

championship of rights while so many other countries emphasize restrictions, is a natural partner in this endeavour.

At the same time, many states have on their books repressive legislation from an earlier, often colonial, era, that are invoked when convenient to justify media repression and censorship today. This too is clearly unacceptable; the fight should be for present-day governments to repeal entirely all such laws. But should they be replaced with more "acceptable" laws?

The more difficult matter is whether any press law is tolerable, whether, as many in the IFEX network believe, the best press law is no press law. This position, in practice, may be impractical. As was pointed out earlier, in many countries criminal law forbids the dissemination of child pornography and hate mongering; as a result, absolute free expression in the media, including presumably the Internet, is restricted.

Canada has formally resolved this dilemma in a way that may help influence other countries. Our Charter of Rights and Freedoms, in section 2 dealing with freedom of speech and expression, provides a nice balance between free expression and permissible grounds of restriction. This position is consistent with the spirit of Article 19 of the Universal Declaration of Human Rights, and is endorsed by the free expression advocates who have taken the organizational name "Article 19". But the sine qua non of this balance is essential. If free expression is restricted, there must be a constitution on which an appeal can be based, and an independent judiciary to hear the appeal.

In an important demonstration of initiative and leadership, Canada has often led at international forums in emphasizing human rights over restrictions on human rights. Many other nations traditionally give priority to imposing and enforcing restrictions. This situation has been much valued by human rights organizations and other NGO's, and can now be built on in the debate on free expression on the Internet and other similar debates. The United States, for example, has rather less credibility because of its contradictory positions: on the one hand, for example, it argues for unrestricted free speech on the basis of its own first amendment to its constitution; on the other, it fights for Internet restrictions at the OECD while its Communications Decency Act constitutes Internet specific legislation that imposes more restrictive regulations on electronic expression than those applied to conventional expression.

As a result, there is a real opportunity here for the Canadian government, the private sector, professional organizations, and NGO's such as the CCPJ, to have a marked influence.

don't think
the way
sell it