the radio, you are changing the radio channels by changing the frequency through which you are receiving broadcast. Furthermore, when two channels broadcast at the same frequency in the same area, they effectively interfere out each other and create “noise”. This is the main reason why radio and television stations are given different frequencies and channels. Since there is a limited supply of viable frequencies available for (unlimited demand of) commercial stations and non-commercial stations, a licensing system was de-



veloped as a way to rationalize frequency use. This also relates to the notion of “public good” or “public common” where certain resources are meant to be used and shared by everyone in the community or society and not to be monopolized by anyone entity. This is the origin of broadcast license.

However, it soon became apparent that licensing is also an effective way of controlling who can publish or broadcast, and by extension, what can be published or broadcasted. Essentially, the authorities could decide to award licenses only to people or companies that obey the official doctrine. In contrast, people or companies that openly disagree with the authorities and their policies are punished by being denied a license or having their license revoked if they do not comply with the wishes of the authorities.

2. When there are physical or emotional intimidations

One of the most common threats to freedom of expression comes in the form of physical and emotional intimidation. People with opposing views or reporters investigating sensitive issues may receive death threats against themselves and their families. Often, dissenters and dissidents are held for long hours of interrogation that are designed to “break” them. Some of these long interrogations are conducted under the pretext of “assisting in official investigation”. Anonymous threats, either by mail or phone, are also common. Sometimes, these threats are combined with physical attacks that result in the loss of life. The murder of people who have dissenting voices, including journalists, is the most diabolical form of silencing the freedom of expression (Please read the section of Safety of Journalists for more information on this issue).

3. When access to information is being unduly denied or limited

Remember the four elements of the freedom of expression as stated in Article 19 of UDHR: the freedom to hold opinions, the freedom to seek, the freedom to receive, and the freedom to impart information? One of the ways that freedom could be limited is by restricting or denying the freedom to seek and to receive information,

otherwise known as access to information.

Again, there are various ways in which the access to information can be denied. The government, for example, could charge high fees, therefore effectively blocking access by certain groups facing economic hurdles. Access to information may also be denied when the communication technology itself cannot be accessed by the users. For example, if the connection to the internet is simply “switched off” in the most extreme cases.

To be sure, some sensitive information is justifiably restricted from the public for a certain period of time. For example, information concerning individual’s medical records or the whereabouts of military personnel or the locations of weapon storage facilities should not be easily accessible to the public. These materials are sometimes restricted under the broad term of “national security”. However, it is important that “national security” be clearly defined by law and be proportionate to the real risk or danger. It must not be used as a blanket term that covers almost anything and everything. Such ambiguity can lead to abuse of the law and also erode the trust of the people in their government.

4. When defamation, libel, or slander suits are being abused

Sometimes, brute force, such as physical intimidation, is not necessary to silence freedom of expression. The misuse of legal apparatuses such as filing defamation suits which demand millions in compensation along with the legal fees required to defend against a suit can effectively bankrupt the people being sued.

Think About:

The old adage ‘too much of a good thing can be bad for you’ applies to the over-use of libel suit as well. In some countries, like the United Kingdom that has such a high number of successful libel suits in favour of the plaintiffs, it has prompted the so-called ‘libel tourism’ where plaintiffs from different countries would bring the libel charges to a British court!⁹

Defamation occurs when false and malicious accusations are made against someone. There are usually two kinds of defamation: libel, which is the printed false and malicious accusation and slander, which is verbal. There is nothing inherently illegal about suing someone or an organization for defaming you. Indeed, it is part of your legal right to do so if you feel you have been wrongly accused. However, we must take note that in some countries, the judicial systems, procedures, and judges, are not always impartial and independent. Often, politics strongly influence the outcomes and final rulings of the court cases. In a declining number of countries, defamation is also a criminal matter where the State acts as a prosecutor rather than the issue being a civil one between individuals who may decide to go to court or not. Misuse of defamations laws can have a chilling (not to mention silencing) effect on freedom of expression.

Food for Thought:

The rule of law is a condition for guaranteeing freedom of expression, and obeying the law is how modern democracy functions. Sometimes there are laws and regulations which are simply outdated or worded so vaguely that they can be manipulated to suit the need of a certain group of people against the rights of others. In such cases, these laws which are supposed to protect every citizen must be amended or overhauled to better reflect their true spirit.

5. When there are restrictive laws and regulations

Yet another obstacle to freedom of expression is the existence of unfair laws and regulations that serve to protect the status quo and silence dissent. These unjust laws and regulations have the dual effect of stifling freedom of expression and creating a faux legal justification to silence “inconvenient voices”.

There are many names to these kinds of laws. Vaguely worded “sedition laws” are common examples. Because they are vaguely worded, they can be manipulated and interpreted to cover a broad spectrum of speech and publication. “Internal security laws”, “national security laws”, or even “public order laws” also have a tendency to be overly broad to the extent that criticizing the current government could be conceived as a punishable offence. Various forms of “official secret acts” also hinder the free flow of information. Misuse of “official secret acts” breeds secrecy, the abuse of power, and corruption because it prevents the public from scrutinizing the government.

Unfair or unjust laws and regulations are formidable obstructions because laws are difficult to abolish or even to amend. Furthermore, the people who actually have the power to amend or to abolish such laws tend to be unwilling to challenge the status quo for a variety of reasons. For example, they might have financial interest maintaining the law or a repeal of the law would necessarily result in revealing embarrassing and potentially illegal information about them. Yet, it is possible to abolish unjust laws. We have seen it happened in many different parts of the world through the hard work and perseverance of ordinary people and civil society groups.

Toolbox II Summary

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