

The “Government” of journalists

Introduction

Helmut OBERMEIR

English translation and editing, hobermeir@yahoo.com

RÉMY RIEFFEL

Professor
Université Panthéon-Assas
CARISM
r.rieffel@orange.fr

ROSELYNE RINGOOT

Assistant Professor
Science-Po Rennes
CRAPE
roselyne.ringoot.1@sciencespo-rennes.fr

JEAN-FRANÇOIS TÉTU

Professor Emeritus
Science-Po Lyon
ELICO
Jean-Francois.Tetu@univ-lyon2.fr

ADELINE WRONA

Professor
Université Paris-Sorbonne
GRIPIC
adeline.wrona@celsa.paris-sorbonne.fr



y postulating a “government” of journalists, this issue proposes to study the effects of public authority mandates, actions, and inducements on journalism. This implies examining the forms of state action which affect journalism, and essay journalists, their practices, and the information they produce, within the context of the governor/governed relationship. The concept of “government”¹ here refers to discourses by Michel Foucault, who defines it as “techniques and procedures to govern the conduct of men”², taking into account circumvention and resistance. Today the “government” of journalists is the result of a superposition of texts and institutions that historically spans a wide array of views on the relationship between freedom of information, freedom of action, public right to information, and the “protection” of journalists. It is precisely to protect themselves that journalists sought to establish an institutional status. This guarantees their profession a form of security, certainly, but also the material and symbolic benefits of which the form and importance vary continually, or decline, as in recent decades – so much so that the recognition of a professional identity may, at times, now appear to be an unnecessary luxury.

According to Foucault, the degree of societal state control can also be weighed against the paradoxes of liberalism, which imply more freedom and

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well-being through technology, which also provides more efficient power, therefore the need to “govern less”. This is the question of “multiple governability,” related to the concept of “instrumentation,” taken up by Pierre Lascoumes (2004, 2005, 2007), and which concerns itself with public policy as a whole and on which we must reflect a moment.

In this conceptual framework inspired by Foucault, instrumentation corresponds to “technologies of government” giving rise to typologies. Those of Pierre Lascoumes identify five types of instruments: legislative and regulatory, economic and fiscal, incentive-based and conventional, informational and communicative, and normative and standardizing. These instruments are related to a type of relationship to politics and a type of legitimacy – among these, information and communication are considered tools with which to organize the politics of deliberative democracy and legitimize “the elucidation of decisions and accountability of agents”. (Lascoumes, 2004)

From this approach, two directions are possible to account for the relationship between public policy and journalism. The most obvious would be to consider journalism in function of the instrumental dimension assigned to the “information and communication” category. This then would imply comprehending journalism according to the role it plays in the publicity devices employed by governments and their administrations. Empirical studies undertaken in political science consider the information and communication pole to be the instrument of public policy whose function it is to “open discourse” on, and “increase visibility” of public issues. In this context, journalism participates in the discursive production of public questions and debates regardless of the positions adopted and the degree of autonomy proclaimed. Beyond traditional political information, journalistic activity engages public policy debate in numerous and varied sectors such as education, culture, health, justice, the economy, immigration, etc. The notion of informational and communicational instrumentation also allows an analysis of the effects of publicity (as organized by the state) on journalism. Determining what can and should be made public, and the terms of provision of this information produced by government and other authorities determine the scope of the so-called open sources which journalists can exploit.

The other use of this approach, further removed, consists in analyzing journalism within the context of all the instruments noted, in this case, considering journalism as activity subject to government regulation. Analysis is brought to bear on the types of actions the state implements to govern journalistic activity and journalists, and on the emergence of new

governing bodies and new actions to regulate – or at least debate – journalism. The “system of multiple governmentality” devised by Michel Foucault according to which journalism can be analyzed, asks to consider diverse and influential factors on matters of taxation, economics, general interest, and democratic functioning. Within this research dynamic, the more or less direct authority exercised by state authorities on news, the profession, and newspaper companies, has as corollary the inaction and abstention of the state in certain areas, or the deflection and circumvention of public action by professional organizations.

A MULTIPLE GOVERNMENTALITY

Government action is realized mainly through a system of aid allocated to publications based on the criterion of “general interest”. The systems of public aid to the press which, in various forms, are present almost everywhere (see, however, the disparity in rates of VAT on the press in Europe), are not new and, starting with mailing subsidies, are at times age-old. In France, the complexity and enormity of the press-aid budget, regularly criticized by the Auditor General, is trending down slightly: €1.2 billion in 2012, representing more than 10% of the sector’s gross³. These direct and indirect subsidies (tax-breaks) may very well be regularly called into question (most notably the allowance for the costs of employing French journalists – now flat-rated and capped at € 7,650), they endure and constitute an interesting example of an instrument of public policy. On another level, we can mention the reform of trade-union election rules: reforms which French journalist unions were able to sidestep by defending criteria for exemption. Public policy towards the training of journalists also draws attention, with Brazil taken as an example (which, after removing the requirement of a specific university degree to obtain the right to practice, ultimately restored it).

As to what constitutes the publicity system, law-makers have limited the freedom of publication with the use of very distinct measures depending on whether the publication, publishing company, or product distribution is concerned. We can summarize what is concerned by distinguishing three directions: what pertains to public order (which may justify seizure), concern for the public interest (most press infractions lie here), and the protection of the individual (from which arises, for example, the right to respond, protection against slander and abuse, and the protection of privacy, which includes everything regarding personal image). But the most sensitive issue is “professional privilege” (protection of sources), guaranteed in the U.S. by the Freedom

of Information Act and in Europe under the European Convention of Human Rights (art. 10), and despite this, regularly subjected to reality-checks on both sides of the Atlantic. Its *raison d'être* is to guarantee access to all sources of information on matters that affect public life. And this concerns all major areas of current affairs: politics (from the Watergate scandal, to the most recent articles challenging whistle-blowing, despite being recognized by U.S. Law), sports (revelations about Lance Armstrong), international relations (given a rough ride by the Wikileaks case), the economic and financial sectors (manipulation of stock indexes), public health (in France, *le Mediator* and the tainted-blood scandal, drinking water in California), and, of course, the court cases (the *Bettencourt* affair offers an impressive catalogue, as does the *Cahuzac* case, both in France). If there are so many scandals, it is because the interpretation by national courts of concepts such as “national security,” “national interest,” “public safety,” or “public interest” is changeable and oft contested.

In addition to laws of questionable effectiveness, other factors of influence, such as the economy, general interest, and democratic activity make the case to consider journalism as a function of other elements. The intensification of the economic crisis and the emergence of new information technologies (and, as a result of their influence, the transformation of public attitudes towards information) are not, contrary to those *supra*, government “instruments” stemming from public policy, but a framework, or set of frameworks, that govern journalistic practices⁴. Henceforth, in fact, journalism will be entwined with the cultural and communications industries⁵ – including international conglomerates that rely on digital convergence (IT, broadcasting, telecommunications) and whose primary *raison d'être* resides in dominating markets. From which spring three closely linked phenomena: media concentration, the financialization of the entire sector, and a considerably increased managerial control. We find very clear examples of this in the publications of the international, employers' organization WAN (World Association of Newspapers) – IFRA (the result of the merging of the International Newspapers Association, an organization with very technical roots, and the International Federation of Newspaper Publishers), where we note, for example, that “the management of human resources is moving towards an integration of ‘talent management’ with the strategy of media companies,” or this, more explicitly: “the press industry has not yet reached the degree of automation of other industries such as the automotive industry. Much remains to be done to better automate tasks.”⁶ For the information glut has led to what we can now call a market-driven journalism. Journalists are obliged to deal first with subjects said to meet

the expectations of readers and focus on events with a strong emotional resonance, “developing,” writes R. Rieffel, “a demand-driven market far outpacing supply – a market journalism that falls within the more general market framework of prioritizing success and profitability: the information is designed (...) to be a product among others that must above all be able to generate profit.”⁷ And, though there may exist pockets of resistance to this general trend, it is this that has led to a general transformation of working conditions and an increasing casualization of the profession.

A DOMINANT, YET LIMITED, LIBERALISM

Three types of questions arise with regard to the role of the state and of the liberal doctrine of information. The first is the choice of supervisory authority and the legitimization of journalists, which oscillates between three poles.

First, the state, which, claiming entitlement, can impose its authority, seeing as it financially supports companies in the media sector and defines corporate taxation (as well as that of its employees). It is the state that defines the three dimensions of law which interest us here: that of the business, which it still hesitates to distinguish from private law (*droit commun*), except with regard to taxation; that of the product, the press, whose asserted freedom has long been monitored; and, finally, that of the profession, in which law-makers have long been reluctant to interfere so as not to limit the freedom of the employment contract with management.

The second pole of control is that of media bosses, as they are the ones who control the internal hierarchy of jobs, by, for instance, controlling change through collective agreements or through various employee-contract strategies.

Finally, that of the profession itself, through peer legitimization. Most historians converge on the idea that it is the industrialization of the press which imposed the need to establish mileposts for the profession⁸, hence chronological variations across countries. In Europe, it is the First World War, or more specifically, the return to the newsroom of soldiers (who wished to reclaim the functions in which they were replaced during mobilization), which imposed the need to define the profession, coupled with a wage model very different from the prevailing contractual model. The industrialization of newspapers indeed imposed, with the division of labour, an appropriate remuneration model, which is the starting point for the increasing wage systematization (unionization) of the profession. In other words, it is the

phenomenon of salaried employment which constitutes the starting point for the modern regulation of the profession, and which today remains one of the key drivers of institutional legitimation.

Hence the search for an identity marker that can, in this new economic environment, supersede the elements associated with the previous regime, elements usually provided by professional associations. Thus are united several objectives: employment regulation defined by government (professionals versus amateurs, and nature of employment), the validity of an internal hierarchy of the press structure (collective agreements), and social recognition which gives journalists the practical means to carry out their functions. But the keyword of the profession, dating to its ancient origins, is freedom....

The liberal doctrine of information is a result, or an effect, of the long struggle for freedom of thought, and constitutes the ultimate justification, in Western democracies, for the competition between sources and the mass media. This freedom is, in fact, the means to compete for success, a situation which the new information technologies have only exacerbated.

During the twentieth century the rise of totalitarianism gave rise to other burning issues, including the relationship between the journalist (and information in general) and democracy. From this arose new reflections on the ideological-political or social function of journalism and journalists⁹ that regulators try to sidestep in favour of a functional definition, itself undermined by the evolution of the communications trades. In addition, the Second World War led to the idea of a “right to information”, superseding the right “of” information¹⁰, which renews the question of the legitimation of the journalist, as well as information control. Finally, there is the issue of decolonization and the rise of “emerging” countries, which prompted UNESCO to attempt a unified definition, a virtually impossible task, of information (NOMIC¹¹). The recent emergence of new broadcast or communication technologies, which disregard borders via the Internet and social networks, poses in a new way the triple problem of freedom of expression, its scope, and its conditions of implementation: Zola’s famous “*J'accuse*,” superseded today by the “revelations” of Wikileaks.

But to understand this difficult question, we must go to the roots – to the first authors who defended the freedom of thought and the right to publish without restriction¹². It is then in various constitutional texts that the recognition of the freedom of expression (itself based on freedom of opinion) is enshrined in the French Declaration of Human and Civic Rights¹³. This is crucial, as it is ultimately the

nature of human rights, which serves as the foundation for this freedom – there can be no standardized opinion. Liberal doctrine opposes any attempts, or temptations, to resolve the issue of truth by way of authority.

This liberalism is limited, however, by the idea of the social responsibility of media, which the first half of the twentieth century established could be altered when subjected to economic interests or the political imperatives of propaganda. Hence the very firm tone of the Hutchins Commission report in 1947: “The press must know that its errors and passions have ceased to belong to the private sphere and become a public danger (...). The press must remain a free and private activity, therefore human and fallible, and yet it has no right to roam, as it fulfils a public service.”¹⁴ The concept of freedom has therefore greatly evolved, going from the idea of individual freedom as a means of resistance to despotic power, to the idea that the state can be the guarantor of freedoms.

The second question, an offshoot of the first (control of the profession), is the one of the progressive construction of paritarism as a model for the democratic participation of workers within decision-making bodies¹⁵. The idea of paritarism appears as a means of arbitration in labour disputes, that is to say, a form of government, in the same vein as that of collective agreements, whereby the state, although responsible for establishing the status of professionals and labour law, does not intervene in the implementation of its own rules. Journalism did not invent paritarism, but served as an exemplary model in the general evolution of social relations. It is, in fact, a political model – the obligation to define working conditions together, employers and employees. Collective agreements are signed everywhere in Europe following the 1932 recommendations of the International Labour Office regarding intellectual workers¹⁶. Paritarism, which had developed earlier under different names, seemed to be the best way to avert social conflict between 1914 and 1918 as the war economy was promoted, and to organize social security in the 1930s. It should be noted, however, that paritarism as a method of government does not take into account the audience present at the legal proceedings in the Anglo-Saxon tradition of conflict resolution of the press.

The last of these three questions is that of the independence of administrative authorities in relation to the state, knowing that at its roots, the most nagging question in the history of journalism has been that of its dependence, or its independence, with relation to the political or economic powers which constantly threaten it. But we can only really analyze

this by referring to national models exhibiting large differences. The independence of administrative authorities is clearly Anglo-American in its origins: it can be detected first as the Anglo-American distrust of any state intrusion whatsoever in ordinance, in favour of self-regulation, of which trade unions are the driving force (see the National Union of Journalists, founded in 1907). Organizations such as the Press Council would offer another good example if it functioned well. But we also see that the bill being prepared in the United Kingdom in the wake of the Murdoch press scandals offsets the inefficiency of this self-regulation. A second difference with Latin countries is the tradition of northern countries to include consumer representatives within regulatory bodies (see again the Press Council or *le Conseil de presse du Québec*).

JOURNALISM AND DEMOCRACY

No legal text defines journalism efficiently, such that its nature seems forever to be subject to definitions that fall short. It therefore seems necessary to pause and reflect, in a manner both historical and theoretical, on the foundations of this activity. There were successively two major currents of thought: the first, that of the opinion, rests on a principle inherited from the Enlightenment, the universality of reason¹⁷. It is political and evolves throughout the nineteenth century: the journalist is a “voice” and later a “mouthpiece” who speaks on behalf of a party or a political movement, or on behalf of a segment of the population¹⁸. The second current is a little more recent, and evolves with the “information” press, particularly in its most recent rendition, the news story (*reportage*). The journalist is a “witness” (Muhlmann, 2004), a witness of the local as much as the global. He is no longer the voice or mouthpiece of such and such a party to his readers, but the reader’s representative to whom he lends his eyes (and his pen) through a kind of investiture, and the testimony utters the voice of truth. What we have here is a double process of legitimation: the newspaper is the voice (or organ) of such and such, or the reporter is the eye (or the gaze). And still he must be qualified to do this, hence the reflection that begins with the twentieth century: who, or what organization can bestow qualification?

Initially, the “journalist” is one whose pen is an expression of “reason”: he participates in the implementation of a universal logic. A little later, revolutionary journalism breaks with this vision: he is now primarily a political agent, a phenomenon found in every major important political upheaval of the nineteenth century. Still later, the bestower of qualification is the “boss” – the person with the editori-

al authority. Then the peers, who act according to the dictates of charters defining the duties of the journalist, emerging in the early twentieth century within national structures, later to be revisited and adopted by diverse international organizations of journalists. We will not return here to the laws discussed *supra*, which dedicate a hallowed space for information in democratic life. But this legitimation is displaced regularly or brought into question based on the same principles, which prompts an alternative view of the social and political legitimacy of the journalist. Almost everywhere since the beginning of the twentieth century, the journalist is busy creating “a work of the mind”, still in line with the legacy of the Enlightenment: Emile Zola on the Dreyfus case, or the great scribes transfigured by a concern for democracy and the defence of humanity like Albert Londres or Nelly Bly.

But this intellectual status was challenged by Antonio Gramsci with his notion of the “organic intellectual.” Gramsci offers as examples ecclesiastical figures, scientists, philosophers, scholars, and theoreticians; in short what we would call today more or less the “intelligentsia”, of which journalists are obviously a part. These intellectuals do not just produce discourses, they are implicated in the actual organization of social practices, and are agents of “hegemony”, without necessarily realizing it. This would suggest, even though Gramsci is scarcely read today, that the journalist, as an intellectual, is a “clerk”, an “expert” who does the intellectual work in the place of those to whom it is addressed. Of late, this is denounced by an entire critical current which considers the journalist the “watchdog”¹⁹ of the reigning bourgeoisie, following Bourdieu’s criticism of the “clutch of journalism”²⁰. But one could also acknowledge in this role a dimension of public service, in fact, that the journalist performs a necessary function in a democracy.



Several articles in this issue focus on this professional identity and the means to ensure it; or divert it through the artifice of the rhetoric currently championed on the merits of flexible employment, as shown *infra* in Cégolène Frisque’s article. Camille Dupuy’s article is devoted to the French authorities responsible for granting or refusing the professional identity card. It highlights the principles of evaluation and the definition criteria for journalistic activity. Christine Leteinturier has followed for years the evolution of the awarding of this famous card, and has demonstrated with acuity the growing precariousness of the profession. Her article provides an analysis of refusals in 2010. It highlights, from the

differences between the commission of first instance and the appeal court, the willingness of professional representatives, employees as well as their bosses, to maintain the independence of the profession, possibly against the opinion of the judges of the court of appeal. Olivier Standaert and Benoît Grevisse's article seeks to understand the relative indifference of young Belgian journalists toward this identity card whose award criteria are quite different from that of the French (two years of activity instead of three months, for example), and the authors thus highlight the fragility of employability, which calls into question traditional forms of identity due to increasing casualization and employment flexibility (which seem to meet employer expectations). Finally, Samuel Bouron and Ivan Chupin's article takes the issue upstream and looks at the training of future journalists. It examines the activity of the French commission responsible for allocating accreditation to professional schools on behalf of the profession. Its analysis demonstrates the will to preserve a dominant model: that of the oldest schools.

This is, then, the second set of problems posed by the process of the establishment, or continuance, of professional identity, threatened both by precarity (constant growth of precarious jobs) and the flexibility demanded of employees, which leads to a multiplication of duties in the activities of the various media, written and broadcast, and, of course, the digital versions of the media in question. C. Frisque's article shows, with the data to back it up, how the relatively protective status of "freelance" is circumvented today in many ways, which, under the guise of flexibility, only exacerbates the precarity, and the collapse, of the job market of journalists.

Another form of government that cannot be ignored here, and of which Mathieu Lardeau analyzes a strong phase (1950 to 1970), is the governance of newspapers by journalists, for journalists. This phase, which, in France (with rare exceptions – *Le Monde* being one), misfired, historically fits into the continuance of the liberation of France, which saw

journalists who resisted, and resistant journalists, take control of newspapers which emerged at end of the war. M. Lardeau, following the monumental thesis of Francis Schwarz²¹, shows how the actions and proposals of journalists were mostly untapped by journalists themselves, or came into conflict with newspaper shareholder and management policies²², but especially with the projects of political and public authorities seeking to better govern the profession of journalism.

To consider the government of journalists is by necessity also to consider national specificities; several articles gathered here shine a light on the workings of control devices and professional self-regulation in countries inside and outside Europe. Solano dos Santo Nascimento analyzes how in Brazil, since the reform of the Constitution, the Office of the Public Prosecutor (Ministério público) has become a major source of information about wrongdoings reported by the press, making of the institution a sort of fourth estate. We will also discover how in Germany the legacy of the Second World War weighs on the daily life of public television. Valérie Robert's article analyzes, through the "*Brender*" case (derived from the name of the editor-in-chief of public television, ZDF), a true democratic paradox - state officials are the ones responsible for the protection of journalists against political power.... Nathalie Fillion's article explores the impact exerted in Quebec by the CRTC (Canadian Radio-television and Telecommunications Commission) in defining the boundaries of journalism. The application of the legislation on matters of broadcast production, whether to support funding or preserve Canadian identity and culture, implies defining genres, and, therefore, positioning the news sector vis-a-vis related sectors, such as the documentary. Finally, in Israel, as shown in the article by Jérôme Bourdon, foreign correspondents are governed on a daily basis by the grip of a national identity which "frames" at different levels their news production.

NOTES

^{1.} “With this designation, [Michel Foucault] implies the materiality of governance, marking the desire to focus on the practices of the state more than its theory or essence. Government is for him a noun functioning as a direct transitive verb: the government of others, or, more so, the government of self. In contrast to governance that can be good, bad, global, or local, governmentality precludes epithet. It is a concept that refers to execution more than intention, to realization more than the program. To reclaim today the concept of governmentality is a way to broaden the empirical fields of actions and techniques of government, of identifying the degree of state control of society.” Ringoot, 2010.

^{2.} See the *Cours du Collège de France* delivered between 1977 and 1979, published in 2004.

^{3.} According to the Auditor General, these subsidies represent 48 cents per issue of *l’Humanité*, 27 for *Libération*, 19 for *Le Monde*, and 17 for *Le Figaro*.

^{4.} See Rieffel, 2012.

^{5.} Bouquillion, 2008.

^{6.} *Techniques de presse*, April 2006: 22.

^{7.} Rieffel, *op. cit.*

^{8.} See notably Delporte, C., 1995, and Ruellan, D., 1997, or also Tétu, J.-F., 2002.

^{9.} In addition to the well-known analyses by Frankfurt-school researchers, should be noted Antonio Gramsci, 2012, and Louis Althusser, 1970.

^{10.} The « right to information » is not mentioned in the Universal Declaration, art.19, UN, 1948, entry on freedom of information, but appears in article 12 of the encyclical, *Pacem in terris*, of the Second Vatican Council (April 2, 1963), which demonstrates the importance of this issue

^{11.} The Mac Bride commission, responsible for preparing a report for UNESCO on “the new world information and communication order” was only able to note a radical divergence in the conceptions of information between two poles: one for which

information must be completely free and accessible to whom can pay for it, and the other, for which information is essential to the development of state, and must remain under the control of those who oversee it, in other words, governments.

^{12.} Milton was the first to advocate “the liberty of unlicensed printing” (*Aeropagitica*, 1644), but sought this freedom in the name of Christian truth (“only the good can truly be free”). The argument of the universality of reason appears in the following century.

^{13.} Sweden, 1766. Then, ten years later, the Virginia Bill of Rights (“the freedom of the press (...) can never be restrained but by despotic governments”), and then, in 1791, the First Amendment of the Constitution of the United States, and, in 1789, Articles 11 and 12 of the French Declaration of Human and Civic Rights.

^{14.} See Tétu, 2008.

^{15.} See Ruellan, 2012.

^{16.} French originality, for there is one, arises from the liberation of France and the *Conseil National de la Résistance*, “which imposes the idea of paritarism, born long before, on the principle aspects of wage-earning relations: employment (insertion, training), insurance (sickness, unemployment), security planning (disability, retirement), and conflict (labour-relations boards, arbitration)” (Ruellan, 2012: 215-216).

^{17.} Kant, 1784.

^{18.} See Saint Simonienne Eugénie Niboyet’s *La voix des femmes*, for example.

^{19.} Name and title of a pamphlet published in 1932 by Paul Nizan against the philosophers of the time. This banner is taken up by Serge Halimi to denounce the collusion of journalists with the powers that be.

^{20.} Bourdieu, 1994.

^{21.} Schwarz, 1991.

^{22.} Blandin, 2007.

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