

Press (Freedom of the Press)

Tocqueville paid close attention to the press and even took charge, albeit without great success, of the newspaper *Le Commerce*. He was also a staunch defender of press freedom, a liberty to be preserved without condition. This position stemmed in part from his desire to align himself ideologically with Malesherbes, who, between 1758 and 1759, wrote five *Mémoires on the Book Trade* to the king, advocating for the abolition of censorship and the establishment of freedom of the press, and who would again defend this cause in his *Memoir on the Freedom of the Press* in 1788.

By "press," one then meant everything that was printed, chiefly, books. The word "press" and the expression "freedom of the press" retained that meaning, as evidenced by the sixth edition of the *Dictionnaire de l'Académie*. However, for Tocqueville, as for his contemporaries and for us today, the term refers primarily to newspapers, a matter of great political weight, as the July Ordinances of 1830, which triggered revolution, revolved around this very issue. The question of press freedom has resurfaced regularly in French society ever since.

Tocqueville unwaveringly defends the freedom of the press, even while recognizing that it inevitably creates problems:

"I admit that I do not feel for freedom of the press that complete and instinctive love which one grants to things that are sovereignly good by nature. I value it more for the evils it prevents than for the good it does."

His argument rests on two ideas, on the one hand, the impossibility of establishing meaningful censorship, since censorship is a political tool but a democratic aberration. On the other hand, in a democratic regime, the press is a good, or a lesser evil. Freedom of the press is one of the three guarantees for maintaining democracy, along with freedom of association and, much more delicately, the existence of active citizens. He puts forward three arguments against censorship: no limitation on the freedom of the press makes sense, censorship increases the resonance of censored texts, books, newspapers, and articles, and the defenders of censorship always claim to speak in the name of true liberty, of a higher freedom, yet they end up, *volens nolens*, in despotism:

"If someone were to show me, between the complete independence and total enslavement of thought, an intermediate position where I could hope to stand, I might settle there, but who will discover this intermediate position? You begin with the license of the press and proceed in an orderly fashion, what do you do? You first subject writers to juries, but the juries acquit, and what was merely the opinion of an isolated man becomes the opinion of the country. You have therefore done too much and too little, you must go further. You then hand authors over to permanent magistrates, but judges are obliged to listen before they condemn, what one might have feared to confess in a book is proclaimed with impunity in a courtroom plea, what would have been said obscurely in a narrative is thus repeated in a thousand other places. Expression is the outward form and, if I may say so, the body of thought, but it is not thought itself. Your courts seize the body, but the soul escapes them and subtly slips through their fingers. You have therefore done too much and too little, you must continue onward. You finally surrender writers to censors, very well, we are getting close. But is not the political platform still free? Then you have done nothing yet, I am mistaken, you have increased the harm."

Censorship inevitably calls democracy into question and inevitably leads to abuses of authority, limiting the freedom of the press naturally and necessarily leads to despotism. Between total freedom and despotism, there is no middle ground, therefore, the freedom of the press cannot be limited from the outside:

“In matters of the press, there is therefore truly no middle ground between servitude and license. To reap the inestimable benefits that freedom of the press ensures, one must be prepared to endure the inevitable evils it brings about. To wish to obtain the former while escaping the latter is to indulge in one of those illusions that typically deceive sick nations when, weary of struggles and exhausted by effort, they seek to make hostile opinions and opposing principles coexist on the same soil.”

Freedom of the press is particularly necessary for peoples living in democracy, democratic freedoms are intrinsically linked to freedom of the press, which is a necessary but not sufficient condition for them.

The sovereignty of the people and freedom of the press are therefore entirely correlated, censorship and universal suffrage, by contrast, are things that contradict each other and cannot long coexist within the political institutions of the same people. Among the twelve million men who live on the territory of the United States, not one has yet dared to propose restricting the freedom of the press:

“In America, as in France, freedom of the press is that extraordinary power, so strangely mixed with good and evil, that without it liberty cannot survive, and with it order can barely be maintained.”

It therefore constitutes a major safeguard of democracy against abuses of all kinds:

“In certain nations that claim to be free, each agent of power can violate the law with impunity without the country’s constitution granting the oppressed the right to seek justice. In such nations, the independence of the press must no longer be considered one of the safeguards, but the only remaining safeguard of liberty and the security of citizens. If the men who govern such nations were to speak of taking away the independence of the press, the entire people could answer them, let us prosecute your crimes before the ordinary courts, and perhaps then we would agree not to appeal to the tribunal of public opinion.”

It thus constitutes, on its own, a counter-power and, in a certain sense, an intermediate body:

“Equality isolates and weakens individuals, but the press places beside each of them a very powerful weapon that the weakest and most isolated may use. Equality takes from each individual the support of those close to him, but the press allows him to call upon all his fellow citizens and all his peers for help. The printing press hastened the progress of equality, and it is one of its best correctives. I think that men who live under aristocracies may, in a pinch, do without freedom of the press, but those who dwell in democratic lands cannot. To guarantee the personal independence of the latter, I do not rely on great political assemblies, on parliamentary prerogatives, or on the proclamation of the sovereignty of the people. All these things can be reconciled, to a certain extent, with individual servitude, but that servitude cannot be complete if the press is free. The press is, above all, the democratic instrument of liberty.”

It is what can ensure the defense of the individual against the power of the State, of public opinion, or any form of oppression, yet it is at the same time ambivalent, it can itself serve a public opinion that is hostile to freedom:

There is therefore no solution, the press is not an absolute good, it can be a relative good, or a lesser evil. It may itself become a vehicle, an agent of oppression:

“A newspaper can only survive if it reproduces a doctrine or sentiment common to a large number of people. A newspaper therefore always represents an association of which its regular readers are the members. This association may be more or less defined, more or less narrow, more or less numerous, but it exists, at least in germ form, in people's minds, by the very fact that the newspaper does not die.”

So how can we guard against the possible abuses of the press?

There exists, and can exist, no guarantee, the problem is the same as for censorship, who would impose a line of conduct on the press, and what line, in the name of what or of whom? Here again Tocqueville is Pascalian and emphasizes the uncertainty and relativity of things: “Truth on this side of the Pyrenees, error on the other...”

There should indeed be a press ethics (Tocqueville does not use the term), but it could under no circumstances come from the outside.

Could it come from the press itself? That is another problem...