Panel 4: Gender and Freedom of Expression

Feminist Analysis of Freedom of Expression

Margaret Gallagher
We live at a time when the defence of freedom of expression is increasingly urgent. On the one hand, governments around the world are clamping down on free speech, usually under the guise of anti-terrorism and the need for surveillance. On the other hand, as feminists we are acutely aware of the historical and contemporary ways in which women’s speech has been and is denied – sometimes in terrifying ways\(^1\). It has not been easy to achieve widespread recognition that the silencing of women is an attack on freedom of expression. But in the current climate of generalised anxiety about the widespread curtailment of freedom of speech and the growth of surveillance, there is perhaps a new and contemporary opening for feminists to demonstrate how the denial of women’s voice is integral to the ways in which dominant power structures exclude unwanted opinions, critiques and points of view.

Article 19 of the Universal Declaration of Human Rights tells us that ‘everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers’. So this is a fundamental human right, which encompasses freedom of expression, freedom of information, and freedom of the press. Yet from a feminist perspective there is a deep flaw in any discussion of ‘human rights’ that does not explicitly acknowledge the specific position of women within the human community. Gender-neutral language or analysis, that claims to include both women and men within terms such as ‘everyone’ or ‘all people’, hides the deeply gendered division of power within communities everywhere.

Many women live their entire lives in a state of fear and silence that arises specifically from the fact of having been born female. Pre-natal sex selection, female infanticide, so-called ‘honour killings’, femicide – these are among the most brutal means of ensuring that women are never heard, indeed sometimes never born. They are all forms of gender-based violence against women, defined in 1992 by the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) as “violence that is directed against a woman because she is a woman, or violence that affects women disproportionately” (see

\(^{1}\) For example on the first day of the Forum, Mexican feminist activist Luisa Vázquez Herrera described vividly the anonymous attacks and threats she received as a result of expressing her views on social media.
United Nations, 2006, para 33). In 1993 the parallel term ‘gender-based censorship’ was coined by the Filipina feminist writer, journalist and human rights activist Ninotchka Rosca (see Tax et al, 1995, p. 23). If we think of this silencing as a systematic process in which women’s voices are suppressed because they are women, or in ways that affect women disproportionately, echoing the CEDAW definition, it helps us to analyse women’s invisibility - or sometimes their hyper-visibility - in communication processes, not as something particular to this or that media system or media genre, but as a quite fundamental aspect of social, economic and political relations. Of course women – whether as citizens or as journalists – who criticise aspects of state politics, corruption and so on can be silenced by the same means used to silence men who speak out - though, in practice, even these forms of censorship may be affected by gender (see Gallagher, 2010). But gender-based censorship is much broader, more pervasive and usually more subtle than official, organized suppression. It is embedded in a range of social mechanisms that silence women’s voices, deny the validity of their experience, and exclude them from political discourse. Its effect is to prevent women from exercising their human rights – including their right to freedom of expression.

For at least the past twenty years, feminists have argued that the profound gender imbalances in media content and decision-making systems documented by decades of research show that women’s communication rights and freedom of expression are severely limited by layers of structural, economic and cultural constraints (Gallagher, 2014). Yet the conventional response is that freedom – of expression, the press, the media – is jeopardised by advocates for diversity, pluralism or equal rights. This uneasiness has been regularly expressed in debates within the Council of Europe. In 2007, the Council’s Committee for Equal Opportunities for Women and Men tried to anticipate the ‘freedom of expression’ argument in its presentation of a Resolution and Recommendation on The Image of Women in Advertising by referring to the 1950 European Convention on Human Rights (ECHR). In the view of the Committee, the ECHCR includes several clauses (Article 10 paragraph 2, Articles 14 and 17) that qualify rights and freedoms – including freedom of expression. In other words, their argument was that these rights are not absolute. However, this reasoning was rejected by the Council’s Committee of Ministers. They reaffirmed the right to freedom of expression, noting that, according to case law of the European Court of Human Rights,
freedom of expression is applicable to ‘information or ideas that offend, shock or disturb. This likewise applies to the images contained in commercial messages and advertising’ (Council of Europe, 2008).

Commercial media are protected not just by the dogma of freedom but by the power of money and the influence of lobbying. Within the institutions of the European Union, where media and communication have been defined primarily as tradable goods, rather than public goods, the market principle is immensely influential. In all debates so far, media policy priorities of finance and profitability have taken precedence over gender equality principles (see Gallagher, 2011). This approach epitomises a market-driven, as opposed to a democracy-driven conceptualisation of freedom of expression (see Svensson and Edström, 2014).

As feminists we clearly adhere to the concept of democracy-driven freedom of expression, although it is frequently the market-driven concept that – at least until very recently – has tended to win in disputes about how unrestrained freedom of expression can undermine the promotion of gender equality. However, the apparent impregnability of ‘freedom of expression’ discourse in the gender equality domain has given rise to the inevitable question: Whose freedom, defined by whom? Feminists have focused on the democracy-driven concept of freedom of expression in an attempt to shift the conventional understanding of freedom of expression away from ‘freedom from government control’ towards a conception that acknowledges the right of women, as well as men, to be informed, and to have their voices heard.

Within the past decade there have been signs of a shift in the traditional ‘freedom of expression’ discourse - towards acknowledgement of rights-based conceptions of communication freedoms. Progressive associations of media professionals like the International Federation of Journalists (IFJ) have begun to make the link between gender imbalances in media institutions and media content, and the principles of democracy, free speech and freedom of expression that journalists claim to defend. The IFJ’s Ethical Journalism Initiative, launched in 2008, fostered the active pursuit of fair gender portrayal and voice for women as a key element in its campaign. For example, the Eastern Africa
Journalists’ Association, in a 2008 IFJ-supported study, concluded that ‘only a segment of the population is given a voice’ and that ‘journalists should therefore advocate for a fair and balanced gender representation in the mass media in recognition of women’s human rights’ (EAJA, 2008, p. 16). The adoption of an advocacy stance by media professionals – linking democracy, freedom of expression and women’s human rights – was a bold and progressive development. However in the context of today’s increasingly corporate media world, where journalism everywhere is enfeebled by ‘crumbling levels of commitment to ethics, a lowering of the status of journalistic work and a pervasive lack of transparency over advertising, ownership and corporate and political affiliations’ (White, 2015: iii), it is an uphill struggle to defend – much less advocate – values of pluralism and freedom of expression. In this environment it would be naive to imagine that women’s communication rights are high on the agenda of mainstream media organisations.

Nevertheless, definitions have been shifting. At the international level a major breakthrough came in 2010, when the Report of the UN’s Special Rapporteur on freedom of expression devoted an entire section to women. The Report noted the ‘undeniable link between freedom of expression and women’s human rights, which include the right to express their opinions, to have access to their own means of communication and to work in the existing mass media’ (para. 42); and concluded that ‘women continue to be denied the full exercise of their right to freedom of opinion and expression and, as a result, are also limited in the exercise of other fundamental rights, such as the rights to development, to education, to health, to participation and to a life free from violence’ (para. 112). Among ten key challenges to freedom of expression in the decade ahead, an addendum to the Report included ‘discrimination in the enjoyment of the right to freedom of expression’, noting that women and other historically marginalized groups ‘struggle to have their voices heard and to access information of relevance to them’ (p. 5). Under-representation, insufficient media coverage, and the prevalence of stereotypical information are all cited as obstacles to the equal enjoyment of freedom of expression.

In other words, according to this definition denial of women’s right to freedom of expression is a form of discrimination. In 2013 the Council of Europe expressed the same idea in a slightly different way. In its Recommendation (to member States) on Gender
Equality and Media the Council made an explicit link between freedom of expression and gender equality, stating that: ‘Media freedom (including editorial freedom) and gender equality are intrinsically inter-related. Gender equality is in integral part of human rights. Freedom of expression, as a fundamental right, goes hand-in-hand with gender equality. Furthermore, the exercise of freedom of expression can advance gender equality’. In principle, this text is an important step forward in terms of supporting a democracy-driven concept of freedom of expression. However, it is only a first step. We have yet to see how much weight will be given to that concept in cases of dispute.

Reviewing these developments, it is fair to conclude that the feminist movement’s decades-long intellectual and political effort to produce a new understanding of freedom of expression has had an impact – and one that should be celebrated. At the conceptual level there has been progress. For instance UNESCO’s 2014 Report on freedom of expression included a gender equality perspective in its analysis of trends in media freedom, pluralism, independence and the safety of journalists. But in the day to day business of the media and communications industries, it is questionable whether this will soon – or ever - become apparent in the information, ideas and meanings that continue to shape our worlds. The concept of freedom of expression remains highly charged and open to different interpretations – for example, as to the acceptable balance between ‘rights’ and ‘responsibilities’. Just think of the Charlie Hebdo case in France in early 2015. It is a freedom that can be easily infringed, sometimes in subtle and unexpected ways. As feminists one of our tasks is to be alert to, and involved in, debates on the shifting influence of governments, state authorities, commercial interests and private ownership on media and communication processes; and to bring to the debate an understanding of the specific ways in which these processes continue to limit or deny women’s voice and freedom of expression. Because there is no doubt that, even if attenuated, they will continue.
References


