

BROADCASTING FREEDOM:
The FIRST AMENDMENT, FREEDOM OF THE PRESS

VOICE OF AMERICA, RADIO FREE EUROPE AND IMPLEMENTING
DEMOCRATIC CHANGES IN POLAND

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Not so long ago, The United States foreign policy reflected and followed the principles of the United States Constitution. Considering the actions of the current departing administration, the actions taken by their predecessors in the second half of the last century, which were consistent with the constitutional intent of the Founding Fathers are now even more valuable.

Each December 13th marks the anniversary of the 1981 imposition of martial law in Poland, a state whose support of ongoing U.S. military operations has made it one of America's closest allies in Eastern Europe.

In less than a decade Poland went from martial law to the fall of its Communist the regime, a change in which the United States played a particularly crucial role. The 1981 imposition of martial law forced Poland's developing democratic organizations, most notably Solidarity, the free democratic workers union, underground to avoid their dismantling by the Communist the regime. This last resort of the regime's attempt at self-preservation failed to quell the nation's demands for freedom and democracy.

Instead, it had the exact opposite effect, serving to intensify the people's efforts to change the status quo.

The unofficial press of the opposition, one of the pillars of the developing democracy, had prepared for such a situation. Functioning under the regime's rule for decades, the media found itself suppressed and forced underground not for the first time.

Poland's underground free media under Communist rule changed from a simple means of passing information into a consistent machine of democratic changes. While basic freedoms including freedom of the press were existed in strict colligation with its democratic role in western countries, neither was available in Poland. The more tightened and restricted freedoms were under a the regime's rule, the more the preservation and development of those freedoms was promoted and encouraged by the governments of western democracies. The capacity of support demonstrated by the United States was based on beliefs and traditions found in the U.S. Constitution. By embracing the Constitutional values of liberty, American support was not only a fulfillment of foreign policy aims but also the furtherance of the indispensable role that the United States has played in the modern world (until the recent actions of George W. Bush's administration). Employing radio broadcasts to strengthen democratic movements was a major reason the Untied States was admired by Polish society and perceived as a land of freedom and prosperity, believed to be connected across centuries with the fate of Poland. However, this admiration has recently changed into a rejection of what appears to be a serious departure from the values the U.S. previously represented in the arena of international politics.

1. The Fundamental role of the Free Press in the First Amendment.

Forty-five words of the First Amendment of the United States Constitution define fundamental constitutionally-protected freedoms. These words protect the right to freedom of religion and freedom of expression from governmental interference. Freedom of expression consists of the rights to freedom of speech, press, and assembly; freedom to petition the government for a redress of grievances; as well as the rights of association and belief. James Madison's original version of the "free speech" and "free press" clauses, introduced in the House of Representatives on June 8, 1789, stated:

"The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable."

This was subsequently rewritten by a special Congressional committee and merged with the "freedom of religion clauses," before being passed by the Senate in the final forty-five-word iteration.

These words were constantly subject to the interpretation of the Supreme Court of the United States to determine the extent of the protection they afford. Protections expressed by the words were interpreted as applying to the entire federal, state and local governments even though they are only expressly applicable to Congress. Furthermore, the Supreme Court has interpreted the due process clause of the Fourteenth Amendment as protecting the rights in the First Amendment from interference by state governments. While courts are unable to sustain and enforce these freedoms internationally, the notions of freedom included in the Bill of Rights and related American jurisprudence influences not only the policies of the United States, but also inspires democratic changes worldwide

though its implementation.

A free and uncensored press was meant to be and, in fact, acts as the “fourth estate” of the government of the United States. As Supreme Court Justice Potter Stewart explained in a 1974 speech, the "primary purpose" of the First Amendment was "to create a fourth institution outside the government as an additional check on the three official branches" (the executive, legislature and judiciary). According to this statement, freedom of the press means more than the mere ability to freely express and exchange views and opinions. A free press is also meant to gather information and opinions about the government and make it available to the public for the express purpose of acting as an immediate, broad, and specific check on the actions of the government.

The role of the press as defined in the First Amendment and the role of the “modern press” (or media) is not only to inform but also to draw attention to, and comment on, the actions of the government, including revealing any wrongdoing. Broadly available media should influence public policy and preserve democratic values, fulfilling its role as the fourth branch of the government – a branch which often appears to be “closer” to ordinary citizens than the other three.

While written to be the Supreme Law of The Land in the United States, the meaning of the First Amendment is not limited only to guarantee the freedoms and rights subject to the U.S. Constitution. Its universality makes those freedoms, contained within a powerful arm of democracy, inspire and elevate the role of an individual or group of citizens in a democracy. This is so fundamental and natural in the modern world that it is necessarily influential on other governments and nations as a whole. The ideals and democratic expression evidenced in those forty-five words that aimed to create an

independent and democratic state stem from the highest regard for universal values of freedom and independence. Along with the modern growth of journalism as a profession, the advancement of technology, and the wide availability of printed publications, television, and radio broadcasts, the values of a free press incorporated into the First Amendment were become recognized and followed throughout the world.

These values were crucial in the development of free media and well-informed societies, with knowledge not only of local and national issues, but along with the development of international relations, they were also established the basis for providing information relevant to the world as a whole and thus influencing and shaping international opinion.

The Founding Fathers clearly started a new era with the creation of the Constitution of the United States and the Bill of Rights. They codified a series of rights and responsibilities that were clearly new in a democratic and legal aspect. In the First Amendment they encouraged and shaped civil liberties, enhanced the social standing of individuals and groups, and legally established the most powerful tool of information, scrutiny and democratic guidance: the fourth estate of the government – the free press.

Time has shown that these ideals and principles were stood the test of centuries, and while legally applicable only to residents of the United States, I consider them legally and morally tailored to the entire human population.

The creators of the First Amendment surely knew how important the role of a free and uncensored “printed” press was, but they could not were anticipated the existence of radio, television and the internet as additional ways of communication and tools in

fulfilling the critical role of the modern media as the fourth branch of the government, in America and international societies. The media technology developed during the twentieth century has provided more effective means for debate on public issues and in its scrutinizing mission, the same media should be secure and confident that such debate will be, in accordance with the Supreme Court, “uninhibited, robust and wide-open.”

The First Amendment was the first statement that valued and clearly distinguished the fundamental freedoms and rights of the press and of speech. For us, living in a democratic society, it is obvious that any limitations of those freedoms would cause irreparable damage to the existence of individuals, societies, and finally nations.

The universality and fundamentality of the rights and freedoms contained within the First Amendment should empower the creation of free media and the structures to implement and safeguard civil liberties, rights, and freedoms in non-democratic states. The existence and expansion of free media is a vital factor in the collapse of the regimes that disregard and violate such fundamental rights and freedom because censorship and the suppression of free media were arisen out of necessity from all such the regimes. The abridgement of the public’s fundamental right of access to free media has always a standard of a totalitarian the regime’s survival, a vital and necessary part of assuring the regime’s immediate and future existence.

2. The History of freedom of the press and its guarantees within the Constitution of the Republic of Poland.

The nation of Poland drafted the first constitution in all of Europe and the second

modern constitution in the world (behind only the United States).

“Konstytucja 3 Maja” – The Constitution of May Third, 1791 followed the Constitution of The United States by just four years. For many reasons it was not yet a modern democratic constitution, compared to its predecessor across the Atlantic. By containing guarantees of freedom of religion and assembly, guaranteeing private property possession, and “citizens freedom and safety”, this codification touched on democratic values codified in the United States Constitution. But, it lacked several important principles fundamental to the Constitution of the United States, including the fact that it did not mention or imply any form of freedom of the press. The Constitution of May Third was a major step towards the evolution of democratic changes in Poland. Regardless of the lack of an expressed press freedom, it determined a separation of powers, for the first time, to be the basis of the State’s existence and concurrently provided other freedoms similar to those included in the Constitution of The United States. Considering that most European state and legal systems at the time were based upon forms of absolute monarchy and class separation, this Constitution progressively dealt with issues on a first impression basis and was a fairly modern act that suited a monarchy undergoing democratic, parliamentary changes. But, the principle guarantees of freedom of the press were not included, and were not soon to follow because after the May Third Constitution had only in force for one year when Poland was deprived of its independence. The memory of this milestone modern codification shows that, despite the geographical distance, the remarkable similarities to the Constitution of the United States helped keep Polish aspirations for an independent and just state alive until 1918 when such independence was finally regained.

The following accepted during independence were two interwar codifications of March Constitution of 1921 and Constitution of April, 1935 followed by the now in force Constitution of The Republic of Poland accepted in 1997.

Legislative acts in interwar Poland initially granted publishers the full ability to print a wide variety of opinion. Furthermore, the 1921 March Constitution codified a variety of basic press liberties along with a change of political system to a full parliamentary democracy. Such freedom of the press was guaranteed by Article 105: “Freedom of the press is hereby guaranteed. Censorship or concession shall not be implemented over the issuance of the press.”

In April of 1935, the new “April Constitution” was approved. It no longer provided for freedom of the press. In addition, in 1938 a restrictive Press Law went into effect, obliging the media to publish information as prepared by the government or face severe fines, which often bankrupted organizations. Publishers and journalists were subject to fines and criminal prosecution for not complying with those harsh laws.

It was this way until the beginning of the World War II. Poland lost its independence, first divided between invading Nazi Germany and the Soviet Union, and then betrayed by the Western Allies at Yalta and sacrificed to the Soviets. The nation did not regain its independence until 1989. As soon as the Soviets liberated Poland from the Germans in 1945 they were took steps to assure that there would be no opposition to the Soviet Union’s Communist policies along its borders. Among legislative acts furthering Communism and Stalinism, the new constitution prepared by the Soviet controlled “peoples’ government” prohibited or limited basic freedoms, totally abridging freedom of

the press. Instead it established the Polish Workers' Party as being a partner to the Soviet Communist Party as the leading force of the nation. The Soviet Union was to be Poland's "best friend" and "brother" and socialism would be the "democratic" system of government. Accordingly total censorship was imposed not only by legislative acts but also by enforcement of politically motivated governmental publishing plans and full control by government operated radio broadcasts. The Soviet-controlled government held control of the media with an iron fist, starting with statutes penalizing critique of government and through full control of all publishing and broadcast - achieved by supervision and control of financing, hiring and firing journalists, and finally through governmentally controlled print, production and distribution system whether by paper or airwave. Limitations continued as the government had complete managerial power over media with strict ability to determine which information would be available to the public and in what exact words such information could be published or broadcast to feed the citizens with Communist political "correctness".

Censorship in this form lasted for nearly half a century.

The Constitution of the Republic of Poland accepted in 1997, eight years after Poland regained independence, fully protects today's freedom of the press and speech. Containing 243 Articles, it provides in Article 14: "The Republic of Poland shall ensure freedom of the press and other means of social communication." Article 54 states: "The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone. Preventive censorship of the means of social communication and the licensing of the press shall be forbidden. Statutes may require obtaining a permit for operation of a radio or television station."

The Constitution also created institutions to assure freedom and proper functionality of media guaranteed by Constitution's articles. Its role is described in Article 213: "The National Council of Radio Broadcasting and Television shall safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio broadcasting and television. The National Council of Radio Broadcasting and Television shall issue regulations and, in individual cases, adopt resolutions."

The Council in theory exists as an apolitical board. Legally all its members must be suspended from active participation in political parties or public associations. In actuality, however, since members are chosen for their political allegiances and nominated by the parties present in parliament, serious questions often arise concerning board members' neutrality. Members of this body often demonstratively represent the particular interests of their respective political allegiance, thus allowing the board itself to become an instrument of pursuance of political goals rather than guardians of principles of freedom.

In addition, contrary to internationally accepted legislative norms and legal standards present in American jurisprudence, the articles of the Polish Penal and Civil Codes limit the protections incorporated into the Constitution of Poland.

Consisting of regulations including libel, both the Civil and Penal Codes allow public, governmental officials a much greater degree of protection of privacy than that prescribed to ordinary citizens. In a fully democratic society this is the exact opposite, public officials and their actions are afforded a very limited level of protection and are subjected to public scrutiny through media exposure. Laws construed with disregard to such principles lead to private lawsuits filed by governmental officials and public figures

against journalists and publishers as well as to criminal charges brought against them. Consequently, such laws significantly lower the level of freedom of the press and speech and negatively influence public scrutiny of government.

The articles penalize and subject people to statutory prosecution as a matter of law are: Article 226, Paragraph 1 of the Penal Code: “Who publicly insults public functionary or a people appointed to be its helper during or in connection with fulfillment of his duties is subject to fine, penalty of restricted freedom or to imprisonment up to one year” and Paragraph 2: “Who publicly insults or humiliates a constitutional institution of the Republic of Poland is subject to fine, penalty of restricted freedom or to imprisonment up to two years.”¹

Defining the meaning of a “public functionary” as noted in Article 115 broadly states: the President of The Republic of Poland, members of the House, members of the Senate, members of the local Council, the European Parliament representative, judges, jurors, prosecutors, functionaries of governmental financial and tax institutions, notaries, state marshals, probation officers, employees of administrative agencies or other governmental apparatus (except for those who only fulfill service duties), employees of governmental control organs people holding managerial positions in other governmental institutions, functionaries of the body called to protect public security, employees of the Penitentiary Service, and people on active army duty. **This is a way too long run-on sentence!** Such a broad definition adds to the seriousness of Penal Code regulations regarding statutory prosecution of “insults by mean of mass media” as specified in Article 216, Paragraph 2: “Who insults other people by the means of mass communication is subject to fine, penalty of restricted freedom or to imprisonment up to

¹ See: Polish Penal Code (*Kodeks Karny Rzeczypospolitej Polskiej*)

one year.”

In addition, the Code affords the president additional protection, as one “Who publicly insults the President of the Republic of Poland is subject to imprisonment for up to three years.”²

The above is separate from statutorily-defined causes of action for libel against people, groups of people, institutions, legal entities or organizational structures of the government. Such libelous acts are criminalized by up to one year imprisonment or, if by mass communication, obviously including print and broadcast media, the penalty rises to a maximum of two years imprisonment³. Those are “thankfully” to Code authors subject to prosecution upon private requests – *I don’t understand this sentence.*

One of the cases tried under this law pertains to President Aleksander Kwasniewski, former long time socialist worker’s party member, who, while in office in 1997, sued the newspaper *Zycie* (Life) in a libel action for publishing a series of articles describing the future President’s alleged contacts with people proved to be "Russian spies" before the elections. Kwasniewski’s claim for defamation and damages was in conflict with the judicially interpreted basic principle of the First Amendment of the U.S. Constitution proving existence of significant differences between the two systems and level of protection allowed to press. Protection which in the United States prohibits public figures from receiving damages "unless he proves that the statement was made with actual malice - that is, with knowledge that it was false or with reckless disregard of whether it was false or not".⁴ Eventually, after ten years of legal battles, the newspaper and its publisher were found not diligent in gathering and publishing information in

² See: above

³ See Article 212 and Paragraphs of Polish Penal Code

⁴ See *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345 (1974)

violation of the statute and ordered to publish apologies.

The Highest Court of Poland later rendered a decision finding journalists immune from civil liability in a libel case if they acted with due diligence, in the public interest, and withdrew false information after initial publication. Decisions by the Highest Court however are not binding upon the lower courts, but according to the Polish justice system it may still be used as legal precedent in rendering a future. Along with placing the burden of proof on journalist it unreasonably narrows guarantees of freedom of the press under Constitution being contradictory to the standards of public scrutiny in the United States.

3. Abridgement of freedoms During the German Occupation and Under the Communist The regime. Broadcasting freedom; Underground broadcasting in Poland; and the grounds for establishing Voice of America and Radio Free Europe (and its Polish sections).

Poland's history of publishing newsworthy information dates back to the publication of "News from Constantinople" in 1550. The "News" was published in a form that resembled today's flyers. From the initiative of King Jan Kasimir in 1661, the first issue of *Merkuriusz Polski Ordynaryjny* ("Polish Ordinary Mercury") was published, becoming the first Polish periodical and first publication in Europe issued in connection with the presentation of a political program. Forty-one issues with circulation ranging from 250 to 300 were published from January 1661 to July 1661, containing information gathered from interviews as well as diplomatic mail from abroad. At the

time of the monarchy, ruling kings and noblemen were continuously guaranteed the free exchange of information allowing such periodical publications. The development of such a custom were turned into legal, formal guarantees of freedoms. Such opportunities were lost due to Poland's loss of independence. Instead, publishers faced prohibitions imposed by ruling foreign the regimes.

With countless years of wars and occupation and partitions, Poland dates its history with times of limited or no freedom of speech and press. The State with Europe's first, and the world's second, modern constitution was deprived of its sovereignty for years. During the eighteen, nineteen and twentieth centuries, Poland was an independent country for approximately fifty years if all years of independence were added together. Since Poland did not exist as a sovereign state, freedom of speech and press, or assembly did not exist. Obviously, a strict enforcement of prohibition of fundamental freedoms was in the best interest of many the regimes, as it was in the best interest of Polish citizens and Polish émigrés to establish free press that could influence emerging democratic and independence movements and initiatives with one common goal among all of them - regaining sovereignty.

The Second World War years of 1939 to 1945, during which Germans and Soviets occupied Poland, mark just the beginning of another half century of limitations and prohibitions of fundamental freedoms.

Ordinances prohibited the existence of any media not controlled by the occupiers. During the German occupation, the German-controlled Polish-language press and radio existed only to communicate German directives. The German occupation government used the press and radio often to remind the Poles of their "sub-human" status,

communicate propaganda and announce executions. However, the yearning for freedom did not cease to exist, and in the end, underground presses published more works than the occupying regime.

Moreover, in confronting occupation, all basic Polish state institutions were functioning in an underground existence in what was called the Polish Underground State, a true world phenomenon. The Underground State ran secret departments similar to those of an independent state, for example the Department of Press and Information was responsible for publication of periodicals and for radio broadcasts. These underground institutions not only regulated governmental matters by the actions of their civilian and military structures, but also encouraged and promoted citizens' involvement in the free exchange of information as well as participation in all phases of the publishing of uncensored presses.

Over one thousand different periodical titles were published during the occupation period. The Polish Home Army, the largest partisan force in modern history, published a weekly Information Bulletin of fifty thousand copies - the booklet with the highest circulation. Seventeen publications managed to stay in print during the entire occupation period. In addition to the Polish language prints, other periodicals published at various times during the War included a full twenty five in Hebrew and Yiddish (in the Warsaw Ghetto), as well as one in French and one in English, designed for POWs held in German prison camps within Poland.

What could not had be suppressed or destroyed by Nazi German terror, the Soviet-led Communist government put down within months of its creation in 1944. The suppression and infiltration of society employed by the Soviet led secret police made the

functioning of underground organizations impossible. The Underground State ceased to exist with its leaders murdered, imprisoned, or sent to gulags - some of whom did not survive. Publishing, distribution and even possession of printed materials opposing the regime were penalized. Harsh restrictions as well as technical and economic limits made the information available only to a few and the means of passing such information were quickly exhausted. Neither freedom nor democracy existed, laws and ordinances prohibited basic freedoms, but freedom never stopped to be called for in a media combating censorship and was demanded by people who never became passive and apathetic despite oppression and coercion.

Democratic social order is a result of actions of citizens as members of the society, bound by obligations but aware of their legally guaranteed rights of which expression is free, unbounded, and freely available along with information and opinion in the media. The media therefore develops and enforces, in accordance with the meaning of the First Amendment, the freedom assigned to them, and a free circulation of independent ideas that functions as an important factor encouraging democracy and civil liberties.

Despite thousands of Soviet troops stationed in Poland, laws prohibiting freedoms, censorship, and attempts to quash opposition organizations and activities, independent publications such as books, journals, newspapers, bulletins, declarations and leaflets, and even graffiti, in which oppositionists spoke out against the regime government, proliferated during the last two decades before the fall of Communism in Poland in 1989. Not only members of the opposition but also ordinary citizens of different class backgrounds were not passive or apathetic. Publications were firstly

"independent" in the sense that they were not published or distributed by the government or its subsidiaries. They were "uncensored" in that they were distributed bypassing the official Communist distribution machine and thus government censorship. They were "free" in that they ignored and defied the official "truths" of the government, challenging the regime and exposing the injustice of Communist "utopia." They were also "free" in that they were provided free of charge with the message: *Nie niszczy! Nie gub! Podaj drugiemu!* [Do not destroy! Do not lose! Pass it on to others!]. While those publications did not reach everyone, the information they contained was passed along verbally and they were what the First Amendment describes as free, uncensored and independent press. Published mostly by groups associated with the first self governing labor union in the Soviet bloc "Solidarnosc", which the regime failed to suppress, they significantly rebutted propaganda by informing about reprisals, trials, and judicial irregularities, and the local and international situation. Successfully contradicting information available through the regime's controlled television, radio and press, these publications were a perfect, yet partisan, fulfillment of freedom of information within the meaning of First Amendment.

All these efforts were undertaken by a virtually free underground media, establishing and guaranteeing legally and constitutionally free media.

The development and technological advancement of radio transmissions brought a useful tool to all those seeking to avoid censorship. Broadcast media appeared in the world of free information and opinion, immediately reaching an enormous population of listeners. The range of publication of free information that could not be accomplished by print were now, through radio transmission, delivered to almost everyone. Such a broad

presence as well as a new kind of connection with listeners, brought radio into relation with the recipients of information and influenced individual listeners as well as groups of society having an interest in the return of democracy.

Underground radio broadcasts were in existence during all of Communist rule. Although broadcasting locations were exposed to detection and radio signals were more or less successfully jammed, most times it was far easier for the regime apparatus to suppress independent, free press than to suppress radio broadcast. The regime government and Soviets outside Poland's borders were in control of more advanced equipment, overpowering the opposition's mostly home made and portable radio stations.

Neither the opposition nor the regime ever underestimated that the radio transmissions brought and carried endless possibilities for passing free information and opinions in pursuit of democracy, while creating specific interconnections between listeners and speakers. Therefore both sides of this conflict acted, the opposition exploded with local broadcasts and the regime responded with even harsher actions to preserve its status quo. People and groups involved in the preparation of broadcasts and manning radio stations were exposed to risk of arrest while the equipment was often confiscated. Mainly for that reason, some of the stations did not require human operation and recordings prepared earlier were played from tape and broadcasted from remote locations. Foreign governments occasionally provided equipment by placing it for example in humanitarian transports to Poland. A few regular broadcasts were aired on a television frequency on scheduled days and times like "Radio Solidarnosc" each Tuesday at the same time as the weekly conference of the regime's spokesman. Many more were irregular and while important, those were transmitted locally on different frequencies and

they did not have a significant audience.

Radio stations broadcasting from abroad created the possibility to inform on international and local situations in a more regular, credible manner. The recordings were meant to achieve both United States political and local Polish social goals. Among these stations were Deutsche Welle, BBC World Service, Radio Vatican and the two most significant, not only for the purpose of this article, but also in light of its achievements: Radio Free Europe and Voice of America. The first Radio Free Europe Policy Guidance Memorandum, dated September 21, 1950, described its goals by stating: “The objective of Radio Free Europe is to prevent or at least to hinder the spiritual, economic and military integration of the nations of Eastern Europe into the Soviet bloc. To this end we seek to hold or to capture, insofar as possible, the allegiance of the peoples in the nations to which our programs are beamed, and to undermine Soviet and native Communist influence in that area by every means available to propaganda.”

Those objectives contradicted the regime’s interests and bypassed the prohibitions imposed by the regime that deprived basic rights to said people and nations.

Differing from local broadcasts, broadcasts sent from abroad were not only timely and stable as to the frequencies, but also covered a broader range of information and secured the flow of information from and to the opposition movement in Poland. Those broadcasts were an immediate response to Communist censorship, limitation of freedoms and criminalization of all democratic activities in Eastern Europe. The borders of Post-war Eastern Europe were set and arranged by the Allies, including the United States in an act that cannot be considered anything but a betrayal of Poland, an ally with the fourth biggest contribution to the war effort in the fight against Germany and the

Axis, an ally sacrificed to the Soviets by France, Great Britain and the United States.

One may consider the broadcast as an effort aimed not only at bringing democracy and fundamental freedoms to Poland, but at bringing Poland back to the values of the West it developed and followed before World War II.

Seventy-nine days after the United States entered World War II, speaking in German, William Harlan Hale announced "Here speaks a voice from America. Every day at this time we will bring you the news of the war. The news may be good. The news may be bad. We shall tell you the truth." This truth transmitted during the war to combat Axis propaganda and broadcast long after in accordance with Voice of America's congressionally mandated charter, contained reliable war and news stories reflecting the United States' foreign policy. Winning the attention and respect of listeners made Voice of America a powerful beacon of democratic change and an irreplaceable source of information and opinions functioning across jurisdictions beyond the control of local governments.

While Voice of America was clearly the voice of the United States government, presenting American point of view in light of its policy, Radio Free Europe with its broadcasts produced in New York and broadcast from Munich, was emphasizing internal matters in its target countries like Poland. Issues included in Radio Free Europe broadcasts were of a character closer to the local situation with considerable leeway with the interpretation of United States mandates and as such were highly in-demand and captured enormous receptive audience.

Radio Free Europe was a response to the issue of hundreds of thousands of

displaced peoples, refugees and Prisoners of War either housed in refugee camps throughout Western Europe or freed from POW camps in Germany who refused to be repatriated to lands controlled by the Soviets after the Yalta deal. While Soviet backed governments were planted throughout Eastern Europe, the Government of the United States discovered that these forced émigrés represented a powerful force against the regimes now ruling their homelands. Common goals of the United States governmental agencies and those émigrés caused them to be promptly recruited as speakers, writers and newsmen to facilitate a future return of democracy to their homelands. Constituting the remainder of the most valuable groups of their respective societies, those émigrés were a natural ally of those caught within the Communist trap and were determined to return freedom to their homelands.

Free Europe Inc. was established as a private, non for profit corporation to broadcast news and current-affairs programs to countries behind the Iron Curtain.⁵ Its purpose was to enlist prestigious, talented and freedom dedicated civilian refugees to lead this anti Communist organization for purpose of returning democratic values to Soviet dominated Eastern Europe. This corporation, created by the State Department, had among other goals an objective to put these émigrés to work in radio, speaking in their own languages and use their opinions in support of the emergence of freedom in their homelands. These objectives were realized through the establishment of a publishing division, Free Europe Press, and a broadcast division, Radio Free Europe, both financed by the Congress of the United States through the Central Intelligence Agency and until 1971 when their activities began to be considered a relic of the Cold War era. At that

⁵ See Radio Free Europe/Radio Liberty history at www.rferl.org/organization/history.asp

time broadcasts were viewed as an essential tool in an era of negotiation. By vote of the Senate, the Bureau of International Broadcasting, created to take control of broadcasts, received congressional appropriation to assure proper management as well as to control the radio broadcasting in accordance with United States foreign policy.

4. Polish sections of Voice of America and Radio Free Europe - goals and achievements in light of the First Amendment.

Notwithstanding reasonable differences in the grounds for establishing and the goals attributed to both Voice of America and Radio Free Europe, both institutions demonstrated successful achievements in restoring democracy in Poland. Voice of America's influential role on the democratic processes in Poland in consideration for its strictly political goal of the dissemination of United States policy should not be underestimated for that reason. In light of the situation in Poland, its crucial role as the political arm of the United States government was ideally parallel to the role of bringing to Poland one of very limited sources of hope and freedom – free and reliable information through radio broadcasts.

A significant part of the Voice of America broadcasts covered the internal scene of the United States, while Radio Free Europe emphasized and informed on the internal matters of its target countries, but both stations triumphed as beacons of hope.

Voice of America and Radio Free Europe at minimum provided information otherwise unavailable in Poland. At maximum both gradually stimulated and benefited the emergence of the opposition movement ultimately leading to the collapse the Communist the regime, restoration of sovereignty and in consequence the dissolution of

the Soviet block. The broadcasts called upon stories, news and occurrences that were to be kept secret or falsified by the regime. Authors spoke on important social and political issues not otherwise mentioned by the regime controlled media. Such flow of free information brought by radio broadcasts was essential in pursuing the fundamental goals arising from the existence of these radio stations. Making the radio stations so effective during Communist rule in Poland, were its impartiality, objectivity and independence transmitted in radio waves over the iron curtain, dividing the self governing nations of Western Europe and those laying within Soviet controlled areas in the East.

All freedoms guaranteed by the First Amendment were virtually and practically included in transmitted programs that in addition called for the restoration and application of those freedoms. The free press and speech clause along with the political interest of the United States allowed the creation and functioning of the radio stations and gave them credibility that carried the notion of the First Amendment, while being the paramount key to their success.

The broadcasts were the example of free modern media, in which freedoms of speech, religion and assembly were included. Polish intellectuals and people who valued freedom were actual creators and participants of the broadcasts. Free speech of the radio commentators invoked free speech of people behind the Iron Curtain. Free speech in the form of reporting the news just heard in radio and free press in the form of printing and publishing information heard in that radio. Sometimes discussions were held in groups in secrecy in fear of Communist secret police and while it was limited, it was still free assembly. Such broadcasts finally carried a sense of petition the government, a right that is essential as incorporated into First Amendment. Petitioning was not free in the

meaning of its acceptance and consideration by the government, but it was free as a matter of thinking, publication and broadcasts which were also heard and read by regime officials when distributed on streets, attached to walls or brought as evidence by the secret police.

The messages of freedom were bright, clear and strong in light of American values as an indispensable component of the United States' role in the world as best described by Ronald Reagan speech to the British Parliament on June 8, 1982⁶:

“For the ultimate determinant in the struggle now going on for the world will not be bombs and rockets, but a test of wills and ideas — a trial of spiritual resolve: the values we hold, the beliefs we cherish, the ideals to which we are dedicated. (...)

What kind of people do we think we are ? (...) Free people, worthy of freedom and determined not only to remain so, but to help others gain their freedom as well. (...)

Let us now begin a major effort to secure the best — a crusade for freedom that will engage the faith and fortitude of the next generation. For the sake of peace and justice, let us move toward a world in which all people are at last free to determine their own destiny.”

In support of the instinctive moral and democratic values society was deprived of by repressive governments, said broadcasts provided information and opinion otherwise denied to listeners. The broadcasts finally caused extensive economical and technological costs to the regime by necessitating countermeasures like jamming.

⁶ See complete transcript Historyspace.com

One cannot argue that Radio Free Europe and Voice of America did not play a significant role in molding public opinion and fostering democracy in Poland. Consisting of regular programs offering accurate information superior to publications and broadcasts available in the underground media, the stations filled the gap for valuable and uncensored information and opinion. Absent relevant constitutionally guaranteed freedoms the radio stations were constantly passing along the universal principles incorporated into the First Amendment of the United States Constitution, which departed from the Polish Penal Code regulations as previously described.

Both stations, uncontrolled by the government, acted as watchdogs over the regime, and provided information that facilitated political decision-making effectively leading to the preservation of democratic values and the evolution of a democratic system.

It is widely believed that the broadcasts were of extreme value. For me personally, 8 years old at the time, the most visible demonstration of their value and importance was that of my father regularly listening to the information transmitted from abroad in the middle of the night while smoking non-filtered cigarettes. I also recall him carrying a long wire used as an antenna when we were vacationing, just to install it right after our arrival to listen to the broadcasts beginning with the freedom-carrying phrases spoken in Polish: “This is the Voice of America from Washington. We are broadcast in the Polish language” and “This is Radio Free Europe, voice of Free Poland.”

I remember his comments on each of news report he heard, concluding how important it was and cursing when he was unable to catch the radio signal as well as his laughter when the Communists would try jamming by playing music over the broadcast.

In my childhood memories I still feel the influence of the radio-transmitted news and how much it touched on my parents. I am aware now, and my parents knew at the time, that the regime was always frightened by the press and media as a critic and educator - two dominant purposes of the Freedom of the Press Clause. Radio Free Europe and Voice of America were endangering the regime by widely and accurately criticizing the regime's system while at the same time educating listeners about liberties and providing support for democratic values.

Lech Walesa, best known as the "*Solidarnosc*" leader, and unable to leave Poland, as there was no guarantee he could return, heard on one Radio Free Europe broadcast, that he was just awarded the 1983 Nobel Peace Prize. As former president of Poland he would later write "Without Western broadcasting, the totalitarian the regimes would have survived much longer. The struggle for freedom would have been more arduous and the road to democracy much longer. From these broadcasting stations we gleaned our lessons of independent thinking and solidarity of action."⁷ Walesa stated, that "the role of Radio Free Europe was comparable to the one the sun plays to the Earth."⁸

As courts in the United States breathed life into the text of the First Amendment by upholding the rights of the press to pursue its mission, the broadcasts of the Polish sections of Voice of America and Radio Free Europe were transmitting such freedoms over the air behind Iron Curtain strongly influencing the stunning events of 1989 that led to the collapse of Poland's regime and the fall of the Berlin Wall.

Sponsored by the United States government and, to a large extent, controlled by

⁷ "Voices of Hope: The Story of Radio Free Europe and Radio Liberty", By Cissie Dore, Hill Hoover Digest 2001 No. 4

⁸ "A Long and Distinguished History, But Not a Simple One", excerpt from www.rferl.org

United States political interests, having capabilities to go beyond delivery of the news, these broadcasts became machines geared to weaken and destabilize the Communist bloc. They called upon *ius in corda scripta*, “natural law written in the hearts and minds of men,” and made the principles of the First Amendment applied internationally as an unprecedented contribution to Poland and Europe “liberating itself from the legacy of the past.”⁹ As freedom in Poland appears to be tremendously different from the guarantees of the First Amendment in the area of press liberty, its way of development also serves as a perfect example of differences in methods employed by the United States for bringing democracy into the world and in furtherance of its political interests in the twentieth and twenty first century. It clearly distinguishes the success of the past peaceful yet effective means of politics from the failures of the aggressive warfare of the Bush government.

James Madison wrote in 1799: "To the press alone, checkered as it is with abuses, the world is indebted for all the triumphs which were gained by reason and humanity, over error and oppression."

It appears that the citizens of Poland are indeed indebted to the United States media and press for bringing hope, the triumph of democracy, and the return of freedom. American citizens, meanwhile, are now awaiting the upcoming presidential election and hoping for changes that could not be gained through the press alone.

⁹ “Charter of Paris for a New Europe, Paris 1990,” New York Times, November 22, 1990, A16.

