

doc
CA1
EA752
97D26
ENG

Canadian Centre
For Foreign Policy
Development

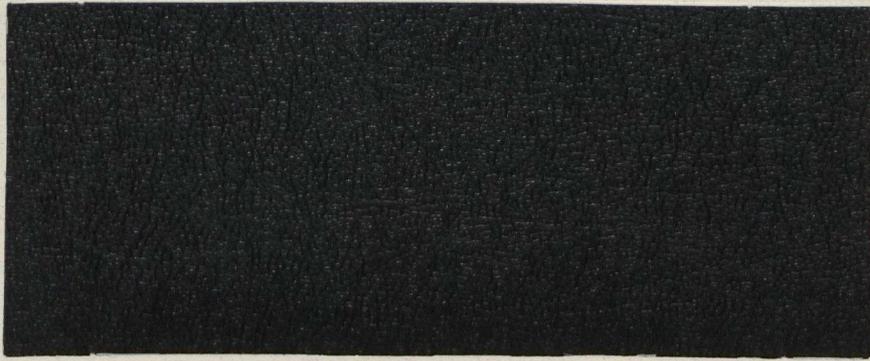


Centre Canadien
pour le développement
de la politique étrangère

Policy Options

**Defending and Promoting Free Expression
around the World**





ISSUES IDENTIFICATION PAPER

Dept. of External Affairs
Min. des Affaires extérieures
NOV 18 1999
RETURN TO DEPARTMENTAL LIBRARY
RETOURNER A LA BIBLIOTHEQUE DU MINISTRE

DEFENDING AND PROMOTING
FREE EXPRESSION AROUND THE WORLD

REVISED BY

**Defending and Promoting Free Expression
around the World**

THE CANADIAN CENTRE FOR FOREIGN POLICY DEVELOPMENT

March 21, 1997

Contents

Introduction.

1. Protecting freedom of speech on the Internet.
2. Legislation and free expression.
3. Training journalists.
4. State versus public broadcasters.
5. Training in human rights and free expression.
6. Protecting free expression during elections.
7. Promoting national sources of news and information.
8. Other issues.

5723369P

ISSUES IDENTIFICATION PAPER

DEFENDING AND PROMOTING FREE EXPRESSION AROUND THE WORLD

PREPARED BY

THE CANADIAN COMMITTEE TO PROTECT JOURNALISTS

FOR

THE CANADIAN CENTRE FOR FOREIGN POLICY DEVELOPMENT

March 31, 1997

Contents

Introduction.

1. Protecting freedom of speech on the Internet.
2. Legislation and free expression.
3. Training journalists.
4. State versus public broadcasters.
5. Training in human rights and free expression.
6. Protecting free expression during elections.
7. Promoting national sources of news and information.
8. Other issues.

Introduction

Next year marks the 50th anniversary of the Universal Declaration of Human Rights, with its renowned Article 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Since 1981, the Canadian Committee to Protect Journalists has worked to make these freedoms a reality worldwide. More recently, the CCPJ helped initiate the International Freedom of Expression Exchange (IFEX), a network of the world's leading free expression organizations, and in fact, on behalf of this network, manages the IFEX Clearing House linking more than 250 such organizations in over 80 countries.

Being a journalist or writer remains a hazardous occupation in many parts of the world. In too many countries, members of the media face censorship, arrest, imprisonment, abduction, torture, and even murder. Our efforts in these cases remain urgent and ongoing.

At the same time, new technologies have introduced both unprecedented opportunities for the dissemination of free expression and new challenges to it. These new developments too have necessarily become part of our mandate.

In a real sense, we are already part of Canada's foreign policy, functioning as one element of Canadian civil society conducting business, exchanging knowledge and exercising influence abroad from a uniquely Canadian perspective. The interests of the present government are usefully reflected in the Canadian International Information Strategy and in the well-received report by Maurice Strong et al, *Connecting With the World*. These positions now offer an opportunity, in partnership with organizations like CCPJ, to promote and enhance free expression concerns as a more central aspect of Canadian foreign policy. The government already plays a positive role; PEN Canada has hailed its work as the lead sponsor of the resolution on the Right to Freedom of Expression at a recent UN Commission on Human Rights.

But much more remains to be done. In the words of *Connecting with the World*, "The protection of Canadian values and culture is important to our success in the world." Those values include democratic development, good governance, human rights and development. We see freedom of expression as

an indispensable component of each of these values, particularly with the qualitative change in information technology in recent years.

Here then is an opportunity where official foreign policy initiatives and programs, working in tandem with civil society, can substantially advance the cause of free expression. Moreover, speaking practically, at a time of scarce available resources, it is an area where costs are relatively modest. U

Canada brings a unique set of skills, competencies and values to its international work on freedom of expression. It has a reputation for thoughtful global positions that are unpretentious and unthreatening; federal institutions with relevant expertise: CBC, Radio Canada International, IDRC, the International Centre for Human Rights and Democratic Development, the CRTC, CIDA, Elections Canada, and others; a two-tiered broadcasting system, public and private; public policies and legal frameworks that have relevance to the situation of countries abroad; a plethora of NGO's and professional associations with the experience, commitment and know-how to promote free expression; a commitment to minority languages and cultural diversities, phenomena that are a source of great tension in many countries—the list is long indeed.

To it should be added one further item that makes it a potential player here: Canada's strength in the field of knowledge-based activities and its capacity to use knowledge for the advancement of democratic and human rights. In that sense, the need to defend and promote free expression should be understood to be a leading component of the values side, as opposed to the commercial side, of Canada's expertise in information- and knowledge-based activities, with both a rights agenda and a capacity-building agenda.

On this basis, we have identified the following issues that are relevant to the Canadian government's foreign policy and programs while involving the participation of non-governmental groups:

1. Protecting freedom of expression on the Internet.

B-branch

The Internet has become a revolutionary communications tool, history's first truly free medium. It is a unique phenomenon, different in kind from traditional broadcast mass media in that every Internet user is also a publisher with the capacity to reach millions of others at a very low cost. Its singularity lies in providing quick and inexpensive information, encouraging discussion rather than violence, and empowering ordinary citizens. In the least developed countries, this new

communication technology is providing an unprecedented means to leapfrog antiquated and inadequate communication networks. From the Canadian perspective, any international strategy to generate and disseminate knowledge is dependent on the free flow of information and, therefore, of free expression on the Net.

Perhaps not surprisingly, many regimes around the world, north and south, rich and poor, repressive and less repressive, feel threatened precisely by such unrestricted free speech. Some governments are pursuing an option that all who cherish free expression can only condemn without equivocation: attempting to reap the benefits of the information age for the market sector but to censor the Internet for the population at large—a major defeat for attempts to build a thriving civil society.

Beyond that, in a backlash against the Internet, at least 20 countries have imposed a wide range of restrictions on on-line communications, ranging from censorship of content to limitations of access. Such governments claim they want to protect children from "indecent" materials, thwart terrorists, or silence racists and hatemongers. This is not a simple matter. These may be real concerns, but in many countries, after all, child pornography and incitement to race hatred are already criminal offenses; it is not self evident why using the Internet in a criminal manner is different from using the radio or telephone. On the other hand, in practice we know such motives too often serve as a cover to legitimate other practices which clearly have as their real target the censoring of pro democracy and human rights discussions.

Canada's resolution to this dilemma may be instructive. This calls upon a country to have a constitution that explicitly guarantees the right of free speech except in carefully spelled out, extreme situations; for this purpose, Canadians are able to point to section 2 rights of our own Charter of Rights and Freedoms (see below). Canada also has an independent judiciary to which alleged violations of the Charter can be appealed. Without both the requisite constitutional guarantees and an independent judiciary, all restrictions on free speech must be resisted.

Even with these guarantees, however, those committed to free expression must be concerned that proposals to censor the Internet, whatever their ostensible motive, can lead open societies to become repressive and closed societies where political expression is constrained even further. Increasingly in such countries, free expression advocates, journalists and human rights monitors depend on the Net for communication and dissemination; Indonesia is one of many such examples. Similarly, as experience in Bosnia indicates, unrestricted use of and access to the Internet can prevent a repressive regime from silencing its opponents. At

the same time, the Internet greatly increases the ease by which citizens can access government information while it increases the opportunities to increase citizen participation in governing processes.

Moreover, the Internet allows actors in civil societies everywhere, including journalists, to interact with each other at little expense. As Net accessibility expands, not only can those in northern countries communicate with each other, so increasingly will communications between south and north expand as will those between south and south.

Canada has a clear opportunity to take a leadership role in opposing restrictions on the Internet, as it has led on many other human rights issues. Many organizations, both national and international, have made initiatives in this area a priority. These include the CCPJ itself, most of its IFEX partners, Human Rights Watch, UNESCO, and many others.

On

the other hand, at the Organization for Economic Cooperation and Development, which is probably the major international forum for debating Internet censorship at this time, the US, France and Britain all favour certain restrictions on free expression. Canada, however, represented by the Departments of Industry and Justice, appears at this time to be less sympathetic to restrictions.

Playing a central role everywhere on the side of greater freedom of expression and fewer restrictions would be an important role for Canada to take. It would maximize Canada's potential to become a major information broker. As for the net itself, its remarkable potential can only be realized if it is free. Perhaps the ideal role for Canada, therefore, is to promote an international agreement that would apply to the Internet the half-century old values enshrined in Article 19 of the Universal Declaration of Human Rights.

2. Legislation and free expression.

The question of the legal framework and legislative protection for freedom of expression is both complex and controversial; free expression groups are by no means united on the answers. Of course the question of openly repressive press laws, now being extensively introduced throughout the world from eastern/central Europe and the states of the former Soviet Union to Asia, Africa and Latin America, all in the spurious name of state security, are easy and proper to oppose as vigorously as possible. The CCPJ, through IFEX and in other ways, works with like-minded organizations to make that opposition as effective as possible. The Canadian government, which has won a reputation among human rights organizations for its

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

One other item belongs in this category. It is both appropriate and useful for countries to pass laws providing civil recourse if a media defames or injures an aggrieved party; such laws may even serve to protect journalists since if one can sue a journalist, it may be less tempting to wreak physical vengeance on him or her.

3. Training journalists: *landscapes:*

Capacity-building in the craft of journalism should be one of the priorities of developing countries. In countries where the state controls the media and uses it as a tool of propaganda, by definition questions of the rights and responsibilities of journalists, let alone the skills needed to do their job, are not an issue. Reaching out in such countries to the journalists who are fighting for free expression strikes a blow for democratization and the struggle for human rights.

Once the process of democratization has begun, as the state lifts its heavy hand from media control, journalists will soon learn that it takes more than freedom to communicate effectively; it takes skills as well. On the one hand, journalists need to be weaned away from the habit of being government propagandists; they need to learn the implications of being able to report without government intimidation. On the other hand, especially in the private sector, they must learn not to use the cloak of a free press to peddle mere gossip and rumour. Without proper training, the private press in some countries has too often succumbed to the temptation to confuse political diatribe with news. And journalists in private and public media alike need to understand the important distinctions that characterize news, current affairs, and opinion.

Training journalists abroad has been an integral part of the CCPJ as well as other Canadian organizations, helping them understand their rights and responsibilities. Often with CIDA's assistance, it has carried out this mandate by exporting Canada's expertise as communicators through direct media training as well as Internet technology. It has organized a conference bringing together government and the media in Cambodia, trained Malawians to distinguish between state and public broadcasting (see below), and helped create Peru's first freedom of expression organization, the Institute for Press and Society. Other Canadians have aided Bosnians in setting up an independent network of broadcasters against the state broadcaster, and been involved in several different assignments in South Africa.

The old cliché about giving a person a fish versus teaching her how

to fish is eminently applicable here. The model could be South Africa, where citizens were trained who would themselves run things and eventually train others. The CBC had a leadership role, demonstrating to African journalists on a newly-liberated South African Broadcasting Corporation the many aspects of the role of the media in an election campaign; this ran the full gamut of activities from actual news coverage, impartiality of coverage, the role of computers, to handling election day (or, in South Africa, election week).

This area has proved a substantial success at the levels at which it has so far operated, but the scope for expansion is great. Canadian government support for independent journalists providing training abroad would confirm, at a relatively small cost, Canada's commitment to democratization, human rights and free expression. And it is an area where we can say without false modesty that Canadians appear to be highly effective trainers. Many organizations, from journalism schools to the CBC to private media outlets, are available to participate; in fact the need to coordinate activities in this sphere, to ensure that our many resources are being used in a systematic and efficient way, will soon become pressing.

4. Distinguishing between state and public broadcasters. ✓✓

Canadians, with our long experience of the CBC/Radio Canada, understand and embrace the crucial distinctions between a state and a public broadcaster—a distinction we are also able effectively to convey abroad. There is no touchstone more indicative of a free society than its acceptance that a public broadcaster does not work for, reflect or represent the government of the day.

There are institutional manifestations of a public broadcaster that need to be understood: the choosing of its board, the independence of its board, the legislation that dictates its mandate and its responsibilities, the affirmation of its arms-length relationship from government, the regulatory apparatus (a la the CRTC) that operationalizes its mandate and assures it is carried out. All these are areas in which many Canadians—the CBC, the CRTC, the various journalists' associations, the Canadian Bar Association— have expertise that could readily be shared with countries emerging from non-democratic rule where state broadcasting has been the order of the day.

5. Training in human rights and free expression.

This is a field obviously related to, yet separate from, the general capacity development of journalists. It is one which the CCPJ takes very seriously. As managers of IFEX, the CCPJ has already put in place the world's premier freedom of expression action alert network processing almost 2000 urgent alerts each year. Through IFEX, a Developing Countries Outreach Program has been created. With small amounts of money, this Program reaches out to burgeoning human rights and freedom of expression organizations abroad to build their capacity, with equipment and training, to actively participate in their own country's development into a civil society. This too is training people to fish. After all, free media are an organic component of a vibrant civil society, and programs to build capacity in this area are a major tool in the strengthening of civil society. So instead of outsiders leading the protest when a government represses free expression, participants in civil society on the spot will be equipped to give the necessary leadership.

This work could be, and should be, undertaken on a much grander scale. There are countless emerging freedom of expression organizations across the globe that are anxious for assistance and advice. Training and equipment for extending Internet hookups would significantly increase the capacity of such groups to escalate the campaign for democracy and human rights, as well as monitoring violations when they do occur. In the end, it will be indigenous freedom of expression groups that lead to an overall change in societal values that will enshrine and protect human rights and free expression.

Many Canadians are prepared to get involved in furthering these ends. What is needed is long-term commitment to IFEX and the Developing Country Outreach Program. This means not just greater resources; it also means, for example, a program whereby IFEX alerts, calling attention to violations of freedom of expression, would automatically be transmitted to Canadian and other embassies abroad, which could then be incorporated in country analyses and programs. If the diplomatic community actively supported the IFEX world wide web site, this would be a dramatic manifestation of the effective use of knowledge in the world today on behalf of the values that Canada espouses.

6. Protecting free expression during elections. ✓

Canada, through Elections Canada, the International Centre for Human Rights and Democratic Development, and any number of NGO's, has long been involved in monitoring and providing technical assistance for the proper conduct of elections in other lands. There is every reason to expect this role to continue, and perhaps even to expand. But it would also be useful to expand the nature of the work involved to include various aspects of free expression related to elections. The International Federation of Journalists, among others, working on the basis of principles laid down by UNESCO and the Council of Europe, has spelled out what this task would entail in their useful Election Reporting Handbook.

It could include several components. One would be public education, to make it absolutely clear that there can be no such thing as a free and fair election without a free press and full freedom of expression. Second, as already implied, journalists can be trained to understand the special role and responsibilities of the media during an election campaign: issues of bias, editorial independence, equal time, and the like. Third, a monitoring function is becoming necessary in elections in a number of emerging nations, where journalists, quite predictably, have been pressured by governments to slant their reporting.

Fourth, and even more ominously, journalists have been subjected in recent years to violence and intimidation during elections in South Africa, Kenya, and Nigeria; ironically, the more courageous journalists use the Internet to get the real news out, the more at risk they become. Local journalists, supported by foreign election advisors and monitors, should call upon all political parties and national authorities to declare their support for the safe, unimpeded pursuit by journalists of their craft during elections. In fact the International Federation of Journalists, in their Election Reporting Handbook, has recommended formal guidelines for both governments and media, setting out principles for each that will allow elections to be carried out in the freest, fairest and most informed manner possible.

7. Promoting national sources of news and information.

To Canadians it is an old problem: the determination to have the Canadian story adequately reflected in the media of the day. Many emerging nations are increasingly concerned about the same problem, but whereas Canada has traditionally focussed its attention on so called cultural properties—broadcasting, magazines, films, music and the

like—less-developed countries are more troubled by the domination of outside media in the flow of news and information they receive. Virtually all the news they receive about matters outside their own boundaries comes from outside media, accountable to no one locally. Few media organizations in these countries can afford the Canadian solution to this dilemma: employing a certain number of their own correspondents, as the CBC and, to a lesser extent, CTV, does, or even paying stringers in overseas countries. As a result, most of these countries literally know about the news of the day only that which a handful of media sources in the US and Europe tell them. Initiatives such as the Canadian-sponsored WETV, to create a countervailing source of news, seem economically uncertain. The CNN view of the world, willy nilly, becomes the prevailing one.

Just as Americans consider Canadian attempts to protect and promote Canadian cultural industries as illegitimate barriers to routine commerce and possibly even violations of freedom of expression, so measures to promote and defend national or regional information flows in developing areas can be seen as restrictions on freedom. Yet we as Canadians seem determined to find a way to promote and defend our culture while not violating free expression. This pursuit will follow many courses, though it seems reasonable to expect the solution lies somewhere in the typically Canadian compromise of promoting Canadian content while providing access for Canadians to a remarkably wide range of international, especially American, media.

As we know well, such attempts have become even more difficult as technological advances, globalization of the media, and liberalized trade agreements continue apace. Restricting and controlling satellite broadcasters such as CNN and Rupert Murdoch's various outfits, for example, is technically difficult and could well lead to retribution by wealthier states and organizations such as the World Trade Organization.

Nevertheless, Canadians remain committed to some form of cultural protection, notwithstanding the obstacles, and argue that doing so by no means conflicts with freedom of expression. At the least we can offer our experience and our measures as inspiration to other countries. Whether indigenous content requirements, ownership limits, advertising regulations or tax incentives are appropriate steps in other contexts, at least they suggest directions that can be taken. More directly, perhaps, advances in information technology, and the Internet in particular, have the clear potential to enable media in developing countries to call upon entirely new sources for their foreign news coverage, providing them a diversity of sources hitherto unthinkable. At the same time, this functions, as we have noted, to empower civil societies locally while linking them internationally.

8. Other issues.

Several other issues, less developed as of the moment, provide fruitful avenues for further discussion:

→ * The role of the private sector in promoting free expression. On the one hand, there should be a shared interest among government, civil society and market sectors to have free access to information; the recent Bre-X crisis demonstrated to all sectors the value of free expression on the Internet and elsewhere. On the other hand, when Rupert Murdoch's Star satellite channel in Asia was forced to choose between China and the BBC over the latter's criticisms of human rights abuse in China, the BBC was soon enough dropped from the service.

✓ * Press councils. It is at least worth examining whether the curious Canadian institution of press councils could serve a positive freedom of expression purpose in other countries.

✓ * Open media alternatives. In Bosnia, several foreign governments, with some support from Canada's Department of Foreign Affairs, set up the Open Broadcast Network (OBN) as a direct response to the prevailing control of all local media by the government. What precedents were created here? What can we learn from the criticisms that have been made of the OBN? How far could Canada go in other situations where it would be desirable to see a pluralistic alternative to state media domination? Under what circumstances can foreign agencies intervene unilaterally in another country's affairs? This seems an area where further work would be worthwhile to determine when such intervention makes sense.

✓ * Radio Canada International. It could well be that RCI has a role to play in providing distance education for journalists abroad, particularly in disseminating freedom of expression tools. Obviously distinctions between state and public broadcasting would need to be monitored carefully. But the possibility of a collaborative effort including the CBC, the Department of Foreign Affairs and CCPJ is certainly worth exploring. Indeed, following the example of the BBC, it may well prove viable to bring journalists to Canada to study these issues directly.

part of PB Consult? ✓ * Free expression consultations. Non-governmental organizations such as CCPJ and many others, together with the Canadian Bar Association and other professional associations, have the qualifications and commitment to become NGO consultant to human rights groups around the world on issues of free expression. Is it worth taking steps to attempt to provide this service systematically on a larger-scale basis?

* International forums. Canada participates in a multitude of forums of every possible description and purpose, from NAFTA to the Commission on Human Rights to the Organization of American States to UNESCO. At the same time, CCPJ and IFEX will continue to monitor the progress of free expression around the world. Working in coordination with CCPJ and its unique, authoritative knowledge network, Canada could, virtually without cost, become the leader in pursuing freedom of expression issues, information and analyses at such forums. The practicality of this possibility is worth pursuing.

Gerald Caplan
March 31, 1997

locate!



Appendix

The Canadian Committee to Protect Journalists (CCPJ) and International Freedom of Expression eXchange (IFEX)

Founded in 1981, the Canadian Committee to Protect Journalists is a non-profit, non-governmental organization of more than 350 working journalists, editors, publishers, and media corporations working to protect and promote freedom of expression. The CCPJ operates the world's only freedom of expression and press freedom information clearing house in cooperation with similar groups from around the world. Called the International Freedom of Expression eXchange (IFEX), the Clearing House links 260 organizations in over 80 countries.

The main activity of the Clearing House is to operate an Action Alert Network that works to defend freedom of expression and the rights of journalists, writers and media organizations. Whenever a case occurs, protest information is circulated around the world to participating organizations by electronic mail. These groups, in turn, fax and email their protests to governments, inter-national organizations and others. Almost two thousand alerts are processed each year. Such concerted campaigns can be instrumental in securing the release of those imprisoned for their opinions or profession.

In 1995, IFEX launched the Developing Countries Outreach Program to support freedom of expression organizations in the developing world by helping them build links with the international freedom of expression community through IFEX. The quick and free flow of information is essential to development and crucial to effective freedom of expression work. Communications technologies are, therefore, at the heart of the Outreach Program's mission, as every day barriers to international communication are removed.

In 1996, IFEX launched the IFEX Internet Service, a searchable database World Wide Web site presenting the definitive online resource on freedom of expression throughout the world. The IFEX Internet Service can be reached at <http://www.ifex.org/>.

The CCPJ promotes press freedom in developing countries by working in partnership with local organizations on journalist training programs. In South America, CCPJ support helped the Institute for Press and Society provide human rights training for rural journalists in Peru who are occasionally targeted by both drug dealers and corrupt legal officials. The CCPJ has also worked on journalist education programs in Cambodia in partnership with local journalist associations, and in Malawi at the radio division of the Malawi Broadcasting Corporation. The CCPJ is planning new training projects in Ethiopia and Indonesia.

For more information about the Canadian Committee to Protect Journalists and the International Freedom of Expression eXchange visit the CCPJ Freedom of Expression WWW site at <http://www.web.net/ccpj/>.

*Bob Carby
Arnold Hines*

DOCS

CA1 EA752 97D26 ENG

Defending and promoting free
expression around the world

57233698

