

JRN 101B/ 103G: News Literacy

Recitation 3: The Mission of the American Press

Purpose:

- Engage students in debate over the SWIFT banking story:
 - Was it Treasonous or was it Protected by the 1st Amendment?

(Alternate topic: use the WikiLeaks materials that are contained in this folder.)

I. ORGANIZATION

- Attendance
- Quiz
- ASSIGNMENTS DUE:
 - Talking Points (at end of class, after the debate)
 - (Not due until next lecture is their reflections on *Media Debates* chapter on “War, Terrorism, and National Security” which has been up on Blackboard for a week)

II. RECAP LECTURE(S): MISSION OF THE PRESS

- Emphasize the doctrine the No Prior Restraint doctrine and historic examples cited in lecture.
- A little provocation is in order: testing the boundaries of students’ belief in free speech vs. government trustworthiness.

III. Assignments: As usual, check with Lecturer to see how they have modified assignments.

- Print out the Blank “information taxonomy” chart and bring it to lecture.
- Also, prime them for the YouTube video viewing that will follow the next lecture
- There are readings (see Blackboard to be consistent with lecture)

IV. Case-study debate: IS THE *NEW YORK TIMES* GUILTY OF TREASON in publishing the SWIFT Banking Story?

THE *TIMES* ON TRIAL

- Frame the issues and the charge
- Discuss Espionage Act of 1917 (see background material below and also emailed with this outline)
- Several ideas for how to conduct the debate are included at the bottom of this document

Debate question:

- *Was the New York Times justified in printing the material on the Swift banking operation?*

Here are some points students may mention:

The Times was right:

A check on government
Public has right to know
Freedom of the press
Public needs awareness of issues
People’s privacy violated
Showed illegal activities
No subpoenas, etc

The Times was wrong:

Helped the enemy
Exercised no restraint
National security paramount
Overstepped / not elected
Eroded support for war/President
Treason / espionage

USEFUL CONTEXT:

- Times editors considered administration's arguments multiple times.
- Similar information about this program, though not as detailed, was released by administration years before to show that it was doing something
- UN had issued report on this program, available on its Web site.
- Some in administration were troubled by this program.
- Very politically charged, so objectivity in question:
 - NYT wrong to publish: Administration, GOP, Conservatives
 - NYT right to publish: Democrats
- WSJ opposition:
 - An editorial, opinion of a conservative publication, generally pro-Bush.
- It did not indicate how what news side feels or would have done, very possibly the opposite of the editorial board.

The administration's history:

- | | |
|-------------------------------|-------------------------|
| ○ Secret CIA prisons | ○ Guantanamo |
| ○ Abu Ghraib | ○ Supreme Court rebuffs |
| ○ Torture | ○ Eavesdropping |
| ○ Weapons of mass destruction | ○ Patriot Act |

Background information

The **Espionage Act of 1917** was a United States federal law passed on June 15, 1917, shortly after the U.S. entry into World War I, during the First Red Scare. It prohibited any attempt to interfere with military operations, support America's enemies during wartime, to promote insubordination in the military, or interfere with military recruitment. In 1919, the U.S. Supreme Court unanimously ruled in *Schenck v. United States* that the act did not violate the free speech rights of those convicted under its provisions. It made it a crime:

- To convey information with intent to interfere with the operation or success of the armed forces of the United States or to promote the success of its enemies. This was punishable by death or by imprisonment for not more than 30 years.
- To convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies when the United States is at war, to cause or attempt to cause insubordination, disloyalty, mutiny, refusal of duty, in the military or naval forces of the United States, or to willfully obstruct the recruiting or enlistment service of the United States. This was punishable by a maximum fine of \$10,000 fine and up to 20 years in prison.

The Act also gave the Postmaster General authority to refuse to mail or to impound publications that he determined to be in violation of its prohibitions. The law was later extended on May 16, 1918 by the Sedition Act of 1918—actually a set of amendments to the Espionage Act—which prohibited many forms of speech, including "any disloyal, profane, scurrilous, or abusive language about the form of government of the United States...or the flag of the United States, or the uniform of the Army or Navy."

The Espionage Act is not as forceful as it once was. In 1921, Congress repealed the collective amendments referred to as the Sedition Act of 1918, which had prohibited abusive language against the US government, flag, and military uniform. The Supreme Court has in the years since *Schenck v. United States* weakened the law, which may be relevant to a discussion of prosecuting the *Times* in the 21st century. *Brandenburg v. Ohio* (1969)

found that speech would have to be responsible for “imminent lawless action,” less restrictive than “clear and present danger.” The Pentagon Papers case also gave whistleblowers, whose speech may be construed as harmful to the government and nation, more latitude.

Alternate debate topics

IN RECENT SEMESTERS: Some professors and instructors have begun to use the WikiLeaks/Bradley Manning/Julian Assange material. We caution that framing is important to keep the debate focused on First Amendment/National Security issues. Best way is probably to focus the debate on the decisions of newspapers that used WikiLeaks materials. Are THEY guilty of treason, etc.? Wiki-debaters can use these same structures to engender one of the better recitation sessions of the semester.

Other contemporary topics related to Freedom of Speech:

- SOPA/PIPA protests against internet censorship laws
- Citizens United and the limits of the First Amendment
- Should citizens be allowed to video encounters with the police? (see: <http://www.time.com/time/nation/article/0,8599,2008566,00.html>)
- Animal-rights organizations who illegally video tape conditions at slaughterhouse are engaging in domestic terrorism, according to FBI (see: <http://www.latimes.com/news/local/environment/la-me-gs-fbi-tracking-animal-videotapers-as-terrorists-20111229,0,5919114.story>)
- Obama expands crackdown on whistleblowers, targets former CIA officer John Kiriakou with disclosing classified information (see: http://www.nytimes.com/2012/01/25/us/john-kiriakous-path-from-ambitious-spy-to-federal-defendant.html?_r=1&scp=1&sq=Kiriakou&st=cse)

Ideas for how to conduct a debate/trial

The debate is one of the livelier exercises, but it can be approached in a variety of ways:

- Simply divide the class in half, have them deliberate with their groups and then debate each other.
- Appoint a third group of “jurors” that will reach a verdict after the prosecution and defense have their say. Since the jurors might feel out of the loop, it’s a good idea with this option for the instructor to circulate among the jurors, talk to them about where their sympathies lie, challenge their assumptions, see if they’re open to changing their minds.
- Some instructors have simply run a class-wide discussion of the issues at work in the story. It is up to each individual instructor to gauge the personality of his or her class and figure out which approach would be most suited to the group.
- Three Corners Style (described below)

The Questions: if time permits, debate two questions to encourage more participation

- #1 “Resolved: New York Times Publisher Arthur Sulzburger, Jr., Editor Bill Keller and reporters Eric Lichtblau, James Risen and Barclay Walsh are guilty of treason.”

- #2 “*Resolved: President George W. Bush, CIA Director Gen. Michael Hayden, FBI Director Robert Mueller and Attorney General Alberto Gonzales are guilty of illegal wiretapping.*”

Before Class:

Mark each corner of the room with one label/poster (available in this week’s emailed information):

- Strongly Agree
- Still Thinking/Can’t Decide
- Strongly Disagree

Students will arrive to class having written five talking points on each side

In Class:

- Read the Resolution/Debating Point aloud (and the applicable law, if you like) and post it where it’s visible.
- Ask students to take about 5 minutes to decide if they Agree, Disagree or Can’t Decide. Then have them move to that corner. (Since they’ve written talking points, five on each side, you can direct students to re-populate if any position is under-staffed.)
- Start the clock. Each group gets 10 minutes to discuss the reasons they strongly agree, agree, disagree, or strongly disagree. One student in each group assembles the talking points and will present to the class.
- Stand and Deliver. Each group’s representative argues the case the group put together.
- Encourage Desertion. See if any of the arguments have motivated a student to actually change their mind.
- Demand Answers. Once they have moved, ask deserters what changed their minds.
- Process. Ask students to talk about what they learned by preparing both sides of the argument and what they think were the hardest arguments to counter.
- Tie it up with a bow. Move the conversation back to Prior Restraint, The Watchdog Role and Freedom of WHOSE Press?