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"Free Speech" and U.S. Public Access Producers

John W. Higgins

Speech concerning public affairs is more than self-expression, it is the essence of self-government

—*U.S. Supreme Court (Red Lion, 1969)*

Community video in the United States emerged from decades of global experiences with activist participatory projects in electronic media, such as the tin miners' radio network in Bolivia, community radio in the United States, the Challenge for Change program in Canada, and traditions of radical documentary film around the world. Within this context, public access cable television in the United States represents a unique achievement for community-based media around the world: The institutionalization of a process that provides people the opportunity to create video programs and air them on local cable television channels—an oasis of "free speech" and "free ideas" in a commercialized, corporate global media desert.

In the United States, local governments may require cable television system operators to provide channels for public, educational, or governmental use (PEG); over 1500 communities have these PEG facilities in operation (Kucharski, 2001); 18 percent of cable systems provide equipment and channels for the public to produce and distribute local programming (Aufderheide, 2000). These "public access channels" allow persons from local communities to be trained in the use of television production equipment and to utilize the channel as a means of distributing finished programs. Public access facilities were first established in the late 1960s and 1970s as a means of addressing inequities caused by monopoly-dominated broadcasting, everyday providing people an opportunity to voice and hear viewpoints and opinions not normally expressed in mainstream media (Engelman, 1990; Fuller, 1994; Linder, 1999).

A fundamental tenet of the global community media movement, including public access, is the desirability of a diversity of ideas relative to notions of freedom of expression. The United States particularly venerates notions of "free speech," drawing upon interpretations of relevant portions of Article I (the First Amendment) of the U.S. Constitution, which states, in part "Congress shall make no law . . . abridging the freedom of speech or of the press . . ." Simple approaches to the First Amendment interpret this provision to mean that individuals have an absolute right to personal expression—at times, to the extremes of "civil discourse." Longstanding traditional and more recent critical interpretations focus more on the social benefits arising from open discussion in the society. This chapter explores one-dimensional, traditional, and critical interpretations of "free speech" and the reflection of these perspectives in public access philosophy. The manner in which volunteer community producers implement some of these free speech concepts is also explored, to help shed light on widely held beliefs within the global community media movement.

"Free Speech"

One-Dimensional and Traditional Interpretations

One-dimensional interpretations are a minority in the discourse regarding the "free speech" provisions of the First Amendment. As represented by Caristi (1992), this perspective argues that its greatest aspect is personal expression, in part because it allows for human self-realization. Humans have a right and a need to express themselves in order to become a total person. More widely accepted are traditional interpretations of free speech provisions of the First Amendment, represented by Lippmann (1939), Meiklejohn (1948), Mill (1859/1993), and Ruggles (1994). While recognizing that the right of individual expression is guaranteed, traditional approaches indicate that the individual right to speak is not as important as the benefits the collective society gains from open discussions of ideas and viewpoints. The opportunity of each person to express an opinion is not as important as the chance for every perspective on an issue to be expressed and to be heard.

The right to hear a variety of ideas and viewpoints is also considered part of free speech guarantees, the assumed benefits to the larger society from the open discourse being their primary basis. To a lesser degree, there is assumed to be a measure of personal growth, but this is not meant to overshadow the greater social objectives of free speech. Walter Lippmann (1939, p. 186) reflects the majority position on freedom of speech as a social rather than an individual need:

> So, if this is the best that can be said for liberty of opinion, that a man must tolerate his opponents because everyone has a "right" to say what he pleases, then we shall find that liberty of opinion is a luxury, safe only in pleasant times when men can be tolerant because they are not deeply and vitally concerned. [sic] Yet actually . . . there is a much stronger foundation for the great constitutional

> right of freedom of speech . . . . [W]e must protect the right of our opponents to speak because we must hear what they have to say . . . [F]reedom of discussion improves our own opinions.

According to the traditional First Amendment scholars, "quality of speech" is more highly valued than a simple "quantity of speech."

One-dimensional and traditional interpretations of the First Amendment reflect the assumptions of liberal democratic philosophical thought found in the U.S. Constitution, the drafters of which were profoundly influenced by the eighteenth century philosophical movement of the Enlightenment; Ruggles (1994, pp. 141–142) notes that it was philosophically rooted in "Faith in the corrective of reasoned debate, and the attainability of rational, consensual truth; the scientific perfectibility of human beings and human institutions, especially through democratic rule; [and] the necessity of an informed and tolerant populace to the functioning of a democracy . . ."

Simple and traditional interpretations of freedom of speech are mirrored in regulations and legislation guiding U.S. electronic media, including those regarding public access cable television. Critiques of simple and traditional perspectives of free speech doctrine are discussed below.

Critical Interpretations

Critical scholars have questioned both the one-dimensional and traditional interpretations of free speech, and the basic tenets upon which the liberal democratic tradition is founded (Schauer, 1985; Streeter, 1990; Ruggles, 1994; Downing, 1999; Dervin and Clark, 2005). Critiques often question Enlightenment assumptions that a single, definable, objective "Truth" exists and that this truth can be known by human beings. Beyond the issue of truth is also a questioning of process and the assumption that truth is best revealed through a dialectic clash within the "marketplace of ideas." Frederick Schauer (1985, p. 134) reflects the skepticism of many critical-oriented First Amendment scholars in his discussion of the "naive faith of the Enlightenment" that truth prevails over falsehood when the two compete in the "marketplace of ideas," noting, "Put quite starkly, truth does not always win out . . . . The inherent power of truth and reason was one of the faiths of the Enlightenment, but more contemporary psychological and sociological insights have confirmed the judgment of history that truth is often the loser in its battle with falsity" (p. 142).

Structural arguments related to traditional liberal democratic ideals of free speech argue that a widespread belief in the dialectic emergence of truth privileges conflict models of communication that are challenged by contemporary thought in fields such as feminist scholarship (Dervin, Osborne, et al., 1993). Conflict models are at the heart of pluralist assumptions of the nature of power, where power (when it is acknowledged) is traditionally envisaged as being shared equally by individuals, recognizable in the form of conflict, operating within public view, and working for the common good. In contrast, critiques of such pluralist precepts describe a process where power more often

works covertly for specialized interests and is inequitably distributed within society (Gramsci, 1946/1989; Lukes, 1974; Good, 1989).

In addition to questions of truth and the nature of power, liberal democratic assumptions of individualism—where the individual is conceived as set against society, thus challenging social domination—are also challenged by critical interpretations, particularly those provided by Streeter (1990) and Dervin and Clark (2003). Within this framework, individuals and society cannot be divorced from one another, since each depends upon the other for identity and growth.

As explored below, although the basic tenets of public access reflect simple and traditional approaches to the First Amendment, the access canon has been questioned in recent years from within the movement by a growing number of critical analyses. These critiques mirror challenges by critical scholars of traditional perspectives on free speech doctrine.

Public Access: From "More Speech" to "Better Speech"

Early critical perspectives addressing the public access vision of empowerment and related community television assumptions in general typically came from outside the U.S. alternative video arena (Higgins, 1999). Within the U.S. movement, early analyses of public access as a means of promoting democratic communications typically drew from unproblematic interpretations of free speech provisions, emphasizing individual "rights" to speak and "more speech." These simple interpretations led to content neutral access policies and practices, often characterized as "first come, first served." In the late 1970s and early 1980s, the level of analyses within the public access movement began shifting to reflect long-standing traditional interpretations of the First Amendment, emphasizing a desire for quality of speech over mere quantity and the needs of the society over those of the individual (Higgins 2001, 2003).

For example, a traditional interpretation, which visualizes free speech as a means of promoting public discourse rather than as a vehicle for personal expression, is reflected in this statement by Andrew Blau (1992, p. 22), former chair of the National Federation of Local Cable Programmers (now the Alliance for Community Media):

> Our experience of public access to cable over the past two decades suggests that access may have nothing to do with democracy—nothing, that is, until the people who provide and use access connect the two. We can no longer simply assume that access to media tools and channels is enough . . . . [I]f we take seriously this link between the right to speak with and hear from others and the daily practice of democracy, then we ought to organize our access tools to foster a kind of participation that enables people to take part in the decisions affecting their community. In this sense, simply talking a lot means little.

This challenge to the then long-established public access assumption that many voices equal diversity reflects Lippmann's arguments described previously. Until the 1980s, such a challenge was nearly heretical within public access circles. Blau's statement also reflects critical perspectives with its recognition that structural change is necessary in concert with media activism to affect long-term social change.

A further evolution in access philosophy in the mid-1980s included critical perspectives in the analyses of public access and its role in the active practice of public discourse. Many access advocates recognized that existing power imbalances within a community tended to be perpetuated by practices such as "first come, first served" and its focus on the individual—marking a gradual shift over two decades to generally accepted access practices that focus on active outreach to traditionally underserved groups and organizations within the community (Higgins 2001, 2003; Howley 2005).

The critiques from within public access, developed in a laboratory of daily practice, represent positive steps for moving beyond simple assumptions of democracy and power toward a more integrated view of access within a complex societal framework. For example, Aufderheide (1992, 2000) and Devine (1992, 2001, 1992/2006) have consistently raised critical themes within their work related to community television, placing public access within discussions of Habermas' (1962/1989) framework of the public sphere. She identifies access channels as "electronic public spaces" that "strengthen the public sphere" (Aufderheide 2000, p. 59) and should not be considered within traditional media measurements such as audience numbers. Devine (1992) posits that public access provides a space for public debate within the public sphere, arguing that public access is best viewed within a notion of process rather than product; further, he describes access as a site of cultural activism: Where traditional power relationships are challenged and where human agency is cultivated as people are allowed to come to voice (pp. 22–23), "transforming consumers into public speakers/participants, and moving them from passive into active roles of engagement in the civic life of their community" (Devine 2001, p. 37).

Theory and Practice within Public Access

The discourse continues within the U.S. access movement, as evidenced by discussions within the Alliance for Community Media (ACM), a U.S. based organization advocating for community media issues and promoting the use of local access channels. The spirited, wide-ranging discussions at White Paper sessions at its national conferences over the past 20 years, regional conferences, listservs, and the organization's publication, *Community Media Review* (www.communitymediareview.org) reflect the vibrant nature of the continual reassessment surrounding access practices and philosophical tenets (Higgins, 2003). Witness access pioneer George Stoney's (2001) criticism of vanity-based programmers, or Bill Kirkpatrick's (2002) counterarguments in favor of recognizing the cultural aspects of media forms and resistance. Stoney argues from the traditionalist perspective of the social

good of free speech, Kirkpatrick from a critical perspective viewing culture as a form of political speech that may be more than the individual self-expression it seems at face value.

The "Rethinking Access Philosophy" issue of *Community Media Review* (CMR) (Summer 2002), focuses on assessing philosophical underpinnings of access, while the "On Beyond Access" issue of 2005 explores its role in the twenty-first century. The discussions continually reassess basic access philosophies and practices based on decades of participatory media practice, including controversies surrounding the generally discredited early access philosophy of "first come, first served," based on simple notions of free speech (Higgins 2001; Stoney 2001; Koning 2002; Fleischmann and Berkowitz 2004). Kari Peterson (2004, p. 36), longtime executive director of the Davis, California access facility, describes the changes in philosophy: "During my career, there have been radical shifts in thinking—away from television production as an end and toward media as a process and as a community-building tool. Today we talk about media literacy, public discourse and social priorities. This has altered considerably the kinds of programs and services we offer and slowly it's leading to a shift in the way our community thinks about us." Such discussions constantly raise the philosophical bar in the real-life social laboratory that is public access, testing commonly held notions of free speech as experienced by everyday philosopher/practitioners, and moving us on to a greater understanding of the possibilities of democratic society.

The ripple effect of new ideas within access are sometimes slow to spread to a wider audience within the movement. Some people involved in access—administrators, staff, producers, board members—continue to hold tightly to the one-dimensional "individual right" notion of free speech over the concept of "social good." In these circles, traditional interpretations of free speech have not yet begun to root, let alone critical perspectives on power and free speech. Klein (2005) manifests old-school access thought when reducing access notions of outreach and social change to an emphasis on "audiences." His characterization of the free speech aspect of access as an end in itself, in keeping with old notions of the "electronic soap box," is out of step with contemporary access philosophical thought, as evidenced by the past two decades of discourse (Higgins 2003).

Study of Public Access Producers

In everyday practice at the access facility, the one-dimensional approach to free speech serves a purpose when considered among several perspectives, to be drawn upon as necessary. The "individual right" concept is easy to grasp and it does not need definition or discussion, since it is plugged into basic uncritical notions of American citizenship. In addition, "individual right" helps access participants negotiate the deep ideological differences between seemingly alien approaches to the world that are found at the access facility.

In a study of volunteer producers I conducted in the mid-1990s (Higgins 1999, 2000), Noreen, a European-American community organizer involved

in public access for six years, described the varying ideological camps at her access facility:

> Well . . . there's two groups. There's the religious right down there and there's people like me down there and then there's the ministers who don't necessarily like women and you get all these different groups of people . . . . [T]hen you get people there who wanted to do the Klan show I think last year or the year before and you get people in there and when I mentioned that when you are a camera person you are like a fly on the wall and I see two ministers talking to each other and they are saying that women shouldn't be ministers. That women shouldn't be here and women shouldn't be here . . .

Noreen provides insights to the potential for conflict that emerge as competing groups interact within the public access facility, particularly within facilities with volunteer programs that encourage people to work as crew on other producers' productions.

I found that producers devised a variety of methods to deal with the ideological tensions they encountered at the access facility. Primary among these strategies was evoking the dogma of freedom of expression, related to the individual "right" to speech, that allowed producers to endure ideological differences that otherwise might be personally intolerable. Internal conflict was resolved in part by resorting to someone's "right" of individual expression: "they should be able to do that." Producers often referred to this right of expression, which seemed to be a method of coping with ideals that conflicted with their own. Tom, an African -American bus driver and Baptist minister to a small congregation who had produced 400 programs and volunteered on 300 others over his 8 years with access, provided an example:

> . . . like I said, I don't agree with everything that they do and they probably don't agree with everything I do. Like I said, that's what makes public access to me. We don't agree on everything but we are allowed to put forth our rights to say what we have the privilege of doing through public access. I believe, like I said, this is—the last soapbox that we have is public access . . .

Tom captured a sense of the delicate interlacing of "my rights" and "your rights" at play within the public access facility, and the subtle dance between seemingly conflicting rights.

In addition to drawing on basic notions of individual rights, producers in the study negotiated differences by refusing to work as crew members with producers with whom they had serious ideological differences. But ideological differences were handled differently from personal differences. Tom's framing of free speech "rights" also allowed him to separate ideological differences from the human being with a problem he encountered at the facility:

> . . . And when they [volunteers] come on I just try to share with them, and now there are certain shows or programs that I won't work on. Anything that's

contrary to Christ, I'm not gonna work on it. I mean it's just that everybody knows that and I've helped a man put his starter up. He was a program—his program was not with Christ but I helped him put his starter on. I ain't gonna help him with his program though [laughing]. But his choke broke down and I helped him with his starter [laughing]. Crawled right up under it and helped him with it, but I'm not gonna help him with his program.

As indicated by the study, a notion of free speech framed simply within a context of "individual rights" does provide a measure of tolerance for people as they encounter unfamiliar people and ideas.

Reassessing the Access Mission

While recognizing the significance of these basic notions of free speech, access can and should actively assist participants cultivate an understanding of and appreciation for the wider aspects of First Amendment ideology—such as the traditionalist notion of "social responsibility"—among producers, staff, board members, and the community. Individual self-expression within public access programs that are typically labeled "vanity," "narcissistic," or "self-absorbed" may very well be a form of cultural speech that is more political than it appears within a rational/logical conception of the public sphere (King and Melee 1999; Kirkpatrick 2002). Research also indicates empowerment and social change linked to access participation (Higgins, 1999; King and Melee 1999). However, philosophy and practices with an overemphasis on the individual hinder more collectively oriented community building that is at the heart of today's access movement and eclipses the important goals of free speech for the good of the society.

The San Francisco public access channel provides a case study: a few community producers exhibit the extremes to which the notion of free speech as an "individual right," rather than a social good, might be applied. In 1999, the San Francisco Community Television Corporation, a nonprofit community-based organization, took over management and operation of the public access channel and facilities. Prior to 1999, the corporate cable system operators who ran public access cultivated individual fiefdoms based on seniority, dominated by "first comers." These producers have insisted their rights include a lock on prized prime time positions in the program schedule and have openly scoffed at the idea of sharing resources equally with newcomers whose voices have not yet been heard. Other producers include hard core violence and pornography within their shows, in part simply because "it's my right," and despite possible repercussions to the channel's existence. This has been the legacy in San Francisco of the "individual rights" interpretation related to "first come, first served" and the situation is not uncommon to other access facilities. As in San Francisco, access organizations have been consciously nurturing values more in line with the basic concepts of community media as understood by participants across the globe. Access leaders attempt to cultivate an atmosphere where the emphasis is on assisting others, including previously silenced voices, to

"speak" and be heard, rather than exercising one's own "rights" to expression, as fitting more traditional and critical interpretations of the First Amendment. The realignment includes an increased recognition of the need for greater discipline and more responsibility on the part of access participants and the creation of policies that help facilitate community building and the equitable sharing of resources.

While the contemporary U.S. community television movement as a whole reflects more complex positions regarding notions of "free speech," there is no reason to believe that such perspectives will be considered or embraced by community participants or other emerging community-based media movements any more rapidly than by the U.S. general population. Similar perspectives on "more speech" seem to be held by some participants in the burgeoning Independent Media Center (IMC) movement, which includes a significant involvement of digital technologies to distribute alternative programming via the Internet. The IMC movement started in Seattle in Fall 1999, giving a voice to global anticorporate protests against the World Trade Organization. Since then, dozens of centers have been established across the world in concert with a renewed activist movement against globalization (Halleck 2002). The proliferation of Internet social networking sites, blogs, and video blogs also reflect the ideals of "more speech" over quality of speech.

Moving beyond simplistic notions of "more speech" is possible by high profile discussions of the mission of community-based media, free speech, and the nature of democracy, in keeping with the framework of "access as process" espoused by Devine (1992), Johnson (1994), Higgins (1999), and King and Mele (1999), emphasizing access's ability to encourage participants to an expanding involvement in the social sphere. Outside U.S. access, Rodriguez (2001) embraces the suitability of the process model while discussing global "citizens' media," a term she believes encompasses expanded notions of power and democracy.

Moving forward to an expanded understanding of freedom of expression and social responsibility in the post–September 11 world in the United States involves a reassessment of ideological perspectives—by talking at every opportunity about the basic ideas of the community media mission; the many meanings of the term "free speech"; the need for self-discipline and the sharing of resources, knowledge, and skills to create a true public discourse on our community media channels.

Such an endeavor would allow public access, as an institutionalized form of community media in the United States, to remain as a vibrant living laboratory, contributing an enhanced understanding of the nature of "free speech," the manner in which the concept works in everyday practice, and its importance to the lifeblood of a democratic society.

Notes

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