

Freedom of Expression in China: A Privilege, Not a Right

Chinese authorities, recognizing in recent years that limited freedom of expression enables the government to better monitor potentially problematic social issues (referred to as "舆论监督") have begun to tolerate criticism, but only from certain categories of people, a kind of "free-speech elite," and only then in government-controlled forums.

Limited Freedom of Expression for China's "Free Speech Elite"

Despite barriers to access to the means of publication and the dangers inherent in publishing political news and information, members of China's "free-speech elite" are able to express concerns and criticism regarding the government with less fear of punishment than the average Chinese citizen. This group is composed of senior government and Communist Party leaders, those with the patronage of such leaders and, to a lesser extent, academics and journalism professionals.

Ideological Elite

The only people in China who can publish criticisms of, or opinions contrary to those of, the Communist Party, are senior members of the Communist Party. One example of this group is Li Rui, a retired senior Communist Party official and former aide to Mao Zedong, who earlier this year published a letter in the Beijing magazine "China Chronicle" calling for greater democracy in China's government:

“ The key is reforming an aged political system that is obsolete, and speeding up the development of democratic politics so the country can truly embark on a course of peace and stability characterized by democracy, science, and rule of law. . . . Only with democratization can there be modernization. This has been a global tide from the 20th century, especially the Second World War, onward, and those who join it will prosper while those who resist it will perish. The Constitution stipulates that the National People's Congress is the highest power in the country, and the relationship between the Party and the NPC should be suspended, the NPC should not be led and directed in the name of the Party.

This text is from a speech Mr. Li gave at the Sixteenth Party Congress last November. It was subsequently published in the China Chronicle in January. Communist Party authorities would generally not tolerate the use of such blunt language and veiled threats, but Mr. Li seems to have escaped punishment. Contrast this result with Mr. Li's fate when he criticized Communist Party policies: in 1959 he was "sent down" for reeducation through labor, and he spent eight years in prison during the Cultural Revolution.

Intellectual and Professional Elite

Academics and editors of China's state-controlled publications are afforded somewhat less leeway than Party officials, but still more than the average person. This group is allowed to publicly question government policies (in newspaper interviews, on the Internet, etc.), and even to criticize them in private, government sponsored forums (in professional journals with limited distribution, academic and professional conferences, etc.). The operative principle with respect to this group could be expressed as follows: the degree to which the government is willing to tolerate criticism of its leaders and policies is contingent upon the size and nature of the audience and the ideological credentials of the speaker. For example, Chinese and Western academics convened a conference on the death penalty in January 2003, and some months later, a spirited debate ensued in the Chinese media. Centered on the review and approval process for death penalty cases, the debate in the press featured analytical articles by legal experts from Chinese universities (for a summary of this discussion see the Congressional-Executive Commission on China Topic Paper: "[The Execution of Lobsang Dondrub and the Case Against Tenzin Deleg The Law, the Courts, and the Debate on Legality](#)").

However, the Chinese government tolerates such debates only as long as they occur in private discussions, closed academic conferences, government-authorized publishing outlets, or other forums where the government does not feel there is any threat of public participation that it cannot control. For example, unlike the death penalty conference discussed above, the Internet Society of China's Annual Conference held in November 2002, in Shanghai and attended by Commission staff, was open to the press and the public. During the conference there was no discussion, much less debate, of freedom of expression as it relates to the Internet. One session was billed as having an "open forum," where audience members could question leaders of China's Internet industry. However, the open forum consisted of the moderator calling on a reporter from China's state owned media, who asked the panel: "When do you think the Spring of China's Internet will begin?" After several panel members responded, the moderator immediately declared the open forum over, even though 20 minutes remained before the session was scheduled to end.

Similarly, Chinese authorities silence debates if they begin to take on a life of their own, and refuse to recognize the right of the average Chinese citizens to publish their opinions on

political issues in forums that are free from government censorship. So while the Chinese government encourages the state controlled media to engage in targeted reporting on corruption, it will not tolerate similar criticisms from private individuals.

Linguistic Elite

Closely related to the intellectual elite are the "linguistic elite." This group includes those who publish in, and those who can read, a language other than Chinese, for example: the Wall Street Journal, New York Times, and CNN and their readers. Because these sites for these media groups are only accessible to Internet users, and then only to those few Internet users with excellent English skills, they are allowed past China's national firewall, except at politically sensitive times. Chinese authorities are willing to tolerate a certain degree of criticism of their leaders and policies from these sources because the size the audience (and therefore the ability of the publication to influence public a opinion) is relatively insignificant.

Contrast these publications with the BBC's website. Testing performed by Commission staff indicates that readers in China can access all of the different language versions of the BBC's website, except the Chinese version, which is blocked.

Financial Elite

While China's Constitution maintains that "the People's Republic of China is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants," and Communist Party dogma claims that people in Western democracies do not enjoy freedom of the press because only capitalists who own the press can enjoy the freedom, the fact remains that China is one of the few countries in the world that has laws that actually require people to be wealthy before they can publish a newspaper or magazine. Article 11 of China's [Publishing Regulations](#) specifically requires that anyone wishing to publish a newspaper or magazine must have registered capital of at least RMB 300,000 (about US\$ 35,000), a prohibitive amount of money in any country, but especially in China where the workers make less than US\$100 a month.

No Freedom of Political Expression for Ordinary Citizens

So what of China's billion-plus citizens who are not members of the free-speech elite? Although an average citizen could privately express sentiments similar to those published by Li Rui, if an average person had written and privately published what Li Rui wrote, or presented such sentiments in a speech to a large political gathering as he did, there is little doubt that Chinese authorities would prosecute them for subversion.

For the average Chinese citizen freedom of publication is actually nothing more than the

freedom to submit. In meetings with Commission staff Chinese officials have stated that anyone wanting to publish their opinions may submit their article or book to a government-licensed publisher, but if they are unable to find a licensed publisher, then the only way they can legally exercise their constitutional right to freedom of publication is to "enjoy their works themselves, or give copies to friends and family."

Certain groups and individuals who are unable to obtain government authorization to publish do manage to put out books and periodicals on a small scale, but this is possible only through subterfuge and violating Chinese law (for example, by stamping publications as "not for external distribution," or by purchasing book numbers that licensed publishers illegally offer for sale). These private publishers are therefore subject to the threat of closure and arrest each time they exercise their right to freedom of expression.

Two Men Jailed for Publishing Poetry

In January 2003 the website of the People's Daily, the official newspaper of China's Communist Party, reported that a court in Hefei, Anhui province sentenced two men, identified only by the surnames He and Yu, to prison terms of nine and seven years respectively for "unlawful operation of a business." Their crime was publishing love poems without government authorization.

Nevertheless, Chinese authorities recognize that there must be outlets for the average person to express their dissatisfaction with the government. The reasons for this recognition are not a concern for human rights, but rather a pragmatic acknowledgment that the availability of officially approved and monitored outlets can help preserve the Communist Party's monopoly on power in several ways:

- Lessen political tension by acting as a release valve for discontent;
- Deflect criticism that people in the PRC do enjoy freedom of expression;
- Enable government authorities to monitor the mood of the people and find out where weaknesses exist, both in the government apparatus and in popular support; and
- Allow government authorities to track who is inclined to express discontent, and keep such expression from being forced underground where authorities could neither monitor nor control it.

Currently, if an average person in China wants to publish their opinions to an audience broader than their voice can carry and they do not have a free speech elite patron or a willing government publishing house, the safest mechanism is via Internet bulletin board systems run by the government. Chinese law requires all electronic bulletin board systems

to be licensed, all posts to be constantly monitored, and any inappropriate posts to be taken down.

Learn More

A list of Chinese regulations affecting freedom of expression, including excerpts from relevant sections, is available in Chinese and English [here](#).

Click [here](#) for a detailed discussion of how Chinese authorities employ legal barriers to ensure only those with sufficient money and political connections can publish.