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Radio Free Europe and the Right to be Informed: National Sovereignty and Freedom of Information During the Cold War

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Reflective Essay

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The springboard for my final research project in Professor Pam Bromley's class, "Writing About Justice in Politics," was journalist Mark Brayne's claim that "Without the media, without reporting, the Berlin Wall would probably never have gone up in the first place and certainly would never have come down." Inspired by my interests in journalism and human rights, I decided to examine the role of radio during the Cold War. Initial research led me to conclude I could not take for granted freedom of the press as a universal human right; having read a selection of scholarly articles that included striking declarations like "The Iron Curtain . . . was to be deconstructed through an increased flow of news and information between Eastern and Western Europe" (Kind-Kovács 199), the phrase "regardless of frontiers" jumped out at me upon a close reading of Article 19 of the Universal Declaration of Human Rights (UDHR), which guarantees the right to "receive and impart information and ideas through any media and regardless of frontiers." *"Regardless of frontiers*," I thought, *sounds like distinctively Cold War era phraseology.*

Scholarly articles I accessed through online databases (including Friederike Kind- Kovacs' "Voices, Letters, and Literature through the Iron Curtain: Exiles and the (Trans) Mission of Radio in the Cold War" and Nicholas J. Schlosser's "Creating an 'Atmosphere of Objectivity': Radio in the American Sector, Objectivity and the United States' Propaganda Campaign against the German Democratic Republic, 1945–1961") inspired the first part of my research question: Is it a human right to impart information "regardless of frontiers," or was this phrase an instrument of American foreign policy that has been enshrined as a universal human right? After considering this question for some time, I began to think about the implications of a "no" answer; what would it mean to conclude that it is not a human right to impart information "regardless of frontiers"? Could a free flow of international information ever threaten national sovereignty?

Soon, I journeyed to Honnold-Mudd Library to select a variety of books I had identified through extensive catalog searches. At this point, my research topic had expanded to encompass Radio Free Europe, human rights, and national sovereignty, so my sources fell into those three categories. They included Arch Puddington's *Broadcasting Freedom*, as well as Asbjørn Eide et

al.'s *The Universal Declaration of Human Rights: A Commentary*, which included an insightful essay on Article 19 by Lauri Hannikainen and Kristian Myntti. One source that turned out to be indispensible explicitly addressed the multidimensionality of my research: *National Sovereignty and International Communication*, a compilation of scholarly articles accessed through Interlibrary Loan. I also made use of a few texts I had read in Professor Bromley's class, most notably Michael Walzer's *Just and Unjust Wars.*

Although I had put together a wide array of sources and had picked up on a variety of scholarly conversations—To what extent should countries be able to control the flow of information within their borders? Is international broadcasting a violation of national sovereignty? Was the Cold War a struggle for human rights?—it took me a while to arrive at an argument. A free flow of international information is, I believed, a human right, but I couldn't quite put my finger on why. Then I read "Freedom of Information and the Right to Communicate" by Leo Gross, in which he cites General Assembly resolution 424(V) of December 14, 1950: "*Considering* that the duly authorized radio operating agencies in some countries are deliberately interfering with the reception by the people of those countries of certain radio signals originating beyond their territories.... (2) *Condemns* measures of this nature as a denial of the *right of all persons to be fully informed* concerning news, opinions and ideas regardless of frontiers" (emphasis added). This "right to be informed" reminded me of what Larry Alexander calls "the right of the audience" in his book *Is There a Right of Freedom of Expression?* This intriguing similarity allowed me to identify the lens through which I would approach my research question and the evidence I had amassed. Thus my argument: "A free flow of truthful information "regardless of frontiers" is indeed a human right, not because nations have a right to impart information to other nations, but because women and men worldwide have the right to be informed."

There are two areas of further research that I would pursue to flesh out this research paper. First, international law. A few of the articles I found helpful were analyses of international communication law of which I have but a cursory understanding. Also, as mentioned in a footnote, Alexander is not nearly so willing as I to accept as "unquestionable" that freedom of expression is a universal human right. In fact, he denies that it is. A more developed incarnation of this paper might not so readily dismiss the question "Is there a right to freedom of

expression?" Finally, I acknowledge that a number of my sources are a few decades old, so a more thorough analysis would have to take into account more recent scholarship on domestic jurisdiction and the right to international communication etc., especially because some number of my sources are themselves products of the Cold War era.

"Radio Free Europe and the Right to be Informed: National Sovereignty and Freedom of Information During the Cold War" participates in a dialogue not only about Cold War era broadcasting, human rights, and national sovereignty, but about the way in which a free press should serve a just society. The experience of researching and writing a paper that so thoroughly transcends the limits of one discipline to meld politics, philosophy, and history, was unlike anything I had done as a scholar so far. As a History major, it was fulfilling to recognize that a philosophical reflection on historical events can be of immediate relevance.

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Research Project

"Radio Free Europe and the Right to be Informed: National Sovereignty and Freedom of Information During the Cold War"

Natalie McDonald

Professor Bromley

Politics 97: Writing About Justice in Politics

May 9, 2016

Radio Free Europe and the Right to be Informed:

National Sovereignty and Freedom of Information During the Cold War

Six of every seven people lived in a country without a free press in 2015; it was the worst year of the past twelve for global press freedom.[1] Twenty-sixteen is off to an equally grim start. In February, President Xi Jinping of China announced that foreign content cannot be published online until approval is secured from the government.[2] In April, in response to demands that they respect French privacy law, Google implemented "geo-blocking" technology in Europe.[3] That a free press is a cornerstone of a healthy society has been accepted as irrefutable by democratic governments for centuries; nonetheless, questions about national control of international information are far from unprecedented. The Internet is the most recent of a series of technologies — telegraph, radio, television — that have made the exchange of information an increasingly international phenomenon, thus blurring the relationship between freedom of information and national sovereignty. The United Nations recognized this in 1948 when they ratified the Universal Declaration of Human Rights (UDHR) and guaranteed freedom of

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[1] Jennifer Dunham, "Press Freedom in 2015: The Battle for the Dominant Message," Freedom House, last modified 2016, accessed May 4, 2016, https://freedomhouse.org/report/freedom-press/freedom-press-2016. Freedom House defines a country with a free press as one where "coverage of political news is robust, the safety of journalists is guaranteed, state intrusion in media affairs is minimal, and the press is not subject to onerous legal or economic pressures."

[2] The Editorial Board, "China's Increasingly Muffled Press," editorial, *The New York Times*, February 24, 2016, The Opinion Pages. Accessed May 4, 2016. http://nyti.ms/1LbDvCY.

[3] Daphne Keller and Bruce D. Brown, "The E.U.'s Dangerous Data Rules," *The New York Times*, April 25, 2016, National edition, Op-Ed.

information "regardless of frontiers" in Article 19: "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."

The idea of a free and global exchange of information was, in fact, highly contentious at the time of the UDHR's ratification.[4] For the duration of the Cold War, Radio Free Europe (RFE) — an American radio station covertly funded by the CIA — broadcast from Western Europe into Soviet satellite states. It was an instrument of US Communist containment policy, its purpose, according to the *Radio Free Europe Policy Handbook*, "to strengthen [the] audience's 'belief, however reluctant, in the grandeur of western culture, in the true freedom of the western spirit of inquiry, in the fact that their own national intellectual life is intimately entwined with that of the West'."[5] As one scholar argued in 1979, RFE "made the evolution and persistence of the dissident movement for liberalization in those countries feasible":

> Youth learn about jazz, East Europeans learn what has been tried and permitted by the Soviets in other Warsaw Pact countries, intellectuals learn about current world debates, and Soviet citizens learn the real facts of the news through those broadcasts. As a result about one-sixth of the Soviet population . . . listens to foreign stations on an average day.[6]

Radio in the American Sector, or RIAS, was specifically targeted to an East Berliner audience, and contributed to the mass exodus from the Soviet sector in the 1950s; journalist Mark Brayne

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[4] Lauri Hannikainen and Kristian Myntti, "Article 19" in *The Universal Declaration of Human Rights: A Commentary*, ed. Asbjørn Eide, et al. (Oslo: Scandinavian University Press, 1992), 275.

[5] Friederike Kind-Kovács, "Voices, Letters, and Literature through the Iron Curtain: Exiles and the (Trans) Mission of Radio in the Cold War," *Cold War History* 3, no. 2 (2013): 204, accessed April 11, 2016, http://dx.doi.org/10.1080/14682745.2012.746666. Kind-Kovács quotes Hoover Institution Archives, RFE/RL Corporate Records, 1–18, Sheet 6. '*Radio Free Europe Policy Handbook*,' 30 November 1951.

[6] Ithiel de Sola Pool, "Direct Broadcast Satellites and the Integrity of National Cultures," in *National Sovereignty and International Communication*, ed. Kaarle Nordenstreng and Herbert I. Schiller (Norwood, NJ: Ablex Publishing, 1979), 141-142.

claims that "Without the media, without reporting, the Berlin Wall would probably never have gone up in the first place."[7] Indeed, the Soviet government condemned the radio stations as mechanisms of American imperialism and a "threat to peace."[8]

Of course, one could easily turn to the UDHR as justification for American broadcasting into the Soviet bloc; it is, after all, a human right — of equal weight as "life, liberty and security of person" — to "receive and impart information and ideas through any media and regardless of frontiers."[9] To take Article 19 at face value, however, is to dismiss the fraught negotiations behind its 35 words. Two proposals for the article were in fact submitted to the Commission on Human Rights, one by the UN Conference on Freedom of Information (in which the US was an active participant), and one by the USSR.[10] While the Conference on Freedom of Information draft advocates for a "free flow" of information ("The overall conference strategy of the United States Delegation as described by the Delegation Chairman was to orient the conference to 'freedom of information'"),[11] the USSR proposal reveals preoccupation with freedom of speech as an instrument of aggression.[12] Perhaps they had grounds for this concern; although Radio Free Europe was not established until 1949, the Office of the Military Government United States had founded RIAS in 1946, and it "adopted an anti-Communist programming profile in 1947," a year before the ratification of the UDHR.[13] Thus we see the Cold War playing out across the pages of

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[7] Newseum, "The Berlin Wall and the Press," video file, 14:22, Newseum Ed, accessed April 11, 2016, https://cloudfront.newseumed.org/berlin-wall.mp4.
[8] Bennett Kovrig, "Human Rights" in *Of Walls and Bridges: The United States and Eastern Europe* (New York: NYU Press, 1991), 171.
[9] Article 3 of the UDHR: "Everyone has the right to life, liberty and security of person."
[10] UN document E/CN.4/95
[11] Ralph R. Goodwin, "Editor's Note," in *General; The United Nations*, vol. 1, *Foreign Relations of the United States, 1948* (Washington D.C.: United States Government Printing Office, 1975), accessed May 7, 2016,https://history.state.gov/historicaldocuments/frus1948v01p1/d189.
[12] Hannikainen and Myntti, "Article 19" in *The Universal Declaration of Human Rights*, 276.
[13] Nicholas J. Schlosser, "Creating an 'Atmosphere of Objectivity': Radio in the American

the Declaration and are left to confront an essential question: Is it a human right to impart information "regardless of frontiers," or was this phrase an instrument of American foreign policy that has been enshrined as a universal human right and is, in fact, a violation of national sovereignty?

This question is not in the revisionist vein; I do not question the basis of human rights nor condemn their propagation as "cultural imperialism."[14] No, my question is composed of two parts very narrowly focused on three words in one article of the UDHR: Do nations have the right to impart information across international borders? And can doing so ever violate national sovereignty? Of course, given that the concept of human rights is inherently nebulous, it is difficult to concretely define something as a human right; this is what we count on the UDHR to do, so to question one of its definitions is analogous to questioning the dictionary. National sovereignty is equally abstract a concept when it is not armies crossing borders but radio waves carrying ideas through airspace. But by asking these questions — and using Radio Free Europe both as historical context for the UDHR and as a case study — I hope to shed some light on how we should expect a free press to function in the interest of a just society. Ultimately, to ask if it is a human right to impart information "regardless of frontiers" is to acknowledge the tremendous power of information. Although this analysis may remind us (with legitimacy, no doubt) to evaluate the UDHR as a product of its time, I ultimately conclude that a free flow of truthful information "regardless of frontiers" is indeed a human right, not because nations have a right to

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Sector, Objectivity and the United States' Propaganda Campaign against the German Democratic Republic, 1945–1961," *German History* 29, no. 4 (2011): 311-312, accessed April 11, 2016, doi:10.1093/gerhis/ghr067.

[14] Pete Singer, "Ethics," in *Encyclopedia Britannica Online*, [Page #], last modified March 5, 2015, accessed May 7, 2016, http://www.britannica.com/topic/ethics-philosophy/The-history-of-Western-ethics.

impart information to the citizens of other nations, but because women and men worldwide have the right to be informed.

First, it is necessary to distinguish between a few different rights that are easily conflated: the rights to freedom of expression, opinion, speech, communication, press, and information. Where the UDHR establishes the single "right to freedom of opinion and expression," the International Covenant on Civil and Political Rights — a legally binding version of the UDHR for signatory states — distinguishes between opinion and expression. [15] Both are "international rights," but opinion is "internal" (and therefore inalienable) whereas freedom of expression implies communication of that opinion (and is consequently "subject to certain limited restrictions").[16] "Freedom of expression," therefore, (as well as "freedom of speech") are interchangeable with "freedom of communication."[17] The press is one medium by which to exercise freedom of expression, with "press" not being limited to print, but including "all the media of mass communication."[18] "Freedom of information" encompasses freedom of the press while acknowledging the breadth of modern media.

Freedom of information, therefore, stems from freedom of expression, a universal human right of unquestionable legitimacy; to challenge freedom of expression as such would be to go against centuries of liberal philosophy.[19] The purpose of human rights in the Enlightenment

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[15] Louis Henkin, preface to *The International Bill of Rights* (New York: Columbia University Press, 1981), ix.
[16] Partsch, "Freedom of Conscience and Expression," in *The International Bill of Rights*, 217.
[17] Alexander, *Is There a Right*, 8. Gross, however, suggests that the "right to communicate" implies mutuality and a "two-way" or "multiple-way" flow of information as the others do not (see note 27).
[18] Fredrick Seaton Siebert, "The Libertarian Theory of the Press," in *Four Theories of the Press*, by Fredrick Seaton Siebert, Theodore Bernard Peterson, and Wilbur Lang Schramm (1956; repr., Champaign: University of Illinois Press, 1973), 1.
[19] Larry Alexander, *Is There a Right of Freedom of Expression?* (Cambridge: Cambridge University Press, 2005). By defining a human right as "a moral right that can be validly invoked

tradition is to protect the inherent dignity of the individual, which historically "came to the test whenever the individual was opposed to the will of the ruler, or to the prescriptions of the religion, or to the mores of the community."[20] How does freedom of expression help us to live lives of dignity? The answer is most succinctly and eloquently put by Partsch: freedom of expression "protects[s] the individual as homo sapiens," as "wise man."[21] That is, freedom of expression allows us to reach our full intellectual potential both as individuals and as communities.[22] Moreover, in a 2012 study, Tandoc and Takahashi analyzed data from 161 countries and concluded that "having a free press . . . predicts levels of life satisfaction across nations,"[23] while another article found that the "free exchange of views and availability of relevant data . . . is vital for promoting good public health in its widest sense."[24] Both the health and happiness of a society, therefore, hinge to at least some extent on freedom of expression. Given that "most good things simply are not the object of human rights,"[25] this alone would not be enough to justify freedom of expression as a human right; however, one could certainly argue that happiness and health are both essential to living a dignified life. Thus (as is more or less

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by any person at any time or place," Professor Alexander (of the University of San Diego School of Law at the time of publication) concludes that there is no basis for defining freedom of expression as a human right. I do not find his argument convincing.

[20] Asbjørn Eide and Gudmundur Alfredsson, introduction to *The Universal Declaration of Human Rights: A Commentary*, ed. Asbjørn Eide, et al. (Oslo: Scandinavian University Press, 1992), 9.

[21] Karl Josef Partsch, "Freedom of Conscience and Expression, and Political Freedoms," in *The International Bill of Rights*, ed. Louis Henkin (New York: Columbia University Press, 1981), 209.

[22] Siebert, "The Libertarian Theory of the Press," in *Four Theories of the Press*, 40.

[23] Edson C. Tandoc Jr. and Bruno Takahashi, "The Complex Road to Happiness: The Influence of Human Development, a Healthy Environment and a Free Press," *Social Indicators Research*, no. 113 (June 23, 2012): 537, accessed April 11, 2016, doi:10.1007/s11205-012-0109-6.

[24] James Welsh, "Freedom of Expression and the Healthy Society," in "Fiftieth Anniversary of the Universal Declaration of Human Rights," special issue, *Health and Human Rights* 3, no. 2 (1998): 76, accessed May 7, 2016, http://www.jstor.org/stable/4065300.

[25] Jack Donnelly, "The Concept of Human Rights," in *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press, 2013), 17.

obvious to an American audience but is worth clarifying nonetheless) Eastern Europeans behind the Iron Curtain had just as much a right to freedom of expression as did their American contemporaries across the Atlantic, regardless of political system.[26]

If freedom of expression is a universal human right, so too is freedom of information; you must be able to freely "seek, receive and impart" information if you are to freely express yourself. Is it, therefore, irrelevant to question whether nations should freely impart information "regardless of frontiers"? It is not, for one very simple reason: when American broadcasts were made into the Soviet bloc, the US was not exercising a human right. Why? Because the United States is not an individual. As has already been established, human rights are intended to protect the dignity of the individual; it follows that the US, as a country, is not privilege to the protections of the UDHR. For although RFE broadcasts were made by Soviet exiles, its CIA funding makes Radio Free Europe an arm of the American government. This is where another right becomes important, one mentioned less often than the others (expression, press etc.), but one just as important, if not more so: the right to be informed.[27] A facet of freedom of information, Alexander calls it the "right of the audience": "It is most natural to think that if there is a right of freedom of expression, it must be the right of the speaker . . . On [sic] the most

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[26] Indeed, Article 2 of the UDHR establishes that "Everyone is entitled to all the rights and freedoms set forth in this Declaration...no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

[27] Leo Gross, "Freedom of Information and the Right to Communicate," in *National Sovereignty and International Communication*, ed. Kaarle Nordenstreng and Herbert I. Schiller (Norwood, NJ: Ablex Publishing, 1979), 209. General Assembly resolution 424(V) of December 14, 1950: "*Considering* that the duly authorized radio operating agencies in some countries are deliberately interfering with the reception by the people of those countries of certain radio signals originating beyond their territories.... (2) *Condemns* measures of this nature as a denial of the *right of all persons to be fully informed* concerning news, opinions and ideas regardless of frontiers" (emphasis added).

plausible accounts of why freedom of expression should be protected, however, it is [the audience] whose right is violated whether of not [the speaker's] freedom of expression is also violated."[28] Whether or not countries have the right to "impart" information regardless of frontiers, one could argue that as homo sapiens, we have the right to "receive" foreign information; if we have this right, then it must be imparted by somebody or somebodies from without national boundaries.

Thus, whether a nation has the right to impart information regardless of frontiers — whether the US had the right to broadcast into Soviet satellite states — follows from the question: Is it a human right to "seek" and "receive" foreign information? There are, of course, conflicting responses to this question that fall largely along political lines. For the Soviets, foreign information constituted a threat to the state; two leaders of a Russian-sponsored East German political party (SED) told an American reporter that "To promote such a program (socialism), the SED considers complete freedom of the press . . . as undesirable . . . [M]easures must be taken to control elements which might destroy the state."[29] "The Iron curtain," Schramm notes, "follows quite naturally from this point of view."[30] This "point of view" also conflicts with centuries of liberal philosophy; in the *Areopagitica* (1644), John Milton argues (as summarized by Siebert), "Men by exercising reason can distinguish between right and wrong, good and bad, and that to exercise this talent man should have *unlimited access* to the ideas and thoughts of other men" (my emphasis). [31]

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[28] Alexander, *Is There a Right*, 8.
[29] W. Phillips Davison. "An Analysis of the Soviet-Controlled Berlin Press." *Public Opinion Quarterly* 11, no. 1 (1947): 40-57. Accessed April 11, 2016. doi:10.1093/poq/11.1.40.
[30] Wilbur Lang Schramm, "The Soviet Communist Theory of the Press," in *Four Theories of the Press*, by Fredrick Seaton Siebert, Theodore Bernard Peterson, and Wilbur Lang Schramm (1956; repr., Champaign: University of Illinois Press, 1973), 127.
[31] Siebert, "The Libertarian Theory of the Press," in *Four Theories of the Press*, 44.

Indeed, to ask if it is a human right to receive information "regardless of frontiers" is to engage in a decades' old debate between nationalism and internationalism. While "liberal intellectuals have fought for freedom of movement, freedom from censorship, world cultural exchange, and condemned ethnocentrism and prejudice . . . right-wing nationalists . . . have glorified the unique heritage of their own ethnic group."[32] Unique ethnic heritage is irrefutably important; the last thing we should be working towards is a homogenous global society in which cultural distinctiveness is lost. Nonetheless, given both "the interdependence of states within a world system"[33] and the ease of international communication, surely "unlimited access to the ideas and thoughts of other men" includes those of foreigners? If you are to freely express yourself — as is essential to a life of dignity — you must be able to freely "seek, receive and impart" information not only from within your own country, but from individuals, cultures and countries worldwide.

However, when it is one nation that is "speaker" and the citizens of another who are its "audience," as in the case of RFE, national sovereignty has the potential to be violated. Walzer defines national sovereignty as a state's "independence from foreign control and coercion."[34] Therefore, we must determine to what extent foreign press (for press is the medium by which foreign information is imparted) can be an instrument of control and coercion before we can make any judgments about the international flow of information and its potential to violate national sovereignty. First, it is important to recognize that RFE was not the first radio station to

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[32] Pool, "Direct Broadcast Satellites and the Integrity," in *National Sovereignty and International*, 139.
[33] Edward W. Ploman, "Satellite Broadcasting, National Sovereignty, and Free Flow of Information," in *National Sovereignty and International Communication*, ed. Kaarle Nordenstreng and Herbert I. Schiller (Norwood, NJ: Ablex Publishing, 1979), 164.
[34] Michael Walzer, "Interventions," in *Jus and Unjust Wars*, 4th ed. (New York: Basic Books, 1977), 89.

promote foreign ideology abroad; the Soviet Union began "international radio broadcasting" under Lenin in 1924. It was the first country to do so, its goal to propagate communism on a global scale.[35] Hitler followed suit a decade or so later.[36] There was therefore precedent — if dubious precedent — for international broadcasting of the subversive sort. But at least one American official in the early Cold War period had some qualms about the establishment of Radio Free Europe; General Lucius Clay, deputy military governor in Germany, said, "I cannot agree that the establishment of a broadcasting station in Germany to broadcast to the Soviet Union in the Russian language is in the spirit of the quadripartite government."[37] The quadripartite government divided control of Germany between the World War II allies: England, France, the US and the USSR. In other words, General Clay was concerned about violating Soviet sovereignty.

Although he later changed his mind, Clay may have been ahead of his time; the UDHR imposes no restrictions on the freedoms of information and expression, but later international agreements do, including the 1966 International Covenant on Civil and Political Rights (CCPR) and the 1978 UNESCO Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War. These restrictions sought to protect, among other things, third world countries (states recently emerged from the colonial yoke) from Western cultural imperialism.[38] The CCPR imposes two restrictions on the

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[35] Michael Nelson, *War of the Black Heavens*, (Syracuse: Syracuse University Press, 1997), 3; and Arch Puddington, *Broadcasting Freedom*, (Lexington: University Press of Kentucky, 2000), x.
[36] Puddington, *Broadcasting Freedom*, x.
[37] Nelson, *War of the Black Heavens*, 57.
[38] Gross, "Freedom of Information and the Right to Communicate," in *National Sovereignty and International*, 213.

freedom of expression in Article 19(3): (a) For respect of the rights or reputations of others; and (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.[39] The first restriction applies only to individuals, but the second is applicable to nations as well. Further restrictions are implied in the preamble to this clause, which mentions the "duties and responsibilities" which come with freedom of expression. These "duties and responsibilities" are not concretely described, but "presumably they include the duty to present information and news truthfully, accurately, and impartially."[40] The most significant thing about these restrictions, however, is not so much their content as their existence. The fact that the UDHR's successors found it necessary to restrict freedom of expression could be interpreted as an implicit acknowledgment that foreign information — an international free press that functions "regardless of frontiers" — does in fact have the potential to violate national sovereignty.

A distinction must be made, however, between third world countries seeking to preserve their cultures and an oppressive totalitarian regime attempting to maintain its political power.[41] Do the restrictions on freedom of expression and information imposed by the CCPR apply when the audience is composed of the citizens of such a regime, specifically one that violates human rights, like the USSR? As Hannikainen and Myntti convincingly argue, "a line has to be drawn between legitimate restrictions of the inward flow of information in the interest of protecting the cultural values of the receiving State, and straight censorship for political or ideological reasons."[42] Partsch concurs:

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[39] Partsch, "Freedom of Conscience and Expression," in *The International Bill of Rights*, 219.
[40] Ibid.
[41] Especially since "what is described as protection of the national culture is [often] rather the protection of the existing government." (Pool, "Direct Broadcast Satellites and the Integrity," in *National Sovereignty and International*, 141.)
[42] Hannikainen and Myntti, "Article 19" in *The Universal Declaration of Human Rights*, 283.

> A state is entitled to defend the political structure enshrined in its constitution against its enemies or even against internal subversive acts, but the Covenant [CCPR] does not permit a state to limit political expression directed toward peaceful political or social change. Expressions of opinion favoring changes in socialism, or even from socialism, may not be limited any more than expressions threatening the stability of the regime . . . or other expressions not creating a clear and present danger of some evil coming within the purposes contemplated by Article 19(3).[43]

For one thing, the Soviet Union simply did not have a national culture; it was by definition the last European *multinational* empire, composed of states that, while adjacent to each other, had unique histories, languages, and cultures.[44] The Soviet aim, therefore, cannot be said to have been the preservation of national culture, but must be classified as an attempt to maintain political power, or at least the Communist system.

We cannot, therefore, condemn RFE as a threat to national sovereignty on the grounds of "cultural imperialism"; it is necessary, rather, to determine whether RFE was a truthful or "coercive" source of information. Both Truman and Eisenhower highlighted the importance of "truth" in American broadcasting to Eastern European peoples; Eisenhower called for a network of RFE stations to be "give[n] the simplest, clearest charter in the world: 'Tell the Truth'."[45] Schlosser, however, scathingly dismisses "the principle that 'The best propaganda in the world is truth'," for "[US information operations] nevertheless still sought to influence and control how individuals behind the Iron Curtain perceived their government and the world around them."[46] RFE was indeed a US information operation. Its CIA funding was covert, since a key facet of the

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[43] Partsch, "Freedom of Conscience and Expression," in *The International Bill of Rights*, 225.
[44] J. M. Roberts, "Europe in the Aftermath of War," in *The Penguin History of Europe* (London: Penguin Books, 1996), 582.
[45] Nelson, *War of the Black Heavens*, 48. Perhaps an argument could be made that the US gave the exiles an opportunity to exercise their right to freedom of expression?
[46] Schlosser, "Creating an 'Atmosphere of Objectivity': Radio in the American Sector, Objectivity and the United States' Propaganda Campaign against the German Democratic Republic, 1945–1961," 626.

"truthful" reputation fostered by RFE was the idea that it was a "non-governmental institution, independent in [its] reporting."[47] Exile broadcasters played a key role in maintaining this façade of media "surrogacy"; as one writer claimed in 1958, "Radio Free Europe is not an American voice, but it is the American management of five European exile voices."[48] RFE's CIA funding would not be uncovered until 1967.[49] Nonetheless, a report for the US Psychological Strategy Board had revealed in 1952 that Czech and Hungarian listeners believed RFE had "the backing and financial support of the American government."[50]

The United States Information Agency suggested, "A sharp distinction should be made between objectivity, which we seek, and neutrality, which we do not seek. . . ."[51] Perhaps nothing so well demonstrates the memo's meaning as a list of RFE programs Nelson includes in his book. For example: "What the Kremlin is Planning for You," a weekly ten-minute lecture by an economic expert with the purpose of "demonstrat[ing] the dangers of the Soviet attempt to unify Eastern Europe economically, and to demonstrate how the Soviet plan is leading the satellite countries into inevitable collapse." The potential audience: "The intelligentsia of the satellite countries, both Communist and non-Communist."[52] Programs like this were an undeniably genius feat of rhetorical engineering. And no matter how truthful the information was (and I have not found any sources contesting RFE's basic truthfulness), they may very well fall

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[47] Kind-Kovács, "Voices, Letters, and Literature," 208.
[48] Ibid., 203. Kind-Kovács on RFE as "surrogate media" on 208. Quoting Robert T. Holt, Radio Free Europe (Minneapolis: University of Minnesota Press, 1958), 9.
[49] Nelson, *War of the Black Heavens*, 127.
[50] Nelson, *War of the Black Heavens*, 48.
[51] Schlosser, "Creating an 'Atmosphere of Objectivity': Radio in the American Sector, Objectivity and the United States' Propaganda Campaign against the German Democratic Republic, 1945–1961," 614.
[52] Nelson, *War of the Black Heavens,* 53.

into the category of "liberation propaganda", in which case — as "subversive communication" — RFE broadcasts could be considered "illegal intervention."[53]

Subversive communication, perhaps, but not necessarily *coercive*. If national sovereignty is "independence from foreign control and coercion," then subversive propaganda — especially, it would seem, subversive and *truthful* propaganda — cannot be considered a violation of national sovereignty. It is, at this point, relevant to return to a statistic quoted earlier in this paper: "one-sixth of the Soviet population . . . listens to foreign stations on an average day."[54] Pool suggests that "the main determinant of attention to foreign media is the responsiveness of domestic media to the desires and interest of the public."[55] What were the desires and interest of the public? Nelson answers this question with a 1953 analysis by the Columbia University Bureau of Applied Research of interviews conducted by the Foreign News Service, which found that:

> [W]hat [respondents] wanted was encouraging news; this was further defined as news showing determined and increasingly effective opposition of the West to the Communists, domestic news showing how resistance to the current regimes by the local populations would be possible and news which would indicate that the time of liberation from the Soviets was not far off.[56]

Proceeding from the assumption that the Foreign News Service and Columbia University Bureau of Applied Research were ethically sound enough to transcend Cold War biases and conduct honest research, we can conclude that approximately 17 percent of the Soviet population supported opposition to the Soviet Union; this number is doubtlessly representative of a much

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[53] John B. Whitton, "Hostile International Propaganda and International Law," in *National Sovereignty and International Communication*, ed. Kaarle Nordenstreng and Herbert I. Schiller (Norwood, NJ: Ablex Publishing, 1979), 219-20.
[54] See note 6.
[55] Pool, "Direct Broadcast Satellites and the Integrity," in *National Sovereignty and International*, 142.
[56] Nelson, *War of the Black Heavens,* 65.

larger population, including Soviets too afraid to listen to the radio (for fear of Soviet punishment) and other Eastern Europeans.

But the fact remains that RFE was used as a weapon of "psychological warfare"[57]; "the Western invasion was by radio, which was mightier than the sword. Those skilled in war subdue their enemy's army without battle, wrote Sun Tzu, the author of the first known book of warfare."[58] Does the war convention as outlined by Walzer apply to "ideological warfare"? Whitton suggests that it does, for as "a type of aggression, [subversive propaganda falls] within the rules that proscribe aggressive war. It is claimed that subversion is not only a violation of the sacred rights of sovereignty," he writes, "but is basically an act of war, for it may lead to retaliation and violence, even to war itself."[59] I suggest, however, that the best way to think of RFE is as non-military intervention. Though intervention was "on behalf of oppressed people" and "regard[ed] the purposes of the oppressed",[60] it was not a humanitarian intervention, for Soviet human rights violations in Eastern Europe did not necessarily "'shock the moral conscience of mankind.'"[61]

However, another time that "the ban on border crossings is subject to unilateral suspension [is] when a particular set of boundaries clearly contains two or more political communities, one of which is already engaged in a large-scale military struggle for independence; that is, when what is at issue is secession or 'national liberation.'"[62] The Soviet Union most certainly contained "two or more political communities," and although the satellite

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[57] Kovrig, "Human Rights" in *Of Walls and Bridges: The United States and Eastern Europe*, 163.
[58] Nelson, *War of the Black Heavens,* xiii.
[59] Whitton, ""Hostile International Propaganda and International Law," 220
[60] Walzer, "Interventions," in *Just and Unjust Wars*, 104.
[61] Ibid., 107.
[62] Ibid., 90.

states were not "engaged in a large-scale military struggle" against the Communists, RFE broadcasting was non-military intervention and was strongly supported by public sentiment; the proportionality scale adjusts accordingly. Furthermore, although freedom of expression cannot justly threaten "national security" or "public order," it is legitimate per Partsch's analysis of the CCPR to challenge the status quo in the interest of "peaceful political or social change."[63]

In many ways, Radio Free Europe fulfilled the "future-oriented" mission of the UDHR by promoting human rights in Soviet satellite countries.[64] Human rights are unique in that they are both a means and an end; they are "at once a utopian ideal and a realistic practice for implementing that ideal."[65] RFE is exemplary of this dual purpose; as one scholar argues, "it was the very fact of foreign broadcasting inside the USSR, and not the informational content of its programs, that spoke loudest of all."[66] The UDHR acknowledges this means-ends duality in Part D of the resolution by which the Declaration was adopted — "Publicity to be Given to the Universal Declaration of Human Rights" — which "recommends . . . to governments . . . that they disseminate the text as widely as possible among all peoples throughout the world . . . and calls on them to use every means within their power to this end."[67] Although RFE didn't "disseminate the text" of the UDHR, it certainly promoted awareness of human rights. Not only were "violations of human rights in Eastern Europe . . . grist to the mills of the Voice of America and Radio Free Europe,"[68] but the "very fact of foreign broadcasting" was a testament to Eastern Europeans' right to be informed.

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[63] See note 43.
[64] Eide and Alfredsson, introduction to *The Universal Declaration of Human*, 5.
[65] Donnelly, "The Concept of Human," in *Universal Human Rights in Theory and Practice*, 16.
[66] Kind-Kovács, "Voices, Letters, and Literature," 210. Kind-Kovács quotes Roth-Ey, *Moscow Prime Time*, 133
[67] Eide and Alfredsson, introduction to *The Universal Declaration of Human*, 14.
[68] Kovrig, "Human Rights" in *Of Walls and Bridges: The United States and Eastern Europe*, 163

In light of terrorist threats and simultaneous advances in surveillance technology, twenty-first century debates about freedom of information have largely revolved around the apparent dichotomy between security and privacy. But we mustn't lose sight of another moral facet of the free exchange of information: To what extent should a country be able to control the flow of foreign information within its borders? In a New York Times op-ed published in April 2016, Daphne Keller and Bruce D. Brown argue that such control should be limited.[69] "Journalists rely on global networks to investigate and report on international stories," they write, "like the recent Panama Papers revelations." Their article, "The E.U.'s Dangerous Data Rules", is a reaction to Google's decision to implement "geo-blocking" technology in Europe, made in response to French demands that Google respect the country's privacy laws by limiting certain search results. Some have accepted the decision as a "logical" one, for it allows "a sovereign state enforce its laws, within its borders." Others, including Keller and Brown, are raising concerns. Meanwhile, the Chinese government continues to restrict the international flow of information; in a recent attempt to "promote core socialist values,"[70] President Xi has announced that foreign content cannot be published online until government approval is secured. "[These] stifling steps will add to the information barriers Chinese people already face," the New York Times Editorial Board reports. "Mr. Xi [is] . . . restrict[ing] the worldview of his citizens."

Indeed, this is why freedom of information is so important: a free and international flow of information gives men and women all over the globe the opportunity to develop a balanced worldview. As Partsch writes,

> Foreign influence . . . is but a special case of the disruptive impact of intellectual and cultural media in general. All through history intellectuals have been called

[69] Keller and Brown, "The E.U.'s Dangerous Data," Op-Ed. Brown is the executive director of the Reporters Committee for Freedom of the Press.
[70] The Editorial Board, "China's Increasingly Muffled Press," editorial, The Opinion Pages.

> subversive and their products attacked as assaults upon the established culture . . . Barriers of time and space that once protected the status quo are easily penetrated or circumvented by modern media.[71]

There is little doubt that Article 19 was to some extent an instrument of American foreign policy, but the fact remains that the wording was agreed upon by 48 of the 56 members of the Third General Assembly when they voted to adopt the UDHR on December 10, 1948;[72] it was, in fact, the delegate from Philippines — General Carlos Romulo, a journalist — who moved to recognize freedom of information as a fundamental human right at the General Assembly's first session in 1946.[73] The USSR served as a foil to democratic policy and ideology during the Cold War; it inspired racial integration[74] and more welcoming refugee policies in the United States.[75] If the same can be said for the development of the right to "seek" and "receive" information, then so be it.

The efforts of the UDHR drafters to secure a future in which individuals' dignity would be respected was part of a larger endeavor to establish a "new international legal order"[76] in the aftermath of World War II; "having witnessed the destruction of all democratic rights under National Socialism [Nazism] . . . [they] had no doubts about these political rights as being genuine human rights."[77] Although the right to "impart" information is subject to some restrictions (and can be condemned as a violation of national sovereignty in the case of coercive

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[71] Partsch, "Freedom of Conscience and Expression," in *The International Bill of Rights*, 226.
[72] Johannes Morsink, *The Universal Declaration of Human Rights*, (Philadelphia: University of Pennsylvania Press, 1999), 12.
[73] Hannikainen and Myntti, "Article 19" in *The Universal Declaration of Human Rights*, 276.
[74] Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy,* (Princeton: Princeton University Press, 2011), 26.
[75] Elizabeth Cohen, "Philosophers on the Syrian Refugees," Daily Nous, last modified November 25, 2015, accessed May 8, 2016, http://dailynous.com/2015/11/25/philosophers-on-the-syrian-refugees/.
[76] Eide and Alfredsson, introduction to *The Universal Declaration of Human*, 10.
[77] Johannes Morsink, *The Universal Declaration of Human Rights*, 69.

or untruthful information), the right to "seek" and "receive" information — the right to be informed — is an indispensible element of that post war order. Radio Free Europe played a political role in the Cold War, yes, but it also sought to fulfill Eastern Europeans' human right to information. It is with this purpose — to keep humankind informed, to help us develop a balanced worldview and reach our highest intellectual potential as both individuals and communities — that a free press should serve a just society.

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