



United Nations
Educational, Scientific and
Cultural Organization

FREEDOM OF
INFORMATION:

THE RIGHT TO KNOW

GREAT IS TRUTH,
AND MIGHTY
ABOVE ALL THINGS.

WORLD **PRESS**
FREEDOM DAY 2010



United Nations
Educational, Scientific and
Cultural Organization

FREEDOM OF
INFORMATION:

THE **RIGHT** TO **KNOW**

WORLD **PRESS**
FREEDOM DAY 2010

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MESSAGE BY IRINA BOKOVA

DIRECTOR-GENERAL OF UNESCO, ON THE OCCASION OF WORLD PRESS FREEDOM DAY, 3 MAY 2010

This World Press Freedom Day, whose theme is Freedom of Information, offers us an occasion to remember the importance of our right to know.

Freedom of Information is the principle that organisations and governments have a duty to share or provide ready access to information they hold, to anyone who wants it, based on the public's right to be informed.

The right to know is central for upholding other basic rights, for furthering transparency, justice and development. Hand-in-hand with the complementary notion of freedom of expression, it underpins democracy.

We may not consciously exercise our right to know. But each time we pick up a newspaper, turn on the TV or radio news, or go on the Internet, the quality of what we see or hear depends on these media having access to accurate and up to date information.

Obstacles in the way of our right to know take many forms, from a lack of resources and inadequate infrastructure to deliberate obstruction.

Far too many journalists exercise their profession in an environment where restrictions on information are the norm, where dealing with pressure, harassment intimidation or even physical assault are all in a day's work.

Last year UNESCO condemned the killing of 77 journalists. For the most part these were not war casualties but local reporters covering local stories.

I invite all those commemorating World Press Freedom Day around the globe to observe a minute of silence: to remember those whom it is too late to help; to honour the journalists who paid with their lives for our right to know.

But today let us also acknowledge the significant advances that have been made.

More and more countries around the world are adopting freedom of information legislation. This makes it easier to scrutinize government actions, and it reinforces public accountability.

Meanwhile faster and cheaper technology means that more people in the world have ready access to information from outside their immediate environment than ever before.

Now is the time for us to capitalise on these advances, by strengthening institutions, by providing the necessary training for information professionals, by fostering greater open-ness within our public sectors and greater awareness among the public.

I call on governments, civil society, the news media and individuals everywhere to join forces with UNESCO in promoting Freedom of Information all over the world.

FOREWORD BY JANIS KARKLINS

ASSISTANT DIRECTOR-GENERAL FOR COMMUNICATION AND INFORMATION, UNESCO

As the number of freedom of information laws adopted around the world multiplied in the past two decades, so did the examples of how access to public information can help people to demand accountability and responsiveness from their governments, protect and advance their rights. Underlying many of the experiences collected in this report are therefore the themes of empowerment, socio-economic development, openness, transparency, informed participation and good governance. Freedom of information is about all that. That is why it is so important for freedom of information to be guaranteed through a legal and regulatory framework in accordance with international standards. Equally relevant is for laws to be translated into practice through effective mechanisms, and fundamentally supported by an unwavering political will to implement them, a strong culture of openness in civic service, a widespread awareness about their benefits and their active use by society at large.

Sadly, the following pages also prominently feature stories bearing testimony to the threats, attacks, harassment, intimidation and murders endured by journalists, who keep an eye on those who have something to hide and inform us about it. Year after year, our celebration of press freedom is tainted by this most unfortunate element of the international freedom of expression landscape. Thus, World Press Freedom Day 2010 served not only to reflect on the global progress and remaining obstacles for freedom of information, this year's chosen theme, but also to call attention to the plight of media professionals, who of course are key actors in ensuring that the public's right to information is realized.

Participants at the Brisbane conference were reminded, through the first-hand experience shared by journalists and the accounts of media experts, about the violations to press freedom that continue to take place in different regions. Further, they observed the minute of silence called for by UNESCO's Director General, as did others across the globe, to honor media professionals who lost their lives while bravely performing their job. It is in the same spirit that this book aims to spread awareness about the importance of journalists' work, the risks many of them face on a daily basis, and the urgency of securing their safety and punishing those responsible for infringing upon their right to report free from danger.

I also hope that the contributions compiled in this publication will be material for thought on the possibilities and dilemmas posed by new technologies. As the flow of ideas and knowledge now flourishes through an unprecedented variety of channels and forms, as well as at a never-before seen pace, to the traditional attempts to control free expression one should add many emerging ones.

Along with the enhanced reach of surveillance methods and new ways of censorship, we witness growth in the amount of personal data collected by public and private sector actors. Also increasing are the concerns about the so-called trade-offs between transparency and openness, on the one hand, and security and privacy, on the other. All this has added new dimensions to the debates on freedom of expression and the related regulation, the range of issues to consider expanding together with technological progress.

Of course the digital era also means crucial changes in business models, the way in which journalism is done, the variety and quantity of actors involved in information production and dissemination. This has significant implications in terms of quality, ethics and professional standards. Moreover, it means we shall not only strive to ensure information flows freely through new media such as Internet and mobile phones, but also to expand their inclusiveness, which implies furthering access to technology and building capacities among those who are most disadvantaged or marginalized.

As we all know, the issues I briefly outlined are the matter of ongoing debates, often controversial and not easy to solve. Gathering the thoughts and experiences shared by participants at UNESCO's central celebration of World Press Freedom Day 2010, this publication aims to feed into those discussions. It also seeks to further knowledge of the topics addressed among a wide audience, stimulate new actions and forms of collaboration toward enhanced press freedom and freedom of information around the world.

The opinions expressed in this report are not necessarily those of UNESCO and do not commit the Organization. The authors are entirely responsible for the choice of the facts and the presentation of the material throughout the report.

INTRODUCTION BY PROFESSOR MICHAEL BROMLEY

**HEAD, SCHOOL OF JOURNALISM AND COMMUNICATION,
THE UNIVERSITY OF QUEENSLAND**

In April 2010 Fiji's military government proposed new media regulations stipulating the jailing of journalists for reports which did not meet with its approval, and requiring a minimum 90 per cent local ownership of all media (Dorney 2010). By June, following a sham consultation exercise, the draft decree had been written with immediate effect into Fijian law (Anon 2010a; Sayed-Khaiyum 2010). Meanwhile, the annual global conference marking World Press Freedom Day (WPDF) for 2010 was held in Australia in May with a specific focus on the Pacific region comprised of mainly small island states whose specific place in the globalized flows of information was recognized in the Brisbane Declaration which emanated from the two-day meeting. The conference theme was 'freedom of information: the right to know'. For the first time, the world event was not organized by a government, but by a university in collaboration with UNESCO. In particular, a school of journalism and communication took the lead in staging the conference. None of this was accidental.

For more than three years, press freedom in Fiji had been under increasing assault with journalists and editors threatened, transmitters turned off and military censors sitting in newsrooms (Anon 2010b; Committee to Protect Journalists 2010, 151; Scott 2010). At the latest audit (in 2009) Fiji ranked 152 out of 175 countries in the Reporters Without Borders (RSF) press freedom index.¹ In another measure, Freedom House (2010) listed Fiji at joint 110 out of 196 countries. Yet as recently as 2005 Fiji had been ranked equal 60 out of 167 by RSF.² Nevertheless, Fiji after 2006 did not stand as a single proxy for the entire region where disparities in freedom of the press were evident over both space and time, and were not dissimilar from those of the world as a whole. The Freedom House data for 2009 indicated that 35 per cent of Asia-Pacific countries were classed as having media which were not free, compared to 33 per cent globally; 27 per cent where the media were partly free (31 per cent), and 38 per cent had free media (36 per cent) (Freedom House 2009).

At the same time, the nature of much of the region continued to militate against, rather than facilitate, free flows of information:

Most Pacific Islanders, particularly those on lower incomes, have little or no access to newspapers or journals, and few, if any, books. Radio is widespread, but even it is not available to many rural families. Television is mainly confined to towns and their surrounds... DVDs are a little further spread, but again do not reach hundreds of thousands of rural dwellers at all regularly. ... The internet is very much for the elite... (Crocombe 2008, 23-4)

Such an environment of sparsity, characterized, too, by 'very small populations' and 'under-developed communications infrastructure', was highly vulnerable to disruption. From the mid-1990s, ... media in the Pacific Islands have faced a range of challenges affecting their development and operation. Internal strife, state control and the chronic problems of poor working conditions and lack of training for journalists have been some of the key issues of concern. Small market size, diversity of languages and people, as well as low levels of literacy, have all impacted... (Papoutsaki and Harris 2008, 4)

Simple aggregates of data masked considerable variations as well from country to country in the larger functional region of Oceania, embracing New Zealand and Australia which ranked joint 13th and 16th respectively in the RSF 2009 press freedom list. Similarly, while both Australia and New Zealand enacted right-to-know or freedom of information Acts, the only other member of the 16-State Pacific Islands Forum with such legislation in 2010 was The Cook Islands. Consequently, Australia and New Zealand were drawn into aid projects in support of 'media and communications in the Pacific' (Molnar 2008, 34). Robie (2008a, 62) estimated that over a period of about 30 years from the 1970s approximately \$AU10m was given in aid for media training and education alone. This led in turn to criticisms that, rather than developing their own distinctive media, the Pacific island States tended to imitate Western models (Robie 2008b, 112-13). ICTs, too, opened up island communities to 'a massive flow of

1. http://en.rsfor.org/spip.php?page=classement&id_rubrique=1001

2. <http://en.rsfor.org/press-freedom-index-2005,549.html>

information and entertainment from the Western world' with almost no counter-flow (Crocombe 2008, 23). On the other hand, dominant island elites who resisted change and democratization feared media which adopted Fourth Estate principles of journalistic investigation and holding power to account (Singh and Prakesh 2008, 131). In addition, contemporary communications technologies in some instances underpinned new Asia-Pacific networks, 'invigorated national debate[s]' and allowed active citizen expression (Crocombe 2008, 30-1; Harris 2008, 195; Singh and Prakash 2008, 125). Furthermore, Hayes (2008, 270) argued that examples could be found of indigenous journalists continuing through the modern media the storytelling traditions of island societies and cultures.

These coincidences in the Pacific region of the centrality of education and training, the development of civil societies, debates over media ideals, the introduction of ICTs and the pursuit of basic democratic freedoms and human rights, set against a backdrop of tensions between the modern and the traditional and the local and the global, made it especially apposite that the 2010 WPDF conference should be held at The University of Queensland (UQ), one of Australia's foremost higher education institutions celebrating its centenary, in Brisbane, a city with strong geographical and cultural ties to the wider Pacific.

The University and its School of Journalism and Communication organized a complementary program of events which also reflected in part the Pacific theme, including talks by the editor of Cook Islands News and the director of the Pacific Media Centre (Robie 2010; Woods 2010); an Asia-Pacific roundtable discussion in a masterclass on freedom of information laws with speakers from Papua New Guinea, Nauru, Vanuatu, The Cook Islands, Solomon Islands, Palau, Indonesia, Thailand and Timor-Leste, and the first ever meeting of Pacific delegates in news journalism, advocacy and media studies from 12 nations as part of Women Advancing a Vision of Empowerment (WAVE) sponsored by the Australian government's overseas aid agency, AusAID. The substantive conference agenda included a session on 'Threats to media freedom and freedom of information in the South Pacific', and delegates from the Pacific contributed to a number of other sessions.

Moreover, for the first time to my knowledge the WPDF event was available in 'real time' around the world for free through digital technologies – using worldwide web streaming and a range of social media, as well as an innovative 'radio in a box' mobile transmitter provided by UNESCO. This access was not effected by media conglomerates but by the students and staff of the UQ School of Journalism and Communication; not by someone seeking market advantage but by people who shared the purpose of exposing, as it were, the event to global scrutiny.

And the participants gave their intellectual property freely, too, for dissemination, examination and discussion. Of course it would be naïve to suggest that this was an unproblematical answer to the troubling issue of sustaining a free press. Intellectual capital, technical and critical capacity, basic material rights and much more still stand in the way of a global free press.

But when we think of a free press in the twenty-first century, I believe we should now think primarily of journalists and journalism. We should think of the content which Rupert Murdoch says is no longer king but 'emperor', not of the vessels that carry it, and certainly not of the diminishing number of corporate or neo-corporate entities driven by share values, or Statal bodies, which claim ownership over it. If the mainstream media are in trouble, then they should not be permitted to bring journalism into strife, too. That is not to say that journalism does not have its own problems: it does – and many of them are of its own making. But a free press is not a press detached from government, and then put in the hands of the government's cronies. Or a corporate press which seeks accommodation with governments to protect its market interests. A free press is a public good.

Education bears a heavy responsibility for promoting this and for facilitating the development of new generations of both journalists and users of journalism. We have to acknowledge and work with the collapsing distinction between journalists and their so-called audiences. In that, we can take a lead from participatory communication. We are now in the era of participatory journalism, a participatory press. That may be the best guarantee yet of a free press. But we also need models of exemplary practice, of journalists doing honest journalism such as the 14 winners of the UNESCO/Guillermo Cano World Press Freedom Prize (1997-2010).

WPDF is truly a global marker. In 2010 it occasioned more or less simultaneous events in at least 50 different countries in addition to Australia.³ By no means were these confined to protests in the so-called unfree world, but included concerns that press freedoms were being curtailed in places where such freedoms were assumed. More than 90 States have enacted freedom of information legislation and another 50-plus have laws under consideration although not always very actively (Article 19 2010; Vleugels 2010, 6-7 & 24). This suggested a possible continuation of a burgeoning in legislation spreading beyond Western States which began in the mid-1990s (Banisar 2006, 6). At the same time, anxieties have been raised about the lack of vigour of freedom of information in some countries with traditions of and/or commitments to

3. For an indicative list see <http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/previous-celebrations/2010/other-activities/>

supposedly more open-ness, including the USA, Australia, South Africa, India and the UK (Anon 2010c; Article 19 2010; Gray 2007; Moss 2007; Woodbury 2003), and new encroachments on press freedoms in places like Austria, Italy, Germany and Greece as well as America (Anon 2008a and b; Behmer 2009, 23; Committee to Protect Journalists 2010, 95-6; Czepek, Hellwig and Nowak 2009, 9; Trionfi 2010). In the greater Asia-Pacific region, too, there were abuses evident in countries with ostensibly free media (Alampay and Amurao 2010). The most extreme hazard was evident across more than half of the world: the Pakistan Federal Union of Journalists reported that in just over a decade from 2000 to September 2010 media personnel were killed while undertaking assignments in 106 of 203 countries (Naz 2010).

Threats to press freedoms could occur almost anywhere. They arose from otherwise antagonistic sources which

often made 'strange bedfellows' unified only in attempting to erode press freedoms (Rønning 2009, 10). The potential costs of their success were evident: 'A free media sector is widely accepted in literature as being beneficial to social and economic development. It raises government accountability and transparency, national awareness, and promotes social cooperation' (Sobel, Dutta and Roy 2010, 141). Moreover, press freedom is contagious – it spreads across borders. Unfortunately, the obverse also applies: unfree media in one country lead to the deterioration of press freedom in its neighbours (Sobel, Dutta and Roy 2010, 142).

It is important, therefore, just to maintain press freedom without necessarily having to advance it. WPFD 2010 in Brisbane was as much about celebrating the evident benefits of free and fearless journalism as it was about regretting the threats it faces.

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CONCEPT NOTE

WORLD PRESS FREEDOM DAY, 3 MAY 2010 FREEDOM OF INFORMATION: THE RIGHT TO KNOW

World Press Freedom Day is celebrated across the globe every May 3rd, representing an opportunity to commemorate the fundamental principles of press freedom and to pay solemn tribute to journalists who have lost their lives in the line of duty. Recalling Article 19 of the Universal Declaration of Human Rights¹, which states that the fundamental right of freedom of expression encompasses the freedom to “to seek, receive and impart information and ideas through any media and regardless of frontiers,” UNESCO’s celebration of World Press Freedom Day 2010 will highlight the importance of freedom of information as an integral part of freedom of expression and its contribution to democratic governance. It will foster reflection and exchange of ideas on freedom of information to advance empowerment, transparency, accountability and the fight against corruption, as well as on the key obstacles that the effective exercise of the right to know faces in today’s digitalized world. The occasion will also serve to call on member states to reaffirm and implement their international commitments to guarantee and promote freedom of information and to remind civil society organizations, other relevant stakeholders, and the news media in particular, of their central part in furthering it.

1. Adopted by the United Nations on 10 December 1948.

FREEDOM OF INFORMATION: THE RIGHT TO KNOW

UNESCO is the UN agency mandated to promote freedom of expression and its corollary, freedom of the press. The UNESCO Constitution calls on the organization to foster the “free exchange of ideas and knowledge” and the “free flow of ideas by word and image.” Freedom of expression and freedom of the press are thus among the guiding principles of UNESCO, and freedom of information may be deemed to be part and parcel of the Organization’s core mandate to support them.

Democratic participation depends on people who are well-informed, this being a pre-condition for their effective monitoring and assessment of their leaders’ performance, as well as for their meaningful engagement in public debate and decision-making processes that impact their lives. Freedom of information therefore represents an important instrument for the public to hold government and other actors accountable, and contributes to deter secretiveness, corrupt practices and wrong doing. Better information flows can also enhance government efficiency and responsiveness, while strengthening citizens’ trust in those who govern them. Freedom of information is often associated with well-functioning markets and improvements in investment climates. For all the above reasons, it has been increasingly acknowledged as a key to democracy and socio-economic development.

Freedom of information may be interpreted narrowly as the right to access information held by public bodies or, more broadly, as including access to and circulation of information held by other actors. It is intrinsically linked to the basic human right of freedom of expression. Freedom of information is therefore also fundamentally connected to press freedom, representing a crucial element to enable media to strengthen democratization, good governance and human development through its roles as a “watch-dog over the abuse of power (promoting accountability and transparency), as a civic forum for political debate (facilitating informed electoral choices), and as an agenda-setter for policymakers (strengthening government responsiveness to social problems).”² In turn, complete realization of the right to know cannot take place without a free, independent, plural, ethical and professional press.

The notion of freedom of information was recognized by the United Nations as early as in 1946,³ and has long been enshrined as part of the basic human right of freedom

of expression in major international instruments like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights⁴ and the American Convention on Human Rights.⁵ More than two centuries have passed since adoption of the first freedom of information (FOI) law.⁶ There has much more recently been an unparalleled increase in the international recognition of freedom of information as a right included under freedom of expression, thoroughly addressed in the revised edition of Toby Mendel’s book *Freedom of Information: A Comparative Legal Survey* and in his regionally focused contribution, *The right to information in Latin America: A comparative legal survey*.⁷ While in 1990 there were 13 countries with national FOI laws, currently this legislation exists in more than 80, with another 20 to 30 countries actively considering its introduction. The number of national constitutions and High Court rulings guaranteeing freedom of information has also grown. At the global and regional levels, an increasing body of declarations, treaties and jurisprudence has specifically alluded to freedom of information as a fundamental corollary of freedom of expression.⁸

Despite significant progress and emergence of a world community of advocates for freedom of information, there are still many factors constraining advance toward fully achieving its promise to empower individuals and further accountability, transparency and the fight against corruption. This paper reviews some of the main issues and challenges, stressing the contribution of traditional news media and information and communication technologies (ICTs) in facing them.

4. Adopted by the United Nations on 16 December 1966.

5. Adopted by the Inter-American Specialized Conference on Human Rights on 22 November 1969.

6. Sweden’s 1766 Freedom of the Press Act.

7. Mendel (2008). *Freedom of information: A comparative legal survey* (2 ed.). Paris: UNESCO; and Mendel, T. (2009). *The right to information in Latin America: A comparative legal survey*. Paris: UNESCO.

8. Consider, for instance, the individual and joint statements by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur for Freedom of Expression and the African Commission Special Rapporteur on Freedom of Expression. In addition, there is an increasing number of regional covenants consecrating freedom of information and international covenants promoting it within specific sectors or as part of the broader fight against corruption; and an international court’s ruling has for the first time backed it as an aspect of freedom of expression (Inter-American Court of Human Rights, *Case of Claude Reyes and Others vs. Chile*, 19 September, 2006) (For details on all the above see Mendel 2008 & 2009, *supra* note 7). Further, the recognition of the right to know underlies the important advances related to the information disclosure policies of multilateral financial institutions and international agencies, such as the World Bank’s latest review, in 2009, of its previously existing one.

2. Norris, P. (2006). *The role of the free press in promoting democratization, good governance, and human development*. Paper presented at UNESCO’s World Press Freedom Day 2006: “Media, Development, and Poverty Eradication”, Colombo, Sri Lanka, 1-2 May, 2006. Retrieved on 5 January 2009, from: http://portal.unesco.org/ci/en/ev.php-URL_ID=21899&URL_DO=DO_TOPIC&URL_SECTION=201.html; p. 4.

3. See Declaration 59 (1), adopted during the first session of the UN’s General Assembly, on 14 December 1946.

FULL ACHIEVEMENT OF FREEDOM OF INFORMATION STILL FACES MANY OBSTACLES...

These shortcomings illustrate that it is not enough to adopt an FOI law to guarantee the right to know, if governments are not equipped to provide timely responses to requests or proactively to make key categories of information available. This is where efforts and policies to build capacity of state institutions, implement effective information management systems, adequately keep records and progressively digitize and archive existing information are called for, along with creation of adequate enforcement and monitoring mechanisms and allocation of necessary financial and well-trained human resources. Nevertheless, obstacles to the right to know do not merely stem from lack of capacity. Perhaps the greatest challenge of all is the shift from a culture of secrecy to one of transparency. This entails a fundamental change in mindsets of politicians and bureaucrats, as well as building public awareness to encourage active exercise of the right to know.

Many countries have yet to adopt FOI legislation in accord with international standards. Some where FOI laws exist have experienced retreats in previous progress including legal amendments that entail the risk of curbing the right to know. Freedom of information seems to involve considerable obstacles at the local level in many countries, while efforts to advance it have not sufficiently expanded beyond the executive branch in others. Implementation challenges show that the enactment of an FOI law must be accompanied by efforts at least strenuous to ensure its potential is realized.

FREEDOM OF INFORMATION LAWS AND THE NEWS MEDIA

An FOI law is a key component of an enabling environment for the news media, which are undermined if they cannot access government-held information. Conversely, even with an FOI law, public right to know cannot be effective without an independent, free press to disseminate information. Adoption of freedom of information legislation does not necessarily promote freedom of expression and freedom of the press. There are examples of bad FOI laws that actually reinforce secretiveness.

The news media have often played an important part in advocating FOI laws. But some journalists may oppose FOI legislation for fear of losing ground as privileged providers of information that they can find by other means. They may also think the potential benefits of an FOI law would

be outweighed by FOI request processing times (particularly since, according to some accounts, requests presented by journalists appear to be delayed on purpose in certain cases),⁹ as well as often time-consuming appeals processes. Many journalists have in fact made significant use of FOI laws, finding them especially relevant for investigative journalism. Besides journalists themselves, the positions of media outlet owners toward freedom of information, and the level of ownership independence and concentration are pivotal. If media outlets are strongly linked to government and the latter opposes FOI reform, then outlet owners are unlikely to support it, or to allow publishing of stories based on FOI requests that negatively portray government. Conversely, owners of more independent media outlets may encourage journalists to support approval of FOI legislation and use of it after its enactment.

FOOD FOR THOUGHT

- Setting-up adequate mechanisms for access to public information and its proactive disclosure, as well as related enforcement, record-keeping and archiving (backed by funding and human resources needed for them to work) is central to successful implementation of FOI laws. However, these could still be hindered if a culture of secrecy continues to prevail. What steps could be taken to encourage a shift toward a culture of transparency?
- Post-9/11, heightened national security concerns have come to the fore in debates of exceptions. Such exceptions are linked to sensitive matters legitimately justifying stricter controls, yet they can also lend themselves to abuse. How can this issue be addressed?
- How can news media involvement in FOI advocacy efforts positively contribute to adoption and quality of FOI legislation? If media actors lead an FOI movement, how can they ensure broad public support, countering the false idea that FOI mainly concerns the press?
- How can news media support effective implementation, enforcement and monitoring of an FOI law? How can the media help create demand and promote direct public exercise of the right to know?
- How can the work of journalists benefit from FOI laws? What skills do journalists need to take advantage of FOI legislation?

9. See Hayes, J. (2009) *A Shock to the System: Journalism, Government and the Freedom of Information Act 2000. Working Paper*, The Reuters Institute for the Study of Journalism, University of Oxford; pp. 32-35.

THEME 2

FREEDOM OF INFORMATION AS A TOOL FOR EMPOWERMENT: ENABLING PROTECTION AND ACHIEVEMENT OF OTHER RIGHTS

A fundamental premise for promotion of freedom of information is the tangible impact that the right to know can have on people's lives, by facilitating the fulfillment of other rights. Timely access to information empowers people by allowing them to participate in an informed way in decisions that affect them, **while also holding governments and others accountable**. It enables individuals to learn about their rights and so exercise them and act against their infringement. Free flows of information can also help uncover the misuse of funds that should be allocated for public benefit and positively impact on the quality of delivery. There are indeed success stories to illustrate how this has worked for many people.¹⁰ It is also clear that vital information does not reach the disadvantaged in many cases. For more widespread empowerment results through the right to know, there is a pressing need to foster information demand by the public, and particularly by the poor and vulnerable, women, youth and other groups that may suffer disproportionately from lack of information access.

News media can help build awareness of the right to know and its benefits, and disseminate information related to essential matters such as access to public services, social development programs, income-generating activities and protection against domestic abuse, among others. Further, media can allow people to voice dissatisfaction, channel demands for accountability and responsiveness, and provide ways to participate in public debate. The role of community media enhanced by ICTs is particularly relevant in reaching the marginalized, especially those in areas not usually served by private commercial media.

The significant role that the news media can have in advancing the right to know and empowerment presupposes that users of information channeled through them need to be equipped with sufficient capacity to critically receive it, assess it and use it. Thus, information and media literacy is an important pre-requisite. It provides people with skills to analytically interpret and engage with media content, and permits their learning on how to use key instruments facilitating freedom of information today.

groups, civil society practitioners, among others). How can it be spread so that the right to know is exercised by those most in need of it? How can challenges related to literacy, lack of access to technology, remoteness, and language barriers be addressed? What should be the role of government, researchers, academics and civil society in fostering information demand? In particular, how can the media help in this?

- Freedom of information seems to find particular obstacles at the local level, where the most significant decisions and actions for individuals often take place. What steps can be taken to reverse this trend? What part can the media play in these efforts?
- What abilities need to be developed among the public so that information accessed through news media significantly furthers their empowerment? What kind of actions can be promoted to that effect, as well as to foster a widespread understanding and use of tools that facilitate FOI?
- The potential of information can be hampered if people cannot act upon it. How can media contribute to facilitating people's capacity to act based on newly accessed information?
- How can government, media and civil society organizations ensure that the information they disclose or disseminate reflects people's needs?
- NGOs can be an important source of information of relevance to individuals' lives, and of interest to journalists. These organizations often request information through FOI laws themselves. How can media partner with them to help disseminate such information? What kind of capacity can be fostered among NGOs so that they may present information in ways that are appealing for media to publish it?

FOOD FOR THOUGHT

- Demand for information held by public bodies is most often concentrated in a few groups (researchers, businesses, government officials, organized interest

10. See Article XIX & ADC (2007) *Access to Information: An Instrumental Right for Empowerment*, London; and Daruwala, M. & Nayak, V. (Eds.) (2007) *Our Rights Our Information. Empowering People to Demand Rights Through Knowledge*, CHRI.

Freedom of information can contribute to government openness and accountability, and help prevent and combat corruption, thereby enhancing good governance. Yet freedom of information laws are not in themselves enough to achieve such goals, which also depend on broader elements of governance (for example, the level of independence between the different branches of government and how they interact), the existence of other laws that may curtail or guarantee freedom of expression and information, and on people's values, practices and attitudes, among other factors. Another key factor is the existence of a press that is plural and independent of government and powerful commercial interests, which provides information that individuals need to hold government accountable.

For news media to promote transparency and accountability, FOI laws can be a critical tool. Also key is the safety of journalists and the protection of their sources.¹¹ Of great help to the media's watchdog role, and relevant to fighting corruption in general, are laws guaranteeing safety of whistleblowers. The same holds for other provisions to foster openness, like those related to disclosure of public officials' assets, information about political parties and lobbying, or which mandate open government meetings. Detrimental to the media's potential contribution are practices such as discriminatory use of advertising as a means of control, punitive taxation, concentration of media ownership, penal defamation laws, licensing requirements, abusive state secret acts, etc.

There is widespread recognition of the need to keep an eye on the watchdog, demanding accountability by the press itself. Promotion of professional, accurate and ethical reporting therefore becomes key, and may be enhanced by training journalists, undertaking media monitoring efforts, voluntary codes of practice and other mechanisms for self-regulation, for example. Finally, as mentioned elsewhere in this note, the development of information and media literacy, allowing the public to be more than passive recipients of messages channeled by the press, is also a relevant element of an accountability framework.

FOOD FOR THOUGHT

- What elements need to be in place for FOI laws and others regulating disclosure of certain types of information to effectively lead to accountability? How do these transparency instruments interact/feed into each other?
- What are the conditions for the media's positive impact in terms of transparency, accountability and the fight against corruption?
- What does the achievement of the right to know imply in terms of accountability by the media?
- What elements characterize a good whistleblower law and under which conditions is one likely to work effectively?

11. Banisar writes that "The right of access to information both limits and is limited by state secrets laws; excessive state secrets laws often lead to the leaking of documents which necessitates the protection of sources laws while an open system based on access to information limits the needs for leaks and protection of sources." In Banisar, D. (2007) *Legal Protections and Barriers on the Right to Information, State Secrets and Protection of Sources in OSCE Participating States*. London: Privacy International; p. 3.

ICTs have substantially changed the media landscape, and information flows in general. For governments, ICTs offer a means to enable freedom of information, for example by disclosing information and managing individual information requests through E-governance. ICTs also entail the risk of further marginalizing those who lack access to technology or technical skills. They therefore underline the need to bridge the digital and knowledge divide, to ensure that they do not increase inequality but instead foster empowerment and citizen participation, social and human development, transparency and accountability, along with government effectiveness. ICTs have also notably increased governments' **surveillance power**, raising new concerns over the difficulty of guaranteeing protection of journalists' confidential sources, as well as for gathering and handling personal information.¹²

Much debate has been generated around ICTs' impact on the shape and dynamics of the media environment. To begin with, they carry the potential of reaching more people, informing them, promoting and channelling their participation. Moreover, ICTs may facilitate the coverage of a wider range of topics, the representation of a broader diversity of views, an unprecedented level of engagement by ordinary people in news production and innovative forms of interaction between them and the media, as well as enhanced transparency and accountability. Despite these newly opened possibilities, some views focus on the threats posed by the advance of ICTs and new media, the most pessimistic even referring to journalism approaching its end. In this regard, among other often cited issues are for instance the break-down of traditional business models, the diminishing advertising revenues and increasing economic pressures, as well as concerns related to information overload and poorer accuracy, professionalism and quality in reporting.

FOOD FOR THOUGHT:

- How can the digital and knowledge divide be addressed, to ensure that ICTs facilitate freedom of information and its benefits in terms of empowerment, transparency and public accountability?
- Do the opportunities that ICTs represent for the press outweigh the threats? How can the media take advantage of the former and respond to the latter?

- How can the protection of journalists' sources be ensured in today's world, against the backdrop of the growing surveillance facilitated by ICTs?
- How can the need for government transparency and openness be properly balanced with the protection of sensitive information?
- What opportunities and risks do ICTs represent for the protection of the right to privacy?

IN CONCLUSION

Challenges include recognition of the need to adopt laws for effectively guaranteeing freedom of information in many countries. Where an FOI law exists, adequate information management and proactive disclosure processes must be put in place, while building capacity and allocating the human and financial resources to operate them successfully. Promotion of a change of mindsets in the public sector is just as crucial, and educating the public on the right to know, so as to ensure empowerment. There is a need to prevent arbitrary use of exceptions, obstacles at the local level, and a freedom of information regime's backsliding, along with supporting expansion of freedom of information beyond the executive branch of government. Further, securing the conditions that are conducive for FOI laws and other legal instruments to cultivate openness and permit the press to report freely on government is central in promoting transparency and combating corruption. Fostering accountability by the news media themselves is also needed, along with the development of individuals' information and media literacy.

12. Banisar, D. (2007), *Journalists, Sources and Surveillance*, World Association of Newspapers. Retrieved online on 10 January 2009, from: <http://www.wan-press.org/3may/2007/articles.php?id=458&lang=en>; and Banisar (2007), *supra* note 12.

WELCOME ADDRESS BY

MAURIE MCNARN AO, ACTING VICE-CHANCELLOR AND EXECUTIVE DIRECTOR (OPERATIONS), THE UNIVERSITY OF QUEENSLAND

On behalf of the University of Queensland, I would like to thank the Nunukul Yuggera people for their splendid welcome today and, in a spirit of reconciliation, I acknowledge the traditional owners of the place where we meet and also pay my respects to elders, past and present.

The University of Queensland is extremely proud to host the first UNESCO World Press Freedom Day in the Pacific. Our Vice-Chancellor, Dr. Paul Greenfield, regrets that he is unable to be present today as he is overseas. However, it is nice to know that Associate Professor Martin Hadlow, who did so much work preparing this conference, is able to listen to this from his hospital bed through the simulcast that is going out today.

This event is of great significance to the University for a number of reasons, not the least being that 2010 is UQ's Centenary year. We also take our role in promoting a global exchange of knowledge very seriously and the professional ethos of the delegates to this gathering aligns with our commitment to academic freedom and open debate.

In fact, the University of Queensland has a long association with journalism in Australia and in the many nations where our graduates have built careers. UQ was the first Australian University to introduce scholarship to journalism in 1921 and it has been taught here for all but eleven of our first one hundred years.

Some of the most distinguished of UQ's 186,000 alumni from 150 countries have made their mark in the media and continue to do so. Moreover, the theme of your event, *Freedom of Information: the Right to Know*, is a perfect fit for a series of *Centenary Orations* being presented free to the public this year, with welcome and skilful promotion by the Australian media, including our Centenary partners, including the Australian Broadcasting Corporation and *The Courier-Mail*.

Already this year, an extensive 'live' audience and consumers of broadcast, print and online media have enjoyed *Orations* by the Governor of Queensland, Her Excellency Dr. Penelope Wensley, who we are pleased could join us again today, Professor the Honourable Gareth Evans,

a former Australian Government Minister, who is now co-chair of the International Commission on Nuclear Non-Proliferation and Disarmament, Dr. Tony Haymet, Director of the Scripps Institution of Oceanography in California and Mr. Jack Manning Bancroft, an inspiring young advocate for indigenous education. Jack's message about 'education and opportunity' would have had particular resonance with the Indigenous Voice Forum held yesterday as part of World Press Freedom Day. And, in the coming months, we look forward to other Orations from renowned intellectuals, including Professor Jim Bell, an astronomer and planetary scientist who has contributed to many NASA robotic space programs, and Professor Michael Stratton, a leading UK based cancer researcher.

However, today it must be said that Mrs. Bokova's *Centenary Oration* during her inaugural visit to Australia as UNESCO's Director-General has, in particular, been keenly anticipated. We look forward to her *Oration*. As Director-General of UNESCO, she is entrusted with the mandate of defending the freedom of media, a monumental challenge in a world where the shackles on expression are far too commonplace and, increasingly, in some countries, journalists are targeted. I'm very conscious that some of the delegates live and breathe this threat every day.

As the program indicates, there are people here today who have been imprisoned and their organisations shut-down, or who know of colleagues who have been slain, all because of a commitment to reveal the truth.

In my personal experience, some of the most courageous and ethical people I have met and dealt with in some of the more difficult areas of our planet have been journalists committed to reporting the truth. And, in particular, for local journalists, I have the greatest respect because they could not simply get on a plane, like me, and return home at some stage. The threat to them, and their families, was constant and enduring.

The encouragement I take from the roll-call of delegates, is that esteemed professionals from all over the world support UNESCO's mandate and will lend their influence to prosecute the case for media freedom. So, while it is my pleasure to welcome every delegate, I give a particular

acknowledgement to those who work in settings where your vocation makes you a target.

You want outcomes, so I know you will need no encouragement and take full advantage of this opportunity to share your stories, insights and to learn from your peers and to develop new and innovative strategies for exposing the facts.

I am drawn to an inscription on one of our most iconic sandstone buildings at the University, the Forgan Smith, which reads *Great is Truth and Mighty above All Things*.

The University of Queensland is a place where you, your ideas and your passion will always be welcome.

On behalf of the University, I welcome the conference delegates and, in particular, our speaker, Mrs. Bokova, to the University on World Press Freedom Day. We are most grateful for your attendance and contributions. Thank you and welcome to The University of Queensland.

WELCOME ADDRESS BY

CAMERON DICK MP ATTORNEY-GENERAL AND MINISTER FOR INDUSTRIAL RELATIONS STATE GOVERNMENT OF QUEENSLAND

■ INTRODUCTION

It is my very pleasant duty this morning to welcome you all – on this brilliant Brisbane morning – to Queensland and to Australia, especially those who are visiting here for the first time.

I am here today on behalf of the Queensland Premier, the Honourable Anna Bligh, who regrets that she was unable to be here but has asked me to pass on her warmest welcome to you.

Queensland is delighted to be hosting this very important international conference, and the Premier sends her very best wishes for your discussions and deliberations.

■ PRESS FREEDOM

Freedom of the press, like freedom of speech and even freedom of thought, cannot be taken for granted.

Indeed, they are in short supply in many parts of the world even today.

These freedoms, which are intertwined, require constant vigilance and defence, because they are under constant threat of erosion or removal in so many places.

History tells us that even in democracies, these freedoms have been threatened – going back even as far as Classical Athens, where Socrates was executed for ridiculing the gods.

Even in Athens, the cradle of democracy, freedom was not safe.

The links between freedom of speech and freedom of the press had their genesis in the 15th century when Gutenberg invented the printing press, which made the written word accessible to a much wider audience than ever before.

It wasn't long before the press and movable type had spread throughout Europe – with William Caxton, for instance, setting up England's first printing works in London in 1476.

A few decades later, Martin Luther posted his 95 Theses on the All Saints Church at Wittenberg, protesting against what he regarded as corruptions within the church.

That event unleashed the Protestant Reformation and the political upheaval that consumed Europe for almost two hundred years.

The combination of these two events – the questioning of conventional religious doctrine and easier access to the written word – created a situation that society had not had to deal with previously.

For what was probably the first time in history, there was a growing awareness within the general population that they had a right to more information.

Not surprisingly, this was a situation that immediately prompted governments and organisations of the Establishment to suppress the pamphlets and newsletters that were the forerunners of the first newspapers.

So for almost as long as the printed word has been available, there has been tension between governments and publishers as to how far written information could go.

■ RIGHT TO INFORMATION ACT

Fast forward to the 21st century and the public's demand to have access to information is as strong as ever.

It is a demand that is certainly recognised here in Queensland.

Last year, the Queensland Parliament passed the *Right to Information Act 2009*.

This Act, which replaced our state's Freedom of Information Act, has adopted a different approach to the release of government information to the public.

Our new approach encourages government agencies to find reasons to release information, rather than reasons to withhold it.

Under the new Act, the public has a statutory right to access information held by the government.

Furthermore, the government has adopted a "push" model for access to information, meaning that information should be actively and routinely pushed into the public domain.

The Queensland Act features several extremely progressive elements, including:

- a reduction in the number of exemptions for Cabinet material
- the expansion of the role of the Information Commissioner, who I know will be attending this conference, and
- the shortening of the Cabinet secrecy provisions from 30 years to 20.

This new regime has certainly given the public – including the press – greater access to government documents.

Rarely does a week go by now when Queensland media outlets don't publish or broadcast a right-to-information "exclusive" – reporting material that they have received as a result of the new information laws.

While these reports occasionally result in some uncomfortable moments for the government, they are a necessary and vital part of a society where freedom of the press is valued, cherished and supported.

They simply reflect the rights and expectations of a modern, democratic society in the 21st century.

■ CHALLENGES

But there are numerous challenges confronting our right to know.

We are still coming to terms with the role and impact of the Internet on the dissemination of information.

The globalisation of the news media and the compression of the news cycle also poses a multitude of questions about the quality, timeliness and accuracy of the information available to us.

And there are still threats across the globe to the work done by media organisations – tragically highlighted by the fact that more than 1000 journalists have been killed while doing their job in the past dozen years.

For those of us who live in mature democracies, where so many people often take for granted the liberties and freedoms that others yearn for, this figure is a stark and tragic reminder of the preciousness, and fragility, of those freedoms.

Those of us who have the privilege to engage in public discourse each day; in great public debates, each day; must

not bear false witness to those who struggle mightily for that same chance, for that same opportunity.

Let the memory of those who have struggled in vain to seek the truth, and have been denied that right – and, on many occasions, have been persecuted, tortured, imprisoned and killed in that struggle – be the lodestar for those of us who live in true, open and democratic societies.

But these challenges should not deter us – they should only make us more determined to defend the freedoms that can often be taken for granted.

The virtues of a free press were extolled by former US President John F Kennedy. He was a man who loved the written and spoken word, as does the current United States President Barack Obama.

President Kennedy said:

"We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies and competitive values.

"For a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people."

These are sentiments I – and I'm sure everyone in this room – share... but it is a sad fact that they are hardly universal.

For these views to become more predominant throughout our world, we need the continuing courage, insight and conviction of people such as yourselves.

I hope your discussions over this three-day conference further equip you to continue your good work in the world.

WELCOME ADDRESS BY

HER EXCELLENCY MS PENELOPE WENSLEY, AO, GOVERNOR OF QUEENSLAND

In the spirit of reconciliation, I acknowledge Australia's indigenous peoples and the first, traditional owners of the lands and waters where this University now stands, the Jagera and Turrbal peoples, their elders and their descendants, and I thank the Nunukul Yuggera Group for their exuberant welcome and wonderful introduction to the richness of their culture, which is the world's oldest continuous living culture.

As Head of the State of Queensland and as Official Visitor to the University of Queensland, I am honoured to be part of this Opening Ceremony and to join others in extending a formal welcome to the international delegates and visitors attending this Global Conference to mark UNESCO World Press Freedom Day 2010. We are very proud that on the first occasion that a World Press Day event has been held in the Pacific region that our State of Queensland is the chosen venue and also, the first time that a University is host to the event, that it is the University of Queensland that has won this honour - assisted, perhaps, by the fact that it is home to Australia's oldest, longest-established School of Journalism and Communication.

I am especially happy to welcome today our guest of honour, Madam Irina Bokova, my former colleague and friend, fellow Ambassador to France and Monaco and now the Director-General of UNESCO. I was delighted to learn of her election in October last year as the 10th Secretary-General of this important international agency, making history as the first woman to occupy this prestigious post. Knowing her as a woman of conscience, compassion and commitment, of intellectual rigour and acuity, I am confident that during her four year tenure she will have an exceptional impact on the organisation, driving its highly diverse agenda forward with vigour and extending UNESCO's standing and influence worldwide.

I am also very pleased to welcome so many international visitors, journalists and media professionals from around the world to this Global Conference. Your presence in such numbers and from so many different countries and regions is very gratifying and underscores an ongoing strong level of interest internationally in the general subject of freedom of the press and more specifically in the issues raised by this year's conference theme of *Freedom of Information: the Right to Know*, on which I trust there will be lively discussion over the next two days;

discussion which will assist UNESCO in its role as both promoter and guardian of these rights and freedoms.

These rights and freedoms are enshrined in many texts, charters and declarations, to which most governments and member states of the UN have subscribed - but not all have honoured. The one I find particularly compelling is that in Article 19 of the Universal Declaration of Human Rights, which speaks of the freedom "... to seek, receive and impart information and ideas through any media and regardless of frontiers". It's hard to imagine a clearer or more straightforward statement - yet we all know the complexities and the obstacles that stand in the way of its realisation, and the sensitivities that surround the issue of press freedoms, enmeshed as they so often are with the wider issues of democracy and governance.

Having said that, I hasten to emphasise that the requirement to defend and promote press freedom is not limited to countries where press censorship is evident, linked to oppressive political systems, corrupt regimes, instability or poor governance, nor to locations where there are serious restrictions on information dissemination.

Guardianship of press freedom is no less an issue of concern in countries which may have stable governments, mature democratic systems and substantive safeguards for press freedom. In Australia, as in most other western democracies, we are acutely aware that there are ongoing and powerful economic and political changes which inevitably affect how information is gathered, delivered and received and that freedom of the press is therefore an issue which demands ongoing vigilance and attention, and it is not surprising to find a long list of issues concerning press freedom which are actively being scrutinised and debated and, in a number of cases, the subject of new legislation and regulation. Some, perhaps many, in this audience will be aware of these, but for the benefit of our international visitors, they include freedom of information laws, the law regarding confidentiality of journalists' information sources, protection of whistleblowers, sedition provisions in anti-terrorism legislation, the strength of libel laws, the use of suppression orders in legal proceedings, the Australian Law Reform Commission's review of secrecy laws and the powers of anti-corruption commissions to require journalists to give evidence.

To that long list we can add a number of wider issues. These include the rapidly changing structure of the media industry and in particular, the changing way in which information is being disseminated. As new digital means of communications flourish, other forms - and particularly some forms of the print media - struggle. In this environment it can mean blurring of the lines between populist entertainment and the erosion of the more serious responsibility to present balanced, well researched news and information. This, of course, is not a new problem. In 1931 George Bernard Shaw remarked "Newspapers are unable, seemingly, to discriminate between a bicycle accident and the collapse of civilisation."

There is also the question of the concentration of media ownership and whether this has - or will - lead to a bias in the way in which information is published, and the related question of how best to regulate the day-to-day activities of the media, and how strict the standards and enforcement should be. As American journalist Abbott Leibling once warned - perhaps with deliberate overstatement - in a *New Yorker* article: "*Freedom of the press is guaranteed only to those who own one*". ("Do You Belong in Journalism?" *The New Yorker*, 4th May 1960).

I do not want the foregoing to suggest that I am placing all or even most of the blame on the employers of the fourth estate. The public - the consumers of information - need to play a far more active role than they do now in guaranteeing the freedom of the press. In particular we need to be actively involved in an ongoing way in that complex task of ensuring a proper balance between privacy and the public's right to know.

It is fitting therefore that this conference is being held in a State where that process is well developed: where there is a healthy and ongoing public debate over press freedom, encouraged by the Government, and fertilised by a number of initiatives and bodies outside government, including our universities. I referred earlier to this University's School of Journalism and Communication. In addition, it has an active involvement in the issue of press freedom through the Centre for Communication and Social Change; and the newly established Global Change Institute - which I had the pleasure of opening some weeks ago - offers, I believe, further scope for work in this area.

Another of our Universities, the Queensland University of Technology, has created an Open Access to Knowledge (OAK) Law Project designed to promote internationally laws giving right of access to knowledge.

These are all pleasing developments, about which you may be hearing more during the course of this conference, but if not, perhaps this list can serve as a pointer

for future discussions, as the global debate on press freedom, freedom of information and the right to know continues on its complex course.

With UNESCO spurring the international community to greater effort (including through activities such as this annual World Press Freedom Day), I have little doubt that progress can be made, but, equally, those complexities and the continuing problems of a more basic kind in some parts of the world, where freedom of the press needs to be pursued as a vital, democratising force and a bulwark against corruption, leave me with little doubt that we will all have to continue to invest heavily in the issue of press freedom for a considerable time to come. And if governments need to be further convinced of its significance, they might be reminded of the wise words of the famous late 18th century English *nom de plume* Junius, who said: "Let it be impressed upon your minds, let it be instilled into your children, that the liberty of the press is the palladium of all the civil, political, and religious rights."

And with those words I conclude my own remarks, so we may hear from Madam Bokova, whose presence today, together with this conference in recognition of World Press Freedom Day, is an essential part of impressing that truth firmly on our minds.

WELCOME ADDRESS BY

THE UNIVERSITY OF QUEENSLAND CENTENARY ORATION BY IRINA BOKOVA, DIRECTOR-GENERAL, UNESCO

I am truly honoured by the invitation to deliver this Centenary Oration to mark the University of Queensland's 100th Anniversary, on this, the eve of World Press Freedom Day.

First, allow me to express my gratitude to the Vice-Chancellor, who is not with us today, for his gracious invitation to take part in the anniversary celebrations of this prestigious institution.

I would like to congratulate all those, past and present, who have contributed to making this seat of learning a hub of academic excellence, renowned for its world-class research, and its welcome to students from all over the world.

I note that above one of the entrance-ways, in the magnificent sandstone Great Court, are the words "Great is Truth, and Mighty Above all Things".

This is a noble statement, and an ambition that all of us here today can take to our hearts. No matter where we come from, the acquisition and transmission of knowledge and TRUTH are essential missions for all who strive for freedom of expression and the right to information ... rights we celebrate on the World Press Freedom Day.

I am very pleased to acknowledge the presence of so many visitors from the nations of the South Pacific. This is a region that has a proud history of press freedom underpinned by a practical belief in freedom of expression and the peoples' right to know.

I also express my sincere gratitude to the University's School of Journalism and Communication, for being instrumental in organizing this year's celebration of World Press Freedom Day, and indeed for the valuable work it does all year round, teaching the journalists and communications professionals of tomorrow.

Today I will be addressing a subject that is very important to UNESCO, and that is dear to me personally, "Freedom of Information: The right to know". I will also take some time to set this in the context of my vision for UNESCO in the 21st century.

UNESCO has been mandated by the United Nations to promote the universal right of freedom of expression and its corollaries: freedom of the press and freedom of information, universal access to information and knowledge.

These are indispensable for the attainment of all human rights, and they are also fundamental for strengthening democracy, facilitating peace and fostering sustainable human development.

"Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives".

These words of James Madison, one of the founding fathers of the United States of America and principal author of the US Constitution, are as fresh and as pertinent today as when they were written in 1822.

They also have particular relevance for this World Press Freedom Day's "freedom of information" theme.

A strong, fully-functioning democracy cannot exist if populations are deprived of key information underpinning their choices in elections – this we all understand.

It is clear, also, that in a more direct way, individuals are seriously hampered in their everyday affairs if they do not have access to information that affects or has the potential to affect their lives.

Wherever you are in the world, when you have lived through a period of history during which your "right to know" was severely restricted, you have a special grasp of what its absence entails - and you tend to have a very high regard, indeed, for freedom of information.

Championing freedom of expression, and its corollaries, all over the world is at the heart of UNESCO's mandate. UNESCO fosters freedom of expression, press freedom and the right to know in a multiplicity of ways, often working behind-the-scenes with governments to help improve their policies and build their capacities. We also seek to raise public awareness of these important issues.

To that end, World Press Freedom Day was first proclaimed by the United Nations' General Assembly in 1993, following a recommendation by UNESCO's General Conference. Since then, every 3rd of May we celebrate press freedom and reflect on its status worldwide.

Because the work of journalists is so fundamental to press freedom, each year we honour those media professionals

who have lost their lives or paid in other ways while defending our right to be informed.

In 2009 alone, 77 journalists lost their lives worldwide. Most of these were not war correspondents, they were local reporters covering news about sensitive topics such as corruption or criminal activity.

In March this year, I submitted a report on the safety of journalists and the danger of impunity to UNESCO's Intergovernmental Council of the International Programme for the Development of Communication. The Council requested UNESCO's General Conference to proclaim a minute of silence in news rooms every year on World Press Freedom Day. I will also personally invite all those commemorating the occasion around the world tomorrow to solemnly observe a minute of silence.

UNESCO has been attributing UNESCO-Guillermo Cano World Press Freedom Prize since 1997 to a person, organization or institution that has made a notable contribution to promoting or defending press freedom.

It will be my great pleasure tomorrow to present this award to this year's winner, the Chilean journalist Mónica González Mujica. This truly remarkable woman endured harassment, imprisonment and an attempt on her life while endeavouring to report on the military dictatorship in her country.

The ill-treatment of journalists undermines the "right to know" of all of us. This is why UNESCO is determined to foster more resolute efforts against impunity, by seeking synergies with Member States, civil society organizations and other actors working on media safety issues. Ultimately, however, national authorities must take responsibility for ensuring that those who harm journalists are brought, swiftly, to justice.

While the battle against impunity is far from won, we must acknowledge the many significant advances in "freedom of information" that have been made all over the world.

Changes sweeping the globe have undoubtedly contributed to growing acceptance of this important right.

Rapid advances in information technology have also changed the way societies relate to and use information, and they have caused us to place ever greater importance on access to information.

Global concerns such as climate change and preservation of the environment also underscore the need for us to disclose and to share knowledge with one another. Being prepared for, and being able to respond swiftly and appropriately to a natural disaster such as a tsunami or an earthquake, simply isn't possible without the free flow of information.

When we take a look at what has been achieved, there is indeed cause for optimism.

Australia was one of only a few countries in the world to have recognized the importance of the right to know when it adopted freedom of information legislation back in 1982.

By 1990, only 15 countries had taken legislative measures to strengthen "freedom of information".

Today, more than 70 countries have such legislation in place, and the number is growing every day.

It is becoming widely accepted today that public bodies hold information not for themselves, but on behalf of the public, and that this information must be available to all, unless there is an overriding public interest for it to be withheld.

While passing laws is crucial to providing a firm and lasting guarantee that "freedom of information" is respected, laws are not enough on their own, even for the best-intentioned of governments. Let us look at this for a moment in terms of supply and demand.

An effective supply of public information at all levels of administration presupposes strong political will from the top. It requires a profound change of mindsets within bureaucracies. It also requires that governments deploy adequate resources for the provision of information.

An active demand for public information calls for a critical mass of individuals fully aware of the importance of their right to know. It calls for an active and engaged civil society, in which citizens' groups mobilise on social issues. It calls for an adequate level of information literacy within societies: one that ensures that users of public information can distinguish between different types and levels of information – from up-to-date, official, validated data to unverified, outdated or biased reports.

All of this implies the development of human and institutional capabilities, the setting up of adequate processes to respond to requests for information, to disclose information proactively and to archive it efficiently.

Above all, it requires a fundamental shift from a culture of opacity to one of openness.

A thriving information environment requires a significant commitment among political leaders, accompanied by an indefatigable civil society that uses the law, creates awareness about it and undertakes efforts to monitor its adequate implementation.

The challenges to 'freedom of information' vary considerably from country to country.

In those countries with a long tradition of freedom of speech, media concentration is often a concern. For media to function freely and independently, news outlets need to be numerous, and they need to be owned by a multiplicity of both public and private interests.

Meanwhile, in many parts of the developing world, beyond the question of political will, the absence of structures and mechanisms for the dissemination of information can be one of the biggest obstacles to the right to know. The consequences of this can be immediate, and they can be far-reaching.

Social justice, empowerment, and development are all hampered if individuals do not enjoy access to information which relates, for example, to basic services and social programs they are entitled to, or to educational opportunities that have the power to transform lives.

UNESCO has for years worked to support freedom of expression and freedom of the press, raising awareness of these issues among governments and civil society. We engage with legislators and civil servants to strengthen regulatory and legal frameworks and their practical functioning.

UNESCO also builds capacity to enhance professional and ethical standards in journalism. We equip the media to do the best possible job of holding governments accountable through more effective investigative journalism. We foster the media's own accountability through the development of self-regulation instruments and mechanisms.

It is only when equipped with the capacity to critically receive, assess and use information acquired through the media that the public can be truly empowered through it. UNESCO has therefore embarked upon significant efforts to foster information and media literacy, which is a prerequisite for individuals to be able to take advantage of many of the instruments that facilitate freedom of information today.

In conflict and post-conflict situations, UNESCO carries out vital work promoting free and open media and structures that can contribute to democracy, peace and stability.

The terrible earthquake in Haiti in January highlighted the important function the media, and community media in particular, can serve in the event of natural disasters and humanitarian crises. As I witnessed myself during my recent mission to this devastated country, the media can disseminate crucial, life-saving information when disaster strikes and in its aftermath.

Let us not forget that in these situations, media themselves are also victims. UNESCO is actively engaged in re-building the capacity of Haitian local and community media, assisting with the local production of programmes and life-saving messages, with a view to enhancing their role

in disaster prevention and the provision of humanitarian information.

We have also provided crucial emergency funds to preserve seriously endangered documents held by the National Archives and the National Library, thus preserving the country's documentary heritage as well as safeguarding Haitians' right to know.

Information and communication technologies are at the core of today's globalized world and they represent the drivers of knowledge-based societies. UNESCO tries to make sure that these technologies benefit everyone, all over the world, in our efforts to diminish the digital and knowledge divides, and also in our endeavours to preserve the precious heritage that is cultural diversity.

We seek to facilitate free internet access to valuable resources through projects like the World Digital Library, an online library of documentary heritage from all over the world, and the Memory of the World Programme, which indexes documents identified as being of world significance. The Endeavour Journal of James Cook, the Mabo Case Manuscripts, the Convict Records of Australia and "The Story of the Kelly Gang" - the first full-length feature film produced anywhere in the world - are some of the Australian documents included in our registry.

I also wish to further UNESCO's engagement with the ethical, legal and socio-cultural aspects of the so-called "information society". Our Organization will therefore continue to promote freedom of expression and freedom of information in an open and inclusive Internet, facilitating the opportunities that technology brings to each individual, in the framework of the implementation of the World Summit of the Information Society outcomes, including the Internet Governance Forum.

Digital technology presents challenges, as well as opportunities, for "freedom of information".

On one hand, it has facilitated the "free flow of ideas by word and image", which is part of UNESCO's mandate, and the storage of information, to an extent that we could not have imagined as recently as a few years ago.

However, new media have spawned new kinds of censorship - bloggers have been jailed or even killed - and cyber-espionage and other infringements of the right to privacy have emerged as new threats.

As we can see, "freedom of information" is indeed a right with many, many, facets, all of which deserve our keen attention if we are to extend its benefits to populations everywhere.

I am confident that this Conference will generate vibrant and fruitful discussions on some of the issues I have

addressed, which are at the core of UNESCO's goal of facilitating universal access to information and knowledge.

I am delighted that such a distinguished group of experts from all over the world will be sharing their first-hand experience and knowledge with us over the next two days. I look forward in particular to learning more about the reform process that freedom of information is undergoing in this country, from the recently appointed Australian Information Commissioner John McMillan.

Economic, environmental, social and ethical crises affecting our world pose today specific as well as overlapping threats that have highlighted our fragility – and our interdependence.

They are also seriously threatening the achievement of the some of the most important and ambitious multi-lateral agenda of our age – I am referring to an array of Internationally Agreed Development Goals, including the Millennium Development Goals.

Urgent action is needed if we are to bring lasting and significant improvements to the lives of the world's poorest by 2015, the deadline for many key goals such as poverty eradication, universal access to education and reduced child mortality.

Our Organization, like the United Nations, was born in the wake of the Second World War, and from the very onset was mandated to, I quote: “build peace in the minds of men”.

The world has changed in ways that UNESCO's founders could not have imagined. But this principle – of building peace in the minds of people – continues to inspire and guide our policies and actions each and every day.

I firmly believe that UNESCO - the “conscience of humanity”, in the worlds of India's great statesman Jawaharlal Nehru - holds the keys to providing the intellectual and humanist response that is needed to meet today's multiple challenges.

I intend to ensure that UNESCO takes the lead in creating a more humane and democratic world, based upon the respect of human dignity and human rights, and the principles of equal access to the pillars of education, science and culture.

These ideals, and their practical application, form the bedrock of social progress and sustainable human development.

UNESCO's first priority is education. In 2000, the world's leaders pledged to ensure that by 2015 there would be Education for All – a process for which UNESCO was

designated as the lead agency. Since then, we have made significant progress. However, five years from the target date, 72 million children are still out of school. One out of six adults can not read or write. This is hampering development efforts in fields as diverse as health, sustainable development and democracy. UNESCO therefore helps countries to identify innovative ways of reaching those who are being left behind, such as mobile schools for nomadic populations or school feeding programmes in the poorest areas.

We also ensure that governments see education as more than just about equipping people to find employment: it should also produce responsible and engaged citizens. An education of quality passes on values such as peace and tolerance, and stimulates critical thinking, problem solving, team work and creativity. Only in this way will we achieve a sustainable development based on respect for human rights and equity.

UNESCO also plays a key role in science. It is the only Organization within the UN with a mandate for science.

Finding solutions to the most urgent challenges of today represented by climate change, biodiversity, natural disaster mitigation and the management of water resources is a priority for me.

Our Intergovernmental Oceanographic Commission coordinates four tsunami early warning systems, one of which for the Indian Ocean established after the tragic 2004 tsunami.

It is my firm conviction that Culture, which is part of the fabric of our societies, also has a pivotal role to play in all areas of development, alongside education and science. It is apparent today that only a holistic approach to development can bring truly sustainable progress. Yet for the moment, this growing realisation has not resulted in changed priorities within development programming and funding.

In this International Year for the Rapprochement of Cultures, we are focusing on the importance of cultural diversity and inter-cultural dialogue in fostering mutual understanding and building peace.

The preservation of tangible and intangible heritage is also about preserving diversity, including the invaluable knowledge of indigenous communities, and it is pivotal to my vision of UNESCO's role in engendering a new humanism. This is one of the main areas of UNESCO's cooperation with Australia.

I share Australia's deep concern about the threats posed by climate change to the preservation of the Great Barrier Reef, one of the natural wonders of our world. I would like to

state clearly that UNESCO will be unstinting in its efforts to bring these threats to the attention of the international community, and to mobilize efforts to preserve this unique site.

As these examples I have given you today illustrate, UNESCO's mandate is far too extensive for it to be able to act alone.

In addition to the valued partnerships we already have, I am actively seeking to forge new strategic alliances and partnerships in the public and private sectors, with international and intergovernmental institutions, with non-governmental organisations and civil society.

We can and we must work together. I believe the scope is great for us to respond effectively to the challenges facing humanity. Let us rise to this challenge.

PART 1

FREEDOM OF INFORMATION: CURRENT STATUS, CHALLENGES AND IMPLICATIONS FOR NEWS MEDIA

This introductory plenary session was a scene-setter for the two days of the conference and it provided a *tour d'horizon* of FOI legislation around the world. With the participation of experts from Nigeria, Canada, Australia and Papua New Guinea, the session was moderated by the UN's Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. The session was especially compelling because one of the contributors, the Chief Ombudsman from Papua New Guinea, had recently been injured in a shooting attack in Port Moresby while going about his official duties in promoting transparency and good governance.

RIGHT TO KNOW: AN ENTITLEMENT FOR ALL, NOT A FAVOUR

**BY FRANK LA RUE,
SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE
RIGHT TO FREEDOM OF OPINION AND EXPRESSION, OFFICE OF THE
UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS**

On World Press Freedom Day, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, urges all countries to ensure the full enjoyment of the freedom of information and the right to know:

“It is imperative that we talk about a ‘right’ wherein ordinary citizens can get information as an entitlement, and not as a favour. Watering down what is now universally regarded as a fundamental right to passive concepts like ‘access’ or ‘freedom’ will blur the focus and dilute the effectiveness of any concerted effort to open up records.

World Press Freedom Day serves as an occasion to celebrate the fundamental principles of press freedom; to evaluate the benefits of a free and independent press; and to defend the media from attacks on their independence. This year’s topic for the World Press Freedom day is ‘Freedom of information: the right to know’. Freedom of information is indeed intrinsically linked to press freedom. It is essential to allow the media and journalists to fully play their role in promoting accountability and transparency of Government conduct. In turn, a free and independent press is crucial to ensure the right of all people to know.

The Special Rapporteur wishes to state again that the right to seek, receive and impart information and ideas of all kind, regardless of frontiers, and through any media of his or her choice, set forth in article 19 of the Universal Declaration of Human Rights, and reiterated in article 19(2) of the International Covenant on Civil and Political Rights, is not merely a corollary of freedom of opinion and expression: it is a right in and of itself. As such, it is one of the rights upon which free and democratic societies depend. It is also a right that gives meaning to the right to participate, which has been acknowledged as fundamental to the realization of all human rights.

It is equally important to recognize the ‘right to truth’ in relation to human rights violations: victims, not only have the right to access current or historical archives

and documents to ascertain how and why the violations occurred and who was responsible, in order to hold the perpetrators accountable, they are also entitled to make this information public if they wish so, to pay tribute to the memory to those whose right to life was violated.

The Special Rapporteur wishes, however, to emphasize his continuing concern about the tendency of Governments and their institutions to withhold from the people information that is rightly theirs, in that the decisions of Governments, and the implementation of policies by public institutions, have a direct and often immediate impact on their lives and may not be undertaken without their informed consent. The Special Rapporteur commends the decision taken by an increasing number of countries to adopt laws recognizing a right to access information. On the occasion of World Press Freedom Day, the Special Rapporteur urges all States to review existing legislation or adopt new legislation on access to information in conformity with international standards, as a way to ensure the full enjoyment of the freedom of information and the right to know. The Special Rapporteur further urges all States to establish mechanisms and institutions to give full effect to the right to access information, and to develop widespread awareness campaigns to inform the public on this right and its exercise”.

AN AUSTRALIAN PERSPECTIVE

BY PROF JOHN MCMILLAN, AUSTRALIAN INFORMATION
COMMISSIONER DESIGNATE

This opening session of World Press Freedom Day looks at the contribution that freedom of information laws can make to press freedom. It is an historic moment in Australia to consider that issue, as we are currently undergoing the most active phase of freedom of information reform to have occurred in over two decades.

This is not the first time that Australia has embraced FOI reform. An earlier reform wave commenced in the late 1970s, when Australia was a leading nation in introducing FOI laws into a Westminster-style democracy.¹ We were not the first country internationally to enact open government laws, but we were ahead of most of the other eighty countries that now have such laws.

A widespread view has since taken root that the 1970s reforms were not entirely successful. Many people feel that there was minimum cultural change in some government agencies, that a presumption in favour of disclosure was not practised across government, and that government agencies could exploit restrictions and gaps in FOI laws to make it harder for the public to gain access to government information, especially information that might be embarrassing to the government or an agency.

Will it be different this time around? Can we be more confident that current open government reforms will be genuine and lasting?

My view is that the current reforms will be more effective in causing a permanent cultural shift within Australian government. I will firstly trace the comprehensive reforms that are presently occurring in Australia, and then analyse why these reforms will together produce a cultural change.

1. See the *Freedom of Information Act 1982* (Cth) (hereafter FOI Act).

THE COMPREHENSIVE REFORM AGENDA IN AUSTRALIA

REFORM OF FOI LAWS IN THE COMMONWEALTH AND OTHER JURISDICTIONS

There is simultaneous and comprehensive reform of FOI laws in four Australian jurisdictions – the Commonwealth, NSW, Queensland and Tasmania.² All aspects of the FOI laws are being reformed – access procedures, FOI charges, exemption criteria, FOI objectives, the procedure for review of disputed decisions, publication of information by agencies, and FOI reporting by agencies.

APPOINTMENT OF INDEPENDENT INFORMATION COMMISSIONERS WITH COMPREHENSIVE FUNCTIONS

Five Australian jurisdictions (the Commonwealth, NSW, Northern Territory, Queensland and Western Australia) will now have an independent information commissioner with a comprehensive oversight and advocacy role. The functions differ among jurisdictions, but include investigation of complaints about FOI administration, merit review of access denial decisions, publication of FOI guidelines, and providing advice to government on information policy.

The new Commonwealth agency, the Office of the Australian Information Commissioner, will be headed by three independent statutory appointees: the Australian Information Commissioner, the Freedom of Information Commissioner and the Privacy Commissioner (an existing position that is to be merged into the new office). The Information Commissioner will have strong powers, of three kinds:

- a decision of the Commissioner that a document is not exempt is binding upon an agency
- the Commissioner can issue an implementation notice requiring an agency to specify the action it will take to implement a recommendation by the Commissioner following the investigation of a complaint against the agency, and

2. See *Freedom of Information Amendment (Reform) Act 2010* (Cth), *Australian Information Commissioner Act 2010* (Cth), *Government Information (Public Access) Act 2009* (NSW), *Right to Information Act 2009* (Qld) and *Right to Information Act 2009* (Tas).

- agencies must have regard to guidelines issued by the Commissioner on the administration of the FOI Act.

■ INTEGRATION OF THE FOI AND PRIVACY ACTS IN A SINGLE SCHEME

The FOI Act, enacted in 1982, and the Privacy Act, enacted in 1988, have developed separately for over twenty years in Australia. Both Acts are being brought together in a single scheme in the Commonwealth (similar reforms are occurring in NSW and Queensland).

A shared objective of both Acts is to improve information management and record keeping in government agencies, and to confer upon individuals the right to access government information and to scrutinise government information practices. The integration of both laws in a comprehensive scheme will heighten the responsibility of government agencies to pay close attention to information issues.

There is, on the other hand, a point of tension between both Acts. The objective of the FOI Act is maximum disclosure, whereas the Privacy Act aims to ensure confidentiality of personal information. It will be easier to balance those competing objectives when both are handled in the same office, the Office of the Australian Information Commissioner. The concentration of oversight responsibility in a single institution also means that a larger and better resourced office can keep watch over agency administration.

REDUCTION OF THE OPEN ACCESS ARCHIVAL PERIOD FROM 30 TO 20 YEARS

Documents that are initially exempt from disclosure under the FOI Act will now be publicly accessible much earlier. Formerly, documents entered the 'open access period' under the *Archives Act 1983* (Cth) thirty years after creation. This will be reduced in steps to twenty years for all records other than census records and Cabinet notebooks, for which the open access period will be reduced from 50 to 30 years.

Another mechanism for the earlier release of records is the principle of 'conditional exemption' that is being introduced into the FOI Act. As explained below, some of the important FOI exemptions will be subject to a public interest test that directs an agency to provide access unless, at a particular time, disclosure of a document would be contrary to the public interest. In effect, there will be a presumption in favour of disclosure, and the initial reason for non-disclosure may quickly subside. It becomes a question of when and not whether a document can be disclosed.

ALRC PROPOSALS FOR REFORM OF SECRECY PROVISIONS

The long tradition of official secrecy was underpinned by a large number of statutory provisions that made it a criminal offence for government officers to disclose information without authority. Those secrecy provisions were not revised when the FOI Act commenced in the 1980s.

A recent report of the Australian Law Reform Commission³ has highlighted that many of those secrecy provisions are at odds with the policy of open government. The Commission recommended the repeal and revision of many secrecy provisions, so that they reflect a few key themes. Among them are that it should not be a criminal offence for an official to disclose government information that is already in the public domain; nor should unauthorised disclosure be a criminal offence unless it causes a demonstrated harm to a specific public interest; and the scope of authority of officials to disclose information should be clearly defined.

GOVERNMENT 2.0 TASKFORCE REPORT

The Australian Government has been quick to recognise that the development of the web can transform the way that government and citizens interact. Indeed, one influential parliamentarian has observed that the development of Web 2.0 has led to 'the democratisation of innovation and decision-making, and will make us all co-designers of civil society in the 21st century'.⁴ Similarly, as the Minister for Finance has observed, 'Technology is also driving a new focus on transparency – as citizens rightly expect to benefit from public information created using their money'.⁵

A report to government in 2009 by the Government 2.0 Taskforce, *Engage: Getting on with Government 2.0*, made numerous proposals for harnessing web technology to make government information more readily available to the public and to facilitate greater public involvement in formulating government policy and evaluating government service delivery. The report broadens the concept of open government to embrace 'citizen centric services, facilitating innovation through open data and transparency, and government engagement with citizens'.⁶

The Government has since announced that it has accepted most of the recommendations of the Taskforce,

3. Australian Law Reform Commission, *Secrecy Laws and Open Government in Australia*, ALRC Report No 112.

4. Senator Kate Lundy, 'Gov 2.0 building a strong foundation for open democracy', Speech to the CeBIT 2010 Conference, 2 March 2010.

5. The Hon Lindsay Tanner, Minister for Finance, in launching the Government 2.0 Taskforce, 22 June 2009.

6. Lundy, above note 4.

including the creation of a Steering Group to drive the new reforms.⁷ The Australian Information Commissioner is a member of that Group.

BLUEPRINT FOR REFORM OF AUSTRALIAN GOVERNMENT ADMINISTRATION

The same broad approach to open government was taken in the report of an Advisory Group established by the Prime Minister to formulate proposals for reforming the Australian Public Service. The Advisory Group was headed by the Secretary of the Department of the Prime Minister and Cabinet. Its report in May 2010, *Ahead of the Game: Blueprint for Reform of Australian Government Administration*, has been accepted in full by the Government.

The Blueprint identifies nine areas for public service reform. One of the nine areas is to ‘create more open government’, particularly in using web technology to facilitate greater public involvement in policy and service design, and to make government data more widely and easily available to the public.

NEW WHISTLEBLOWER PROTECTIONS AND ARRANGEMENTS

Whistleblower protection is ultimately about disclosure of information. The thrust of a whistleblower protection scheme is to protect workers who draw attention to problems they see in the workplace, ranging from corruption and threats to public health and safety, to mismanagement and public wastage. A worker who follows a designated procedure in disclosing information about workplace wrongdoing will receive protection against criminal and disciplinary sanctions and receive assistance aimed at safeguarding their employment and career.

The Australian Government announced in March 2010⁸ that it accepted most of the recommendations for legislative reform made in a report in 2009 by the House of Representatives Standing Committee on Legal and Constitutional Affairs, *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector*. The proposed scheme will assign responsibility to the Commonwealth Ombudsman and the Inspector-General of Intelligence and Security for receiving whistleblower complaints, monitoring the investigation and handling of those complaints by government agencies, and ensuring that whistleblowers are properly protected. On one matter the Government response went further than the Standing Committee report, in expanding the circumstances in

which a person can make a public interest disclosure to a third party, such as the media.

THE CULTURAL SHIFT – WHY THE CHANGES WILL BE EFFECTIVE

GOVERNMENT PROMOTION OF THE REFORMS, IN MULTIPLE JURISDICTIONS

There is corresponding action by four Australian governments to strengthen the legal framework for open government and to overcome weaknesses in existing FOI laws. In New South Wales, Queensland and Tasmania the reform proposals were sponsored by the Premier, and in the Commonwealth by the Special Minister of State in the Prime Minister’s portfolio. This concerted action at a senior level in government sends a strong message that the whole of government must take serious action to implement the reforms.

The simultaneous action across a number of jurisdictions will also engender a healthy element of cooperation and competition between the jurisdictions to ensure best practice in implementing the reforms. There is already close cooperation and sharing of ideas between the new Information Commissioners in the Commonwealth, NSW and Queensland, and this cooperation will strengthen. Outside government, it will become routine for the media and others to compare the steps taken in each jurisdiction and to draw attention to weaknesses as well as innovations in each jurisdiction. It will become much harder for any of the Australian governments to fall behind the pace of others.

CENTRAL COORDINATION AND OVERSIGHT, BY INFORMATION COMMISSIONERS AND OTHER AGENCIES

The creation of the Office of the Australia Information Commissioner addresses a major weakness in the design of the FOI system three decades earlier. The Attorney-General’s Department was initially given policy responsibility for the FOI Act, but this fell short of assigning responsibility to an independent and specialist agency that could provide leadership across government in ensuring consistent and best practice FOI administration. Nor, apart from the Ombudsman, was there an independent body with allotted funding to which members of the public could turn for assistance in battling agency failure to honour the spirit of open government.

That has now changed. The Information Commissioner, supported by the Freedom of Information Commissioner, will be a permanent and independent champion of open government. A key role of the Information Commissioner

7. See Australian Government, ‘Government Response to the Report of the Government 2.0 Taskforce’, May 2010.

8. The Hon Senator Ludwig, Special Minister of State, ‘Government announces whistleblower protection scheme’, Media Release 14/2010, 17 March 2010.

is to monitor agency practice and advise government on information policy reform. As the Queensland Information Commissioner, Julie Kinross, has noted, ‘what gets measured gets done’.⁹ A key role of the Information Commissioner will be to stimulate improved agency performance by developing compliance standards and measuring and comparing how agencies meet those standards.

The Office of the Information Commissioner will also provide an accessible and cost-free mechanism for individuals to complain about agency administration and to apply for merit review of access denial decisions by agencies. It will no longer be possible for agencies to use inertia as a strategy to defeat public access.

A related change is that the central coordinating role of some other government bodies has been strengthened. The Australian Government Information Management Office, in the Department of Finance, plays the leadership role in implementing the Government 2.0 agenda, in particular by harnessing web technology to make government more consultative, participatory and transparent. The National Archives of Australia plays the lead role in promoting good information and records management, in part to facilitate public access to government records. The creation of an Information Advisory Council to advise the Information Commissioner provides a forum in which government and non-government representatives can work together in reviewing government information policy and practices and highlighting the importance of transparency in government.

REVISION OF THE GUIDING PRINCIPLES

The FOI Act in 1982 changed the ground-rules for government information handling by introducing three new principles: a person seeking access to government documents was no longer required to demonstrate a special interest in access or explain why access was sought; an agency could deny access only if the document fell within one of the exemption criteria in the Act; and the agency’s decision was reviewable on the merits by the Administrative Appeals Tribunal, in which the agency had the onus of justifying its access denial decision.

The FOI changes being introduced in 2010 go a step further and introduce new and fundamental principles. The FOI Act contains a new objects clause (s 3) which declares that it is the intention of the Parliament ‘to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource’. Embodied in that statement is the recognition that information held by government has economic and social utility to the community broadly,

and presumptively should be publicly available unless there is a demonstrated reason to the contrary.

The exemptions have been rewritten to give greater emphasis to the concept of public interest in deciding whether a document is exempt from disclosure. A document that falls only within a ‘conditional exemption’ cannot be withheld unless disclosure would, on balance, in the circumstances at a particular time, be contrary to the public interest (s 11A). Conditional exemptions include those applying to Commonwealth-State relations, the deliberative processes of agencies, the economy, business confidentiality, personal privacy, and agency operations and financial and property interests. In deciding the balance of public interest, there are factors favouring access that an agency must consider, and factors that are irrelevant (s 11B). The factors favouring access include that disclosure would increase participation in Government processes, increase scrutiny and review of the Government’s processes, inform debate on a matter of public importance, promote effective oversight of public expenditure, or allow a person access to his or her own personal information. Irrelevant factors include the seniority of the author of a document, or that disclosure would be embarrassing to the Government or could result in confusion, misunderstanding or unnecessary debate. That statement of public interest factors is an important advance on the uncertainty and imprecision that has operated since 1982 in defining what is meant by the ‘public interest in open government’.

A related legislative reform in 2009 was the *Freedom of Information (Removal of Conclusive Certificates and Other Measures) Act 2009* (Cth). The abolition of conclusive certificates means that ever denial of access – even of Cabinet and national security information – can be independently scrutinised by the Information Commissioner and the Administrative Appeals Tribunal, to determine if the exemption criteria in the Act are satisfied. It is both symbolically and practically important that Ministers and government agencies no longer have the final and conclusive say on whether a document is available for public access. Their decision is subordinated to that of an independent review body that has no interest or stake in the outcome beyond being satisfied that the provisions of the FOI Act are correctly applied.

INCREASED USE OF FOI LAWS, HIGHLIGHTING THEIR IMPORTANCE IN GOVERNMENT

It has long been suspected that the objectives of the FOI Act are not warmly embraced by all within government. An occasional criticism of the FOI Act is that it prevents agencies getting on with their pre-eminent and important role of developing and administering government policy. There is not the same support within government for FOI as there is for some other framework laws that ensure

9. J Kinross, ‘Keynote Address to World Press Freedom Day’, Brisbane, 1 May 2010.

integrity and transparency, such as financial accountability and conflict of interest laws.

That is likely to change. Information access laws will steadily play a more active role in day-to-day government and be accepted as part of the constitutional framework for government administration. The new oversight, monitoring and advocacy role of the Office of the Australian Information Commissioner will be one element in this change. So too is the integration of FOI, privacy and archival laws to form a new and larger system for information management. There is likely also to be an increase in FOI activity within agencies, arising from a reduction in FOI access charges. FOI application and internal review fees have been abolished, the first five hours of search time will be free for journalists and non-profit organisations, and the first hour will be free for other FOI applications. Public requests for government documents will become a more routine and accepted part of the daily business of government agencies.

A comparable development that occurred after the creation of Ombudsman offices in the 1970s is that complaint handling became a routine function within government. Thirty years ago it was rare for a government agency to have turned its mind to this issue by establishing its own internal complaint unit. The senior officers in many agencies now regard complaint handling as a key function and source of intelligence on program operation.

An interesting development that has occurred in Queensland, on the initiative of the Premier, is that the performance agreements of departmental heads includes a requirement to promote open government and implement the new legislative reforms.¹⁰ In effect, the salary and career prospects of public service leaders can be influenced by their performance in promoting open government.

EXPANDED INFORMATION PUBLICATION SCHEME

A key objective in current reform activity is to move from a 'reactive' or 'pull' model of FOI administration, in which agencies disclose information in response to requests; to a 'proactive' or 'push' model, in which agencies take the initiative to make information available to the public. The central element in this new approach will be an expanded web publication scheme. A key role of the Information Commissioner is to provide guidelines to agencies on the information they should be making available.

It is likely, before long, that the front page of agency websites will include an FOI or open government icon

that will link to a list of the information and documents an agency has published in discharge of its FOI obligations. This includes information about the agency's structure and functions, policies and manuals on legislation and programs administered by the agency, public consultation procedures, and the disclosure log of documents released in response to other FOI requests. Those categories of information are required by the FOI Act to be published, but it also encourages agencies to publish additional categories. In the United States and Britain, for example, the trend is for agencies to publish 'data sets', which is a bank of information collected by the agency that, when published in raw form, but can be searched and manipulated by public users.

EXTERNAL PRESSURES FOR IMPROVED FOI PERFORMANCE

The current wave of FOI reform in Australia is attributable in part to the formation in May 2007 by 12 major media organisations of the Right to Know Coalition. The Coalition and its member organisations can be expected to take a keen interest in whether the FOI reforms are working properly. It is possible that there will be regular media analysis of the performance of different agencies. The threat of adverse publicity can be a powerful motivating force in government.

It is possible, equally, that individual journalists will make more use of the FOI Act than many have in the past. Government information will be more readily available through the Information Publication Scheme; there are reduced FOI search charges for journalists; they can approach the Office of the Australian Information Commissioner for advice and assistance; and the publication of agency disclosure logs will be a practical resource as well as a curiosity for many journalists. There is unlikely to be a sea change in media practice, because of the journalistic focus on unfolding government stories, and the reliance by journalists on established information gathering techniques such as contacts and leaks. Nevertheless, the reformed FOI Act can be a more powerful tool for professional journalists, which could elevate the importance of the Act both to government and to public reporting of government performance.

10. Kinross, *ibid.*

FOI IN PAPUA NEW GUINEA—CHALLENGES, AND THE WAY FORWARD

BY CHRONOX MANEK, CHIEF OMBUDSMAN OF PAPUA NEW GUINEA

Papua New Guinea (PNG) has encountered numerous challenges to the media and its fledgling democracy since independence in 1975. It is fortunate that the freedom of the media is enshrined in its Constitution and all threats to this freedom have been vigorously and successfully opposed. Many of our politicians, leaders, prominent and influential citizens, all declare they are firm believers in the principles of a free media and will strive to embrace it. There are instances, however, where many comment negatively when the media spotlight is on them or their institutions or cohorts.

Against the backdrop of critical challenges facing the media and the Constitutional right to freedom of information, the media continues to ride out its battles.

Global trends are such that PNG is not exceptional in the international arena in the dissemination and delivery of information through the various means and mediums of communication, whether electronically or the printed press.

Global issues embracing the norms of society, such as principles of governance and respect, are ever present in the PNG media. But the way in which the PNG media embraces the international media has become, in my view, persuasive in eroding national cultures and traditional values. This is through the broadcast of programs aired on the BBC and ABC in Papua New Guinea – free to air radio networks and from pay TV broadcasts, on CNN and a number of channels in Bahasa, French and Korean languages.

Foreign influence, in the form of material covered and presented in the PNG media, is considerable and I believe there is a great need instead to increase the focus on PNG-oriented programs, events and issues. The recently launched Government television network, *Kundu Two*, is a ‘beginner’ in embracing this notion of broadcasting home-grown material, but more needs to be done to improve the service to its audience as there is still a scarcity of local content.

Freedom of Information

There are three main components that underpin the right to information in many Pacific States, including Papua New Guinea.

Firstly, the right to request information from public authorities and from private bodies where information is needed for the exercise or protection of a right. An applicant for such a request does not have to justify why he or she needs this information from public bodies.

In the case of Papua New Guinea, where there is yet to be enacted an Information Act to regulate the provision or non-provision of the request for information, the National Court made, in 1998, an interesting decision when a defendant (to an originating summons) who was a member of the National Parliament for Tambul-Nebilyer Open Electorate refused to release to the plaintiff information relating to monies granted to him for use in the electorate.

The plaintiff sought to enforce his right under *Section 51 of the Constitution* to ensure accountability of the defendant member of the National Parliament.

Section 51 of the Constitution states;

1. Every citizen has the right to reasonable access to official documents, subject only to the need for such secrecy as is reasonable in a democratic society in respect of
2. Provision shall be made by law to establish procedures by which citizens may obtain ready access to official information.

The National Court held the following:

3. A citizen has the right to access information relating to monies allocated to his or her Member of Parliament where the monies are allocated to the member for use in the electorate.

4. The freedom of the citizens to access the courts to enforce his or her constitutional right cannot be precluded by the normal operations of constitutional offices and state organisations.

The judgement went on to say that “The National Court is not necessarily restricted to the causes of action that are usually found in common law system. The National Court has an unlimited jurisdiction and this jurisdiction includes many matters which originate in rights and responsibilities referred to in the Constitution.”

There is a clear indication that the courts in PNG will not hesitate to utilize the available provisions in the Constitution relating to rights and freedoms to promote access to information from governmental bodies by interested applicants.

The second component underpinning the right to information is the actual availability of information or its records. The right to promotion and access to information is one thing, but the more important one is the actual availability of records. In many government departments, record-keeping and its maintenance continues to be given a very low priority. But why is proper record-keeping, data collection and the training of personnel for such purposes not on the agenda of an average public body? It is only recently, through various development initiatives, that we in Papua New Guinea are beginning to realise again the importance of record-keeping and its management and developing various systems to accommodate our relevant needs.

It is important, therefore, that governments within the region should have systems in place to process requests for information, including effective records management systems to enable the systematic, structured and managed release of information. Properly trained records and information management staff are necessary and an independent leader, within that operational ‘set up’, should be tasked to supervise and ensure that requests are properly screened and processed.

The final component of the right to information is the duty of government to provide certain baseline information proactively and on a very much routine basis, without request. This would encourage and promote trust between the government and its people and allow for the process that many democratic governments stand for and preach.

In Papua New Guinea, the government now utilizes its government owned National Broadcasting Commission, through its ‘government talk-back show program’ on both radio and television, to disseminate government policies and initiatives. Citizens are invited to phone in

and make comments and observations. This is a good start and should be encouraged with wider publicity on the issues and contents to be covered, with reasonable time to allow for debate or information dissemination. Having said that, this freedom must be kept in check by exercising great responsibility.

The Ombudsman Commission in PNG often oversights these constitutionally guaranteed freedoms and its demarcations. The Commission also stresses the importance of leaders who oversee the information industry to uphold their own integrity. Likewise, the same challenge is made to those operating and managing information and its dissemination to also uphold their integrity, and that means the wholeness and soundness of a person and one who is honest in his or her dealings.

In this connection the questions to pose, include:

- are we honest in how we conduct ourselves?
- are we honest in our dealings with colleagues, stakeholders and the wider community?
- are we biased, opinionated or bribed into what we do?

The Media Code of Conduct/Ethics in Papua New Guinea should act as a reminder to guide us in our day-to-day roles and responsibilities by putting the interest of the public good and that of our organization first, rather than our own.

In the Papua New Guinea context, a former Chief Ombudsman, the late Sir Charles Maino, raised concerns in 1995 about the power of the media and its need to be responsible. He said that the freedom of the press was not a privilege but a responsibility that required the mass media to be independent, impartial, honest and fair in all mediums and methods of reporting.

Another former Chief Ombudsman, Simon Pentanu, encouraged more investigative reporting by the media to complement the role of the Commission in fighting corruption and leading to accountable and transparent governance.

The recently proposed Hon. Moses Maladina Bill/Amendment in the PNG Parliament leaves a lot to be desired. In fact, the proposed amendment has now created a wave of public debate which has called on Parliament to halt the amendment because it affects the powers of the Ombudsman Commission.

For example, one of the proposed amendments to the Constitution (S.27(4)) removes the power of the

Ombudsman Commission from issuing directions that will prevent abuse or misappropriation of public funds by a leader. This provision is currently used to protect both the integrity of the leader and the integrity of the Government in Papua New Guinea and has been used on previous occasions to protect millions of Kina (PNG currency) of public funds from misuse by leaders.

The availability of information, or the reasonable access to such information, can be difficult to obtain without the existence of expressed provisions of the law. Due to the energy and drive of the media in PNG, journalists are able to gather news of the frustrations of the people and express those frustrations and concerns in relation to issues affecting PNG utilising the broad provisions of the Freedom of Information (S.51) and the Freedom of Expression (S.46) of the Constitution.

■ CONCLUSION

It is important to note that the role the media plays in society is not for them alone. All professionals, as well as laity and civil society, can also facilitate transparency and awareness of important issues. The media has an important role to play. It is also a watchdog to expose corruption and safeguard development and investment.

Media outlets in developing countries, like PNG and other Pacific island nations, have the same roles to play, but the conditions under which those media exercise their profession may vary due to economic and social factors.

The media has no obligation to publicise any specific issue and it can address each issue as it wishes and when it arises. Media agencies, or companies, are in the business of generating revenue, often at the expense of good governance, despite giving rebates to the public such as 'free plugs' for activities or specific coverage of events. To ensure better outcomes, those in the front line of reporting should impart factual information, report fairly and in a balanced manner, and help open doors to development and investment.

Whilst the media has demonstrated that it can cover global and governance issues, it often neglects the potential to be a responsible partner, especially in developing countries, such as Papua New Guinea and, to an extent, the Pacific. However, this partnership can be strengthened with the media industry and government departments and agencies working to improve their ability to engage with each other to achieve social, economic and political mileage.

Finally, freedom of information and a free media is as much about upholding the freedom we currently enjoy in a democratic society, as it is about our freedom to express

ourselves and be informed appropriately and responsibly. But is there a limit to freedom of information? And when can information be controlled and tailored to meet demands and needs? In my view, this would be done only when freedom of information is seen to question or overstep the boundaries of national sovereignty and national interest, as provided for under section 51 of the PNG Constitution.

So would it be fair to end with this question? Is a free media all about upholding the freedom we currently enjoy as citizens of our democratic societies or is it about our freedom to express ourselves and be informed in any manner or form whatsoever?

SOME AFRICAN EXPERIENCES

BY EDETAEN OJO,
EXECUTIVE DIRECTOR, MEDIA RIGHTS AGENDA, NIGERIA

■ INTRODUCTION

I have observed that there is increasing frustration, or at least a shift in focus internationally, from the adoption campaigns of the last two decades in favour of exploring the challenge of ensuring more effective implementation.

It would seem that this shift in focus is dictated by a number of factors. The first is the belief that a substantial number of countries now have freedom of information laws and it is probably time to take the campaign to another level. The second reason is a feeling that the level of effort put into advocacy for adoption of freedom of information laws in some countries, particularly in places like Africa, has not paid off in terms of the number of laws that were ultimately adopted. Finally, there also appears to be a high level of dissatisfaction, or even disappointment, with the state of implementation in those countries which already have freedom of information laws.

However, I would strongly urge caution in this shift, if indeed it is real, and insist that significant attention should continue to be paid to the advocacy for adoption of laws in the remaining countries. In fact, more than ever before, there is a need to devote more energy and resources to exploring and developing effective strategies to ensure that more countries adopt FOI laws.

As we begin to look more and more into the challenges of effective implementation in countries which already have freedom of information laws, it is important to bear in mind that more than 60 per cent of countries in the world still do not have freedom of information laws.

The reason this is important is because, in most cases, it is the freedom of information law that establishes the right of access to information for citizens and the public. Even in countries where the right of access to information is recognized and entrenched in the national constitution, the right can hardly be exercised in the absence of a comprehensive freedom of information law. As a result, citizens of countries that do not have freedom of information laws do not have a right of access to information, at least within their national legal frameworks.

Thus, while the issue of effective implementation is important, it is equally of critical importance that the right of

access itself is firmly established for all in law. If we fail in establishing the right in most of the countries of the world, no matter how well we are able to craft effective implementation strategies, the citizens of those countries which do not have the laws will always be left out.

■ CURRENT STATUS OF FREEDOM OF INFORMATION IN AFRICA

Continuing advocacy efforts for adoption of freedom of information laws is of particular importance to me and, I suspect, a lot of other colleagues from Africa because our continent continues to lag behind other regions in the adoption and implementation of freedom of information laws.

This is despite the fairly strong basis laid in Africa by the African Commission on Human and Peoples Rights when it adopted the Declaration of Principles on Freedom of Expression in Africa at its 32nd Ordinary Session in October 2002. Article IV(1) of the Declaration provides in part that: *“Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.”*

Although the Declaration establishes the right of everyone to access information held by public bodies, it is apparent from the above text that the right only exists subject to *“clearly defined rules established by law.”* This goes further to reinforce the necessity for the adoption of freedom of information laws which contain such clearly defined rules.

Only about a dozen countries on the continent have clear and specific guarantees of the right to information in their constitutions. These include: Ghana, South Africa, Uganda, Malawi, Mozambique, the Democratic Republic of the Congo (DRC), Ethiopia, Tanzania, Cameroon, Madagascar and Senegal.

However, in the absence of comprehensive freedom of information laws, the citizens of most of these countries are unable to enjoy this right. Only three of them – South Africa, Uganda and Ethiopia – have freedom of information laws to give effect to this right.

Although Uganda has adopted its Access to Information Act since April 2005, full implementation is still being awaited five years after. The mandated Regulations which will bring the law into force are still not in place and so, despite having a constitutional guarantee and a freedom of information legislation, Ugandan citizens remain unable to enjoy their right of access to information.

Despite challenges of effective implementation, South Africa's Promotion of Access to Information Act (PAIA) of 2000, the first access to information law on the continent, also appears to be most credible effort in Africa to empower citizens through access to information as a matter of right.

Ethiopia adopted the Law on Mass Media and Freedom of Information in 2008. Although merged with a media law, the Ethiopian law contains significant characteristics of a Freedom of Information law.

Besides South Africa, Uganda and Ethiopia, the only other country on the continent with a freedom of information law is Angola which adopted its Access to Official Documents Law (Law 11/02) in 2005.

This means that only four countries out of the 54 in Africa have adopted freedom of information laws – that is less than 8 per cent. No single country in three (West, Central, and North) out of Africa's five sub-regions has a freedom of information law.

Zimbabwe has a law, which it pretentiously calls Access to Information and Protection of Privacy Act (AIPPA), adopted in 2002. But it would be difficult to classify this piece of legislation as a freedom of information law in the light of the scope of its exemptions and several obnoxious provisions designed to control the media and repress media freedom in the country. It is geared more towards restricting the free flow of information than facilitating it.

Over the past decade or so, there have been ongoing efforts in many countries to adopt Freedom of Information laws. These countries include: Ghana (Right to Information Bill 2003); Kenya (Freedom of Information Bill 2005); Liberia (Freedom Of Information Bill 2008); Malawi (Access to information Bill 2004); Morocco; Mozambique (Right to Information Bill 2005); Nigeria (Freedom of Information Bill 1999); Sierra Leone (Freedom of Information Bill 2006); Tanzania (Right to Information Bill 2006); and Zambia (Freedom of Information Bill).

In many of these countries, the efforts have either been led or driven by civil society and have met varying

levels of reluctance or resistance on the part of governments. The campaign for the adoption of a Freedom of Information law in Nigeria is now in its 11th year and there is no indication that this will be achieved anytime soon.

A variety of reasons have been advanced for the slow pace of adoption of Freedom of Information laws in Africa, including:

- lack of political will on the part of leaders who ideally have the responsibility for putting such laws in place. The lack of political will itself derives from a number of factors, including the fear by government officials that greater public access to information, which freedom of information laws will engender, will make them vulnerable to their political opponents as such laws are likely to expose them when they misconduct themselves or fall short in other ways, put their personal interests at risk, expose the failure of government programmes and policies, etc.
- a culture of secrecy in government which makes the notion of public scrutiny an alien concept. In many countries in Africa, government officials are obliged, upon appointment, to subscribe to various oaths of secrecy under which they undertake not to disclose any information which comes to them in the course of the performance of their duties. Many countries, especially those that were colonies of Britain, have Official Secrets laws which have guided the operations of officials for decades. Most government officials have therefore grown used to not being asked questions. After decades of operating in this manner, there has emerged an ingrained culture of secrecy among civil servants and public officials and it has become extremely difficult for many of them to change. There is a need for massive public education to enlighten both those in power or authority and the public service as well as the larger society about these issues and the ideal power relations.
- a “messiah complex” among political leaders who believe that they have come to save the people and know what is best for them. They also believe that citizens are too ignorant and they appear to have a deep-seated contempt for the people and their ability to make or contribute to the making of important decisions about issues that affect them or how they want to be governed.
- limited capacity within civil society to advocate for the adoption of freedom of information laws. Very few members of civil society have the skills to carry out effective advocacy. Beyond merely calling for the adoption of freedom of information laws, few civil

society actors have sufficient knowledge of the relevant issues to speak confidently about them and correct misleading or inaccurate information being put out by opponents, or to enlighten those who are genuinely ignorant about the issues involved or the purpose of freedom of information laws.

- other competing priorities in countries where there are fears that requisite institutional arrangements and resources necessary to adopt and implement freedom of information laws will be too costly. Regrettably, although there is general recognition that openness is an essential component of good governance, in many countries political authorities are unable to see it as an issue in which it is worth investing resources. Because the benefits are not quantifiable or even tangible, political leaders compare it to the provision of infrastructure and services such as education and healthcare and immediately declare it a non-starter. Many argue that it will be too expensive to implement freedom of information laws and have used this as an excuse for not adopting relevant laws until such resources are available.
- low levels of awareness among citizens which severely limits public demand for adoption of freedom of information laws. Most ordinary members of the public do not readily see the link between freedom of information and their struggles in different areas of work or in various aspects of their lives. They therefore do not pay a lot of attention to the issue.

Freedom of Information and National Security Concerns

- Additional challenges have arisen since the September 11, 2001 terrorist attacks in the United States which have resulted in heightened national security concerns. In turn, these have been used as excuses for either not adopting freedom of information laws or in rolling back or restricting access to information in some countries where laws already exist.
- When, in 2007, the then Nigerian President Olusegun Obasanjo refused to sign into law the Freedom of Information Bill passed by the National Assembly, one of his major excuses was that it would undermine Nigeria's national security, especially in the light of the fact that a decision by the head of a public institution to deny access to information would be subject to judicial review.
- Quite frankly, I think the September 11 incident simply provided another excuse for political authorities to restrict the flow of information. Even prior to September 11, the principles that national security

information is sensitive and should be protected from disclosure were clearly recognized and virtually all freedom of information laws in the different countries were constructed to exempt national security information from disclosure.

- The insistence, however, was that because of the possibility of abuse, denial of access on a national security claim should always be guided by a number of principles. I think the principles outlined in the Johannesburg Principles on National Security, Freedom of Expression and Access to Information continue to provide adequate guidelines on this issue, even in the post-September 11 period.
- The Johannesburg Principles provided that "A state may not categorically deny access to all information related to national security, but must designate in law only those specific and narrow categories of information that it is necessary to withhold in order to protect a legitimate national security interest."

FREEDOM OF INFORMATION AND THE MEDIA

One of the tactical blunders in the FOI advocacy efforts in a number of countries, with regard to the media's involvement, has been the tendency for the media to join or lead the campaigns in a proprietary manner. The messaging coming from the media had tended to appropriate the FOI issue as if the question of access to information is essentially a media issue.

For purposes of clarity, it is not being suggested here that the media has appropriated the campaign for itself in order to deliberately exclude other sectors of society from the issue. Besides, it must be conceded the media deal in information, perhaps more than any other segment of the society, and that the media frequently act on behalf of the wider society when they seek information.

It is also conceded that access to information, media freedom and freedom of expression are mutually supportive and equally necessary for effective flow of information to the public. But they remain separate and distinct issues. Every member of society has specific and individual needs for information that may not necessarily be satisfied through the proxy or intermediary efforts of the media.

The trend of media involvement or leadership in freedom of information advocacy in many countries in Africa is therefore a tactical error because the manner in which the media has pursued the campaign in some countries has in fact contributed to the lack of progress in those countries. The media are frequently feared and hated by

government officials and the leadership role of the media in an FOI advocacy campaign can automatically provoke resistance.

Rather than the media leading the campaign and speaking on behalf of the people, I believe a more effective approach would be for the media to give “voice” to various sectors of the society and interest groups campaigning for FOI. This the media can do by serving simply as a platform for the debate.

Freedom of information is a cross-cutting issue. It impacts on all areas of work for the broad spectrum of civil society. The campaigns would be most effective if the media can serve as a vehicle through which these different sectors and groups demonstrate the impact of freedom of information laws on their work, their interests and their lives.

The media must be awakened and enlightened to the fact that access to information is a right which ought to be guaranteed to everyone, including vulnerable members of the population and marginalized groups. Media advocacy should therefore be supported with the skills to make linkages with various issue areas, empower ordinary citizens to be active participants in the campaign for adoption of freedom of information laws, and to demand information. It will thereby broaden the constituency for support, far beyond the media.

Low levels of awareness within the general population about the existence of freedom of information laws and how to use them are among the factors inhibiting their effective implementation and enforcement. With widespread ignorance about their existence, only an insignificant number of people end up using them.

Even among relatively well-educated and otherwise sophisticated members of the society, there is only very superficial knowledge of the law, what it seeks to achieve and how people can take advantage of it. Much of the public discussion about freedom of information laws gives the impression that it is no more than a guarantee of media freedom.

A major challenge we face is how to ensure that ordinary people have a fair knowledge of these laws, the procedures and conditions outlined in them, the remedies available in the event of a denial of access to information and, most importantly, the potential impact of the law on their lives.

Most ordinary people, especially in Africa, do not read legal texts. There is a widely held belief, unfortunately encouraged by lawyers, that ordinary people will not be able to understand. Since freedom of information laws

are essentially legal texts, it is unlikely that many ordinary people will read the original texts. Even among frontline advocates, very few of those who are non-lawyers actually read the texts of the laws or draft laws, as the case may be.

Countries which are still in the process of adopting freedom of information laws need to bear this fact in mind and ensure that their texts are not excessively legalistic or technical.

But right now, the sad truth is, in an average African country, it will be extremely optimistic to expect that up to one percent of the population would read the freedom of information law. If less than 1% of the population actually gets to read the law and therefore has a clear understanding of what they should do, it would be a miracle of phenomenal proportions if we are actually achieving 20% usage.

It seems to me, therefore, that a major first step in trying to achieve effective implementation would be to devise ways to make people actually read the text of the law or find some mechanism which will enable them to have an in-depth understanding of the provisions of the law even without reading it.

Some strategies would include producing simplified or abridged versions of the laws, guidelines, FAQs, etc. which distill the key issues in the laws and are easy to digest. Even then, there would still be a huge challenge of the number of copies of such documents that can be produced before any meaningful penetration of the society can be achieved. Of course, with the technological advancements that are taking place, ICTs can also be deployed to enhance knowledge of freedom of information laws.

However, in my view, the greatest prospect for ensuring widespread public awareness and understanding of freedom of information laws continues to rest with the media. With consistent, repeated, rigorous and in-depth reporting of the laws and their usage, the media can ensure better awareness and understanding of freedom of information laws.

By giving voice to people from different sectors and by carrying out analyses which demonstrate the linkages between lack of access to information and the various ills which plague their societies, the media can interest different constituencies in the FOI debate. This will help to create demand for information by members of the public who will thereby have a better understanding of the importance of the law, how to use it and how it can impact their lives. The media can itself also periodically monitor and assess the implementation of the law, drawing attention to inadequacies.

It is in the enlightened self interest of media institutions in Africa to support and work towards the adoption of freedom of information laws in their respective countries. Obviously, media professionals will not be able to carry out their duties effectively if they do not have access to information held by government bodies.

The legal environment in most African countries is one that severely restricts the ability of journalists to source information about government policies and activities and to properly inform the public about these. The environment is one in which investigative reporting is either impossible or extremely dangerous because of the difficulty of obtaining information.

In many countries, it is an offence for public officers to give information to the public, including the media. This creates a serious problem for the investigative journalist seeking information as public officers are usually unwilling to give the media information. The journalist can therefore hardly secure any information through official sources.

Although there is the option of getting information through unofficial sources, this can be extremely dangerous because most countries in Africa do not have any protection for journalists' confidential sources and they enjoy no immunity regarding disclosure of their sources. They can therefore be compelled by judicial or legislative bodies to disclose where they got their information, even when such information was obtained from confidential sources, thereby putting those sources at risk. This obviously affects the willingness of public officials to give information to journalists anonymously or confidentially.

THOUGHTS FROM THE PANEL

BY TOBY MENDEL, EXECUTIVE-DIRECTOR, CENTRE FOR LAW AND DEMOCRACY, CANADA

This paper presents some thoughts on the general issues raised in the first Plenary Session of the UNESCO World Press Freedom Day 2010 conference, titled: Freedom of Information: Current status, Challenges and Implications for News Media. These are drawn from comments made by the presenters, from the background paper prepared by the organisers and from the wider literature and practical experience on these issues. The paper does not address the specific country-comments made by some of the panellists.

FROM FREEDOM OF INFORMATION TO THE RIGHT TO INFORMATION

When earlier generation laws giving a right of access to information held by public bodies were adopted, they generally went by names like freedom of information or access to information laws. They were motivated by a desire to bring about governance reform, and specifically by goals such as improving accountability and combating corruption, and perhaps fostering participation and thereby greater ownership over development initiatives. The theory behind these laws was sound and, to a greater or lesser extent, they did achieve these goals.

In more recent years, however, there has been a profound shift in the way these laws are viewed, by legislators and also by civil society. They are no longer seen as governance reforms but, rather, as implementing a fundamental human right, namely the right to information. Even if the basic structure and characteristics of the laws has not changed that dramatically, this shift in underlying rationale has very important implications.

It is now widely accepted that access to information held by public bodies is a fundamental human right. In her opening address to the 2010 UNESCO World Press Freedom Day Conference in Brisbane, the Director-General of UNESCO, Irina Bokova, stated as much. The same has been asserted by a host of leading international human rights and freedom of expression experts, and in many authoritative international statements.

Perhaps, most conclusively, both the Inter-American Court of Human Rights and the European Court of Human Rights have held that the general guarantees of freedom of expression in the regional human rights conventions they interpret encompass the right to information. The

Inter-American, in the now famous September 2006 case of *Claude Reyes and Others v. Chile*, was strong and unequivocal, holding not only that there is a right to information, but also that States are obliged to adopt legislation to give effect to this right. In *Társaság A Szabadságjogokért v. Hungary*, adopted in April 2009, the European Court also held that the right to information was protected by the European Convention, but employing perhaps slightly less forceful language.

The chronology of these events is not a coincidence; indeed the European Court had long refused to recognise a general right to access information held by public bodies and it seems to have been prompted to do so at least in part by the decision of the Inter-American Court of Human Rights. This reflects global dynamics on this issue, and fact that leadership in terms of recognising the right to information has come not from Western countries but from the global South.

Recognition of the right to information has important legal implications, some of which are explored in the next section. But, in those countries in which the right has been fully embraced, by civil society and by other social actors, including politicians, this also has important social and political ramifications. The incredibly vibrant civil society movements around the right to information in India perhaps exemplify this best, but the right has also been embraced in other countries, including some in Latin America, most prominently Mexico, and a number of countries in Eastern and Central Europe.

The impact of recognition of a right to information has been manifested in many ways. In India, for example, the government has so far been unable to introduce amendments to the law to provide for an exception to protect so-called file notings, advice provided by civil servants as a file is reviewed by them. The exception sought by the government, at least initially, was undoubtedly too broad but, at the same time, almost all right to information laws do provide some protection for internal advice. The active civil society movement for the right to information in India refuses to back down, however, claiming a right to information and highlighting rampant abuse by officials of secrecy in the past.

In Bulgaria, in 2007, some members of parliament sought to introduce amendments to the right to information law which would have required proof of an interest in the information being sought, increased fees and timelines for responding to requests substantially, and done away with the rule on severability. Due to a well-organised civil society campaign, backed by a public which strongly supports the right to information, these negative proposals were all rejected and, in their place, a set of amendments to enhance access – including by requiring both national and local public bodies to appoint information officials and to establish proper reading rooms for purposes of granting access to information – were adopted.

In Mexico, also in 2007, a comprehensive reform of the constitutional provisions on access to information resulted in the adoption of the most comprehensive and detailed constitutional guarantees of this right to be found anywhere. Article 6 of the Constitution now contains seven detailed provisions on the right to information including, among other things, recognition of the right in accordance with the principle of maximum disclosure, free of charge and through expeditious mechanisms. The article also requires public bodies to maintain their records in good condition and calls for independent specialised oversight bodies.

LEGISLATIVE ISSUES

Recognition of access as a fundamental right raises a number of issues for right to information legislation. Many of these have been the subject of recent debate over the right to information, including in countries which have not yet recognised this domestically as a human right.

One issue is the question of what fees should be charged for making a request for information. In many countries, there is no fee simply for filing a request, while in others a fee is levied. Amendments to the law in Ireland in 2003 introduced substantial new fees, including a 15 Euro application fee and a 75 Euro fee for internal reviews. This led to an 83% drop in requests from journalists over a period of just one year and very significant drops in the rate of requests from other categories of requesters.

Fees have also been an issue in Canada, with some provincial jurisdictions increasing fees and then having to drop them back down in the light of public pressure. On the other hand, some campaigners in India justify the relatively modest Rp. 10 application fee (approximately USD0.22) as being justified to ensure that applicants take their requests seriously. Viewed from the perspective of human rights, it is problematical that one might have to pay simply to make a request for satisfaction of a basic right.

On the other hand, almost every country allows for some fees to be charged where a request is satisfied, for example to recoup photocopying and mailing charges. More controversial are situations where public bodies try to recoup the costs of searching for requested information and assessing whether or not it falls within the scope of the regime of exceptions. It seems unreasonable to place the burden of this on the requester, among other things because these charges depend on factors under the control of the public body (such as the condition in which it maintains its records and the ‘diligence’ it brings to bear on the question of assessing exceptions).

The scope of the right of access in terms of the bodies which are subject to openness obligations has also been a matter of great debate around the world. One issue has been whether or not the legislative and judicial branches of government should be covered and, if so, to what extent. The problem is neatly captured by a compromise in the Council of Europe’s Convention on Access to Official Documents, Article 1(2)(a) of which defines public authorities. The primary definition limits application in respect of judicial and legislative bodies to their administrative functions, but the same article also envisages the possibilities of States extending application to these bodies in their other functions. Under a human rights approach, there would appear to be no warrant for excluding any of the functions of public bodies from the scope of openness obligations.

There has also been debate about the extent to which bodies which are funded or controlled by the State, or which are established by law or which otherwise perform public functions, should also be covered. Once again, a human rights approach can be helpful here, as international law defines with some degree of precision the scope of State responsibility for these kinds of actors. In accordance with these principles, which focus on effective control and the degree of involvement of the State, the scope of responsibility under the right to information should be broad.

Perhaps the most difficult issue for any right to information law is the scope of the regime of exceptions. On the one hand, it is clearly important to protect all legitimate secrecy interests. On the other hand, if these are defined too broadly, this has the potential to seriously undermine openness.

Once again, a human rights approach can provide important guidance. Under international law, restrictions on freedom of expression are permitted only where they meet a strict three-part test. First, the restriction must be provided for by law. This is normally uncontroversial in the context of access to information legislation. Second, the restriction must serve one of a number of recognised

legitimate interests, namely the rights and reputations of others, national security, public order, or public health or morals. In the case of some exceptions to the right of access, it is not clear what interest they serve. This is particularly true of class exceptions, which rule out whole categories of information or public bodies, such as intelligence bodies. A rights-based analysis rules out such class exceptions.

Finally, and most importantly, the restriction must be necessary to serve the legitimate aim. This implies that it is only where disclosure of the information would actually harm the legitimate interest that it might be withheld. It also implies that exceptions should not be overbroad, in the sense of capturing information whose disclosure would be harmless, in addition to information which is more sensitive. Finally, necessity requires proportionality, in the sense that the harm to the right cannot be greater than the benefit in terms of protecting the legitimate aim. This requires a public interest override – so that information must be released even if it would harm the legitimate aim where, overall, the public interest would be served by this – such as are found in many right to information laws.

Many right to information laws contain exceptions which are not harm-based or which are overbroad, and which would, as a result, breach this standard. A good example of this is the internal advice exception, noted above in connection with file notings in India. Excluding all internal advice, or worse yet, all internal or working documents, as some laws do, seriously undermines the ability of the public to understand and to engage with government decision-making. In many countries, cabinet documents are totally, or largely, excluded from the scope of the law. A human rights approach requires States to define carefully the precise interests which are to be protected, such as the provision of free and frank advice, or the success of a policy against premature disclosure.

Another exception which a strict human rights approach might affect is protection of national security. This is an interest of the greatest importance, upon which all rights and indeed democracy itself depend. At the same time, it is an exception which has historically been abused to hide information the disclosure of which would not affect national security. Courts have often been willing to take government claims of a risk to national security at face value, while some laws give government ministers the power to issue certificates affirming the national security nature of a document. Under a human rights approach, courts might be inclined to require greater proof of this risk than is currently the case.

IMPLEMENTATION ISSUES

Implementation of right to information laws poses a massive challenge and it is beyond the scope of this paper, and the panel it reflects on, to address them in a comprehensive manner. Rather, a few key implementation challenges that were raised by the panel and in the background paper are highlighted.

One of the key impediments to proper implementation of right to information laws is the culture of secrecy that persists in government, even after the law has been adopted. Notwithstanding the clear legislative intent of most right to information laws, and despite the formal provisions in the law, there is always a strong residual power in civil servants to obstruct access while respecting the letter of the law. Bureaucrats can, for example, imaginatively explore all possible exceptions, use all mechanisms for delay or seek to increase costs or bury relevant information by interpreting requests unduly broadly.

There is really no magical way of addressing this problem. At root, the best solution is probably to work with good civil servants to convince them that proper application of the law will serve their interests by improving relations with the public, by exposing any colleagues that are dishonest or incompetent, and by protecting them against the risk of having to take the blame for something that was not their fault. High level political support, such as was provided by President Fox in Mexico and by President Obama in the United States, is also invaluable.

Training of officials is also key to addressing the culture of secrecy, which stems, at least in part, from fear of openness and lack of understanding about what it entails. A particular effort should be made to ensure that dedicated information officers are well trained and are able to play a wider promotional role for the right to information within the civil service. Establishing recognised information officer positions, with strong career development potential, can also help. Finally, mainstreaming the right to information as a public service value, and integrating it into core workplace structures, such as performance review systems, can also break down entrenched resistance.

Beyond formal resistance, in many countries, public bodies simply lack the capacity to implement right to information rules. Particular challenges include developing good record management systems so that information can be located and assessed, meeting proactive disclosure obligations, and handling sometimes heavy request loads. Putting in place efficient systems for all three of these challenges can help. Central bodies, such as the information commission or a dedicated ministry, can serve as a locus of expertise on these issues, developing systemic templates, providing advice and so on.

Finally, it is important that the achievements and failures of public bodies in implementing the law be subject to some sort of external monitoring. The legislature can play an important oversight role here, in its capacity of ensuring fidelity to the laws it passes. For this to be possible, however, it is necessary for a reporting system to be put in place to ensure that legislators have the information they require for this task. In many countries, public bodies are required to provide reports to the oversight body or information commission on the actions they have taken to implement the law, including detailed information on the requests they have received and the manner in which they have dealt with them. The information commission then compiles these into a central report, which is provided to parliament.

Civil society organisations can also play an invaluable role in monitoring, as well as supporting other implementation activities. They can engage in active forms of monitoring, such as testing the scope of the law through making requests, and also compare the performance of different public bodies, with a view to trying to lever up the poor performers. Civil society groups can support implementation in a number of other ways, for example by participating in training activities, by helping individuals make requests, by supporting public bodies in their implementation efforts and so on.

THE ROLE OF THE MEDIA

The right to information is a right to be enjoyed by everyone, not just by the media. At the same time, the media are a very important user group, since their core work includes investigating and monitoring the activities of public bodies, for which the right to information provides important support. They also further disseminate their reports to the wider public, creating a multiplier effect. The right to information is often particularly attractive to investigative journalists, because while it can take time to process access to information requests, this also provides a rich vein of information for them.

Despite the benefits of the right to information for journalists, in some countries, media have, at least at first, been reluctant to support general openness campaigns for two reasons. First, they have sometimes feared that a formal system for providing access to information held by public bodies through an access to information law will undercut the informal systems they traditionally rely upon to access this type of information, perhaps introducing rigidities and delays which they do not currently face. Second, journalists have sometimes feared that with open access, their particular role as purveyors of information will be undermined. If everyone can access information, what special role will they play?

Neither of these concerns is borne out in practice. Traditional media sources are rarely affected by the addition of a new means of obtaining information and, indeed, most journalists continue to get most of their information from traditional sources. And distilling and presenting the news in focused media products continues to be an important value added, even if individuals have greater access to public information through direct means.

In many countries, on the other hand, the media has played a leading role in advocating for right to information legislation, and in promoting strong implementation efforts after the law has been passed. One of the positive roles that the media can play is to highlight real right to information successes, for example leading to the exposure of corruption, the reversal of policy or development proposals, or an increase in participation. On the other hand, the media is sometimes attracted to high-profile scandals, which may attract short-term public interest, but which will ultimately fail to build real support for the right to information.

Where the media do not highlight the role of the right to information as a source for their stories, the potential to build public support is lost. In Canada, the exposure of abuses relating to the so-called 'sponsorship programme', initially discovered through right to information requests, eventually led to the downfall of the long-standing Liberal Government. However, the media did not highlight the fact that their stories were possible due to the right to information, and so relatively little support for the system was generated notwithstanding the enormous significance of the result.

On the other hand, in Mexico, there is a real sense that the right to information law works because every week stories are published in the media about releases which actually affect people. For example, the right to information law is widely credited with the almost complete disappearance of the 'aviadores', government employees who would get paid but never actually turn up for work. Highlighting the role of the right to information in these stories can generate significant public awareness dividends.

The last twenty years have witnessed massive growth in recognition of the right to information as a human right, as well as in terms of right to information legislation. These changes are having a dramatic impact on the way effect is being given to this right, legally and in terms of implementation. This paper peruses just a few recent developments and implementation strategies, and how they are affecting enjoyment of the right in practice. It is probably foolhardy to try to predict what will happen in this area over the next ten years, let alone twenty. But widespread recognition of it as a human right suggests that the future for the right to information will be bright.

PART 2

FREEDOM OF INFORMATION AS A TOOL FOR EMPOWERMENT: ENABLING PROTECTION AND ACHIEVEMENT OF OTHER RIGHTS

It is one thing to talk about the need for freedom of information laws, but quite another to assess how such laws can have a tangible and real effect in the day-to-day world. In Nepal, India and many other countries, the implementation of FOI legislation has provided an enabling environment which has allowed marginalized communities to then build their own media and information-sharing systems. Practical examples of the way in which illiterate women in India and journalists in Nepal have used FOI to ensure greater access to information through community media, especially radio, give hope for increased government openness in the future.

GOOD INSTITUTIONS, THE PUBLIC SPHERE AND MEDIA LITERACY

BY ULLA CARLSSON, PROFESSOR/DIRECTOR, NORDICOM,
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Access to information and the ability to share information empower people, regardless of who and where they are. Information can mobilize, increase transparency and accountability, and it is a stimulus to participation, active citizenship, lifelong learning and social change. In this way information becomes crucial to ensuring a democratic society.

This is hardly a new insight. The role of information has been formulated in these terms for decades, perhaps especially in the literature of the 1960s, when information was accorded a central role in national development processes. Researchers elaborated various scenarios, outlining how information and communication would contribute to modernizing political institutions in developing countries. Proponents of this 'modernization paradigm' saw mass media as the key element in this process. But in time, optimism about the potential of information and communication waned, and in some cases turned into pessimism. In the 1980s and 1990s – a time of afterthought on many fronts – there dawned a general realization that the enthusiasts had grossly underestimated the obstacles to making information and communications work for people's development. It was an era when the concept of 'the Third World' aroused both hopes and many unresolved political conflicts.

At that time, Internet and mobile phones – personal computers, too, for that matter – were unknown to most people. We have witnessed the emergence of a new media and communication society which has transformed the social functions of media and communication. An interactive and mobile communication society is developing alongside traditional mass media. Passive spectators are becoming active participants. Once again, after several years of deep pessimism in the aftermath of 9/11 in 2001, there are some small signs of 'optimism' about freedom of expression and freedom of information.

We find freedom of expression and freedom of information high up on a growing number of international agendas. The focus is on ways to stimulate critical thinking about how these rights can be put to better effect in practice – not least in connection with the implementation of the Millennium Goals. And globalization processes force

us not only to focus more on transnational phenomena in general, but also to be especially attentive to political, social and cultural differences between countries. About 60-70 per cent of the inequality that exists today is inequality between nations while, two hundred years ago, 90 per cent of the inequality was within countries. Thus, the gap between wealthy and poor countries has increased dramatically over the past two hundred years (Bourguignon and Morrisson 2002).

FREEDOM OF INFORMATION AND OTHER RIGHTS

Freedom of information or the right to information is fundamental in the protection of freedom of expression. Freedom of information is defined as the universal right to access information held by public bodies. Freedom of information laws reflect the fundamental premise that all information held by governments, governmental institutions and local authorities is in principle public. As we all know, the Universal Declaration of Human Rights lays down the Freedom for Information in 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." The principles are further elaborated in such agreements as the International Covenant on Civil and Political Rights (Art. 19) and the Convention on the Rights of the Child (Art. 13 and 17).

Some important principles are to be found in these universal articles regarding freedom of information: 1. It is the individual citizen and the media who are central to the freedom of information – the purpose is above all to protect individuals, journalists and media enterprises from interference on the part of public authority. 2. An important feature of the rules on freedom of information is the underlying belief in pluralism of information and ideas. It is the purpose of freedom of information to stimulate information and debate on issues of public importance. The media play a crucial role in this. 3. Those restrictions on freedom of information which are nevertheless allowed must be narrowly construed. Freedom should be the rule and constraint the exception. 4. Any

restrictions of freedom of information should be applied with the requirements of a democratic society in mind – without freedom of information no democracy, without democracy no freedom of information, and 5. Freedom of information is to be exercised regardless of frontiers. (Österdahl 1992) Freedom of information is intimately related to the rule of law. Citizens – whomever they may be – have to know their rights and know how to use the judicial system in order to secure them. It is not enough that individual rights exist, because people have to be able to enjoy and make use of them. In the words of Amartya Sen: “Individual freedoms can be seen to be a social commitment, and this requires the state to play an active role in advancing the substantive freedom of the people to do what they have reason to value, as well as to know what is feasible”. Sen focuses on freedom as a person’s actual ability to be or do something. (Sen 2010)

From that point of view, citizenship has to be defined as a social practice grounded in everyday experiences - “a multi-dimensional concept which includes the agencies, identities and actions of people themselves” (Gaventa 2005). ‘Inclusive citizenship’, a concept introduced by Naila Kabeer, refers to the strategies of inclusion that people apply - a set of values and meanings, with cultural, social and economic rights that provide substance to both political and civil rights (Kabeer 2005).

Such an actor-oriented perspective freedom of information implies that a society is open and free:

- when governments and authorities act simply and straightforwardly in compliance with freedom of information principles – thanks to appropriate and well-implemented legislation - a trustworthy service to the people;
- when citizens have the capability to request information and then use the information provided;
- when free and independent media report information of relevance to people’s lives, train a critical eye on all who have power over others, and stimulate public debate.

Together, these factors will create processes, or a sort of circuit, based on accountability and participation. Such social, legal and public communicative processes form the basis for a public sphere and, from that perspective, information can be a real tool in the hands of people in their struggle for civil, political, social and cultural rights.

Civil rights include people’s rights to be treated equally, to hold property, to have due process of law, to enjoy freedom of speech and religion, and to have their privacy protected. Citizens have these rights by virtue of being autonomous individuals.

Political rights concern the right to vote, to run for public office, and to organize politically and socially.

Social rights include such benefits to wellbeing as the right to health, education, and a social safety net.

Cultural rights include the right to participate in and enjoy a wide range of cultural expressions. These rights have become especially relevant in the new multicultural societies that are now developing.

Rights are not bestowed once and for all, but rather must be created and secured through work and struggle.

Helge Rønning 2009

But in order to be able to make use of their right to information, citizens have to have some education and be of good health. Thus, many groups of people are unable to use their rights. The number of people living in slums is now 830 million and that figure will increase to 900 million in 2020. Their life conditions are a “violation of human rights” the UN Secretary General Ban Ki-Moon noted in his message to the World Urban Forum 2010. Marginalized groups that are communicationally illiterate – poor and vulnerable women, youth and other groups may suffer disproportionately from lack of information access. They often face social inequality, poor schools, gender discrimination, unemployment and inadequate health systems. People caught up in war and violent unrest are especially vulnerable. Millions of people have been driven from their homes and have no civil rights whatsoever.

THE IMPORTANCE OF GOOD INSTITUTIONS

All people have the right to freedom of information. They are right-holders, and when a country has ratified a treaty including the principle of freedom of information, individuals move from being a right-holder to being a claim-holder with a ‘claim-duty pattern’ in which the state most often is the duty-bearer. Such a human rights-based model implies a society characterized by equality and non-discrimination, participation and inclusion, transparency, and accountability.

Many of the researchers who have devoted themselves to problems of development and what can be done to eradicate poverty and corruption – two prime ‘enemies’ of freedom of information – are agreed as to the importance of good governance and quality of government – with its focus on ‘good institutions’. These terms refer not only to formal political institutions, but also to informal institutions having to do with trust and traditions of cooperation. Political scientists have shown that the level of social trust correlates positively with a number of political, social, and economic conditions that are normatively desirable in a democracy (Helmke and Levitsky 2004, Rothstein and Uslaner 2005).

Empirical studies have found that developing countries that were equally poor in 1960 have attained remarkably different standards of welfare today. The differences seem to be due to no other factors than qualitative differences in the countries’ political and social institutions (Holmberg and Rothstein 2010).

Why do some states develop ‘good institutions’ and others do not? There are neither theories nor empirical studies that explain how a country can create good political and social institutions. But we know that public education – not least the education of girls and young women – and independent and pluralistic media play crucial roles. This, by the way, is a reminder of the value of good statistics, indicators that measure development and capabilities, and cross-disciplinary research.

Sweden, where I come from, was the first country in the world to grant its citizens the right of access to information. That was 250 years ago, in 1766. The same law, the Freedom of the Press Act, protects individuals who report information to journalists and other publicists from prosecution or persecution. Journalists need not reveal their identity. The Act is one of four laws that make up the Swedish Constitution. Other countries in the Nordic region – Denmark, Finland, Iceland and Norway – have similar laws. The Nordic countries were also the first to set up national Press Councils, in which media owners, editors and journalists together draw the guidelines that aim to ensure media accountability. That was in the early years of the twentieth century.

Provisions for openness and transparency in the law create a conducive climate for a more general ‘culture of transparency’ whereby realms of the private sphere too, are open to scrutiny, as well – in practice and in the law. The example of the Nordic countries supports such a conclusion, in any case. Unfortunately, there has been very little research that documents how the countries of Northern Europe went about it, when they freed themselves from the bonds of poverty, corruption and clientelism (Holmberg and Rothstein 2010).

MEDIA AND THE PUBLIC SPHERE

Information from governments and authorities – so-called vertical communication – is not sufficient. Information sources, ‘watch-dogs’ and fora for debate – in short, a ‘public sphere’, a space for horizontal communication, is necessary, as well. When speaking of the public sphere we tend to think of media. Mass media constitute the infrastructure for the modern public sphere – from conventional media to a variety of platforms on the Internet. But when speaking of the public sphere we should also think of civil society. “There is no public sphere without civil society, but there is also none without the public” (Splichal 2010).

Freedom of information is – as UNESCO puts it – “fundamentally connected to freedom of expression and press freedom, representing a crucial element to enable media to strengthen democratization, good governance and human development through its roles as a ‘watch-dog’ over the abuse of power - promoting accountability and transparency: as a civic forum for political debate; and as an agenda-setter for policymakers. In turn, complete realization of the right to know cannot take place without free, independent, plural, ethical and professional media” (www.unesco.org).

So, the media are more than a link between government and politics, and the citizens. They play dual roles: together with other actors, sources and audiences, they create media content; secondly, their output influences both sources and audiences – and the media themselves (Asp 2007).

Journalists and media have a key role in scrutinizing those in power and revealing irregularities and social ills. The security and safety of journalists is, however, a crucial factor – to be able to work free of political censorship and free from threats of violence. The safety of journalists is an issue not only in theatres of war and violent upheavals. Murders of journalists and threats against their lives are on the increase, according to a recent UNESCO report. (IPDC, UNESCO 2010). Most victims, says the report, are targeted in countries that are at peace, but where revealing sensitive information – about drug trafficking, violations of human rights or corruption – can mean risking one’s life. Poorly trained and poorly paid journalists are severely handicapped when it comes to defending professional ethics. Lack of security is a source of corruption and self-censorship among journalists.

But, we shall also remember that production and distribution of media content is often concentrated in a few hands. A more democratic distribution of communicative power within the public sphere is a forceful argument for dispersed media ownership – a structure that militates

against abuses of the media's power. Research suggests that a lower degree of concentration of media ownership means that there will be more media owners who support more socially responsible kinds of journalism, rather than focusing single-mindedly on 'the bottom line' (Baker 2006).

Great hopes are attached to the Internet as a vehicle for innovative and more democratic forms of journalism. So far, however, the various websites do little more than collect and reproduce existing journalistic work that has been produced by so-called conventional media. It is difficult in these days, in any case, to foresee a business model, or combination of models, that will support a renaissance in journalism on the web. Digitization can contribute to democratic development and higher standards of journalism, but only provided that there are qualified news editors who produce the material for the various web services. The survival and evolution of these newsrooms is therefore of crucial importance to the development of democracy.

In this connection, there is reason to mention the public service broadcast media and their potential to empower people – when considering the media users as participants. Such media can provide an independent range of programs characterized by quality, breadth and depth that give the public access to information, social debate and not least education – particularly programs that involve people themselves. Radio, especially, plays an important role. Unparalleled in many parts of the world, radio is effective and cheap, yet far-reaching.

In view of the pace of technological progress and the fact that there is limited scope for funding public services with tax revenues or licence fees in developing countries, it is important that researchers and policy-makers try to formulate new frameworks for public service media, both the conceptual frameworks and their operational practicalities. The points of departure for these efforts are theories of democratic development, the public sphere, media pluralism, cultural diversity and tolerance. In focus are media audiences – the citizens.

■ EMPOWERMENT THROUGH MEDIA LITERACY

Democratic rule is not possible without informed citizens, and informed citizens cannot exist without reliable, trustworthy journalism. Journalism and the media need to be worthy of trust – they need to be accountable.

Regulation and self-regulation are not enough to ensure that media companies fulfill a widespread assumption of moral responsibility for "the other person in a world of great conflict, tragedy, intolerance and indifference"

(Silverstone 2007). Media and information literacy is a key factor at all levels. Better and more widespread knowledge of the media will be a stimulus to participation, active citizenship, competence development and lifelong learning. In this way media and information literacy becomes crucial to ensuring a democratic society.

It is recognized that media and information literacy consists of a number of kinds of knowledge and proficiencies. In addition to the essential precondition, namely, access to media, people need an understanding of how the media work, how they create meaning, how the media industries are organized, how they make money, and the goals toward which they work. Not least they need to understand the importance of a critical treatment of sources. The ability to sift through and sort out information from the tremendous flood of data and images in our digital information and communication society is a key skill. As is the capability to analyze and evaluate the information made available by media and via various platforms.

The importance of an awareness of, and sensitivity to, political censorship and commercial barriers cannot be overstated. Media literacy also means knowing how media can be used and being able to express oneself or express one's creativity using them, i.e., to generate media content. Users also need to be able to avoid and manage the risks media, especially Internet, imply. So, there is – once and for all – a need for more knowledge and new skills in the area of privacy, integrity and data security, and copyright aspects of media use.

The challenge today is to develop policies that balance two somewhat conflicting goals – especially regarding young people: maximizing the potential of new information technologies and minimizing the risks they entail (Livingstone and Haddon 2009). This is a challenge facing many different actors – policy-makers, media companies, Internet content providers, the schools, the research community, and so forth, civil society organizations, as well as young people, their parents and other adults. It is particularly important that young people themselves be engaged in this work.

We should do well to recall that, throughout history, young people have often been active participants in the manifestation of social change, and most times their creative uses of media and innovative practices of communication have been crucial in the process. Consider, for example, the key roles young people play in citizen media, or in campaigning for political freedom, freedom of expression, fair trade, HIV/AIDS prevention, etc. (Tuftes and Enghel 2009).

■ AT THE CORE OF THIS CREATIVITY AND THESE INNOVATIVE PRACTICES IS MEDIA AND INFORMATION LITERACY.

Different Internet platforms like Facebook, YouTube and blogs are rapidly growing virtual sites that give shape to new forms of social networking, communication and mobilization, primarily amongst youth. Young people's competence in using media and their ability to produce, understand and interact with the multiplicity of both new and old media formats and technologies have been instrumental in the manifestation of social processes of change.

■ FREEDOM OF INFORMATION: THE DIGITAL PUBLIC SPHERE, GOVERNANCE AND MEDIA POLICY

Media are the focal point in discussions relating to World Press Freedom Day. With regard to freedom of information our point of departure has to be a recognition that access to information lies at the core of the democratic process, as it transfers vital knowledge to the people – empowerment is the word. And in that context it is relevant to ask “whose media, whose freedom” (Satheesh 2010).

Over the past ten years, the right to freedom of information has been recognized by an increasing number of countries, both in the southern and northern hemispheres, through the adoption of a wave of legislation providing for the right to information. But, still, less than 45 per cent of the countries of the world have any form of legal provision for freedom of information. That points up the dire need of national legislation, but it is also a reminder of how important it is for countries that do have such provisions to live up to the letter and the spirit of the law. And, of the importance of free and independent media and flows of communication, not least at local levels. We have to remember that local media, e.g. small radio stations, help to foster diversity and pluralism, and boost popular political and social debate in many societies.

Faith in the communication channels that Internet offers arouses great hopes from the perspective of democracy. But, both governments and social organizations in many different quarters are demanding more extensive control over the free flow of information via Internet and other electronic channels of communication. There is an ongoing battle against unlawful control and censorship on the web – that struggle is addressed to both governments and private corporations.

Many pressing issues facing politicians and policy-makers today have to do with digital media and phenomena in cyberspace. International and regional organizations as well as national governments and civil society - and

the media - have to debate the Internet of the future and issues relating to on whose terms the web should operate and whose needs it should fill. The protection of human rights and freedom of expression, ensuring universal access to the Internet as a public service, and promoting media literacy are key priorities.

In order to shed light on these important issues we need research – and not least thoughts and reflections. Research communities need to create multi-disciplinary platforms to achieve long-term goals through national, regional and international collaboration. We have to build on past work, but break new ground – we need unexpected insights and new comparative research questions – with much more collaboration between the northern and southern hemispheres. There is an urgent need for the agenda to become sensitized to different cultural contexts and intercultural approaches to a much higher degree than has been the case to date. We need to learn more from one another, to share knowledge, ideas and context.

And we should not lose sight of the fact that power, identity and inequality are still concepts of vital relevance (Golding 2005). Neither should we lose sight of the fact that the ‘arteries’ in the media landscape - not least the routes that communication takes – are creations of political will. This is true of Internet and mobile telephones as well as television and, even earlier, radio. Without a political will, there will be no development. (McChesney 2008)

In our messy world there seems to be an urgent need for both a global plan of action as an expression of well-defined global leadership and plans of action, country by country, based on local conditions and experiences – with clear and unequivocal assignment of responsibility.

The global level has to be characterized by good governance if it is to be able to help bring good governance to other levels – and vice versa. Independent and pluralistic media are integral to good governance and have a measurable impact in strengthening peoples’ political, economic and social rights, thereby alleviating poverty. Freedom of expression and information is as effective as education and investments are when it comes to promoting development (Novel 2006).

Perhaps it is time that we dare ask ourselves what exactly is required not just to alleviate, but to eradicate, poverty in the world. This question actualizes vital democratic values - what kind of society do we want, and just who is this ‘we’?

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NEPAL: FREEDOM OF INFORMATION

BY TARANATH DAHAL,
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Freedom of information has only recently been recognized as a citizen's right in Nepal, when compared to other fundamental rights. About two decades ago, the State acknowledged people's access to information as a fundamental right through the adoption of the 1990 Constitution. The Right to Information (RTI), despite being guaranteed since 1990, was only given effect in July 2007 with the adoption of the RTI Act 2007 in Nepal. The Parliament of Nepal passed the Act to give effect to the people's fundamental right to seek and receive information on any matters of public importance held by public agencies.

The RTI Act is the outcome of approximately one-and-half decades of the movement for the RTI in Nepal led by the media fraternity and civil society organizations. The 1990 Constitution of Nepal enshrined freedom of information as a fundamental right of its citizens, following immense pressure on the part of media and civil society organizations. This marked considerable progress in the enforcement of freedom of information in Nepal. Nevertheless, Nepalese citizens could not substantially exercise this right as tools for empowerment and enabling protection and other rights.

In addition, their efforts are also seen in the establishment, on June 14, 2008, of the National Information Commission (NIC), an independent body for the promotion, protection and practice of the right to information and also the ratification of the Right to Information Regulation on Feb 9, 2009. All in all, the role played by Nepalese civil society and media has been remarkable in institutionalizing freedom of information and establishing an open and fair freedom of information regime in Nepal. Its promotion, protection and practice are the foundations of free, transparent and democratic society in Nepal.

Freedom of information undoubtedly plays a significant role in the promotion and protection of the interests of an individual and of society as a whole. As freedom of information and promotion and protection of rights are inalienable parts of a modern democracy, both subjects should never be seen and interpreted separately. In fact, both are the bedrock of the nation to sustain its democracy.

Media, being a crucial part of freedom of information, has an immense role to play in Nepal. In the past, media has played a significant role, such as in the case of the Humla famine and other issues which are identified as case studies in this study.

The role of the media in strengthening the demand side of the Right to Information Regime is important. The media occupies a critical place in the governance process. A vital part is its role in disseminating critical messages to the public and highlighting issues/concerns/initiatives. It promotes good governance by facilitating people's collective action for attaining sustainable socio-economic outcomes.

A direct relationship exists between the right to information, an informed citizenry and good governance. RTI provides citizens the opportunity of being informed about what government does for them, why and how it does it. The media plays a significant role, especially in empowering citizens, informing them and playing a catalytic role in providing a voice for the voiceless.

In the context of Nepal, the role of freedom of information may vary depending on the context and content. Notwithstanding, it is commonly agreed that it has a wider role to play in establishing an open and transparent society, fulfilling peoples' interests and enabling mechanisms for sustainable democracy.

CHANGING CONVENTIONAL PRACTICES

Nepal has been witnessing significant political changes. It is still emerging as a democratic State and has been trying to shift its non-democratic practices to democratic ones. Some of the major challenges have been the conventional bureaucratic and governmental mechanisms based on non-democratic and reserved attitudes, reluctance for easy and timely services, and unwillingness to disclose information. With a stronger media and their continuous pressure they can play a crucial role in assessing the policies and actions of the Government. It also enables bureaucratic and government channels to institutionalize democratic and open practices in their services.

■ DISSEMINATION OF INFORMATION ENABLING PARTICIPATION AND STRENGTHENING PUBLIC VOICES

The regular functions of media, such as the free flow of information, awareness raising, the role of watchdog and access to information, are vital to the functioning of a democratic government. It has an even more crucial role to play in a nation like Nepal which is still striving to embrace democratic practices. No nation can claim itself to be democratic one if its system is hidden and veiled by corrupt practices. People do not know what is happening in their society if the actions of those who rule them are hidden. Then they cannot take a meaningful part in the affairs of the society.

Modern democracy is largely based on ideals of informative and open government agencies where media has a special role. A modern democracy has shifted its paradigm from a mere voting one to participation in the decision making. Through the regular dissemination of information from the media about government activities, people can update and take prompt action and make decisions on those activities. The media is universally accepted as a 'watchdog' of the state. Through the dissemination of information it can educate, inform and create opportunities for the participation of people which ultimately strengthens the public voice to act like a watchdog. Access to information not only facilitates active participation of the people in the democratic governance process, but also promotes openness, transparency and accountability in administration. Nepalese people are still facing problems due to corrupt practices, poor governance, a delay in services etc. which can be monitored and ratified by empowering people through regular information, news and correspondence on such problems.

■ EMPOWERING NEGLECTED PEOPLE

A large section of Nepalese people are neglected in social, economic and political aspects. One of the major reasons behind this is a lack of awareness. They are unaware about their rights, remedies, facilities etc. The media, as guardian of freedom of information, can help by disseminating accurate information in order to secure for people their rightful entitlements. People are facing problems of poverty, starvation and basic medical facilities due to a lack of government initiative and failure to fulfill its duty. The media can enable people to have access to government programmes, to become aware of political issues and to help educate people on social, economic and environmental issues etc.

A CASE STUDY

In the case of the killing of 170 local people in the remote Humla district, including other parts of far-western Nepal, due to famine and starvation, news reports were widely covered in print and electronic media.

IMPACT

With the coverage of famine news in the newspaper and FM radio, a Public Interest Litigation (PIL) was filed by one of the advocates in the Supreme Court, asking the government to take immediate action to solve problems created by the famine. The Supreme Court took the matter seriously and recognized that it is the duty of the government to supply adequate food in keeping with the obligation of the State to lift the standard of living of people under the directive principles of the State enshrined in the Constitution. News published regularly in the newspaper helped identify the lack of the government's role in the serious matter of a right to food which obliged the government to lift the standard of living of the people.

■ ENABLING LOCAL AND NEGLECTED SECTIONS OF SOCIETY

At present, Nepal is failing to address the demands of different neglected sections of society such as women, children, youth, Dalit, marginalized, Madhesi, Muslim etc. One of the main reasons for this situation is a lack of the development of proper mechanisms by which people from such communities can have their legal and necessary representation in the government. Media in the forms of FM radio, newspapers and other communications can be used as tools through which people can have direct access with government and local agencies.

Community media promoting access to information can enable people to know more about their rights and remedies to their situations. It enables them to not only know about government policies, plans, programs of action and ongoing developments, but local media also covers issues which can empower people to take action. Community radio programs are relevant in the contemporary Nepalese situation where they can voice the interests of such neglected communities and create pressure on government.

A CASE STUDY

The advancement of community radio is one of the remarkable developments which have happened over the last two decades in Nepal. Around 200 community radios have been established throughout Nepal, the geographical situation of which makes it difficult for other media, such as newspaper and television, to reach people. In most cases, such community radios are established with the efforts of the local citizenry and civil society, and

they address local issues along with rights advocacy. Programs on children, mothers, youth etc. and such issues as the right to education, maternity issues and many more domestic matters are prioritized. Community radio has not only been able to advocate and educate people, but has also enabled them to know about their rights and how to take remedial action.

IMPACT

Palung, one of the popular areas of Nepal in terms of agriculture, has good experiences to share because of its local/communal radio. Lately, it has broadcast daily market prices of the vegetables which are produced there but are sold in local markets of Kathmandu, the capital city of Nepal. Vegetables were being sold in Palung at Rs.3/K.G. whereas, when the same goods were transported to an adjoining district, they were found to be sold for Rs.20/K.G. The community radio raised the awareness of the local farmers of Palung and helped increase agricultural pricing and, ultimately, helped raise their living standards.

■ UPLIFTING NGOS AND CSOS AS A TOOL FOR DEVELOPMENT

The utilization of the Act by Civil Society Organizations (CSOs) assumes considerable importance in the governance process and as a bridge between the community and public agencies. CSOs can not only play an important role in monitoring public service delivery through garnering wider participation of citizens, but also in generating awareness, advocating and creating a critical mass to put pressure on public agencies and bodies to check possible corruption.

Access to information not only promotes openness, transparency and accountability in administration, but also facilitates the active participation of people in the democratic governance process.

Civil society can use freedom of information as a mechanism to strengthen the citizenry and engage it in a direct role in governance. By adopting freedom of information as a tool with the support and coordination of the media and journalists the NGOs and CSOs can play significant roles in development areas of individual and social interest.

A CASE STUDY

In order to check the activities of public authorities, one of the NGOs, Freedom Forum, submitted an application to the Office of the Prime Minister and Council of Ministers (OPMCM) on November 10, 2008, demanding information regarding the amount deposited in the PM's Natural Disaster Relief Fund. The NGO concluded that the government had misused the Relief Fund of Koshi

flood victims. It mentioned that the government granted the funds for other purposes and in other districts as well. The government had approved Rs.2.5 billion for the Koshi embankment reconstruction, but without furnishing a justifiable reason, the government had provided some 10 million rupees from the Fund to other districts.

IMPACT

After revealing the fact, Koshi flood victims took their protest to a new height. Panchanarayan Mandal, president of the Koshi flood victim struggle committee, said, "They were not getting relief funds as per the budget granted in their name. Koshi Flood victims had launched fresh protests with the demand of transparency." This is just one instance which illustrates the fact that the right to information can be used as a tool to check the wrongdoers of the government.

LGCPD: A CASE STUDY

Freedom Forum demanded information about the Local Governance and Community Development Program (LGCPD), developed with the motive of performing national activities on the basis of the principles of good governance and co-ordination. The application, filed on March 15, 2009, sought detailed Information about the concept of the LGCPD program and copies of related guidelines, funds collected from the Nepal Government and other policy bodies and their responsible officials and representatives designated to implement the program.

IMPACT

After receiving the information, Freedom Forum coordinated with, and provided the information to, the media. A number of newspaper articles were produced based on the information and it helped citizens groups in many locations to monitor the disbursement of funds under the project.

The civil society organizations have also not expanded their role in promoting an RTI culture in Nepal despite its strength to engage citizenry in this movement. Its efforts are not focused on making people aware of the use of RTI by connecting it with different areas such as governance, livelihood, transparency and civil rights. The civil society organizations are the 'change agent', having the capacity to develop a critical mass, but it is not being done substantially. Civil society could use the RTI to strengthen the citizenry and engage their direct role in governance.

■ EMPOWERING CITIZENS

When people lack a voice in the public arena, or access to information on issues that affect their lives, and if their concerns are not reasonably reflected in the public domain, their capacity to participate in democratic processes is undermined. In recent times in Nepal, access

to information and the accessibility of information has increased with the growth of print and electronic media, as well as with the Internet. The media has been empowering Nepalese citizens in recent days through different mediums. However, it needs to empower people who do not have access to electronic and print news. In Nepal, there are numerous places out of the reach of media and, in such areas, other forms of media must function so that people will be empowered.

In many cases, the media can be a tool to get remedies when voices are unheard and people are discriminated and exploited in different forms. This is especially so in societies like Nepal which have deeply rooted orthodox and anti human-rights social activities. Nepalese media have been prominently covering anti-social issues such as child abuse, witchcraft instances etc and have provided justice to the victims.

A CASE STUDY

Puspa Karki, a teacher at a Primary Secondary School in Kailali District gave information to the media about the unconstitutional and illegal activities of the school in September, 2009. She informed the media that some teachers were giving marks arbitrarily without examining the answer sheets of so-called 'lower caste' students and the school administration was acting indifferently, despite having knowledge of such practices. After the disclosures in the media, the school administration stopped her remuneration, decided to transfer her to another school without any reason and even restricted her from attending school. She filed an application to the National Information Commission to know the details of the decision.

IMPACT

The Commission decided in her favor and ordered the school to submit a written answer within seven days with the reasons for making such decisions and also ordered the school to provide remuneration and count her presence during the period when she was not allowed to work. This is one of the major examples of the protection of whistleblowers after the promulgation of the right to information law in Nepal. Such examples will help civil-servants come forward to provide information about mismanagement in the public agencies and help in the establishment of other rights, in this case of right to fair and equal treatment in the school.

■ ENHANCING QUALITY JOURNALISM

Undeniably, the Nepalese media has been playing a positive role in ensuring an open, transparent and democratic society. However, it still needs to develop itself with professional journalism based on investigative journalism with facts and evidence. The reporting in the media is still guided from the culture of 'verification' through telephone and traditional means, which may at times not be factual. It may convey wrong messages and ultimately may create adverse impacts in some situations. Due to media indifference regarding the utilization of the Right to Information Act and many other developed principles which could be a tool to assist journalists to find accurate, balanced and credible information, people have not been motivated to use this Act and enjoy access to information. It has not been used as a catalyst to seek more information and promote investigative journalism in Nepal.

Therefore, there is an apparent need that Nepalese media should update and revise its practices so that it can be more trustworthy and be oriented towards fact. For this, the enhancement of journalist and media education needs to be undertaken so that it helps to achieve the interest of an individual, as well as of society as a whole.

WHOSE MEDIA? WHOSE FREEDOM?

BY P V SATHEESH, DIRECTOR, DECCAN DEVELOPMENT SOCIETY,
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Having been a media practitioner and a media teacher in the past and currently a development activist working with some of the most impoverished and marginalized communities in South India, I cannot but ask the question, *Whose Media and Whose Freedom?* Let me clarify what I mean by this phrase.

I come from India which is undeniably, a vibrant democracy, where nearly 750 million voters are engaged in the largest adult franchise on the planet. As a voting population, this is 30 times more than the total Australian population.

Media has been an integral part of this system of democracy. India's freedom struggle that started in the early 1900s was inextricably linked to the institution of media which fiercely fought alongside the freedom fighters for the country's independence. When the country gained freedom in 1947, the Indian media was gratefully accepted as the Fourth Estate and Freedom of Expression was a Right enshrined in the Indian Constitution under Article 19A. Some great personalities raised free India's media to glorious heights by articulating their concerns, analysis and very high standards of journalism.

Since the mid 1990s, India has seen a veritable media explosion. This explosion can be understood through some factual information such as that:

- the country has nearly 450 television channels and 74000 registered newspapers; 320 radio stations.
- nearly 100 million newspaper copies are sold every day in India.
- 120 million Indian homes have TV with a viewership of nearly 420 million.
- Indian media is generally seen as very influential and powerful, particularly television. In the last five years, TV news and information has been able to force a number of reviews of judicial verdicts.
- but in the midst of this freedom and power enjoyed by the media, there is a discomfort that it has become too exclusivist on the one hand and retrograde on the other. It is seen as an extremely elite oriented and

market controlled industry with only a passing concern for the majority of the Indian population.

- these numbers give us an illusion of diversity and pluralism. But in reality, especially the TV, serves a non-diverse and non-pluralistic point of view, monoculturing the minds of its viewers and, in many cases, trivializing issues.
- local and rural communities, especially the poor and farmers have completely lost their space in this media. This number accounts for nearly 650 million people, hence the increase in the number of TV channels has very little direct impact on the projection of the issues that bear on the poor and excluded sections of society.
- India has a very large number of people who can be categorized as excluded and marginalized. They include Dalits and the indigenous people. Nearly 200 million or 17% of Indian population is Dalit, and 80 million are *adivasis*, the indigenous people. Together they make for close to 25% of the Indian population.
- about 360 million women live in Indian villages.

Most of this population has no voice in the media. That is close to about 450 million people, in other words, more than twenty times the population of Australia. Imagine that the total Australian population had been shut out of its media. What will that speak of the credibility of the media? Regional media in India has become the copycat of the big media. They set the agenda, they frame the rules and they play by it. A juggernaut, as it were.

This has led to the question *Whose Media, Whose Freedom?* Unless the media starts taking the majority of the Indian population very seriously by giving them a large space, media freedom itself becomes meaningless to a very large section of Indian people.

It is also being acutely felt in recent times that if the rural people continue to be forced to stay only as consumers of media that is produced for them by others, media freedom will lose its value for a major section of

population. And if the big media keeps on deciding what people should know, that knowledge becomes useless.

One way out of this problem is seen as making rural people active producers of media and to liberate themselves from the position of being passive consumers. This has resulted in a new emphasis on community media. If community media does not become the face of our nations, the entire force of democracy will be lost.

There is very little of community television in India, especially that which is owned by the marginalised. I have the privilege to have established and worked closely with the first Community Media Group called DDS Community Media Trust in South India, composed completely of rural Dalit women, all of who are illiterate and come from economically very poor backgrounds. I also had the privilege of setting up the first community radio in India called *Sangham Radio*. It is an all women, all Dalit radio station, directly offering a solution to two major problems of exclusion I discussed earlier.

I must pay a tribute to UNESCO for supporting this media effort of ours in the mid '90s. In fact when we sat down with the DDS community of rural women in a small village called Pastapur in Andhra Pradesh in South India and discussed the need for a radio of their own, the women came up with a set of amazing arguments. When juxtaposed against the Toronto Platform for Action adopted in 1995 on 'Women and the Media, Access to Expression and Decision-making' what the non-literate women in Pastapur were saying was incredibly similar.

The community media effort at DDS was born out of these consultations. Most of the women who run this media today are non-literate and are part of the population earning less than \$2 a day. The issues being addressed by these groups have started redefining what a free media can do for those who are generally excluded from the influential section of the population and the larger media. So, opening up closed spaces for people, has not only empowered them, it has empowered the media itself.

Right now in India there are a total of 13 stations which can be called community radio stations run by civil society organizations that directly work with communities. This new media owned and managed by the local rural communities is also setting up new signposts for media freedom. The issues they are tackling, the articulations they are making, and the perspectives they are bringing, are so refreshingly different. In fact, through their own media freedom, they are seeking out a larger freedom for their cultural identity, their linguistic identity, their food and farming sovereignty and a host of such issues which are sidelined by the mainstream media.

Through their articulations, the communities of the grassroots media can address issues such as environmental, ethical and climate crises. This is the stuff that the mainstream media does not even understand, let alone articulate. Even when the mainstream media talks about climate crisis, it varies dramatically from a community perspective on the issue.

The communities of the under-privileged are a source of enormous knowledge which they constantly share with others through their media. This knowledge is alien to the mainstream media. Therefore, given a chance, community media can create a different knowledge society that is beyond the confines of the computer monitors of the experts who form the major source for the mainstream media.

I plead with all of you to tune into this new freedom of media which has a huge bearing on the populations of the South and make them active partners in securing freedom of their communities in a larger context of freedom for the excluded peoples of the world.

The Right to Information is a radical parliamentary legislation in India. Through the help of this Act, anyone can demand information from the Government and can get it within a couple of weeks. Refusal to give out the information sought can result in a conviction and imprisonment of the government official who refuses to provide the information. RTI cannot be allowed to be appropriated by media for itself- it has to be the Right of Citizens. This comes as a huge boon for media freedom, especially for the community media which may never acquire the power and clout of the major media in securing information, especially from government sources.

RTI and community media together might be able to provide such information to the communities and bring a new freedom that the small people never enjoyed before.

FREE MEDIA AND FREEDOM OF INFORMATION

BY OLIVER SPENCER, PROGRAM OFFICER,
ARTICLE 19

“One of the objects of a newspaper is to understand the popular feeling and give expression to it; another is to arouse among the people certain desirable sentiments; the third is fearlessly to expose popular defects.”

Mohandas Karamchand (Mahatma) Gandhi

The phrase “information is power” is just part of the story. The Right to Information is an enabling and empowering right which has taken the world by storm over the past two decades, but it cannot be fully realised without the fourth pillar of democracy: a free media.

Without a free media, the information people receive is often incomplete, biased, unverifiable, minimal and largely ineffectual. Hand in hand with a free media, the Right to Information changes power dynamics, creating much more responsive and responsible states and governments. The global snapshot below highlights a selection of case studies showing how only a free media can impart the information people need to make decisions about their lives.

KENYA

Kenya’s media is playing an increasingly important role in exposing corruption within the country. Leading news sources, such as *The Standard* newspaper, have striven to combat government dishonesty in areas of public life.

In 2003, Kenya began a development initiative that promised great educational reform. President Mwai Kibaki’s government introduced Free Primary Education (FPE), dramatically raising levels of school enrolment and promising a better future for Kenya’s children.

Following an influx of international investment into the new scheme, Kenyan reporters uncovered a disastrous scandal involving leading education officials and bureaucrats. Over 1.8 billion Kenyan Shillings, intended for the FPE, had been embezzled by these officials, exposed by the journalists’ discovery of fraudulent receipts and fictitious accounting.

As a direct consequence of this investigative journalism, two education ministers were suspended and five other officials arraigned in court on corruption charges. The Kenyan public were also enlightened as to the extent of the scheme’s internal corruption. An independent audit has begun to establish the full details of the fraud perpetrated.

In spite of this, and similar instances of pioneering reporting, Kenya’s journalists still face a difficult climate to work in – one of the key reporters exposing the FPE scandal was assaulted and is now living in exile. Increasingly however, the media is providing Kenya’s public with the information needed for progress and development.

BRAZIL

For the 600 inhabitants of the small town of Tejuco in the state of Minas Gerais, until anti-corruption journalist Fábio Oliva arrived, only those that supported the governing political party were allowed access to local water during the eight-month dry season. Those that did not support the party had to travel 14 kilometres instead, sometimes daily, to get to the next water source.

1. Oliver Spencer did not participate as a speaker at the 2010 World Press Freedom Day Celebrations in Brisbane, but he prepared this special contribution for the event.

In March 2010, Oliva published an article in Tejuca describing how local officials had co-opted public money meant for delivering thousands of metres of water pipes and instead built wells in their own properties, and spent the remaining funds on buying vehicles and livestock. Following Oliva's publication, the Public Prosecutor began to investigate all irregularities in the town and brought lawsuits against dozens of community leaders and officials for corruption. The Brazilian authorities have also promised to deliver a new water system to Tejuco by late 2011.

JORDAN

Following on from the global financial crisis, attempts by the media in Jordan to find out the extent to which the national bank is hit by bad debts, have been blocked by the Comptroller Department of the Central Bank of Jordan.

There is huge public interest in uncovering the strength of the Jordanian economy, and its potential to crash, creating mass unemployment and inflation in the country. Despite public outcry, *Amman Net* reported on 5 January 2010 that the Central Bank of Jordan refused to reveal to a journalist from *Radio al-Balad* any information on the percentage of bad loans on its books.

Jordan is the only country in the Middle East where the people's Right to Information is protected with an access to information law. The Comptroller Department of the Bank justified their refusal under a 1971 banking code, despite the National Library Department, which is responsible for receiving complaints on violations of the Access to Information Law, stating that the Bank's refusal was not legally founded.

INDONESIA

A Balinese court handed down a life sentence to former legislative candidate Nyoman Susrama from the Indonesia Democratic Party of Struggle after being convicted of killing journalist AA Narendra Prabangsa, who was found dead on 16 February 2009.

Prabangsa had been working on uncovering corruption in a US\$386,200 construction project being undertaken by the education bureau in Bangli regency. The project had not been publicly put out to tender and instead private developers had been directly appointed to construct and renovate several schools.

Witnesses at the court hearing testified that Susrama was so infuriated by Prabangsa's attempts to uncover information in the public interest that he had ordered the killing.

IRAQ

In September 2008, a media officer within the Health Department of the Babil Governorate in central Iraq denied entry to journalists arriving to cover a specially arranged conference on an outbreak of cholera that was spreading quickly within the region.

Due to an absence of good governance in Iraq, journalists have become a lifeline for many by covering health issues and informing people about diseases and other health concerns. In the Babil Governorate, journalists have extensively covered cholera outbreaks and reported calls for the director of the Department of Health to resign for failing to support people's Right to Information. The Department of Health has announced a ban on giving press statements and banned journalists from entering hospitals.

IRAN

Shiva Nazar Ahari founded the Committee for Human Rights Reporters in 2006 to solely focus on disseminating information on human rights within Iran. Shiva was arrested on a bus between Tehran and Qom on 20 December 2009 and told her family on 11 February that she is now being held in "cage-like" solitary confinement.

Shiva, a blogger, journalist and human rights defender, was first arrested in July 2004 for telling the world via the international media what was happening in Iran, taking part in protests, and for articles on her blog *azadiezam.blogspot.com*.

The Committee for Human Rights Reporters regularly wrote about the Kahrizak Detention Center, which then became infamous for detaining people during the 12 July 2009 demonstrations in Iran. Shiva herself was arrested two days later. "Wherever an individual's rights are violated, these reporters write about it," says Shiva's mother.

MEXICO

Despite being a normal part of a democratic state, community broadcasting is illegal in Mexico. *Radio Ñomndaa* (lapalabradelagua.org) in Guerrero state has constantly received threats of criminal proceedings and closure from local and federal authorities, despite its central function of supporting the Nanncue Ñomndaa, one of Mexico's 62 recognised indigenous groups, to learn about and reflect on issues discussed in their own language.

Radio Ñomndaa has broadcast across geographically isolated communities in Mexico and via the internet to the community around the world since 2004. The station is

funded and maintained by the community and much of the programming is focused on education and rights. The participation of women is consolidated through a programme called “Xochistlahuaca Women” which for the first time has given women a voice, addressed women’s rights, reproductive health issues and problems inside the family.

United Nations Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous Peoples, Rodolfo Stavenhagen, has specifically recommended that the Mexican government guarantee indigenous communities access to and management of communications media, noting that this constitutes an instrument for their development and allows them to enjoy access to their culture and customs.

■ RUSSIA

In June 2009, the Russian Ministry of Defence published an article on their website written by a military historian titled “Fabrications and falsifications in evaluating the role of the U.S.S.R. on the eve and at early stages of WW2”, claiming Poland was responsible for starting World War II by not complying with Hitler’s “reasonable” demands. The article denied any contributing role in the war by Russia and followed President Medvedev’s creation a few weeks earlier of a commission “for Counteracting Attempts to Falsify History to the Detriment of Russia’s Interests”.

Despite democratising in the 1990s, Russia’s media is increasingly unable to publish a range of information and opinions about Russia’s past. The 2007 film *Katyn*, which documents the killing of 20,000 Polish intellectuals and military officers, was barred from broad distribution in Russia, the *de facto* ban being apparently instigated by the Kremlin due to their dislike of its version of Russian and Polish history.

■ SENEGAL

Private radio stations such as *Walfajiri* are playing an important role in supporting the Senegalese people to learn about and participate in development issues and decisions. The key to *Walfajiri*’s success is its concentration on providing information in the Wolof language to the disadvantaged urban poor residing in Pikine, Guediawaye, Keur Massarr, Yemeul and Rufisque.

One particular weekly programme titled “Face the Citizenry” has enabled local communities to raise issues such as unemployment, poor housing conditions, flooding and lack of sanitation directly with public officials who are asked to respond by revealing what they are doing to tackle such issues.

Some local research has shown that increasing media focus on delivering the people’s Right to Information has resulted in more demands in the same area for social justice. The government of Senegal has also reacted in creating the National Agency for the Employment of Youths specifically to tackle the issues raised by media programmes such as *Walfajiri* and “Face the Citizenry”.

■ VIETNAM

Two journalists who uncovered high-level corruption in Vietnam, Nguyen Viet Chien and Nguyen Van Hai, were arrested and sentenced in 2008 for daring to publish information that undermined the government. The journalists, who worked for the newspapers *Thanh Nien* and *Tuoi Tre* respectively, wrote reports on the so-called “PMU-18” scandal, which alleged that development aid for building bridges and roads was instead spent on gambling on European football games.

On 15 October 2008 the Hanoi People’s Court sentenced both journalists under Article 258 of the Vietnamese Penal Code, for “*abusing democratic freedoms to infringe upon the interest of the State, the legitimate rights and interests of organizations and/or citizens*”.

Chien was given a sentence of two-years imprisonment after pleading his innocence, while Hai was handed a non-custodial two-year “re-education” sentence, after pleading guilty.

■ YEMEN

In Yemen even the simplest of information in the public interest cannot be accessed by the media. National organisation HOOD contacted 35 government bodies and local authorities to request information on their annual budget for the year 2008. Of the 35 only one replied with the data required.

Of the remainder, one government body said that it had no budget for 2008, another asked for an apology as it claimed the language of the request letter was “inappropriate”. Five other government bodies said that HOOD would need to submit the request again, 11 bodies refused even to receive the request claiming that staff were not authorised to receive such requests from NGOs. 15 government bodies were so hidden from the public, that HOOD could not even discover their address or could not find anyone in the supposed building.

PART 3

TRANSPARENCY, ACCOUNTABILITY AND THE FIGHT AGAINST CORRUPTION: FREEDOM OF INFORMATION LAWS AND BEYOND

At the very heart of the craft of journalism lies the desire of practitioners to uncover and reveal the truth to the public. It is an article of faith that reporters, as members of the Fourth Estate, have a unique role and place in a democratic society and are expected to relentlessly pursue illegal and unjust practices in the public interest. However, with the uncovering of corruption comes personal dangers and, every year, journalists are murdered, imprisoned or fined as they go about their work. FOI laws assist journalists in their investigative role, but they often remain unprotected from security and political forces seeking to censor them or, worse, physically cause them harm.

ON THE LEADING EDGE

BY NADEZHDA AZHGIKHINA
SECRETARY OF RUSSIAN UNION OF JOURNALISTS

Honest and high-quality journalism, free from state control and political subordination, serving the interests of society alone, merciless toward corruption and lawlessness, ready to help the downtrodden – the active part of Leo Tolstoy’s “active good” – is the dream of many generations of Russian journalists. The three-hundred year history of journalism is 300 years of totalitarian censorship and the courageous fight against that censorship. The carefully preserved moral traditions of Russian journalism were formed through a close connection between literature and social movements and the development of democratic institutions and the press, which has always elicited great interest from the public. Through the centuries of autocracy and Soviet-style totalitarianism, the culture developed a particular resistance to censorship, and reached masterful heights.

Generations of Russian journalists and readers have been trained in the subtle irony and wordplay of underlying messages, reading and writing between the lines, metaphors and complex chains of literary associations hinting at political change. The best examples of the Soviet press are full of those elements.

It is often said that the liberal media played a decisive role in perestroika. That is largely true. Another factor was that the Soviet Union was not only a country of total censorship, it was also a country of full literacy. People had the skills necessary to seek the truth between the lines in the newspapers. Journalism was held in high esteem.

Interestingly, although unsurprisingly, an unwritten code of honor developed in the journalistic community during the years of Soviet censorship as an alternative to official propaganda. I remember it well from my own experience as a fledgling correspondent for a youth newspaper. Everyone understood what was and was not worthy of respect, regardless of official values. There were clear moral signposts and examples for imitation, and the whole country knew them. The huge circulation of the major newspapers made it possible to find rather brave material about abuses and violations of the law and to see the results of their exposure. (Under the rules of the time, ten days were allowed for responses to criticism in newspapers and other media.) Publication of those incidents had a real effect – people were fired from their jobs or rehired

and many everyday problems were settled. Thousands of people, not fully trusting state institutions, wrote letters to the newspapers as a last resort. Trust in journalism was very high. It was seen as an intercessor in the interests of the common man, a defender of high morals and an opponent of abuse.

During perestroika, that trust grew exponentially, as many publications, mainly, but not exclusively, based in Moscow, such as *Literary Gazette*, *Ogonek* and *Moscow News*, began to write about things that had previously been impossible to mention – the crimes of Stalin, human rights, and so on. Corruption in the USSR became a hot topic. Many hung their hopes for successful future development on its eradication.

In the summer of 1988, *Literary Gazette* published an article by its legal writer Yuri Shchekochikhin “The Lion Jumped,” which mentioned the existence of organized crime and systemic corruption in the USSR for the first time. Before that, journalists only wrote about isolated occurrences. The hero of the article, police colonel and criminologist Alexander Gurov, spoke openly about an intricate network of criminal leaders, Soviet officials and hired assassins that in practice controlled several regions. Words like “killer” and “kidnapping” were seen in the Soviet press for the first time. They made it past the censors because they were not mentioned anywhere in their thick guidebooks (which apparently were written decades before). Modern journalism is unimaginable with them. The article had the effect of a bomb going off, both here and abroad. Gurov waited to be arrested. In the KGB, a working group was formed to discredit the article. Gorbachev saved the day. He thought the article was important and gave the order to pay attention to its content.

Soon the Soviet Interior Ministry established its first ever division to fight organized crime, which was headed by Gurov. Corruption became a popular topic, with Russian newspapers and foreign media searching for new facts. In 1989, readers in the city of Voroshilovgrad (now Lugansk, Ukraine) elected the author of the article to the first relatively independent High Council of the USSR. He joined the ranks of Academic Andrei Sakharov, lawyer Anatoly Sobchak, *Ogonek* chief Vitaly Korotich, poet Evgeny Yevtushenko and other writers and journalists.

People believed that they would change their lives for the better. The popular drama “Speak!,” about a Soviet village, maintained that freedom of speech – the main topic of the day – was an instrument for real change.

During the same years, the end of the 1980s, two proposed laws were widely discussed. They concerned freedom of speech and glasnost. The latter was never passed, perhaps because of its scope – it suggested complete transparency in all decisions and all government agencies, open elections and opportunities for all citizens to express their opinions about current events. A law on media was passed in the summer of 1990. In December 1991, its basic points became the foundation for the law on media in force today, essentially the first Russian legislative act that ensconced democratic principles and the independence of journalism from the state. The significance of the law cannot be overstated. For the first time in Russian history (aside from a few months at the beginning of 1917), freedom of the press was declared, censorship lifted, citizens were given the right to create their own media, concealing information and obstructing the work of journalists were made subject to legal sanction and journalists were given the right to refuse assignments that conflicted with their personal convictions. Experts say the law is one of the best in Europe, in spite of the fact that it failed to take account of many factors that have arisen in Russia since its passage.

Many thought then that the declaration of freedom would lead by itself to the immediate dawn of an age of high-quality, independent media. Many also believed, with complete sincerity, that the very presence of a free market (which, like freedom, never existed in the USSR) would guarantee a healthy economy and prosperity for all. I remember well how, at *Ogonek*, the standard-bearer of perestroika, we dreamed of a time when we would be free of *Pravda*, which published and distributed us at the time, and transferred subscribers from us, the country’s most popular publication, to party publications such as *Communist* magazine.

Freedom of the press had consequences, some expected and some not. In 1992, more than 400 new media were registered – that is, every day a new newspaper, radio station or television station sprang into being. Of course, many of them were short-lived. The majority of the new publications were devoted to topics of limited interest and little importance – beauty, celebrity gossip and so on. An immoderate amount of erotic came out, all of low quality. Thousands of people poured into the field of journalism without any preparation. They were semi-literate and knew nothing of quality, ethics, information gathering and other essentials.

The market did not guarantee the prosperity of high-quality media. They were rather quickly forced into relationships with state agencies, which still held most of the production capacity, or else they fell in with financial groups and became dependent on them. This led many editorial offices to reduce their fact-checking and proof-reading staffs. As a result, readers were as shocked by their declining quality as they were by their skyrocketing prices. Nor was that the end of it.

At the beginning of the 1990s, many media, including those that had until recently taken pride in the quality of their information, began to publish unchecked facts, speculation and sometimes completely unsubstantiated material. Readers were in a quandary over how to tell real investigative reporting from speculation and fantasy. Newspapers became a prime field for political and business battles. Corruption among journalists and managers in the media was limited in Soviet times by censorship and party control, as well as principles imposed by society. But now it grew to a threatening scale. In the middle of the 1980s, publishing an article for money would be grounds for dismissal from a respectable publication, and would certainly cost the author the respect of his colleagues. A decade later, that practice was widespread.

The new law on the media contained no mechanism to guarantee ethical standards or quality in journalism. Of course, that fact reflected the general situation in the country – the stolen fortunes, the lack of transparency in the law and economy, and society’s disorientation. On the other hand, corruption in the media was a direct result of the poor condition of the industry, the lack of instruments with which to maintain companies’ independence and a lack of solidarity. The difficulty in organizing into a union was caused by a prejudice against everything that resembled Soviet practices and the non-transparent relations between employers and employees as a whole in the 1990s, when salaries in the majority of private companies, and many state companies, were paid in cash, without tax withholdings, which gave the employer a measure of control over the employee.

Emerging social divisions, which picked up momentum toward the end of the century, affected journalists as well. While television hosts on the national channels were well paid and rewarded, sometimes even better than they could have expected in the West, employees of regional publications were literally scrambling for bread and were ready to serve state and commerce as propagandists. That became a regular practice in election campaigns. Trust in the print media plummeted. Journalists ceased to be seen as thinkers and defenders of glasnost.

Many former defenders of freedom began openly, without the least compunction, to serve the interests of business. The so-called media wars (especially between the Berezovsky and Gusinsky empires) also have a sad notoriety. During the 1996 elections, they showed television viewers an extreme example of cynicism and contempt for norms. Investigation became a part of political and economic battles. The airwaves were filled with “black PR” that was completely obviously intended to serve someone other than the audience. Sociologists estimate that only 6% of the public trusted the media by the end of the century – a true disaster.

Of course, not all journalists forgot their professional duty. Many continued to fight for the truth, and many fell in battle. The first murders of journalists occurred in 1990. They were mainly critics of corruption and the government. Two tendencies emerged among journalists. Some served the government and business, while others uncovered corruption with just as much fervor. The latter were subjected to various forms of censorship and harassment.

The beginning of the 21st century was marked by an anti-corruption campaign and the creation of the vertical of power. And there was the Doctrine of Russia’s Information Security. That doctrine, created as part of the war on terrorism, imposed significant limitations on journalists. Berezovsky’s and Gusinsky’s national empires crumbled and were reformed after falling into the hands of the state, either directly or indirectly. The state became the most significant figure on the media market, taking full control of national television and much of the press, and suppressing much of the local press.

It became harder and harder to criticize the government and the companies associated with it. Judicial prosecution of journalists and independent publications became an everyday phenomenon. The law on fighting extremism made it possible to accuse someone of extremism for criticizing a representative of the government. The independent Dagestani newspaper *Chernovik* is the latest case.

The authorities began to talk more and more about the need to control the media, usually in connection with the preponderance of violence and vulgarity on the screen. The journalism community suggested an alternative: principles of self-regulation to maintain quality and ethical standards.

In 1994, the Code of Ethics of Russian Journalism was passed by a congress of the Russian Union of Journalists. It is based on the principles of UNESCO and the International Federation of Journalists. At the following congress, it was decided to make observance of the code a basic condition for membership. Unfortunately, not everyone follows the code in reality.

The founding of the Russian Union of Journalists Grand Jury in 1998 was a landmark in self-regulation. The jury consists of experts and journalists and is intended to settle intercorporate disputes. Not all media recognize its jurisdiction, however. Regardless of that, the Grand Jury has made a number of decisions that clearly define society’s position on moral standards. At the end of the 1990s, Sergey Dorenko was even forced off the air. He was one of the most odious participants in that decade’s media wars. The Grand Jury has been petitioned over political blackmail, ethical violations and ethnic and gender discrimination.

Many sessions of the Grand Jury become events in and of themselves. Another positive step was the creation of the Public Collegium for complaints against the press (following the British model). It consists of journalists and members of the public and has met 40 times. The number of petitions the collegium receives is not great, which hinders the development of that system of self-regulation. The fact is that journalists rarely appeal to organs of self-regulation or to the court when they are obstructed by the government. The number of suits filed against newspapers remains stably high, however, at hundreds per year, and the claims against authors remain unreasonably high at hundreds of thousands or millions of rubles.

The economic crisis has had an impact as well. In Russia, it has sometimes had an effect similar to elsewhere in Europe and other times has had a completely different effect. As in Europe and North America, there have been closings of publications, cuts in circulation, changes in format – mainly among independent publications – and the advertising market has collapsed. But the total number of media in the country has not changed. New research has shown that, in many regions, the government has been using its own funds to create new publications, and sometimes even television stations, as propaganda outlets. The harm this causes independent journalism is apparent. A year ago, analysts suggested that the crisis could become a sort of cleanup for the market and weaken the role of the state. But research has shown that state pressure on independent media during the crisis has only intensified, resulting in some publications reducing the number of investigations they conduct and turning to the yellow side – presenting “light” information in place of more incisive material. The investigative genre has had a more modest presence in recent years than it did in the 1990s.

Uncovering corruption still leads to attacks on journalists. The Glasnost Defense Fund has counted more than 20 forms of censorship in the country, from self-censorship (which is practically universal) and economic and political dictates from the ownership to citations from the fire inspector or for using pirated software (up to 70% of computer programs in the country are pirated).

One of the worst of the numerous ways to violate journalists' rights is violence.

As of today, the Russian Union of Journalists has counted 321 colleagues who have been killed. Their names are in the database in Russian and English at www.journalists-in-russia.org. The list was compiled with the assistance of the International Federation of Journalists. The majority of the murders are still unsolved. Several of the dead have become symbols of press integrity: *Top Secret* editor and television host Artem Borovik, tireless critic of corruption in the government of the Republic of Kalmykia Larisa Yudina, critic of the general staff and Defense Ministry Dmitry Kholodov, author of many articles about the tragedy in Chechnya Anna Politkovskaya. Yury Shchekochikhin, the author of the first article on organized crime in the USSR and investigator of corruption in the upper echelons of power, died under strange circumstances in 2003 while carrying out a controversial investigation. The investigative department of *Novaya Gazeta*, where he worked, has been named after him.

Beatings and intimidation of journalists occur regularly and also go unpunished. The lack of punishment for those responsible for the killing of journalists and other forms of violence against them and violation of their rights is a serious illness in society. It is quite clear that there can be no movement forward without a solution to the problem. Now the Russian Union of Journalists and the International Federation of Journalists are developing a program to overcome this lawlessness.

Another obstruction in the journalist's mission is that many write about corruption in the country and its government today, with facts, copies of documents and bank statements and, after that, nothing happens. One example of this is investigation conducted at *Izvestia*, the oldest national newspaper, by well-known journalist Boris Reznik, who is now a member of parliament and on its committee on the media. He worked on his investigation almost a year and uncovered ties between the prosecutor's investigative committee in Khabarovsk Territory and the local mafia. After its publication, the author sent an enquiry to the Russian Prosecutor General's office. Nothing has been done yet.

Experts say that a legislative initiative could change the situation. For instance, by making a response to criticism in the media obligatory. That requirement is contained in the new version of the law on the media that has been before the parliament for a year now. Notably, the law's authors, Baturin and Fedotov, are the same ones who drafted the current law. They took many of the wishes of representatives of the community into account, as well as the technological revolution, while preserving the spirit of the document – faithfulness to the independence of the

media and protection of the rights of journalists. The new version also includes punishment for violation journalists' rights or for causing harm to a journalist, just as for causing harm to a civil servant or law enforcement agent.

Punishment is increased for state officials who hinder the work of journalists or refuse to provide information. The new draft is already in the parliament and is being prepared for consideration. Experts say it is a type of "road map" for legislative change to guarantee the free development of the media. It even contains a draft law about public broadcasting (which does not yet exist in this country), changes to the Criminal Code and an exclusion from the law on slander (which at present is practically not enforced, but is a potential threat).

Improvements to the law are necessary but insufficient, however. The law will be a success only when it is accompanied by mechanisms to implement it and with support from the society. In that light, it is hard to overstate the role of self-regulation and public participation in the media. That is all the more pressing in the age of the Internet and new media.

President Dmitry Medvedev speaks of adhering to the values of a society based on law and the firm principle of media independence. He has repeatedly said that new technologies, the Internet and digital television by themselves practically guarantee freedom of expression. But the Internet today presents a problem, if not a threat, for high-quality journalism, and the rules for licensing digital television channels make them inaccessible to independent regional broadcasters, with priority remaining with state agencies.

Clearly, international experience has to be taken into account to use the new technologies adequately. For Russia, which is only beginning on the path to the democratic development of the press, international experience and cooperation is extremely important. That is why collaboration between the Russian Union of Journalists and UNESCO is so important. Participating in UNESCO projects and discussions has been good training for Russian journalists. In recent years, the Russian Union of Journalists has carried out more than ten joint projects – symposia, training and publications on ethics, the culture of tolerance, gender equality, extreme journalism and ethical principles of the coverage of new topics. The Russian Union of Journalists' work with the International Federation of Journalists has been a great aid in the development of ethical principles and the defense of journalists. The Ethical Journalism Initiative was widely discussed in Russia.

Another necessary condition is the participation of civil society in a discussion of media strategies. That is

essential in Russia, where public passivity is one of the hindrances to the development of high-quality, responsible journalism and independent investigation. In Moscow and the Russian regions several years ago, the Citizen Club was founded, which created a discussion space for journalists, representatives of civil society and experts. A national media forum that meets in January in the Russian regions was created to stimulate a discussion of the role of journalism and the media in society and to involve as many people as possible, not only professionals, in the discussion.

A media literacy and media education project is another vital aspect of the joint work between the Russian Union of Journalists and UNESCO. The most important strategy is the development of a culture of journalistic investigation, training of young colleagues in international standards and cooperation between journalists and the judicial community. The Guild of Court Reporters has joined in this work.

It is also time to involve participants in new media in a discussion. Bloggers may become journalists' allies if they adopt their ideology and principles of ethics and quality. Blogging schools led by the country's most popular bloggers, Rustem Agadamov and Grigory Pasko, are already operating.

Collaboration between traditional media and the Internet in investigating and prosecuting corruption gives uniformly high results. The most notable examples have been *Free Course* newspaper's action with the Altaipress website concerning poaching by high-placed officials in the mountains of Altai, which resulted in the resignation of regional leaders, and the Caucasian Knot website, which has repeatedly attained justice.

Russia is a huge country with more than 200,000 journalists working in it. (The majority of them today are women.) The country is highly varied as well. There are independent media, the elements of civil society and a dialog between the public and the state in some regions, while lawlessness, favoritism and almost medieval conditions predominate in others. But journalists live and work in all of those regions and consider it their duty to serve society and fight all forms of injustice. Those people have to be supported. They are our future. They are, as always, on the leading edge.

FULL EFFECT OF THE RIGHT TO KNOW IN LATIN AMERICA: A PROCESS OF CULTURAL TRANSFORMATION

ÁLVARO HERRERO, EXECUTIVE DIRECTOR,
ASOCIACIÓN POR LOS DERECHOS CIVILES

Latin America is currently experiencing a progressive trend in the legal recognition of the right to access public information. At the same time, journalism has intensified the use of this instrument to obtain information, which allows it to practice the profession with greater quality. Despite these advances, some hurdles still prevail and show how hard it is to break down obscure social practices. These practices cannot be blamed onto the States alone. Quite the contrary, they derive from the customs of the various social players and the performance of the different local institutions, entities and corporations that take root in our culture.

In the past years, several countries in our region have passed legislation on access to public information, setting clear standards for the exercise of this right, and foreseeing reasonable times for the State's provision of the required data and documents.

Today, 15 Latin American countries have access to public information legislation in effect. Only in the last four years, since the mentioned sentence was passed, Chile, Uruguay, Nicaragua, Honduras and Guatemala have passed their own laws in this field, and currently, the Brazilian Senate is discussing the bill, which is already halfway to being approved. The Argentine Congress is currently assessing 14 different law projects. The sustained progress in relation to provisions is undeniable.

This advancement may be attributed to several factors.

In the first place -and after democracy was restored in most Latin American countries, following dictatorial or authoritarian governments- the progress is attributed to the growing empowerment of the civil society thanks to the awareness gained around the scope and reach of the rights of individuals and the concrete possibilities of demanding -through various revision mechanisms and organs- their full effect.

In the second place, the progress is due to the intrinsic value of public information as a fundamental instrument

for the exercise of other human rights, for citizens' participation and institutional monitoring. All this has triggered greater inclusion of access to information in the public scene and discussions, mainly due to the civil society organizations' promotion of the exercise of this right. Today, this work is carried out at a regional level by, among others, the *Alianza Regional por la Libertad de Expresión y el Acceso a Información* (Regional Alliance for Freedom of Expression and Access to Information), which groups various civil society organizations in Latin America.

In the third place, and more concretely, the progress stems from the creation of legal standards at international and regional level about the scope of the exercise of this right and its gradual inclusion into the local and national provisions that guarantee it. On this point, it is particularly interesting to mention the work done by the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights as well as the 2006 sentence passed by the Inter-American Court of Human Rights in the case *Claude Reyes vs. Chile*¹, forcing the State to adopt all the necessary measures to guarantee the full exercise of the right to access public information, among them, pass a piece of legislation on this matter. The objective was achieved and enabled to celebrate -a few days ago- the first year since the Act entered into force in Chile.

However, the Latin American experience suggests the enactment of FOI legislation is not enough per se to foster government openness and accountability. Other elements need to be in place to effectively lead to greater transparency. What are those elements?

First, the existence of effective, independent judicial courts is fundamental to enforce FOI legislation. According to our experience, courts have a prominent role in assuring legal provisions are duly met by government agencies. At the early stage of implementation of

1. Inter-American Court of Human Rights, *Claude Reyes and others vs. Chile case*, Reparations and Fees. Sentence of September 19th, 2006, Series C, No. 151

FOI laws and until a cultural change is achieved, government officials often reject access to information requests, thus paving the way for judicial intervention. It should be noted, however, that courts should be included in the process of cultural change. In many Latin American countries, judiciaries are non-transparent bureaucracies that resist to abide by modern access to information standards.

A second element leading to proper FOI functioning and government accountability are civil society organizations (CSOs). In Latin America, CSOs have been in the frontline of reform. They have had a key role in promoting FOI legislation, monitoring implementation, training public officials, working with the media, assessing progress, and taking leading cases to courts. The landmark *Claude Reyes v Chile* case decided by the Inter-American Courts of Human Rights (the first decision ever by an international tribunal to acknowledge the right to access to information) was part of a strategic litigation project conceived by a Chilean non-governmental organization (Pro Acceso). The *Claude Reyes* case was a decisive push for FOI reforms in Latin America and led many judiciaries to recognize the right to access to information, even before FOI legislation was passed.

Civil society organizations also have a prominent role in setting the public agenda. In Argentina, the Association for Civil Rights has struggled to create awareness about Freedom of Information through different strategies. For instance, we constantly submit requests asking for basic -but sometimes 'sensitive'- information. In 2009, we approached the Executive branch and asked for a copy of the President's paycheck. Our request was rejected and we ended up in court. As we work closely with journalists interested in access to information, our case made it to the front page of most national newspapers, which eventually led to the disclosure of the document by the President. It must be noted that before we started litigation, we already knew the salary of the President. So, what was achieved in this case? We generated an intense debate in the media over the importance of access to information and its impact of transparency and anticorruption.

It must be underscored that In Latin America the right to access to public information is not only in the agenda of anticorruption and transparency civil society organizations. It is incredible how fast this right has entered the agenda of organizations and groups that work every day for some specific rights such as environmentalists, users and consumers and the organizations which move the gender agenda forward. Undoubtedly, and as we already mentioned, this occurs once the intrinsic value of information is fully understood so as to call for measures which seek to avoid contamination, counteract the more disadvantaged position of consumers in the rules of the

market, or drive changes in public policies in order to eradicate violence against women, among many other examples.

Third, a decisive element to ensure that FOI legislation leads to greater government accountability is the media. Vibrant journalists and professional media organizations play a fundamental role in the process of fostering and consolidating the 'transparency' effect of the FOI agenda. In that context, many FOI-oriented non-governmental organizations have included journalists' organizations as key actors in their strategies to promote FOI reforms.

At national level, various initiatives exist in most Latin American countries². At regional level, since 2007 Asociación por los Derechos Civiles has fostered the creation of a network of organizations and journalists, who promote the approval and use of provisions that regulate the exercise of the right of access to public information³. Today, our network groups around 100 journalists and over 25 journalist organizations, promoting freedom of expression in 16 countries of the region. One of our goals is to ensure that journalists use FOI as a means for enhancing the quality and reliability of the information they use as a source for their investigations.

In the context of our work, we have come into contact with various journalistic investigation cases, which derived mainly from information requests. Among them, an investigation which enabled them to uncover common practices of discretionary use of public money during periods of government transition in Mexico⁴; an information request that unveiled a silenced case of drinking water

2. Besides the journalists who have made the right to access public information one of their main working tools, the following experiences are worth mentioning: 1) Argentina: through sustained training work by the Argentine Forum of Journalists (FOPEA) and also the dissemination efforts mainly by *Periodismo Social* organization; 2) Colombia: mainly through the work of the *Fundación para la Libertad de Prensa* (FLIP), promoting the exercise of the right as the source for journalistic investigations; 3) El Salvador: by promoting the approval of an access to information Act by the Association of Journalists in El Salvador (APES) and through the habitual use of information requests on the part of digital newspaper *El Faro*; 4) Mexico: through the recent initiative called "*México Informate*" (Mexico -be informed), which during the week of the world access to information day in 2009, promoted the publication of articles based on information requests in different media of the country; 5) Peru: through the diverse actions taken by the *Instituto Prensa y Sociedad* (IPYS), particularly the cases based on information requests and also the sustained work in this field by the Peruvian Press Council; 6) Venezuela: through the permanent training work done by the *Instituto Prensa y Sociedad* (IPYS) to its correspondents.

3. It is the *Periodismo por el Acceso a la Información Pública* network (Journalism for Access to Public Information) (www.periodismo-aip.org).

4. "*La corrupción azul*", the book published by journalist Daniel Lizárraga in 2009 is based on the response to 22 requests for information made from 2004 to 2008 to get to know the destination of the public funds under the administrations of presidents elect Vicente Fox and Felipe Calderón before taking over. As Lizárraga explains in his book, after the requests of information were made, some 15,000 pages from official documents of all kinds were obtained. The material was classified in 25 data bases and matched with the results from the field work, pictures, personal tax return statements and the data bank of the *Proceso* magazine, where the journalist works.

contamination in a city of Argentina⁵; and an investigation in Colombia that found out the number of people arrested for smuggling illegal drugs into other countries⁶.

These cases account for another breakthrough in this field: the growing use of this instrument as a source in the practice of journalism.

However, as we stated at the beginning, these breakthroughs seem not to be enough, as some hurdles still prevail and prevent us from speaking of a true culture of transparency.

What are the reasons behind this?

Beyond the gradual legal recognition and the flourishing exercise of this right by some actors, such as journalists, certain practices -which must be examined- have become deeply entrenched in the societies of the regional countries.

Even today, the idea prevails in society that it is easier, faster and more convenient to obtain certain public information through informal mechanisms, which are not always within legal parameters. Also, the absence of information availability and circulation is commonplace in other fields which go beyond the State-civil society relationship, such as the area of trade talks.

For instance, for the past years in Argentina, the credibility of some official figures linked to the country's economy has been put to the test. From Asociación por los Derechos Civiles and in view of the silence of the National Executive Power, we successfully filed a law suit before a court of justice⁷. Our intention was to obtain the exact methodology used and the products measured in order to calculate the consumer price index, which is the main inflation indicator. This macroeconomic data is not only key for crafting public policy but also for researchers, think tanks and academics working on poverty, demography, and broader social issues. After a

long legal proceeding, we managed to get this information published on the Web site of the agency that collects this statistical data. While ADC promoted equal access to this information, which is fundamental to know other data such as the true poverty rate, and to assess the usefulness of certain public policies, seemingly several companies were getting the same data unlawfully. Last week, this practice was put under the spotlight after an alleged spy was found after office hours at the Ministry of the Economy 'gathering' information about the country's economic activity from a computer in a closed office⁸. This episode it is an example of the practices that hinder the progress of a transparency culture.

As regards journalism, many times the indiscriminate use of oral and off-the-record sources spreads a highly twisted message. By contrast, the use of the instrument that represents the legitimate exercise of the right to access public information may be translated into a journalism of better quality, which in turn, enables society as a whole, to be better informed.

Recognizing the value of exercising the right to access to public information is a process of cultural transformation. Not only is it linked to the enactment of FOI rules, but it also requires the change of many deep-rooted cultural practices. This depends on the commitment of civil society, private enterprises, state bureaucracy, political parties and, above all, journalism, which plays a fundamental role in this process, due to its power of multiplying information.

5. The investigation is carried out by María Marcela Fernández, journalist of newspaper *La Voz del Interior* from the Argentine province of Córdoba, which disclosed that all members of the province's public utilities regulatory agency knew that the local grid water in several neighbourhoods of the Córdoba city was contaminated with nitrates, and that the people consuming the water were at risk. The journalist had access to this information through a petition that requested the minutes of the agency's board meetings. A summary of the case may be found at: http://www.siksi.com.ar/adc/trabajos_1.html (Web site visited in 04/25/10).

6. Journalistic case published on *Semana.com* by journalist Juan Esteban Mejía. There, after the information requests, he was able to reveal that the number of people detained for drug-trafficking was on the rise. A summary of the case may be found at: <http://www.periodismo-aip.org/caso-detalle.php?id=28> (Web site visited in 04/25/10).

7. ADC and other vs. National State – Economy Minister – INDEC and others for protection measures under Law number 16.986, CNFed.CA, courtroom V, sentence of 10/14/08 (available at <http://www.adc.org.ar/download.php?fileId=509>, Web site visited in 04/25/10).

8. See also <http://www.diarioperfil.com.ar/edimp/0463/articulo.php?art=21273&ed=0463> (Web site visited in 04/25/10)

POST-SOVIET COUNTRIES: REVIVING MASS MEDIA AS A PROPAGANDA TOOL

BY ROZLANA TAUKINA,
PRESIDENT OF THE JOURNALISTS IN DANGER FUND, KAZAKHSTAN

Like other post-soviet states, Kazakhstan is reviving the old communist party practice of using the mass media as a propaganda tool to support its political regime.

As before, the ruling party of Kazakhstan engages the press in promoting the President's policies and is brain-washing the public. But nowadays, the media are being manipulated under patriotic slogans. It is deemed to be unpatriotic to criticize the President as the head of the country. The wording has changed, not the essence. This policy is characteristic of many post-soviet states.

Despite its territorial sovereignty, Kazakhstan still depends on Russia, which dominates the information space across the entire post-soviet territory. Due to the prevalence of the Russian-speaking population, 70% of all information comes to Kazakhstan from Russian TV channels. Both quantity-wise and quality-wise, Kazakhstani mass media cannot compete with the Russian media. Therefore it is the Russian press which forms public opinion in Kazakhstan.

Take, for instance, the conflict between Russia and Georgia in which 95% of the CIS and, actually, all media in Kazakhstan took the Russian side. It happened not so much because Russia is Kazakhstan's major partner and ally, but because Kazakhstani authorities look down on Georgia as an outcast which has fallen out of the post-soviet mainstream, not as a country which has democratically abolished the ruling regime and elected its new president. Rotation of those in power is a weak point in all the CIS member states. In most of them, the top ruling positions are obtained either by appointment or through inheritance, as is the case in Azerbaijan.

Pink, orange and tulip revolutions are condemned throughout the CIS and regarded as downright unacceptable by the Central Asian presidents. To keep the local people under control, most mass media are made to denounce the democratic reforms in Georgia, the Ukraine and Kyrgyzstan.

The 5-year "orange" period in the Ukraine has been negatively covered in the Russian mass media, the Kazakhstani press following in their wake. The President

publicly stigmatizes the current unrest in Kyrgyzstan as robbery and marauding. When helping a colleague of his to escape to Byelorussia, the Kazakhstani president saved from the Kyrgyz court the person accused of plundering his country. For understandable reasons, all local mass media reiterate the unacceptability of such a shift in power for Kazakhstan. That is why the pro-governmental media are more and more often voicing anti-American, anti-western views.

Western democratic ideas are being rejected for the sake of a new Asian-type 'controlled democracy' under which, for the last 20 years, Kazakhstan has been ruled by the President, who flagrantly ignores the power rotation principle and puts growing pressure on the national media to protect his position.

To this end, there has been established a giant media holding, called *Nur-Media*, which controls all TV and radio-channels, advertizing agencies, and both state and private press publications. Most Kazakhstani mass media are controlled by the body to which they are accountable ideologically, organizationally and financially. The majority of the 3,000 mass media registered in the country belong to this holding, regardless of their property form. A mere six of them remain independent enough to oppose the authorities.

There exist two information levels in Kazakhstan. The first level media, fully controlled by the presidential administration, disseminate official information about governmental negotiations on nuclear issues, the customs union with Russia and Byelorussia, and other strategic plans which may arouse public protest. But the alternative high-tech media, like the Internet, making up the hardly controllable second level, provide so-called "undesirable" information about mass-scale strikes of oilmen and miners, and the Forbes magazine figurines – the richest people of Kazakhstan known to be the President's kith and kin. This "underground" information level, which does not yield to the state administration pressure, is becoming a noticeable factor in inculcating the habits of critical thinking. Free information sources of this level, though few in number, do exist in Kazakhstan, despite the state administration efforts

to suppress them. Once appearing in the Internet, such alternative information is difficult to control. Broad Internet access through proxies, mobile phones and video-cameras, make the opposition voices heard not only by professional journalists, but by the public at large. Unable to keep the situation under control, the state ideologists claim that this very fact is already a sign of political pluralism.

Meanwhile, Kazakhstan's information space is regulated by the law on mass media which is getting tougher and tougher. Within the 17 years of our independence, this law has undergone numerous changes. Its latest amendments concern the Internet. They equate all Internet resources to mass media and subject all Internet users to criminal, civil and administrative responsibility. As revealed by the official sources, the state body, specially organized for reacting to computer-related opposition acts, has started its work on identification of the anti-governmental Internet resources. But the criteria and methodology used for identifying destructive Internet content by the law-enforcement, supervisory and judiciary bodies are disclosed neither to the Internet resource owners nor to the web-site editors. Politically-motivated limitation of Internet access to such popular networks as *livejournal*, *Blogpost*, *Respublica Forum*, encroaches on the people's right to information.

Here is one more example. Freedom of expression, which is declared as a human right by the RK Constitution, was blatantly violated by the ruling of Medeu district court of Almaty dated February 1, 2010. Having banned publication of critical materials against the deputy chairman of the KazMunaiGas Board of Directors, the President's son-in-law, a judge actually legalized censorship and witch-hunting for the popular independent media. All over the country the property of such independent newspapers as *Svoboda Slova* (Freedom of Expression), *Golos Respubliki* (Voice of the Republic), *Vzglyad* (View) and many others has been confiscated. Bailiffs, acting under the ruling, confiscated the publications for just a mere mention of Kulibayev's name. The *Vremya* print shop director was prosecuted for printing an issue of *Svoboda Slova* newspaper under her contractual obligations. The persecuted media did not go so far as to accuse the colleague who the President had helped escape to Byelorussia of corruption crimes. All they did was to inform the public about the serious charges laid against this high-placed official. The press voiced its readiness to follow the progress of the investigation carried out under such serious charges. But the authorities forced the opposition press into silence under the threat of trials and arrests, encouraging lawlessness and censorship. It demonstrated to the corrupted functionaries a way to handle the independent press. Fortunately, due to the interference of international media protection organizations, in a month the

abovementioned judge revoked her own ruling, which authorized a rise of censorship and repressions against several independent media.

It has been mentioned that some newspapers in Kazakhstan persist in their opposition to the government. Most of them are sued by officials on the grounds of protecting their honor and dignity and are fined heavily by the court. The *Taszhargan* newspaper paid a USD 200,000 fine and was declared bankrupt for calling a parliamentarian a "latifundist". *Taszhargan*, translated as "flower breaking out of stone", was closed and soon reopened under a new name *Civil Stance*. Hefty fines loom over independent media like Damocles' sword. The *Respublica* newspaper is paying the TuranAlem bank a USD 400,000 fine in small monthly installments. It is expected to fully pay the fine in 50 years' time. This fact shows that the ultimate purpose of the court is not money, but punishment of the publication.

The government forces private print shops to refrain from printing opposition newspapers. Harassed by the fiscal and law-enforcement bodies, the national print shops have to refuse to publish such opposition newspapers as *Respublika*, *Moya Respublika*, *Alga*, *Azat*. As a result, these newspapers have to be printed on the primitive xerox equipment of the Journalists in Jeopardy Foundation's Resource Centre and stapled like "samizdat" (underground) publications of the last century. Also, Kazakhstani providers, allegedly acting under Intelligence Service instructions, deny Internet access to these newspapers' Internet portals.

Journalists are shadowed by the police, persecuted and imprisoned for performing their professional duties. There are four such journalists in Kazakhstan. One of them was sentenced to one-year of imprisonment and expelled from the Republican Union of Writers for having criticized the oblast administration head. Another journalist was charged with bribery when trying to buy from officials information about the Supreme Judges' corruption, and was sentenced to 6 years of imprisonment. A publicist took part in defending the demolished Shanyrak microregion and, as the unrests' organizer, he got convicted and imprisoned for 14 years. But the most illustrative example of it is the trial stood by the editor-in-chief of *Alma-Ata Info* newspaper. His analytical article "Who rules the country: the KNB or President?" discloses instances of corruption, raiderism and abuse of power on the part of the Jambul Committee for National Security employees. This trial was a kind of KNB revenge on the journalist for publicizing information about its corruption. The trial was held secretly, without advocates' participation. The 4-year imprisonment sentence was unlawful because the journalist's guilt was not proved.

Journalists' harassment, persecution, assault and battery in Kazakhstan have become routine with 10 to 30 attacks on journalists reported yearly. Recently a journalist of the *Svoboda Slova* newspaper was assaulted in Aktyubinsk for having written an article about a two week strike of 10,000 oil workers in Zhana-Ozen. Another journalist has been reported missing for three years after she published articles against corruption in Kazakhmys Inc. and against the judiciary bodies. Law-enforcement bodies have no information about her whereabouts to this day.

I myself had to pay a KZT 500 fine for organizing a 'flash mob' on a central street of Almaty, when a group of journalists set floating into the sky balloons with the names of imprisoned journalists. This 'flash mob' was organized as a protest against journalists' convictions for doing their professional duties. But the court regarded it as a violation of public order and punished its three organizers.

It may be well worth remembering that Kazakhstan is a UN member-state and, this year, it is heading the OSCE. According to these highly-reputed international organizations, the right to freedom of expression is an inalienable human right in any democratic society. Representatives of Kazakhstani independent media stand against severe limitations of such freedoms and rights in Kazakhstan where civil society is denied the opportunity to express its views publicly. We do want to bring it home to the authorities of the post-soviet age that the only way to stop the flow of negative information about our country is to radically upgrade living standards and observe democratic rights and freedoms. In its turn, the international community, including UNESCO, should give up double standards in the assessment of democratic values and demand that Kazakhstan should comply with its signed international pacts, its richness in hydrocarbons notwithstanding.

MEDIA IN INDONESIA: NO SINGLE DAY WITHOUT NEWS ON CORRUPTION

BY ATMAKUSUMAH ASTRAATMADJA,
JAKARTA, INDONESIA

I am glad that Indonesia is not listed among the twelve countries in the 2010 Impunity Index released by the Committee to Protect Journalists in New York last month. These are the countries where journalists are regularly killed and governments fail to investigate the crimes and seek out perpetrators.¹

There have been only about half dozen of journalists killed during peace time in Indonesia in the last one and half decades. Some media observers are even in doubt whether there were all professional journalists and whether they were all killed in relation to journalistic works.

Still, the non-governmental organizations—including the Press Council, the Legal Aid Institute for the Press, the Indonesian Journalists Association, and the Alliance of Independent Journalists—have tirelessly demanded law enforcers to uncover the killing of the journalists in order to end the impunity of the perpetrators of the crimes.

Most of the news reports of the murdered journalists were related to corruption of local government officials and illegal logging. Most of the killings ironically occurred during the Reform era—which supports free press and expression—after the fall of the New Order government under President Soeharto in May 1998.

Only one of the perpetrators of the six murdered journalists was tried in court and convicted. These are the six journalists who were killed between 1996 and 2010:

- **1996: Fuad Muhammad Syafruddin (Udin)**, reporter of the daily *Bernas (Berita Nasional, National News)*, a mainstream newspaper in Yogyakarta, Java. Killed in Bantul, a regency of Yogyakarta.
- **2005: Elyuddin Telaumbanua**, correspondent on the Island of Nias, west of Sumatra, of the daily *Berita Sore (Evening News)* publishing in Medan, North Sumatra. Missing in Nias since 29 August 2005.

- **2006: Herliyanto**, stringer in Probolinggo, East Java, of the daily *Delta Pos*, publishing in Sidoarjo, also in East Java. Killed in Probolinggo on 29 April 2006.
- **2009: AA Gde Bagus Narendra Prabangsa**, reporter of the daily *Radar Bali* in Denpasar. Killed in Denpasar, Bali, on 16 February 2009. The perpetrators of the murder were convicted in 2010, a few weeks ago. The initiator of the killing is a close relative of a local government official.
- **2010: Marlon Mra Mra**, cameraman of the television station *Mandiri Papua TV* in Jayapura, Papua. He was killed on board a ship traveling from Manokwari to Jayapura, both cities in Papua, on 11 February 2010. The murder may not be related to his work as journalist, according to media reports.
- **2010: a journalist in South Kalimantan**. The murder may not be related to his journalistic reports on illegal logging and mining, according to ongoing verbal information.

PUBLIC AND JUDICIAL HARASSMENTS

News-related conflicts between the public and the press during the Reform era in Indonesia have been dominated by public and judicial harassment. They include destruction of property and closing down of the media by non-state actors and law suits by both state and non-state actors.

Since 1999, when a new press law removed the restrictions that hobbled the media under the long rule of President Soeharto, the Indonesian media has been free to investigate and publish about any subject it sees fit. Newspapers, radio and television stations have proliferated ever since, and content has become more lively and more pointed in the atmosphere of free market communication.

Nevertheless, though the Indonesian media is now unfettered, it is also unprotected.

1. IFEX Communiqué, 21 April 2010, "CPJ releases its 2010 impunity index: Iraq and Somalia are at the top of the list." The 12 countries: Iraq, Somalia, Philippines, Sri Lanka, Colombia, Afghanistan, Nepal, Russia, Mexico, Pakistan, Bangladesh and India.

It seems that lifting restrictions on the Indonesian media—by introducing the more protective Press Law a decade ago—has not solved all the problems. There are enemies out there: people who are targets of investigative journalism, offended government officials and businessmen, and disappointed social and political leaders. In Europe, Japan, Australia, or the United States of America, these disgruntled groups must mount their own counter-publicity efforts, but in Indonesia they sue for defamation, seek penalties under the criminal code and the civil code, or take direct action.

While the Press Law is liberal, both the one-century old Criminal Code and the only two-year old Information and Electronic Transaction Law criminalize expression and opinion. And a new draft Criminal Code even contains many more restrictive and repressive articles.

The newly produced Freedom of Public Information Law enacted recently, two years after the parliament passed it, will motivate transparency in government operations that could increase corruption detection. But the law could also criminalize journalistic works or anyone. An article of the law stipulates that institutions or persons using information in “an unlawful manner” would face one year in prison and/or a maximum fine of Rp5 million (approximately US\$500).

The following are some examples of law suits against journalistic works, opinion and expression:

- In Denpasar, Bali, in June 2005, a law student was sentenced to six months in prison by the Denpasar District Court for “insulting” President Susilo Bambang Yudhoyono by burning his picture at a demonstration protesting the government’s plan to raise fuel prices.
- In Jakarta in May 2005, a student demonstrator was sentenced to six months in prison by the South Jakarta District Court for shouting that the president is a “dog” and a “pig.”
- Students and other youth protesters were sentenced by various district courts to between five months and three years in 2005 and 2003 for “slandering” the president.
- An Acehese woman political activist, Cut Nurasyikin, was sentenced in 2003 to eleven years in prison for “treason” for, among other things, taking part in a campaign for a referendum in Aceh. (It happened before the central government settled the 30-year armed conflict with the rebellious Freedom Movement of Aceh).
- An Indonesian journalist (Ardimas Sasdi of *The Jakarta Post*) listed, in May 2005, about 30 libel prosecutions and civil actions against the media over the past five years, some of which involved large claims for damages. Those convicted and sentenced to imprisonment in district courts for libel include two journalists from *Koridor*, a weekly newspaper in Lampung, southern Sumatra, the editor-in-chief of *Tempo* weekly newsmagazine in Jakarta and two executive editors of *Rakyat Merdeka* [*Free People*], a Jakarta-based daily.
- Last year, an e-mail writer from Tangerang, west of Jakarta, and a writer of a “letter to the editor” of Jakarta newspapers (printed in the dailies of *Kompas*, *Warta Kota* (*City News*) and *Suara Pembaruan* (*Voice of Reform*)) were sued in court for expressing complaints about, respectively, bad service of a hospital and unclear business transactions.

DIRECT ACTION

Some journalists fear that the threat of direct action by the public is even worse than the harassment of prosecutions.

Some people are of the view that that action is a more effective response to the press than using the universally accepted right of reply. They seem to prefer using pressure and physical force, instead of intellectual arguments in solving their “conflicts” with the media.

- Rusdi Amral, bureau chief for the national daily *Kompas* in Makassar, South Sulawesi, faced six truckloads of protestors in 1999 who demanded that their movement for an independent Sulawesi be covered prominently in that newspaper. (The protestors were supporters of the then-President Habibie, who had just lost his bid for re-election).
- “What has become a worry for us is the threat from the people,” Amral was quoted as saying. “Each time demonstrators approached his office, the police did not intervene. He and his staff had to face their critics alone,” wrote Jose Manual Tesoro, *Asiaweek* journalist based in Jakarta, in a website article (“Indonesia learning the ropes of press freedom”).
- In one incident in Solo, Central Java, the mob demanded one private radio station, *Rasitania FM*, to go off the air for one week. The station complied.
- In another happening, in Jakarta, they demanded and got cash compensation from the daily *Harian Terbit* (*Rising Daily*).

- In another incident, in Padang, West Sumatra, demonstrators damaged the office and destroyed equipment of a weekly news media, *Bijak (Wise)*.
- In June 2005, the management of the largest newspaper in Central Sulawesi, *Radar Sulteng (Radar of Southeast Sulawesi)*, bowed to pressure following protests over an opinion article and did not publish the daily for three days. The article, entitled “Islam, a failed religion,” was deemed as “insulting to Islam” by the police after an investigation.
- In March 2008, the employees of the Sanitation Office of Jayapura, the provincial capital city of Papua, dumped five truck-loads of thrash in front of the office of the *Papua Pos* daily as a protest to the publication of an interview with the chairman of the local parliament who criticized the work of this office.² The mayor of Jayapura later ordered the Sanitation Office to take back the smelly rubbish, but denied that he had asked for an apology from the newspaper.³
- April 20, Tuesday: “The Supreme Court orders the chief of the Lower Court in Tangerang, west of Jakarta, to temporarily cancel his function as a judge following his decision to free an alleged corrupt tax official. The judge admitted that he had received Rp50 million (approximately US\$5,000) from the defendant.”
- April 21, Wednesday: “The Commission of Corruption Eradication to investigate the involvement of the North Sumatra governor in budget corruption in his former post as the chief of Langkat Regency in the province a few years back.”
- April 22, Thursday: “Eight provinces are the most corrupt in the country; seven governors and former governors were involved in corruption. The Attorney General’s Office investigates a state prosecutor’s palace (luxurious house) in Medan, the provincial capital city of North Sumatra; the prosecutor is demoted from his post in the State Prosecutor’s Office of Central Java Province after being found guilty of not conducting a proper examination of a corruption case.”
- April 23, Friday: “Environmental activists appealed to the President to be more repressive in the eradication of forest mafia by revoking the license of companies that have damaged environment and abused human rights. The Supreme Court makes the punishment heavier for a former governor of South Sumatra who was involved in corruption of a forest project converting forestry land into harbor.”
- April 24, Saturday: “The Corruption Court sentenced a former health minister to two years and three months in prison for graft involving Health Ministry procurement projects from 2003 to 2004.”
- April 25, Sunday: “The state-sanctioned Task Force of the Anti-Mafia of Legal Case Brokers is studying a letter of order to suspend the investigation of 14 cases involving forestry crimes in Riau Province. The suspicious suspension of the investigation by 12 government officials was reported to the Task Force by local NGOs in the province.”

HIGH RATING FOR NEWS COVERAGE ON CORRUPTION

Notwithstanding the judicial harassments and public threats that the press in Indonesia has to handle in maintaining its freedom and independence to gather and publicize information and critical views, all mainstream media—print, broadcast and online—have to cover and report corruption and its perpetrators every day.

News coverage on corruption receives a high rating from the media audience, according to Agus Sudibyo, a member of the Press Council.⁴

Practically no single day goes by without news about cases of corruption appearing in both national and regional media in the last few years. Let’s take, for example, the press reports appearing in a one week list of daily newspaper editions between the 19th and the 25th of April 2010:

- April 19, Monday: “Eradicate court mafia” – one-page campaign advertisement from a law firm in Cikarang, east of Jakarta, calling to end the activities of “legal case brokers” in Indonesian courts throughout the country.

The media certainly has no power to pass judgment on a case of corruption. However, its news reports and editorials could become a strong impetus to the eradication of corruption by law enforcers.

The observation of Agus Sudibyo from the Press Council, that the media audience has given a high rating to press reports on corruption, is an indication of an increased appreciation by the public of the sharing of information and views by the press.

2. ROW, “Dinas PU Buang Sampah di Kantor “Papua Pos” Kompas, 9 March 2008, p. 3; ROW, “Wali Kota Jayapura Bantah Minta Maaf kepada “Papua Pos”, Kompas, 12 March 2008, p. 24.

3. Ibid.

4. Telephone conversation with the author of this paper on April 26, 2010.

It is believed that civil society and the media are crucial to creating and maintaining an atmosphere in public life that discourages fraud and corruption. Indeed, they are arguably the two most important factors in eliminating systemic corruption in public institutions.⁵

I hope that in the not-too-far future the persevering press could pull down Indonesia from its notorious place as one of the most corrupt countries in the world.

5. PREM, September 1997, "Helping Countries Combat Corruption: The Role of the World Bank", in Rick Stapenhurst, "The Media's Role in Curbing Corruption", World Bank Institute, 2000.

PART 4

THE RIGHT TO KNOW IN A DIGITAL AGE

In an innovative UNESCO World Press Freedom Day conference ‘first’, the entire session on *The Right to Know in a Digital Age* was moderated by a presenter from the national public service broadcasting organisation, the Australian Broadcasting Corporation, and later broadcast nationwide as a programme in the *Australia Talks* series. Digital technologies, blogging and the hugely popular social media, such as *Facebook*, *MySpace* and *Twitter*, all bring with them new *modus operandi* and complexities. Is the digital interface and the Internet the new paradigm for news professionals working in environments where exposure of their product through traditional media outlets, such as print, radio and television, has been closed to them? Malaysiakini.com is a very successful example of digital technology in the service of the people’s right to know. This conference session also featured contributors from South Africa, Austria and Vanuatu.

WHAT AFRICA TELLS US ABOUT ACCESS TO INFORMATION

**GUY BERGER,
RHODES UNIVERSITY**

In African countries, securing practical access to information is as important as winning the Right to Information (or the “right to know”). Although much of the continent’s information is pre-digital, and even though media density is very low even as regards analogue platforms, ICTs are making a difference in some instances. The use of websites and cellphones is growing, and digital broadcasting holds promise as it begins to supplant analogue radio and TV over the next decade. The history of the information environment on the continent highlights the relevant issues.

INTRODUCTION – HISTORICAL BACKGROUND

The information environments of many African countries have evolved over several phases with different issues being prominent at different stages – and often still having contemporary resonance. A periodisation of this evolution is inevitably simplistic, but nevertheless gives insight into where the Right to Information fits in. In this outline below, the Right to Information is envisaged primarily in relation to governmental and state information, but it also has a bearing on broader transparency – for example, about the environmental practices in privately-owned extractive industry enterprises.

The first phase in Africa’s information environment that can be identified is the pre-colonial era which entailed largely word-of-mouth or symbolic media (rock art, masks, drums) – not ignoring, however, traditions of writing north of the equator. Elders stored and transmitted information on behalf of the community, although a number of taboo areas were confined to circulate within certain circles or genders. Pertinent issues for today arising from this period are local content and social access.

With colonisation came newspapers (published in colonial languages) and subsequently state-owned broadcasters, largely serving settler communities. What was published was what the state and the colonial community wanted to know. As resistance to national oppression mounted in the 1950s, so a second phase can be identified: the rise of nationalist resistance media, utilising pre-colonial media but also harnessing newspapers to the

cause of disseminating critical information to a broader public. This instrumentalist perspective on media, reducing its institutional autonomy and ethics to an adjunct to a political cause served the purpose of liberation.. This has also had a negative dimension in African history – most notably in the Rwandan genocide, and less dramatically in the way many governments and civil society organisations tend to minimise the value of media as an autonomous institution in its own right and with its own imperatives, values, and purposes. The contrast highlights the importance of ethical parameters when information is a means to an end.

Independence in the 1960s ushered in a third phase, where new governments regarded the inherited media in a singular way – particularly as a tool for nation-building, pan-Africanism and development. Broadcasting, especially in vernacular languages, was the primary vehicle here. Although the democratic role of media is nowadays stressed, the developmental role remains relevant given conditions in Africa. This phase highlights the importance of information for identity formation and empowerment in much of Africa, and of expanded access to such public service information.

However, this third phase was also a period that coincided with the New World Information Order initiative, which lent itself to legitimising state ownership and control. As new regimes became entrenched in the 1970s and 1980s, so this “development” media became increasingly another kind of tool – i.e. one that was wielded to maintain political control. This meant a constriction and perversion of information, resulting in low volume, low value and low credibility information – in worst cases, hagiographic nonsense about the daily activities of the head of state.

That political abuse of media, along with the despotism it symbolised, in turn generated a backlash that can be characterised as a fourth phase, viz. between the 1980s and 1990s with opposition groups mobilising their case through strategies that included newspapers independent of government (although not necessarily of political causes) and a demand for media pluralism.

A prominent moment in this was the Windhoek Declaration, agreed in 1991 in Namibia at a conference convened by UNESCO. This powerful statement gave rise to World Press Freedom Day, which is commemorated worldwide on the anniversary of the conference. The Declaration set the standard in Africa that democracy had to mean press freedom and the existence of newspapers independent of government. This was a major breakthrough, as was the triumph of the related view that democracy required a multi-party system. A welcome consequence was the flourishing of privately-owned newspapers in many countries.

One of the lessons about information arising from this period is the need for an environment that respects media freedom and unrestricted circulation of information. However, issues of legal obstacles and governmental harassment of journalists still persist today in many African countries, not least the archaic laws that ban criticism of senior government officials. It is therefore safe to say that this fourth phase is not yet over: respect for media freedom is not yet entrenched and indeed is still being fought for in many instances across the continent. At the same time, the treatment of private newspapers as tools of political factions opposed to government has had a mirror opposite of journalists in state-owned media abusing journalistic ethics to serve as governmental tools. Together, this has often meant insufficient attention on all sides to journalistic ethics, and this too is also an ongoing issue for the African information environment.

As history moved on, a fifth phase can be identified in the first decade of the 21st century, when pressure began to build around broadcasting. On the one hand was a push for liberalisation of licensing, so that commercial and community stations (mainly radio) could take to the air – and not so much for commercial purposes as having channels for putting out content. This saw the establishment of many new vehicles for information distribution. It also entailed the start of mass participation in media: while (costly) conventional journalism was not a feature of many of these stations, relatively unfettered talk shows often were.

On the other hand, there were also initiatives in this period (especially around elections) to reform state-owned broadcasters from being government mouthpieces, into impartial public service broadcasters. Again, this is an issue that is ongoing. The African Union's Commission on Human and People's Rights in 2002 produced a Declaration of Principles on Freedom of Expression in Africa which set out (inter alia) impressive policy guidelines for a multi-tiered independent broadcast system – raising thereby the significance of a free and modern pan-African information dispensation.

In sum, the past two decades in Africa have given prominent attention to information issues that have a key bearing on people's Right to Information on the continent.

In overview, it can be seen that together, the rights to press freedom and the right to establish privately-owned media in Africa have mainly been about the right to expression. But underpinning this quest of course has not been free expression for its own sake – it has been with the aim of informing target audiences – i.e. making certain information known to them. In this sense, expression rights in Africa have therefore fundamentally been about expanding the public's right to know.

Added to this is a more direct historical link to the Right to *Information* (as distinct from a diet of force-fed *propaganda*), in regard to the campaign to reform state-owned media. This cause arose in direct reaction to governmental abuse of such media (mainly broadcast, but also print in some cases) for partisan purposes. It is to do with democracy, but also with development, and it largely concerns that media sector (broadcast) with the greatest informational reach in Africa. However, what this history also shows that the need for a focus on the quality of information broadly, and with particular regard to journalistic ethics in regard to public media being a forum for a representative spread of news and views.

This is the history, by no means completed, that brings us to the present. It is not surprising that, against the background sketched above, as 2010 dawned, so the issue of formalising a broader legal Right to Information has come to the fore.

Of the 54 countries in Africa, only three have Right to Information laws on their statute books: Angola, Uganda and South Africa. In Uganda, despite the law, two journalists recently lost a court case that attempted to compel the government to disclose details on oil exploitation agreements. Only in South Africa is the law actually in effect, and even then it is seldom utilised. In many countries, Nigeria and Zambia, attempts to introduce Right to Information laws have become bogged down and abandoned, despite occasional rhetoric by politicians.

Against this backdrop, in early 2010 the Carter Institute convened a conference of diverse stakeholders – governments, media, businesses, NGOs (for instance, promoting transparency) – in Accra. This gathering generated plans of action to advance the cause around different regions of Africa. Meanwhile, in parallel, the Media Institute of Southern Africa (Misa) has convened a coalition of several media support organisations to form the Africa Platform for Information Access (APIA). The participants include the Africa Freedom of Information Centre in Kampala, the Open Democracy Advice Centre

in Cape Town, the Media Foundation of West Africa in Accra, the Media Rights Agenda in Lagos, Highway Africa in Grahamstown, and the West African Journalists Association.

The intention of the APIA alliance is to generate momentum for African countries to pass and act on relevant Right to Information laws, and to hold a major conference in 2011 (marking 20 years since the original Windhoek Declaration) that could help towards this. The idea is also to stimulate to a formal global endorsement in the UN system of 28 September as a Right to Know day (along the lines of the trajectory of the Windhoek Declaration). At the time of writing, the alliance was setting up the website <http://windhoekplus20.org>

The culmination of a long history in the African information environment shows that the Right to Information is still very far from being a reality. But what it also points to is that while media have expanded on the continent, Africa is still very far from having an information-dense environment. What thus merits attention is the issue of practical access to information in many African countries.

■ RIGHTS VERSUS ACCESS

The section above has already noted the limited extent of legal rights to information in many African countries, and the unstellar application of this right in those few states which have canonised it in law.

This situation prompts the question: what problem is the Right to Information supposed to address in Africa? The answer is bound up with the evolution of the information environment in Africa as sketched in section one above. Accordingly, it is a multi-part answer. First, it is part of a package that is intended to reduce authoritarianism and dictatorship, by strengthening democratic accountability, particularly by governments. Second, it is seen as way to address problems of poverty and pillage, by promoting transparency in the interests of economic development and raising the risks for corrupt officials. Third, it is to help resolve a situation where many Africans are far from living in an information society - the Right to Information is a solution to this by promising to empower citizens with useful knowledge.

What is worth stressing is the last of the three, because without recognising citizens as central to the equation, it is hard to see how the first two objectives (democracy and development) can be achieved. However, there are two parts of the issue in relation to citizens: one is consciousness of rights – literacy about their rights to know; two, their ability to exercise these rights through practical access to information.

There are challenges in both citizen areas in African countries. In regard to the first, in many cases, people are subjects, not citizens, often living in non-democratic countries or being refugees or economic migrants with little standing in the countries in which they live. For anyone to assert a right to information means there needs to be a citizen-style consciousness that embraces this right, and which understands its importance in the wider panoply of rights. In regard to the second issue of practical success in accessing information, two sub-issues arise. Firstly, many African governments are known for a culture of internal control, fear and secrecy, and few have proper record systems for the information they hold or should be holding. Second, conscientised stakeholders should be able to access desired information relatively easily, and to be able to analyse it and make use of it.

Getting official acceptance of the Right to Information is an uphill battle. Even in a democracy such as South Africa, journalists routinely run up against state officials who say they cannot say anything unless approved by the press liaison office, even if the request is about the most innocuous matter. Officials in the police and prosecutors in this particular country are often gagged from on high, even when there are policy parameters that permit a qualified liaison with the media. There is continuous contestation over the authorities' desire to hold court cases in camera, and the media which seeks open justice.

However, in many more instances, the matter is less one of a Right to Information, and more one about practical access to information even where rights barely enter into it. For instance, basic public information is not easily available in many African countries, even in cases where it is not under any official restriction. For instance, copies of laws and regulations are often hard to find in print, let alone online. Persons who ask for official forms to apply for a particular government service, not exactly sensitive information, are often turned away empty-handed because copies are not available.

What all this indicates is that the Right to Information in African conditions is a matter that cannot be considered only at the legal level. It has to be approached in terms of active citizenship development, and in terms of practical access. An implication of this point is that the Right to Information in Africa is also a much wider issue than the important matter of media rights to obtain and disseminate information. This democratic right, which of course also applies to citizens, NGOs, political parties, companies, etc., should be located within a broader paradigm of practical access to information.

This point recognises that the media are the largest institutional disseminators of information in Africa, while at the same time it is also important to go beyond the kinds

of information they tend to circulate (i.e. news, views and cultural expression) to many other types and categories. The bigger question therefore is examining how the information environment at large can be expanded – whether this is for one-to-one availability or on a one-to-many basis. In this regard, ICT is important. It is not an issue that is instead of democratic and media rights to information – indeed it can empower these rights. But deployment of ICT also has a much wider bearing and relevance: impacting on the full panoply of information necessary for effective social existence. At the same time, it is also evident that ICT is not a panacea for Africa’s multiple constraints Right to Information: it is only a potential enabler. It is not a driver.

■ ICTS AND INFORMATION – SOME EXAMPLES

Starting with the mainstream media, more and more African establishments are making use of ICTs in sourcing, producing and publishing information – thereby amplifying the quantity and quality and availability of their output and thus contributing to the public’s Right to Information. Media websites are one of the most prominent uses of ICT here. Besides for extending the reach of information to diaspora audiences (both abroad and resident elsewhere within Africa), these media also reach the minority of local residents who do have internet access. While there is still a digital divide to cross in terms of direct access for the masses, this does not mean that information stays trapped within an elite. Instead, much web-based information percolates beyond web-users in Africa, feeding into *inter alia* the outputs of broadcast and print. In some instances, the existence of the web has meant there is at least one place, in fact the only place, where sensitive information can be published. Zimbabwe is a case in point, where bloggers and banned newspapers have taken to cyberspace to disseminate information on a wider scale.

Another example is investigative media like the *Mail & Guardian* in South Africa, which has played a part in actioning the Right to Information by making available online a range of public, parastatal and corporate documents that officials have tried to conceal. Moving beyond the news media, the *Ujima* website (www.ujima-project.org) which, means collective work in KiSwahili, has also proven to be a smart way to use ICTs to make information available. It sources publically-accessible documents in democracies in the USA and UK, and avails them to Africans whose governments do not disclose the same information. The site reveals, for example, that South Africa bought \$66 000 worth of toxic weapons from the USA in 2007; Sierra Leone made a \$47 000 purchase, and Egypt \$2.25m. Described as “toxological agents”, these

authorised sales include “chemical agents, biological agents, and associated equipment”.

It is partly in the light of these kinds of resources and roles that one of the key strategic thrusts in Africa is to ensure that all the continent’s journalists understand and use ICTs, and that they play a role in regard to promoting effective policy that contributes to universal access to these technologies. The world’s largest annual gathering of African journalists, the Highway Africa conference convened at Rhodes University, is dedicated precisely to this cause (www.highwayafrica.com). Over its 13 years to date, the event has served to combine knowledge dissemination and creation through conference discussion, as well as hands-on skills training via workshops. In this way, Highway Africa has also given impetus to African media putting up content online, such as in the case of Zimbabwe mentioned above. Highway Africa also runs the “Digital Citizen Indaba”, a one day annual workshop that brings together citizen journalists, bloggers and mainstream journalists. In this way, there is an attempt to bolster the number of active contributors to a common information environment.

One example of this development around ICTs that involves non-media persons is a South African politician in April 2010 who used Facebook to release a semi-secret dossier by state-owned power utility Eskom, which revealed controversial pricing practices by the enterprise. Another, more enduring, example is the Kenyan website *Mzalendo*, which means patriot in KiSwahili. It came into existence as a volunteer project to “keep an eye on the Kenyan Parliament” ahead of the 2007 elections, and has been through various phases of activity depending on resourcing and time available to the founders. The site arose partly in response to the closure – apparently for two years – of the official Kenyan parliament website, as a result of it having published the CVs of MPs who resented this kind of disclosure. According to co-founder of *Mzalendo*, Ory Okello (who is also a co-founder of *Ushahidi*, discussed below): “In Kenya, you hide information without knowing why you’re hiding it. With technology, you can break that open.” The key enduring purpose of the site has been to monitor the performance of MPs. This is against a background where the Kenyan state operates on the presumption that information is secret, unless expressly made available. Although the official parliamentary site is back on line, providing a degree of information, it lacks the accountability rationale of *Mzalendo* which highlights not merely the passage of legislation, but how many (and what kind of) questions are being asked by each MP. While the official site has a special section for feedback, *Mzalendo* enables users to make comments throughout.

Okello hopes that by the 2012 general election *Mzalendo* will have enough content to produce voter resources based on a ranking of incumbents by their performance in parliament. However, this civil society site is still circumscribed by the lack of a Freedom of Information law, and culture of openness. Thus, Okello has been reported as saying that attendance records for parliament are secret, so citizens do not know the extent of actual appearance by their MPs. Says Okello: "Right now the presumption is that everything is secret unless they deem it not secret, which makes it very difficult to get information."

Providing the public with a Right to Information about parliament is also being assisted by a civil society body using ICTs in South Africa. While the national parliament does not make available its portfolio committee hearings online, the Parliamentary Monitoring Group NGO has stepped up to the plate to provide this service in both text and audio format via its website (www.pmg.org.za). The South African parliament does at least exploit ICTs in one respect: it operates a limited television feed, in partnership with the MultiChoice company. This runs only on a pay-TV channel (DSTV), and although therefore being of limited reach, this is better than nothing.

Getting information about parliament is also an issue in Zambia. There, the independent newspaper *The Post* is working on plans to supplement the wider paltry TV coverage of the Zambian parliament with a video channel distributed on the Internet.

Cellphones are another ICT that is playing an important, if still embryonic, role in practical dissemination of official information. In South Africa, there are frequent reports in the press about single women discovering to their shock that official records have them recorded as being married. Some people also find themselves officially dead. The background to this is widespread identity theft and official fraud. It is not easy for citizens to check this by finding time and transport to visit a government Home Affairs office, wait in a long queue there, complete a form and return a month later for a reply. Recognising this, and seeking to combat corruption amongst its staffers that facilitates the ID theft, the country's Home Affairs ministry has now set up an SMS line. The result is that any citizen can now text their name and ID number to a specific telephone number, and receive back an SMS that presents the official position about their status.¹

This example is still fairly exceptional in Africa, but it is – hopefully – a sign of things to come. This is because unlike fixed line internet or telephony, the cellphone is the ICT device that is widespread around Africa. It

is expected to be the primary way in which Africans at large will, in time, get access to the Internet. It is a device of course that not only can receive information, but which can also respond to it, save it, edit it, and forward it. In this way, the cellphone is not only important for practical implementation of the Right to Information, it is also about the right to communicate in relation to that information.

Thus, piggybacking on the cellphone, have been important civic activities like Zimbabweans monitoring vote counting in their country's fraudulent elections of 2007. Information communicated horizontally within the electorate exposed the falsity of the long-delayed official results. In Kenya, many people contributed by SMS to a visual database at Ushahidi.com (meaning "Witness" in KiSwahili) at the time of ethnicised attacks following the elections. Some 800 – 1,500 Kenyans were killed and around 200,000 were displaced from their homes during the violence, and with mainstream media either polarised, or blocked from live coverage in the case of broadcasting, it was hard to know how widespread the crisis was, and where relief aid was needed. SMS messages helped to populate the site, and enable media and Red Cross follow-up. Cellphones are also a significant instrument for commerce in Kenya. The hugely popular Mpesa cellphone system of monetary transfers and payments is not directly about the Right to Information, but it is symbolic of how, at minimum, ICTs can supercharge data flows for social benefit.

What all this signifies is an increase in access to both receive and produce public information. The agenda it points to is that of promoting practical access to services and phones that provide web access in particular. In turn, these matters are a function of telecommunications policies to promote greater availability and affordability of services. The Right to Information in Africa is therefore linked to the infrastructural and economic foundations for citizens to take part in the Information Society, and what governments are doing (or not doing) to advance this.

■ LOOKING AHEAD

African countries have a long way to go to affirm the Right to Information, but progress is being made in terms of general access to information. One development here is a growing pluralism in media outlets, also facilitated by ICTs which have enabled websites to be set up, and have also reduced the cost barriers to entry in the case of newspapers and community radio stations. Another development is the extension of old media into cellphone platforms. Likewise, information players like citizens, governments, state bodies and NGOs are also utilising these ICTs to enrich the information environment. Meanwhile, both satellite capacity and undersea

1. More information on this is at : <http://www.pbs.org/idealab/2010/02/using-text-messages-to-combat-identity-theft-in-south-africa040.html>.

Internet cables are increasing, leading to falling costs of communications.

Much of Africa is also beginning to engage with the digital migration of terrestrial TV services. This is a long, costly and complicated process, but with some potential. First, it will free up UHF spectrum for mobile broadband access. Second, it can facilitate e-governance through enabling significantly extra information delivery. Thirdly, there is the possibility of smart exploitation of the set-top boxes that are required to display new digital signals on the existing analogue TV sets. These boxes can effectively serve as low-cost computers, with the TV set as monitor, and with plug-in keyboards or modems. This is a longer-term scenario, and so (analogue) radio will probably remain the biggest medium in Africa for decades to come. Audio services (hopefully articulated with telecoms possibilities to enhance the receipt and dissemination of information as well as audience feedback and participation) are thus still central to developing the Right to Information in Africa. However, this depends on policy and practice issues, and not technology as such.

Nevertheless, in a scenario where more and more Africans are inter-connected, and there is a patchwork of information flows across platforms and publics, then greater peer-to-peer dissemination of information becomes a viable scenario. This in turn will compensate in part for the likely lags amongst official institutions in themselves making their information available directly. The interactivity of the pre-colonial word-of-mouth media could be re-established, producing in this way a full circle.

As more and more information becomes available through media, civil society and individuals exploiting ICTs, African audiences will need to become more info-savvy. That's the issue that lies around the corner in the continent's information evolution. Meanwhile, the struggle continues on the many other aspects of ensuring that Africans enjoy the Right to Information.

A EUROPEAN PERSPECTIVE

**BY ALEXANDRA FÖDERL-SCHMID,
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We are living in a world which is changing rapidly, especially the media landscape, which has undergone an essential transformation process. We are in the middle of a revolutionary process with significant challenges for journalism.

In the past decade and a half, the ability of very small computers to swap, replicate and link vast quantities of data at high speed and at almost no cost have changed more than news. These technologies have caused a shift in human communication, both in the public sphere and politics, as well as in the private sphere, changing both the division between work and play and the distribution of power. If one were to distil the effects, we can identify three irreversible shifts:

First, in the quantity of information available, not only in the so-called developed world. The effects of this explosion of information are still to be felt in regions such as Africa or South Asia. Nearly everybody nowadays has a mobile phone and news can be spread around the world in a flash.

The second big change is the instant alteration of information. We have 24-hour news at almost every spot worldwide. But added to this there are also possibilities to update, correct continuously from different directions. This is a chance, but also a threat.

The third change is the decentralisation of news. The ability for anyone to produce something called news, to discuss and edit it, brings an oligopoly to a brutal end. Until only recently, journalists could rest secure in the knowledge that it was not easy for anyone to claim to be a journalist unless they belonged to an outfit that owned or operated the capital-intensive equipment that used to be necessary to publish or broadcast. That barrier to entry has gone.

In the digital age, media organizations can enrich their news with a stream of pictures or information from non-journalists. In the wake of the London bombings in July 2007, many of the first images were taken on camera phones by eyewitnesses. Similarly, we followed the demonstration in Iran via Twitter. This is a chance for democracy. And we all have watched the Google case in China.

But there are also dark sides of this new information environment. There is a need to protect citizens' privacy in the digital age. "Privacy is dead, deal with it," Sun Microsystems CEO Scott McNealy is widely reported to have declared some time ago.

For the European Union, this becomes a priority. Viviane Reding, the European Union's Commissioner for Information Society and Media, said that Europeans must have the right to control how their personal information is used, and said that the Commission would take action wherever EU Member States failed to ensure that new technologies, such as behavioural advertising, RFID 'smart chips' or online social networking, respected this right.

In Europe, there is a public debate about these issues, but as yet there is not enough public awareness. The growth of technology has brought new challenges to the protection of privacy. Individuals are increasingly subjected to new forms of data collection, from both private and public sector organizations.

It is also a task for media to bring attention to this important point.

In this digital era there are a lot of new challenges for journalists, and threats and chances for media consumers. There is not only the right to know, but also the right to inform. This is a chance for dissidents, for instance, to get their message out to the rest of the world. But journalists still play a vital role, as a necessary check-is the source reliable? And the task of journalists is to select and weigh- what is really important and worth reporting?

For media consumers and news sources, it is also important to protect information, not only sources, but also private information and data. We see this necessity clearly in Europe. There is a need for consideration and closer cooperation worldwide and more awareness on the side of the journalists and consumers about the pros and cons of the digital age.

A VIEW FROM THE PACIFIC

BY FRANCIS HERMAN, ADVISER, VANUATU BROADCASTING
AND TELEVISION CORPORATION

The explosion of mobile telephony in some islands of the South Pacific has literally connected our peoples to the rest of the world and opened up access to a wide variety of information. While there are some who view this expansion as a huge threat to the traditional media, the on-going development and expansion of this technology presents the traditional media with enormous opportunities to reach a wider audience at basically little cost. But, of course, there is a cost to the consumer which in the case of the South Pacific can be an issue.

VANUATU – A CASE STUDY

Boasting a total population (*Vanuatu National Statistics Office 2009 provisional*) of 234,000, just under 22% or 44,051 live in the two urban municipalities of Port Vila and Luganville. That leaves the remaining 78% who live in rural areas. The average household consists of at least five people. Women account for close to half the population while people under the age of 25 make up close to 40% of the total population.

For a country with a small but fast growing population (overall 2.8% per annum and 4.1% for urban population growth), Vanuatu has a reasonably fair share of media outlets which are showing some signs of maturity and growth.

The government VBTC, owns the only free to air television channel (coverage limited to the capital Port Vila) and three radio stations including *Radio Vanuatu* with national coverage. There is a private commercial radio station and three other small FM community based stations. There is a daily and two weekly newspapers, along with a monthly magazine. Three pay TV operators cover the country and applications are pending for a new privately owned free-to-air commercial television station and several community radio stations.

Daily newspaper circulation is under 3,000, with an estimated 10 television sets and 254 radio sets per 1,000.

The explosion however has really been in the telecommunications sector. Telecom Vanuatu Limited (TVL) currently has an estimated 7,400 landline users. It has close to 2,500 internet subscribers and predicts this can grow to between 6,000 to 10,000. This forecast growth is based

on planned reductions in internet charges, development of electricity supply grids and greater user knowledge of computers. The other operator - Digicel - introduced its internet mobile phones in mid 2009 but has not released figures on its subscription base. Estimates of total mobile phone subscribers put the figure at about 20,000 shared between TVL and Digicel.

In comparison to the total population, 16.7% are connected to land lines. While mobile coverage is spread to a little over 80% of the country, active mobile connections represent 8.6% of the population. An estimate of just under 2% of the population has access to the internet via fixed lines but this jumps to 10.6% if you include the internet access provided by the new mobile phone operator.

To illustrate the impact of mobile phones, VBTC introduced talkback radio in June 2009 when *Radio Vanuatu* could only be heard in Port Vila. In July the same year, it switched on new shortwave transmitters providing 100% coverage of the islands. Two months later, the number of callers jumped 347%. This monster increase can be attributed to the expansion of radio coverage, and, the availability of mobile phone connection in rural Vanuatu.

A quick glance of ITU figures on internet penetration in 34 countries under the Oceania umbrella (excluding Australia and New Zealand), has the figure at 26% of the total population. For instance the Cook Islands (42.1%); Fiji (10.9%); Kiribati (1.8%); Papua New Guinea (2%); Samoa (4%); Solomon Islands (1.7%); and Tonga (6.9%). These 2009 figures do not take into account mobile phone internet connectivity.

With increased internet penetration and growth of mobile telephony, more and more Pacific Islanders have access to the information via the internet. Some are even able to listen to their favourite local radio stations or view their television stations on their mobile phones. And earlier this year, the Blackberry was introduced into Vanuatu. So where does this leave the traditional media outlets?

TRADITIONAL MEDIA

Despite the introduction of television in the Pacific in the 1990s, and the advent of new, computer-based media,

radio remains the staple medium for accessing information in our small and highly vulnerable island states.

Paper is expensive, heavy to transport and susceptible to heat and humidity, all of which makes the press in the Pacific an urban medium. Television on the other hand, while a relatively new phenomenon in our region, is fast expanding and gaining popularity. But it still remains expensive.

There is little evidence that the introduction of television has been at the expense of radio. Instead TV has increased the range of media options for those people who can afford to buy television sets. Television viewers, like newspaper readers, are more likely to be town and city dwellers as opposed to rural villagers or remote islanders. Unless, of course, they have access to pay television.

As well as access to the media, people generally value choice of content and programming. Here too, the situation has changed over the past two decades. Until the 1980s, almost all radio in the Pacific was government-owned and operated on public service principles – largely pushing the state’s agenda. Subsequently, two changes occurred- one was the introduction of private commercial radio, and secondly was the commercialization (if not full privatization/corporatization) of the public broadcasters.

Multilingual Pacific nations have always had several stations to cater for their various language communities. This, however, does not constitute programming choice. The advent of commercial radio has introduced a limited range of choice and thus of competition between broadcasters.

The broad range of radio formats forced the introduction of strategies that has seen radio formatting becoming more refined than television. This targeting in recent years has most likely played a part in the stability of radio’s overall audience. The stability might also be attributed to the fact that radio is a medium built on habit.

There is no evidence to suggest that technology in our region has influenced or changed listening or viewing habits. This is more than likely to intrigue some media consultants. This “absence of influence” dismisses earlier theories that internet radio and television streaming would radically transform the consumption habits of our audience.

However with the availability of mobile phones with radio capabilities, one suspects this could see an upward movement in “where” people listen to radio. These assumptions obviously need to be studied further.

The fragile and vulnerable economies of small island states make it unrealistic to assume that there will be a rapid shift away from the traditional forms of listening to radio or watching television. Internet and mobile costs are exorbitant in our region, rendering it unaffordable to the average person.

Development priorities for island governments put mobile phones and Internet low down on the list of basic needs for a relatively high rural-based populous. Of greater priority are issues such as roads, bridges, water supply systems, health centres, agriculture and education. And in the event governments do develop the e-governance network, it definitely is not influenced by the peoples’ right to know, which we in the media are struggling to protect. It has more to do with expanding government services to the people.

■ THE RIGHT TO INFORMATION

Digital technology has literally opened up our island countries and offered people opportunities to access a wide range of information quite quickly sometimes and without detection. Groups such as the media, civil society, the private sector and governments, are using this same technology to push their own agendas and inform the masses.

Sadly, despite all the available technology, we have heard distressing stories over recent days about the struggles many of our colleagues in the region are forced to endure with their respective governments. We have heard stories about repressive measures adopted by some governments to control the flow of information. We heard about efforts by some regimes to control access to the internet and curtail peoples’ right to receive and impart information.

And despite exertion of these controls in pursuit of the new “journalism of hope” model promoted by some, thankfully the internet remains relatively free from the clutches of decrees that have successfully silenced the media and controlled the free flow of information.

But apart from these ‘impediments’ to peoples’ right to information and the right to free expression, and freedom of the press, there remains the challenge facing so many people in our region who are deprived of this right not because a regime introduces a decree, but because they do not have access to the technology or simply cannot afford it.

Accessibility to the broadcast medium (largely radio) will remain an integral part of where and how we get information. The challenge (given the relatively low income levels of the majority of islanders) remains - can we

accept that those of our people who cannot afford the new technology, will NOT be deprived of the same level of content available to owners of these “new media” gadgets?

For a moment, swap places with people living in isolation 500 miles from the nearest urban centre who are unemployed or whose yearly earnings are less than the price of a 42 inch flat screen television. They definitely cannot afford the luxuries of things such as “radio on demand”, pay television, broadband, HD radio and television, daily newspapers, and podcasting. Is the media morally obligated to provide them the same (or close to the same) level of “service” and “content”?

Yes I agree we cannot ignore the commercial reality of the world we live in. But I believe we do have a responsibility to provide our peoples with an exceptionally high level of content and a balanced diet of information, even if they are not in a privileged position to be able to afford the new digital phenomena.

THE DECLINE OF “NEWS” AND THE RISE OF STAKEHOLDER MEDIA

BY MARK LEE HUNTER

I’ve been in the business of telling stories I believed were true, and hoped would change something, for 35 years. I started in the US right after Watergate, when reporters were heroes. That didn’t last long, and I don’t care; one does not need to be a hero to be a useful reporter. I lived in France during the great investigative movement of 1982-95, which fell apart and is now coming back together. Five years ago, the investigative reporters I know were all depressed, talking about nothing but job and budget cutbacks. They are no longer depressed. They are realising that people still need them, and that what they do has enormous value not only within, but also beyond the news industry. But that does not mean it will be simple to regain ground that was recently lost, for freedom of expression in general and investigative reporting in particular. I will start with the reasons that freedom of expression for investigative reporters is struggling in the places I know about, and then I will tell you why I think that the overall trend is on the side of people who care about telling the truth.

WHY PROFESSIONAL REPORTERS ARE FINDING IT HARDER TO SAY WHAT THEY KNOW

One day, I heard an investigative journalist from the USA complain that in her town, there was a hot story that no one would ever publish. It concerned cars that were bought by drug traffickers. Every car dealer she knew offered new vehicles for \$US 9999. That price was exactly one dollar under the amount at which Federal authorities must be notified of a cash transaction, and drug dealers paid cash. Car dealers were the biggest advertisers in her newspaper, so the newspaper preferred to ignore the story. Every reporter at the table agreed that such was the situation in their towns, too.

No one that I know of, anywhere, anytime, has ever been able to report all the stories that should be told. Sometimes telling the story will hurt your employer’s business. Sometimes it will cost you the best friends you have. (I remember a young woman reporter in Burkina Faso asking me to tell her a way that she could investigate wrongdoing in her tribe. It occurred to me that if she did so, she would lose the only social support

system that counted for her. Is that true? I asked. “Yes,” she said. I did not tell her, “Investigate them anyway.” I said, “You can’t investigate everyone, all the time.”) Sometimes it will cost you a job. (That happened to me, though I did manage to find another job thanks to the same story that got me fired, and publish it.) Sometimes it will cost the job of someone whose only fault was to trust you enough to tell you the truth. And sometimes it will get them or you killed. That happened to a couple of my friends in this profession. I presume it will happen to others.

Even for honest, committed reporters, using one’s freedom of expression is a daily struggle between what one wants to say, what one can prove, and what one thinks he or she can get away with and survive. There are certain things I would like to say but can’t yet prove. Ethics and prudence dictate that I do not say them, even when I know for a fact that they are true. (For example, there are facts I cannot relate without putting someone else in danger of ruin or worse, and that means I must keep silent.) I have not yet been in a position where I could prove something that I did not dare to say, but I certainly do not feel superior to reporters who find themselves in that situation. Telling the truth is a power game, and reporters, regardless of their legend, have very little power. Their only power resides in getting others interested in what they think is important, and in some cases that is not enough to save them.

In my experience, telling the truth is in large part a game of poker in which winning certain hands depends on how well you can bluff. The bluff usually consists in making the objects of your attentions believe that they are better off leaving you alone, no matter how angry they may be with what you have reported. It is somewhat like putting your head in the mouth of a wolf while persuading him that biting down will either break his teeth or give him indigestion. (You can, for example, try to demonstrate to the wolf that what you are publishing is only part of what you know, and the rest of it will suffice to put him in a cage, if anything ever happens to you.) Meanwhile, you can only hope that the wolf will not be so offended by your smell, or so hungry, or simply so mean that he bites you anyway.

I have the distinct impression that there are more two-legged wolves in the world these days. The emergence of new organised crime syndicates – in Latin America, in the ruined inner cities of North America and the rotting suburbs of Western Europe, in the struggling states of post-Soviet Eastern Europe, in the post-colonial battlegrounds of Africa, to name only the places I am aware of – seems even more worrisome to me than the globalisation of political or religious terror. (If the British historian Eric Hobsbawm's 1969 study, *Bandits*, was accurate we can expect that as organised terror declines, organised crime will thrive, because it will inherit the cadres and foot soldiers of terrorism.) To take only one example, as I write, journalists are being driven into exile from the northern border of Mexico, because they will be murdered if they remain. This means that their former neighbours no longer see their daily lives recounted in the media, a sensation formerly reserved for inhabitants of dictatorships where official news is the only news one may speak. It also means that because fewer and fewer observers are exposing the nature and extent of the crisis, it becomes continually harder to solve. To broadly paraphrase Amartya Sen, how can you – and why would you, if you had the power – fix a problem that no one recognises?

I recently heard Julian Assange, one of the founders of the very important phenomenon called Wikileaks, observe that a great many more policemen get killed on the job than do journalists, and that brave, honest policemen are no less valuable to society. (I agree.) He also suggested that if more journalists were doing their job correctly, more would be killed. He was being deliberately provocative, and he was certainly not endorsing the murder of reporters; in any case, there is some truth in what he said.

A great many journalists do not do their jobs properly, either because they are lazy, or incompetent, or frightened, or cynical. Any of these failings may suffice to convince a reporter that there is no point in telling a story that might comfort the victims of injustice, or even, just possibly, reduce the injustice and suffering that invade life as we know it. A few journalists are given large offices, comfortable salaries and benefits, and a measure of fame precisely because they have spent their careers carefully saying what their chosen masters want them to say, with the appropriate dose of arrogant certainty. (This is a form of self-deception. There is nothing particularly noble about such jobs.) Such prominent figures are exceptions even among the corrupt, of course; I always tell my students, "The problem isn't that journalists can be bought; the problem is that so many can be bought so cheaply."

More common is a journalist who is struggling to survive on piecemeal that pays badly, or who has achieved a

certain mediocre comfort and has no idea what he or she would do if it were lost. These people are afraid of making enemies; they do not have enough experience of conflict to know that telling the truth earns one more respect and friendship than hatred, and that the respect comes from a better class of human being.

Often they become journalists not from a profound desire to tell the truth, but from a profound lack of self-respect. They hope that being a journalist will allow them to frequent better company than their own. Every year, I see this trait in a few of my students. It emerges when they undertake an investigation, discover something important, and then betray their own work by denying what they have found. They do not dare to imagine that all of the prominent people they have interviewed, and who have subtly intimated to them that they are insects, could do something that is wrong, even by mistake. They are not yet capable of understanding that by telling the truth – more exactly, by doing the job of finding and proving the truth – they may attain a higher sense of self, if not a higher state of being. This transformation is not imaginary, and it is not unique to journalists. I have seen it in prosecutors, in scholars, in politicians and in housewives who defend something that deserves to be defended on behalf of others. Telling the truth is a means to *se dépasser*, in the extraordinary and precise French term for going beyond oneself.

I said above that it is cheap to acquire the complicity of a reporter. In fact, journalists are getting cheaper lately, but in large part through no fault of their own. Since the 1980s the news industry has undergone massive restructuring at the ownership level. In essence, an increasingly larger number of media have migrated into an increasingly smaller number of hands. The debt incurred by these transactions, and the consequent financial pressure on media owners, has led to massive and recurrent downsizing of the media workforce. As in other industries, the impact of downsizing has been unequal: A disproportionate number of those who left their jobs (and in many cases, the profession) were older, experienced journalists. And, as in other industries, a certain number of those who remained in their jobs were not the sharpest knives in the kitchen. They were simply the most reliable and inexpensive implements for their new owners, who tend to view their acquisitions more as instruments of personal power and prestige than as vectors of the public good.

It is not entirely or only true that "freedom of the press belongs to the man who owns one", of course. But the man or woman who owns one does have quite a bit to say about how that freedom is used. I have personally seen very good news media that once acted as watchdogs, but turned into lapdogs after a change in their

ownership structures. This trend has affected even newspapers and broadcasters of record in the markets I am familiar with. It is most visible in terms of what is *not* reported – meaning that only those who possess prior knowledge of key facts may be aware of their sudden disappearance. In France, my home base, I have repeatedly been astonished in recent years by the glaring holes in ongoing coverage of certain major events that I and other reporters previously investigated. At a certain point, facts that were in the public record vanish from the latest version. In the meanwhile, a new minority or majority owner has appeared who can only be relieved by his media's amnesia.

By no coincidence, at least so far as I am concerned, surveys of public opinion toward the media have shown a long-term, steady, and accelerating decline in the confidence of news consumers toward the news they are offered. In general, people think that the news media are not telling them the fundamental, underlying facts behind their stories. Nor do they believe that the news media are serving the public interest. On the contrary, they believe that the news media are serving occult interests. We are not speaking here of crazies who see conspiracies everywhere; we are speaking of majority opinions. Put simply, reporters and the industry they work for have clearly lost the trust of the major part of their public.

Less apparently, a certain number of the people who own the industry are running it as though they wish to destroy it. By eliminating content that can transform the lives of its users, they make their product valueless. It is not "Internet" that is killing the news business. It is this decline in the user value of the news, which bestows equal value on free competition.

Thus declining capacity brought on by the financial leveraging of the news industry and private agendas have combined to erode a key pillar of freedom of expression. After all, expression is not only a matter of making noises: It is also a matter of being heard and of being taken seriously. This erosion has been exploited and furthered through the confounding of news and publicity. I never buy the "people" press, and I never look for it on Internet, but I can tell you most of the latest rumours about Brad Pitt, because every time I pass a newsstand they are in my face. If it is true, as research into the agenda-setting effects of news tells us, that what the media treat as important is considered important by society, then the industry has spent several decades persuading people that Brad's marriages matter more than the growing level of social injustice on our planet. In the process, the industry has lost much of the interest of the public that cares about something besides someone else's marriage, even if that someone is Brad Pitt.

That interest is migrating out of the news industry, into another sector of the media. In the next section of this article I will try to describe that emergent sector and what it means for freedom of expression. I know from experience that some of my argument will make journalists and responsible publishers and citizens very unhappy. I am going to tell you that the great period of objective reporting, from the end of the Second World War until the beginning of the 21st century, is coming to a close. Some of the self-proclaimed neutral news media of the objective era will remain, but their reach and scope may be further reduced.

But that is not necessarily bad – and in some ways, may be very good – for freedom of expression in general, and for investigative reporting in particular.

■ THE RISE OF STAKEHOLDER MEDIA

Around the same time that I met the American reporters who couldn't tell the story of cash for cars, I was following France's extreme right party, the National Front, on campaign. One day in a provincial town, dozens of militants from elsewhere in France showed up to canvass voters door-to-door. "How did you get here?" I asked. They told me that they'd been listening to the Front's radio station, and answered its morning call for help. Soon after, I read Sara Diamond's extraordinary history of the American Christian Right, *Roads to Dominion*, which recounts in detail how conservative militants in the US patiently constructed their own media networks to tell the truth as they saw it. In both cases, the hostility or indifference of mainstream news media did not prevent these activists from reaching the people they wanted to reach, and from providing them with a coherent (though partial) worldview. Moreover, unlike the news media, the activists did not only raise questions, they provided answers.

You may not like the kind of answers the extreme right provides, and neither do I. But in France and the US, the only countries I have observed closely over long periods, they were among the first forces to sense and act upon a profound shift in the nature of news consumption. That shift has two key pivots.

The first is that *as the standard of objectivity erodes, the standard of transparency replaces it*. Viewers increasingly do not care if the person who tells them information and what it means adopts a neutral stand. Of course, a great many news media around the world have always represented the interests of a particular party or regime, but since the end of the Second World War, the global standard and expectation was that they nonetheless present information fairly and in a balanced way. That expectation has been disappointed from the top of the business

– for example, at Fox News, whose slogan, precisely, is “fair and balanced”, and which may fairly be called neither. But it is also being discarded, and massively, by people who create their own media.

One key vector here was user forums on the Internet, beginning in the mid-1990s. If you ever read online user reviews of products, you cannot help but notice that if the reviewers love a product, they are careful to say that they don’t work for the manufacturer. They expect others to question their motives, so they make their motives clear. If they don’t, especially when they harshly criticise, other forum members will ask why. No one in these forums – which in 1997 were estimated by Carlo Revelli to account for 40 percent of *all* Internet content; the current figure may be smaller but is still substantial – expects anyone else to be neutral. They *do* expect everyone else to make their biases clear.

The second pivot point is that *the goals of information providers are shifting from “what to think about” to “what to do about it”*. The idea behind telling “all the news that’s fit to print” (in the words of the New York Times) is that once citizens are aware of that news, they will decide what must be done about it. An objective news media does not tell its viewers what to do, except in clearly labelled editorial opinions, or it is no longer objective.

I confess that I have been struggling with this rule all my life. I did not realise why until I read a book by Robert Miraldi, *Objectivity and Muckraking: Journalism’s Colliding Traditions*. Miraldi identified a structural paradox between neutral news media and investigative reformers. Investigators do not merely hope to expose injustice, they hope to end it, and that is a profoundly subjective stance. Under the rules of objectivity, reporters are not supposed to say how that might happen, or support the side of a given issue that might make it happen. In practice, the smart ones do find and support such allies, of course. (In their book *The Journalism of Outrage*, David Protess et al. call this the “coalition model” of how journalists achieve change.) But also in practice, investigative reporters are regarded with confusion, suspicion or outright hostility by their “objective” colleagues. They have “agendas.” Their agendas lead to conflict. And they are certainly not neutral about who wins.

This structural confusion is now being resolved outside the news industry. In the new media world that is taking shape, people do not look at media in order to know what they should think about. They already know, or they would not have Googled the subject in the first place. They are looking for something they need, or they would not make the effort. (Remember, they are not required to make any effort to know which star is getting divorced.) In a word, they are seeking *solutions*.

What kind of solutions? If you spend time looking at media users, and not just providers, you notice that a lot of the solutions they are seeking turn around money. They want to know how best to save it, invest it, and spend it. Objective news media provide some of that information, but nothing like the scope, detail and transparency of criticism that is available through an Internet search. They can’t, so long as advertising is key to their revenue models. Advertisers do not like appearing in media that proclaim their products and services are worth less than they pretend. I happen to play the guitar, and I recently opened a French guitar magazine in which a letter to the editor directly demanded an opinion as to which of two products gave more value for money. The editor’s reply dodged the question. Which leads to another question: If you can’t provide a clear opinion to someone who paid you 5 Euros for it, who are you working for instead?

The users that we in the media are ultimately working for, like us, are flooded every day with “information” that is designed to distract, confuse, or stimulate them in ways they might not appreciate if they were fully conscious of it. (Personally, there are media I no longer watch, unless I am investigating them, because I can’t help being conscious of it.) By no coincidence, they are seeking media that help them find a path through this muddy, polluted mental swamp. They no longer have time, if they ever did, to reflect on every single choice that is shoved in their faces. Nor do they have time to seek the background behind the noise, to understand the motivations and goals of those who are making that noise. No wonder they are happy to find people who do that work of keeping track and keeping score, and who make it plain from the start why they are doing it and to what end.

We call these people “stakeholder media” at the INSEAD Social Innovation Centre, but there are other names. A scholar named David Deephouse calls them “infomediaries.” Another scholar named Yves Fassin calls them “stakewatchers.” Whatever you call them, they share several characteristics. They do not give you all the news that’s fit to print. Instead, they give you all the news that fits their agendas. They do not claim to be objective (except to mislead or by self-deception), though they certainly claim that the facts they report have an objective reality, meaning that they are not simply invented. They assign a meaning to those facts, and describe the implications. And they tell you what you can or must do in order to save your money, your family, your community or your planet, not necessarily in that order.

Let me repeat an example and give you some others. The extreme right’s homemade media networks are stakeholder media as we use the term. So are Greenpeace’s reports, tracts, and website, and the hundreds of smaller

environmentalist websites that relay Greenpeace's messages. So are the reports of financial analysts, which in one case we studied brought a multinational corporation to its knees in the absence of news media coverage. (In other words, the news media were irrelevant to the outcome. They are not the only gatekeepers in the game.) So are user forums on the Internet, which my colleague David Soberman and I found to have sufficient power to counter-balance the advertising expenditures of major brands. So is Wikileaks, which has become one of the world's most important sources for documents released by whistleblowers within governments and organisations. (Not incidentally, the fact that Wikileaks has become one of their preferred destinations in a very short time says something dreadful about the confidence of whistleblowers in the news industry.)

I could extend this list, but you get the point. There is a huge and growing number of media whose goal is to make a certain community of practice or interest prosper in hard times, if not to save the world or a piece of it. And in at least some cases, they are doing a better job of it than the news media.

I will admit that I am glad to see it happen. For one thing, at least some stakeholder media are creating jobs. (That should not be a surprise; small and medium-sized enterprises typically create more jobs than big organisations.) As I write, the ensemble of journalism schools in Europe is producing approximately two graduates for every position that is open in the news industry. I want my students to have a future doing what they love, and the news industry is not doing a great job of providing it. Stakeholder media are beginning to do it.

But there is another reason. The news media, to a far greater degree than I am comfortable with, have ceased to be a counter-power, and have become a power, period. As such, their interests are increasingly aligned with those of other dominant powers. I can't help but suspect that this helps to explain why, in the financial sector, with few exceptions the news media fed the bubbles that burst in 2001 and 2007. (I am pleased to see that exceptions like *The Economist* remain among the few profitable news media. People are still willing to pay for the truth they can't find elsewhere.) Stakeholder media appear more and more, at least to me, as the new counter-powers.

Are they fully professional? Only some. Are they truly ethical, even by the standard of transparency, let alone by the standards of accuracy and fairness? Only some. Are they any worse than the news media in this moment of crisis? Some, sure. *But not all*. That is why they are eating more and more of the news industry's lunch – not

just because they are freely available, but because they are creating value.

Can they replace the news media? Not at present. Few stakeholder media, so far as we can tell, have a sustainable business model. (I am not talking only about profit, I am talking about the resources necessary to do work that one deeply believes must be done.) Moreover, the ones most crucial to the public interest, such as the foundation-supported investigative journalism centres that have multiplied in recent years, remain largely dependent on the news industry to distribute and publicise their work. (So, not incidentally, are stakeholders like Greenpeace and Human Rights Watch.) Nor is it comforting that a growing number of governments and corporations are seeking to interdict, prosecute and otherwise harass web-based stakeholder media, just as they previously censored their news industries. It is particularly appalling in this regard that the United Kingdom's antiquated libel laws, in a country that considers itself the birthplace of modern democracy, have become shield laws for criminals around the world. How does it serve the public or democracy to turn your pasture into a global wolf farm?

It is particularly hopeful, however that organisations like the Global Investigative Journalism Network, founded in 2001 (a transparency moment: I belong), are increasingly forming trans-national projects to make certain that a story blocked in one place will swarm from others. This is a stakeholder media strategy, and it will remain effective. Stakeholder media, like the independent news media that will be forced to surpass them in professionalism and expertise in order to survive, are not going away. If projects like the Icelandic Modern Media Initiative, which is approaching a parliamentary vote as I write, meet their promise we will see the creation of free zones for them. Some of those who migrate to these zones where libel laws favour the truth will surely abuse their liberty. That eventuality will require monitoring and perhaps correction. But it is no reason not to move forward.

The paradox of free expression in this moment is that the news industry is in growing trouble while its ostensible product, information that can change people's lives for the better, is in growing demand. Our job in this moment is to find ways to satisfy that demand that enable us to live from our work. If the industry helps, great. If not, fine. The demand is not going away, so neither will we.

PART 5

JOURNALISTS UNDER PRESSURE: EXPERIENCES FROM THE FRONTLINE

As the World Press Freedom Day 2010 conference was being hosted by the School of Journalism and Communication at the University of Queensland, it was appropriate to have working journalists in attendance to outline their craft and explain the difficulties they face when reporting in dangerous environments. Experiences from Iraq, Rwanda, Somalia, DPRK and Palestine were shared, including the frightening account of an Australian photojournalist who had been held hostage in Mogadishu for 15 months. The contributor from Rwanda gave a startling account of the brutal genocide in his country and the pressure on reporters trying to bring the truth of the situation to the world.

BREAKING THROUGH BARRIERS

BY DAN SOUTHERLAND, EXECUTIVE EDITOR, RADIO FREE ASIA

On World Press Freedom Day 2010, I found myself sitting on a panel in Brisbane with reporters, an editor, a trainer, and a photographer who have worked at high risk around the world. An Iraqi editor had lost reporters to assassination in Iraq. An Australian photographer had been held hostage by jihadists in Somalia. A Rwandan investigative reporter had been arrested, kidnapped, shot at, and, finally, expelled from his own country. A Palestinian female NGO leader had trained and supported Palestinian journalists who were under threat in Gaza and the West Bank. The moderator of the panel was a top Australian investigative reporter. I knew this would be a humbling experience, and it was.

I have taken risks and covered several wars in my time, but that was years ago. My job now is to occasionally send others into potential danger and try to protect sources and citizen journalists who live in tightly controlled countries but still have the courage to offer vital information to Radio Free Asia.

In Tibet, a monk was arrested simply for telling others that they ought to listen to RFA. Elsewhere in China, family members have been pressured to advise relatives working for RFA to give up their jobs with the radio. In one case in Tibet, two relatives of a broadcaster were arrested and imprisoned on false charges. State media in a number of countries, notably Burma and North Korea, have repeatedly attacked RFA. In Burma, a citizen journalist was sent to prison after sending RFA highly accurate reports during Burma's monk-led Saffron Revolution of 2007. Several years ago, Cambodians engaged in illegal logging who were linked to the police and military tried to run over an RFA broadcaster who was reporting on their activities.

BREAKING THROUGH BARRIERS

Created by the U.S. Congress in 1994 and incorporated in 1996, Radio Free Asia is a private, nonprofit corporation broadcasting and publishing online news and information for listeners in Asian countries where full, accurate, and timely news reports are unavailable.

Despite threats, intimidation, and attempts to defame RFA, listeners are able—through the radio's broadcasts,

blogs, and call-in shows—to discuss and debate issues and events that would otherwise lack a forum for dialogue. Despite shortwave frequency jamming, RFA's listeners in China and Vietnam can interact with experts, academics, and each other on issues ranging from health and education to the rule of law, free speech, and democracy. North Koreans, too, are increasingly in contact with RFA through brief telephone calls.

While North Korea represents the crudest attempts by a government to censor the news, China has pursued more sophisticated methods of information control.

Knowing that they cannot control all Internet information, the Chinese authorities block some web pages, selectively shut down websites and in some cases arrest bloggers in an attempt to intimidate others. Many Chinese would prefer to avoid the potential dangers involved in searching for material deemed sensitive and they therefore engage in self-censorship.

Despite all this, tens of thousands of Chinese succeed in penetrating the firewall in order to read and listen to RFA news by using proxy servers or by reading blogs and content sharing sites that strip off our name in order to avoid blockage.

A single citizen can make a difference. In mid-February 2010, an e-mail sent to RFA's "tip line" disclosed the concerns of a number of parents in China's Shanxi province who said that their children had been sickened by vaccines that were improperly stored in provincial hospitals. Several children had died.

Parents had attempted to get the local Chinese media to look into the issue, but local reporters said that they could not cover the story. The provincial health department refused to investigate. RFA finally succeeded not only in getting several parents to talk, but also in obtaining reactions from local officials. RFA aired the story on February 20. On February 22, bloggers picked up the story, giving it widespread circulation.

On March 22, the official Xinhua News Agency reported that a former disease control chief was found to be corrupt amid what it described as a "vaccine scandal."

■ NORTH KOREA: THE TOUGHEST CHALLENGE

Broadcasting five hours a day, seven days a week, RFA's Korean language service faces the challenge of reaching people living in the world's most hostile journalistic environment. But the service has succeeded in providing listeners with in-depth reports on North Korean government corruption, victims of human trafficking, and orphans of defectors. The reports were done by RFA undercover reporters, who assumed great risk by traveling to and reporting from border areas where one can at any time encounter North Korean agents or informers.

Surveys of North Korean defectors show that RFA and other international broadcasters have a growing audience in North Korea. Broadcasters have also found that they can reach North Koreans inside North Korea near the Chinese border via Chinese cell phones. If a call lasts more than two or three minutes, North Korean tracking vehicles can intercept the conversation. But smart broadcasters have discovered ways of gathering significant information with short-burst phone calls. In recent years, RFA has increased its reliance on North Korean defectors as broadcasters, analysts, and commentators.

■ LOOKING AHEAD: VIDEOS, CELL PHONES, AND CITIZEN JOURNALISTS

Given the decline in the numbers of foreign correspondents serving overseas, nonprofit organizations such as RFA can help to sustain serious international reporting. As a radio station founded and funded by the U.S. Congress, RFA cannot afford to place many staff members overseas. But in addition to citizen journalists, RFA has a network of more than 100 stringers, 60 of them in Asia, and most of them paid by the piece. We are also aided by freelance photographers and videographers. And a rapid increase in cell phone use throughout most of Asia has created new opportunities for us to work with citizen journalists.

Burma and North Korea have relatively low cell phone penetration, but the users of such phones in these two countries provide a critical source of information.

In China in 2009, according to official statistics, the number of mobile phone users rose to more than 80 percent of all Chinese adults. That's up from 74 percent of all adults using mobile phones on a weekly basis in 2008. And many Chinese use their phones to shoot photos and videos. RFA receives images from Chinese citizens who give us useful tips and document the worker protests, land disputes, and clashes over environmental pollution that are occurring all over China. RFA staff check the veracity of photos and videos.

Even after the police crackdown that followed the 2008 uprising that occurred throughout Tibet, we obtained quality video clips from a Chinese videographer who was willing to risk entering the tightly controlled region. During the rioting in Xinjiang in July 2009, the Chinese police detained one of our freelance Chinese journalists for two days and then expelled her after she photographed arrests of Uyghur protesters. The police seized the memory card from her camera, but she still managed to deliver video clips showing the police crackdown.

While Radio Free Asia's success has been based until recently on its radio programming, listeners increasingly demand and expect visual content. Visuals serve to solidify the station's credibility in difficult target markets. The documentation provided by a single in-country video or photo can offer powerful challenges to those who would suppress the news. Examples of recent RFA video content that have contradicted the controlled images of state-run media include:

- Video clips provided by citizen journalists from China's earthquake-ravaged Qinghai province in April 2010 that illustrated the critical role played by Tibetan monks in rescue and aid efforts. The visual documentation challenged the Chinese media's assertion that government rescue efforts ran smoothly and benefited all survivors.
- Video coverage of severe water shortages in Burma in May 2010 that showed rural Burmese struggling to get help from a local NGO, even as the military government downplayed the crisis and took credit for all relief efforts.
- Videos showing protesters denouncing a developer's attempt to take over a cemetery in Vietnam's Long Thanh district in the spring of 2010.
- Videos in Cambodia of land grabs, illegal logging, and the forced displacement of farmers. These videos exposed the practices of corrupt power brokers.

■ THE MEKONG: ONE STORY IN SEVEN LANGUAGES

At Radio Free Asia, we constantly look for stories that relate to more than one country and more than one language service. Since RFA's inception, I had wanted to do a series on the Mekong, the longest river in Southeast Asia. The Mekong supports the lives of more than 60 million people and is of vital importance to Tibetans, Chinese, Burmese, Thai, Laotians, Cambodians, and Vietnamese. Seven of our language services broadcast to people living along the river.

We wanted to cover an extensive range of topics—the impact of climate change and melting glaciers, urbanization and industrialization, the decline of forests and fisheries, and finally the development of China’s dams and control over water flow. We decided to begin by gathering the voices of ordinary people living along the Mekong all the way from the upper reaches of the river in Tibet down through China, Burma, Laos, Cambodia, and Vietnam. Many of those people have been voiceless until now.

But the challenges to a project of this size were formidable. The videographers would have to take risks. They would have to protect the identities of many of those whom they interviewed. And the trip would have to begin in Tibet, a highly sensitive region for China.

In 2009, almost by chance, we met a team of Asia-based videographers who had considerable experience covering environmental stories. They turned out to be the perfect fit for RFA. We spent several months researching the project and discussing safety concerns, including details such as the size of cameras to be used in sensitive areas where it would not be wise to draw too much attention.

Although other writers and reporters have done excellent reporting on the Mekong in the past, none to date, as far as I know, has covered local conditions to the extent that the RFA team did. In Tibet, for example, we were able to talk with Tibetan nomads about China’s policy of forcibly relocating them into concrete villages. But we took care not to show Tibetan faces or air Tibetan voices that might bring police retaliation. Nevertheless, our team found ways to tell a poignant story.

By the end of their journey down the river, our videographers had produced 26 high-quality videos as well as numerous tweets and blogs posted along the way. In addition, multimedia editors at Washington headquarters produced slideshows from the still pictures taken by the team.

RFA’s Mekong story is an ongoing effort. In 2010, we began to interview experts on the Mekong dams in an attempt to give analytical weight to the series. The initial production was done in the English language, but much of the material has now been adapted in the Tibetan, Chinese, Burmese, Lao, Khmer, and Vietnamese languages. We are still seeking additional Chinese government comment regarding the impact of the Chinese dams on the Mekong. Scientific debate regarding the impact of the dams must also be incorporated, particularly when it comes to subjects such as the melting of glaciers in Tibet. But the result has been a series that has already served as a foundation for debate and dialogue throughout the Mekong region. www.rfa.org/english/multimedia/MekongProject/why-12042009152349.html

THE RIGHT TO KNOW IN AFRICA

BY ROBERT MUKOMBOZI,
INVESTIGATIVE JOURNALIST/CONFLICT REPORTER, RWANDA.

It is my pleasure to be standing before you today discussing the direction of the media, an industry I have served passionately for many years. Today is a critical time to reflect on our past and shape our future.

I speak on this day with unmeasurable joy not because it is our day but because, despite what we have gone through all these years of our career, we are still here-being able to share our experiences and transform the media industry, particularly, in serving public interest better.

My work for free speech has made me a better journalist – but above all it has taught me to be a responsible citizen of the world. I would like to take this opportunity to congratulate Chilean journalist, Mónica González Mujica, a heroine of the struggle against dictatorship in her country upon winning the 2010 UNESCO/Guillermo Cano World Press Freedom Prize.

Her courage in shining the light on the dark side of Chile teaches us the very basics of responsible journalism and challenges us to embody the very spirit of determination in the campaign to create change even if it means enduring attacks, jail terms, torture, and injustice.

The award comes at a moment when journalism has become extra independent. However, this transformation is largely affected by governments, and some individuals who are unwilling to understand and accept our role in society. As a result, we are losing lives and perishing in jails.

But I should emphasise that the intrinsic power of the media is giving corrupt, authoritarian leaders and selfish individuals in power sleepless nights. We are no longer sleeping with both eyes closed. As a constant watchdog, leaders have run out excuses for bad governance and abuse of institutions. We will continue to expose such evil and cause positive change.

THE RWANDAN SCENARIO

In the African picture, I will start with the Rwandan scenario. Rwanda is a tiny east African state widely known for the infamous genocide that led to massive killing of about 800,000 Tutsis and moderate Hutus in 1994. The media has been seriously blamed for fuelling the

mayhem. Sixteen years after the genocide, however, the government of President Paul Kagame has failed to create an environment for responsible journalism.

In fact, according to CPJ records, about 16 journalists have been murdered since 1992. As I speak, President Kagame has ordered the suspension of two independent weeklies *Umuseso* and *Umuvugizi* through the Media High Council just months prior to presidential elections set for August this year. The weeklies were accused of insulting the head of state, inciting the police and army to insubordination, and creating fear among the public.

Government violated articles 16, 73, 82, 83, 84 and 94 of the media law. The law, in the aforementioned articles, states that before a paper is suspended for six months, it is warned, and then handed two months before the final decision. One of the newspapers had never been summoned by the Media Council over the issues raised in the suspension decision while in the case of the second newspaper; the verdict was not only illegal but also extreme.

These are some of the common forms of government against independent media in Kigali. They are politically motivated charges preferred against a helpless estate and in most cases, such media houses never have a chance to open again. Some of the victimised journalists have fled for their lives but others are standing their ground and praying for a miraculous change of decision.

And this has remained the strategy mostly applied by the ruling Rwanda Patriotic Front to silence alternative voices critical of the regime in a country whose media is heavily censored under the President Kagame-led authoritarian government.

Rwanda's genocide ideology legislation, among other laws limiting free speech, is drafted in such ambiguity that it is virtually impossible in two out of ten articles, not to be accused of insulting the head of state, inciting others to violence, or denying the genocide if a journalist criticises the RPF's policies and practices.

President Kagame's intolerance of critical media has led to the closure of a string of newspapers and radios such as *Journal Afrique*, *Umuko*, *The Weekly Post*, *RFI*

and Rugari. Due to financial starvation from government and private sectors, most newspapers have become spontaneous publications. Those that have failed to reach a compromise on shifting their editorial line in favour of government are on the brink of collapse.

For a government whose commander-in-chief of the armed forces confidence has been shattered by a French judge's indictments, the military has become increasingly aggressive against the independent press. In 2006, the French judge accused Rwandan President Paul Kagame of helping start the genocide because of his alleged complicity in the rocket attack of April 6, 1994, that killed Rwanda's Hutu president Juvenal Habyarimana—the spark for the massacre.

Furious, Kagame shut down the French Embassy, kicked out the Ambassador, ordered Radio France Internationale off the air in Rwanda, and closed the local French cultural centre. He has maintained the aggressive mood since the incident, even ordering government institutions not to give commercial advertising to private critical media during the infamous 2007 Akagera leadership retreat.

Now, as the country prepares for presidential elections this year with its crippled opposition, the Rwandan government will do everything within its means to suppress voices of independent journalists.

Most independent Rwandan journalists have been rendered stateless, a situation that has forced them into exile in various countries across Africa, the United States, Europe and Australia. Some have paid with their lives, while others, who were not able to make it out of the country, are languishing in jails.

The independent media in Rwanda is going through the worst repressive situation seen in the 21st century in a country shielded in silence for fear of persecution. For journalists detained for their work, I should assure you we are watching your back and for those in exile, *Aluta continua* because we have a right to know.

■ SOMALIA, DR CONGO, ERITREA, ETHIOPIA

The scale of human suffering in Somalia and the DR Congo is incomprehensible. Hundreds have been displaced from their homes and civilians are dying at the hands of selfish warlords. For some children, conflict is the only life they have lived since they were born. Death has become part of daily life and desolation has remained a companion for hundreds of thousands of people watching their loved ones die in senseless wars. Gunmen are on the rampage, especially in eastern DR Congo, hunting journalists. I lost courageous journalist

friends like Bapuwa Mwamba, Serge Masheshu, Patrick Kikulu Wilungula and Didace Namujimbo on the front-line to senseless gunmen.

Authorities still censor coverage of armed conflict and human rights violations in the mineral-rich eastern Kivu provinces. Insecurity still reigns in the volatile region, despite the presence of a United Nations peacekeeping force.

Children in this theatre of battle have taken war to be ordinary life. In such situations, I have always asked myself—what can I do to change the senseless loss of human life? The answer is, I'll tell the truth until the victims can enjoy a new lease on life, no matter the consequences.

I am aware that this is not the best decision for one to take in life, but it is a risk worth taking if the world is to register reasonable restoration of dignity for humankind.

We are threatened, harassed, and imprisoned. Jails are always open to receive us—waiting for anyone who dares to tell the truth. For many—including myself—we have not yet been weakened. But sadly, others have lost the battle, often paying the highest price with their lives.

Statistics from advocates of press freedom indicate that 805 journalists have lost their lives since 1992. Among the 20 'Deadliest Countries' are: Iraq, Sri Lanka, Philippines, Afghanistan, Russia, Colombia and Pakistan. It is a shame that Algeria, Rwanda, Sierra Leone and Angola still top the African list of killers. DR Congo, Ethiopia, Gambia, Madagascar, Niger, Nigeria, Somalia, Uganda, Zambia, Zimbabwe hold humiliating records in exiling journalists.

From Somalia and Ethiopia to Sudan, governments are further curtailing the limited freedom of the small number of independent newspapers. The governments are enacting harsh legislation that criminalized coverage of vaguely defined "terrorist" activities, and uses administrative restrictions, criminal prosecutions, and imprisonments to induce self-censorship.

Actually, the Ethiopian government has detained two government TV journalists on allegations of misusing state property. Editor Haileyesus Worku and reporter Abdulsemed Mohammed of Ethiopian Radio and Television Agency (ERTA) have not been formally charged since their arrests. After five years, Eritrean journalists are still jailed in secret prisons without due judicial process. Ten years after Eritrea's brutal crackdown on the independent press, the whereabouts of 13 journalists held incommunicado in secret jails and two other journalists forced into extended military service is

unknown. Critical information about the jailed journalists—most of whom were arrested in a September 18, 2001, crackdown—has become nearly impossible to obtain from official sources in Africa's most repressive country. Sources have revealed that they are locked in brutal prison conditions. Presidential spokesman Yemane Gebremeskel insists the journalists were imprisoned because of "acts against the national interest." But President Isaias Afewerki's government has failed to produce evidence to that effect, if there is any.

The international community (donors) must force President Afewerki to release those journalists kept in solitary confinement for 10 years. Pressure should also be mounted on Rwandan President Paul Kagame to respect media freedom and restore the rule of law, if the August presidential elections are to be free and fair.

Meanwhile, the Somali leader Sharif Ahmed and his Ethiopian counterpart, Meles Zenawi, must respect institutions. They should impose harsh penalties on killers of journalists. Also, there is an urgent need for these leaders to revisit their current repressive media legal regime and allow for improved access to information.

A UN facilitated investigation must be launched in DR Congo, especially in the volatile east to identify killers of journalists, and also ensure that families of those journalists killed in their quest for the right to know get the justice they deserve.

I would like to thank Freedom House, the International Federation of Journalists, Amnesty International, Human Rights Watch, the Committee to Protect journalists, Reporters without borders, International Freedom of Expression Exchange, and the Doha Centre for Media Freedom, among others, for your relentless efforts in the fight for the right to freedom of information.

But it is here also that I would like to request advocates of press freedom across the world to extend more financial support to exiled journalists in order to improve their conditions of living, as well as facilitate their resettlement in cases where lives are seriously endangered.

Finally, more operational material, such as bullet proof vests and hi-tech audio and video accessories should be supplied to journalists in conflict zones to reduce casualties of war, while at the same time improving the quality and flow of information in these conflict zones-where media houses are constrained financially.

FOR MORE INFORMATION:

www.rwandainfo.com

www.cpj.org

www.rsf.org

www.slate.com

www.thestar.com

www.ethiopianism.net

www.ifex.com

Allan, Thompson (2007) 'The media and the Rwanda genocide'

Kagame hits 'East African': *Expression Today* (May 1, 2010).

THE RIGHT TO KNOW IN PALESTINE

BY VALENTINA AL-AMA,
MA'AN NETWORK, PALESTINE

Realizing the Right to Know requires a free and independent press, building a culture of transparency among governmental authorities, and the empowerment of citizens to demand information. All these elements face particular challenges in the occupied Palestinian territories (OPT, including the West Bank, Gaza Strip, and East Jerusalem), where multiple authorities restrict freedom of information and the media in different ways, and where the ongoing Israeli-Palestinian conflict and internal Palestinian disputes circumscribe citizens' ability to demand and act on information.

The most important challenges include:

■ THREATS TO JOURNALISTS' SAFETY AND ACCESS

Journalists operate in a context of regular Israeli military activity, Israeli-imposed restrictions on movement and access, and the danger of being detained or injured by Israeli forces while pursuing their work. Reporters Without Borders, among other organizations, accused Israeli forces of targeting media outlets and facilities during the 2008-2009 Gaza war, and journalists covering popular protests in the West Bank are regularly harassed and injured. Palestinian governmental authorities in both the West Bank and Gaza Strip have also detained journalists and media professionals, and other Palestinian armed groups periodically threaten journalists. The combination of threats from both Israeli and Palestinian authorities means that many Palestinian journalists feel profoundly unsafe as they pursue their daily work. Although the OPT is viewed as one territory under the Oslo Accords, journalists (like other Palestinians) cannot travel between the West Bank and Gaza Strip, and are regularly denied access to certain 'closed' areas inside each territory, including border areas, areas near Israeli settlements or the 'separation wall,' and occupied East Jerusalem. Israel also regularly denies foreign journalists access to Gaza or certain areas in the West Bank, and it is almost impossible for foreign journalists based in the OPT to obtain work visas from the Israeli authorities. Free movement and the ability to report without threat of detention, injury, or death, are essential prerequisites for journalists to be able to provide information to citizens.

■ THREATS TO JOURNALISTS' INDEPENDENCE

The current polarized political climate in the OPT, and the ongoing conflict between the Fatah-dominated Palestinian Authority (PA) in the West Bank and the de facto Hamas government in Gaza, threatens journalists' ability to provide citizens with impartial information that has not been influenced, shaped or blocked by one party or another. Journalists face overt and discreet pressure, and sometimes direct threats, not to report information deemed harmful to the reputation of various actors in the internal conflict. This exacerbates the problem of partisan media coverage (as the majority of Palestinian outlets are affiliated with a political faction), and can lead independent journalists to self-censor or avoid reporting on controversial subjects, thereby restricting the information available to citizens.

■ THREATS AND CHALLENGES FOR MEDIA ORGANIZATIONS

In both the West Bank and Gaza Strip, authorities have closed media outlets they view as hostile to them or partial to their political rivals. Media organizations in the Gaza Strip operate under close Hamas supervision. In the West Bank, the PA has required local TV and radio stations, most of which are already losing money, to pay exorbitant licensing fees or face closure. Hence, the development of a vibrant, pluralistic media sector in the OPT, which underpins the ability of citizens to access relevant, diverse and locally responsive information providers, is under threat.

■ DYSFUNCTIONAL LEGISLATIVE AND JUDICIAL CONTEXT

The executive branches of government in both the West Bank and Gaza Strip operate with minimal checks on their power, as the Palestinian Legislative Council has not functioned since the governmental split in June 2007 and the judiciary in both areas is firmly controlled by the respective executive authorities. This means that important legislation to safeguard citizens' rights has been stalled for years, abuses of power by governmental authorities are harder to uncover or redress, and authorities are less responsive to citizen concerns. While both the West Bank and Gaza authorities conduct their own media outreach to convey

their agenda to citizens, access to impartial and probing reporting on governance issues has become scarce. Although the PA has called new elections, without substantial progress in Hamas-Fatah reconciliation, elections will be confined to the West Bank, which could deepen the governmental rupture and associated uncertainty for citizens as to the means and legal framework by which they can access their rights, including the Right to Know.

■ CITIZENS FEEL INTIMIDATED AND POWERLESS

The climate of arbitrary arrests and other abuses of power in both the West Bank and Gaza Strip means that many citizens, particularly those who do not support the governmental authorities in the area, feel under threat and are afraid to speak out or demand information. The ongoing factional infighting has alienated many citizens from the political process and spawned a widespread feeling of hopelessness and disempowerment. Due to the dire economic situation, particularly in Gaza, many Palestinians are too preoccupied trying to meet the basic needs of their families to work collectively and press authorities for greater accountability.

This paper focuses on the challenges facing journalists and media organizations in the OPT, and particularly on the experiences of Ma'an Network, the leading independent Palestinian media organization. It offers experiences from the frontline of Palestinian journalists' brave efforts to enable citizens' Right to Know.

■ MA'AN NETWORK

Ma'an Network is a non-profit media organization founded during the second Intifada, dedicated to strengthening independent Palestinian media, building links between local, regional and international media, and consolidating freedom of expression and media pluralism as keys to promoting democracy and human rights in Palestine. With headquarters in Bethlehem and offices in Ramallah and Gaza City, we work in partnership with 16 local TV and radio stations throughout the West Bank, which reach audiences of 573,000 and 1.68 million respectively. From a new NGO with a handful of staff in 2003, we have grown into an internationally-respected media organization with over 100 employees in 2010.

Our activities include television, video, and radio production; Ma'an News Agency, which provides up-to-the-minute trilingual coverage of events in the OPT and has become the leading Palestinian online news source (with over five million visits and 900,000 unique visitors). We champion investigative reporting on governance issues at all levels – municipal, district, and national – as well as participatory programs that allow Palestinian citizens

to question decision-makers directly. In 2009, Ma'an established a dedicated research unit to strengthen our responsiveness to citizen concerns, and track the impact of Ma'an programming on governmental authorities, media and civil society in the OPT. Ma'an Network's commitment to building the structural and professional capacity of Palestinian media as a whole is realized through comprehensive training programs for journalists and media professionals, with over 640 participants undertaking Ma'an training to date.

■ THREATS TO JOURNALISTS' SAFETY

The Palestinian Centre for Development and Media Freedoms (MADA), reported 173 violations of media freedoms in the OPT during 2009, 97 of which were committed by the Israeli military and settlers, and 76 which were committed by Palestinian security forces in the West Bank and Gaza Strip and by Palestinian armed groups.

Reporters without Borders (RSF) documented 61 arrests of Palestinian journalists in 2009. According to RSF, 33 journalists were physically assaulted or wounded by Israeli soldiers in the West Bank during 2009. Six journalists were killed and 33 wounded during Operation Cast Lead in the Gaza Strip (December 2008-January 2009). RSF thus placed Palestine in the bottom 15 countries in its 2009 worldwide index of freedom of expression.

Palestinian journalists regularly face harassment, interrogation, detention, damage to press equipment, threats and injuries in the line of duty.

On 8 July 2006, 20 year old Ma'an News Agency photographer Mohamad Al-Zanoun was covering the Israeli army incursion into Ash-Sheja'iyya neighborhood in Gaza when he came under fire. He received multiple shrapnel injuries, but continued to photograph the incidents unfolding, until he was shot directly in the stomach and lost consciousness. With ambulances unable to reach him, he was taken to the hospital in a civilian car. Three weeks, multiple operations and one hospital transfer later, he was finally able to return home.

On 4 January 2007 MNA photojournalist Fadi Al-Arouri was shot twice by the Israeli military forces while covering an Israeli incursion into Ramallah. Al-Arouri entered a coma and received several weeks of hospital treatment for severe injuries.

The Israeli military offensive in the Gaza Strip between 27 December 2008 and 18 January 2009 resulted in the death of six Gaza journalists, while approximately 15 were wounded. Reuters cameraman Fadel Shana'a was killed on 16 April 2008 while covering clashes in Gaza. Eyewitness reported that he was clearly marked

“Press” when his vehicle was shot at by an Israeli tank. Military attacks on journalists and media facilities, and Israel’s ban on press access to Gaza during the war, lead Reporters Without Borders to assert that “news was another casualty of this war”

MNA photographer Khalil Ryash was injured by Israeli army fire while covering demonstrations against the separation wall in Jayyous village in January, and again in March, 2009.

In September 2009, Ma’an News Agency correspondent for the Gaza Strip, Ibrahim Mohammad Qanan and MNA cameraman Mohammad Ghabayen, were detained by Palestinian security forces while reporting on the impact of house demolitions in Khan Younis refugee camp in the northern Gaza Strip. Forces confiscated recording equipment, and escorted the men to security premises where they were interrogated regarding their relationship to Palestine TV, and received threats related to their work. Palestine TV is the PA-run broadcaster and has been banned in the Gaza strip since March 2008. Hamas’ media arm, Al-Aqsa TV, has been banned in the West Bank since September 2007.

On 20 January 2010, Jared Malsin, MNA Chief English Editor and US national, was deported to the US after being detained by the Israeli authorities for over a week at Tel Aviv’s Ben Gurion airport. Malsin was questioned about his work and journalism after returning on January 12th from a vacation abroad, denied entry by the Israeli Ministry of Interior, and sought to challenge this decision in the Israeli courts. Among many other condemnations, the IFJ called Malsin’s detention and deportation “an intolerable violation of press freedom”; CPJ added that “Israel cannot hide behind the pretext of security to sideline journalists who have done nothing more than maintain an editorial line that the authorities dislike.”

■ THREATS TO JOURNALISTS’ ACCESS

Palestinian journalists remain unable to move freely throughout the OPT, and therefore to provide comprehensive coverage to citizens. Like other Palestinian citizens, journalists cannot travel between the West Bank, East Jerusalem and the Gaza Strip. In addition, journalists have been prevented from travelling abroad, not only to provide coverage but also to receive awards for professional excellence and integrity.

In February 2009, two Gazan photojournalists, Eyad Al-Baba, of *Al-Ayyam* newspaper, and Mohammad Al-Baba, of AFP, were prevented from collecting their respective first and second prizes for British Thompson Foundation’s ‘Inquirer Award 2008’ in the photojournalism category. Both journalists were refused entry at both

the Israeli and Egyptian exit points from Gaza, preventing their participation in the awards ceremony in Amman.

In March 2010, an *Al-Quds* satellite TV crew were blocked by Israeli troops at the Qalandiya checkpoint while on their way to present a live broadcast from Jerusalem. After interrogating presenter Raed Fathi for several hours, the soldiers banned him from entering the city for a week.

Journalists, like other Palestinian citizens, have been injured, detained and restricted from accessing sites when covering protests against Israel’s separation wall in proximal regions in the West Bank.

■ THREATS TO JOURNALISTS’ INDEPENDENCE

The Palestinian media sphere is politically polarized and largely controlled by partisan factions in the internal conflict. Journalists face incessant threats and intimidation regarding their reporting, and those committed to impartial and non-partisan coverage feel buffeted on all sides. The hostile political climate following the violent conflict and separation between Fatah-controlled West Bank and Hamas-controlled Gaza authorities in 2006-7, has only exacerbated this trend.

As the leading source of independent Palestinian media, Ma’an journalists are often the target of overt and implicit threats and intimidation. The recipients of a stream of threatening letters and calls, and accusations of favoring one political party over the other, Ma’an journalists determinedly publish information about the threats they face and defend their independent stance.

In July 2007, MNA’s Editor-in-Chief Nasser Al-Lahham received direct threats on his mobile phone from Hamas spokesperson Fawzi Barhoum, demanding that Ma’an refrain from criticizing Hamas. Barhoum threatened that if Ma’an did not cease its criticism of Hamas, they would begin a defamation campaign against MNA. Two hours after Barhoum’s threats, Hamas websites started to denigrate MNA and its correspondents in Gaza, in an effort to halt their reporting. Barhoum challenged Ma’an to prove the validity of a report, published on MNA’s Arabic news page, of a Fatah activist in Khan Younis having nails driven into his legs by Hamas activists. MNA accepted Barhoum’s challenge and published photos of the incident. Hamas replied by issuing a statement to its party members through their website requesting that they boycott MNA. Despite these and many other attempts to compromise our independent editorial policy, Ma’an continues to resist and publicize all such incidents, in line with our mission to provide fair and impartial reporting to the whole Palestinian people, regardless of political affiliation or stature.

■ THREATS AND CHALLENGES FOR MEDIA ORGANIZATIONS

Authorities in the West Bank and Gaza Strip have closed down a large number of media outlets since 2006, and organizations continue to face obstructions to their work including raids, confiscations and cyber attacks. For example, in 2008 the Independent Commission for Human Rights (ICHR) documented the closure of seven media institutions by security agencies in the West Bank, and of six institutions by security agencies in the Gaza Strip. In addition, ICHR documented raids on four media organizations in the West Bank and seven organizations in the Gaza Strip.

Ma'an Network's eight local TV and eight local radio stations faced particular difficulties in early 2010, when exorbitant license fees forced many local stations in the West Bank to stop broadcasting. Ma'an continues to highlight this issue in its TV, radio and online media, in order to prompt authorities to consider the impact on media pluralism, and thus citizens' ability to access information, in the OPT.

MNA's website is among other news websites in the OPT that have been exposed to deliberate hackers' attacks, preventing access to news, particularly during high profile events in the Palestinian territories. MNA has developed a firewall system to provide some protection from these attacks, and continue to publicize similar incidents affecting other organizations.

■ MA'AN NETWORK'S RESPONSE: BUILDING INDEPENDENT PALESTINIAN MEDIA

Ma'an Network believes that the media has an important role to play in providing impartial, accurate and timely information to citizens. While Ma'an faces the same restrictions on the Right to Know as other members of Palestinian media and society, through fostering a culture of solidarity, integrity and professional excellence amongst Palestinian journalists, Ma'an endeavors to meet the challenges head on.

In response to the urgent security risks facing Palestinian journalists, Ma'an Network conducted safety training courses (funded by the UNESCO office, Ramallah), one in the West Bank in 2008 and another in the Gaza Strip in 2009. The training was designed to improve Palestinian journalists' ability to analyze dangerous situations and make the best possible choices in response. Courses covered strategies for pre-deployment planning, cover from fire, interpersonal negotiations, situations of abduction and civil unrest, as well as emergency first aid and medical scenarios. In addition medical kits, bullet-proof vests and helmets were distributed to participating media outlets.

Ma'an uses innovative media formats, such as participatory quiz shows, town-hall style meetings, and web 2.0 discussion forums, to place citizens at the heart of programming, and strengthen interaction between Palestinian citizens and decision-makers. Ma'an Network's research department tracks the impact of such media on society as a whole; monitoring the extent to which we, for example, contribute to provoking a culture of openness and transparency amongst local and national authorities, and empower citizens to demand their right to access information.

FOR FURTHER DETAILS:

www.madacenter.org

<http://www.maannnews.net/eng/ViewDetails.aspx?ID=188597>

<http://www.maannnews.net/eng/ViewDetails.aspx?ID=187787>

<http://www.maannnews.net/en/index.php?opr=ShowDetails&ID=18427>

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<http://www.maannnews.net/eng/ViewDetails.aspx?ID=209349>

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<http://beth.maannnews.net/eng/ViewDetails.aspx?ID=195217>

HELD HOSTAGE IN SOMALIA

BY NIGEL BRENNAN,
FREELANCE PHOTOJOURNALIST, AUSTRALIA

It's extremely comforting to stand in front of such a large audience considering just over 5 months ago I was released after being held hostage for 462 days in Somalia. It is still difficult at times to talk about my experience, as my memories are still very raw.

My passion for photography began after many years of travelling and working overseas, especially in Third World countries. After my travels, I enrolled at Griffith University to study photography. I chose photojournalism after reading several books including "One Crowded hour", "Frontline" and "The Bang Bang Club". I was inspired by these journalists who repeatedly flirted with death to record the true nature of conflict all over the world in some of the most dangerous places on earth. Some people may think that it's strange that a person would want to photograph war and conflict zones. My reason for it was not because I am some sort of 'adrenaline junkie' or, as my mother would say, because I have a death wish, but for the simple fact that these stories need to be told to the world to show the futility of war and the mayhem that it creates on the innocent who get caught in these conflicts.

In August 2008, I travelled to Africa with my friend and colleague Amanda Lindhout. My intentions were to photograph a number of issues in Kenya and Somalia. I went to Somalia, in particular, to photograph the humanitarian and food crisis, the drought and the war between Islamic groups and African Union forces that occupy parts of Mogadishu. I knew Somalia was an incredibly dangerous country and that its capital Mogadishu is one of the most dangerous in the world. There has been no real government since 1991, which has caused anarchy and has seen Somalia be ravaged by war for nearly twenty years.

On our fourth day in Somalia, the 24th August 2008, we had organized a trip outside of Mogadishu to photograph one of the five IDP camps on the road to Afgooye. We had arranged with our fixer for extra security that day, as we would be going into a militia run area. Some 5km outside Mogadishu, we stopped for what we thought was our extra security detail. Unfortunately, it was an ambush that had been waiting for us. The realization of what was happening hit home very quickly. I was able to speak with my sister in the second week of being kidnapped, then this most basic of human rights to talk with ones

family would be denied to me for the next 11 months. My family during this time had no idea if I was alive or dead. It's hard to describe how I felt in those first few weeks as my life was snatched away from me. Depression, anger and stress bore down on me. I went through a myriad of emotions- fear, helplessness, hopelessness and powerlessness. I found myself in an extremely dark place, but the human spirit is an amazing thing. I learnt very quickly that if I was going to survive, I would have to adapt to my new circumstances. Survival skills that I didn't even know I had, kicked in.

After two months, Amanda and I were separated and our conditions from that point started to deteriorate to a place that I would not wish on another human being. Over the next three months, I was held in a room that was about 8 feet by 12 feet. The only time I was allowed to leave my room was to go to the bathroom or to wash clothes.

After five months, believing the three Somalis who were kidnapped with us had been killed, Amanda and I devised a plan to escape. Our plan was extremely simple. We basically did the only thing that we thought was safe considering our circumstances. We went to a mosque for only one reason, that we thought we would be safe in a house of worship. The 20 or 30 minutes that we had of freedom was the most liberating experience I think I will ever have in my life, but, at the same time, it was the most intense and terrifying time I think I will ever go through. After being recaptured, we were interrogated and shackled with chains around our ankles and these chains would remain on our legs until the day of our eventual release. Over the next 10 months, our conditions got to a point where I considered suicide on several occasions. I was completely isolated and only able to talk when my captors came into my room. There is nothing more dehumanizing than the absence of human companionship. It was during these ten months that both Amanda and I would be tortured, both mentally and physically. I guess my belief in humanity was sorely tested and I would be pushed to limits that I thought I would never have to go to ever in my life. But even in some of my darkest hours, I saw a flicker of humanity in my captors that gave me hope to go on.

I stand here before you today, not only because my captors didn't kill me, but for two other reasons. Firstly,

I chose to survive and never gave up hope. Secondly, because of my family. Unfortunately my family paid a great price as it was up to them to pay the ransom for my life. By doing so, they risked their own freedom and several of my family members were informed by the Australian government that they could face prison terms for paying a ransom. They were told that they would be breaking three major international laws, one of which carried a twenty-five years to life sentence.

The other person whose freedom has been taken away, and who has often been forgotten, is the Somali journalist Abdi Elmi, who was kidnapped with us. After his release, he was threatened and had to flee to Kenya where he still remains. He is currently living in Nairobi under refugee status, unable to work and separated from his wife and three children who are still living in an IDP camp in Mogadishu. Unfortunately, groups like Al-Shabbaab are targeting journalists, which limit their ability to report on Somalia's dire circumstances. According to the 2009 annual report of the National Union of Somali Journalists, nine journalists were killed, 12 injured and 15 arrested, and nearly 100 journalists received death threats. On top of this, four media houses were closed down and seven radio stations were directly censored. Due to this intimidation, media houses have moved away from broadcasting news and current affairs.

The story that I want to tell in Somalia is still very much untold. Unfortunately, Somalia does not receive enough of the world's media attention. The IDP camps outside of Mogadishu, according to UN reports, contain somewhere between 300,000 and 400,000 people. Unofficially, the figure is somewhere between 600,000 to 700,000 people and it accounts for the one of the largest groups of Internally displaced people anywhere in the world. These people live in make-shift houses constructed from sticks and plastic bags. There is no electricity, limited running water and very poor sanitary conditions. There is no opportunity for children to go to school or for parents to work, due to the ongoing conflict, which makes families dependant on aid organizations.

The situation in these camps is not set to improve anytime in the near future. The war is still going on in Mogadishu and other areas of the country. It is unlikely that either the government or Al-Shabbaab will get full control of the country, but one thing is certain and that is that the humanitarian situation will continue to deteriorate. More people will be displaced, more innocent people will be killed and the food shortage will intensify. There is a greater potential catastrophe that could occur due to many international humanitarian agencies either avoiding, or being denied, access to certain regions controlled by Al-Shabbaab.

Every day, thousands of journalists risk their lives in hot spots around the world because they are passionate about what they do and the stories that they tell. People will criticize me for going to Somalia because of the dangers involved. I will take all of that criticism on board, but I went because I am passionate about what I do and it's a story that deserves more coverage.

My experience in Somalia does not make me want to change careers and I still intend to be a storyteller through the use of photography. Journalists, by their very nature, are storytellers who do not own the stories they tell, nor do they belong to those about whom the story is told. I used to believe that photographs could change the world, but it's not the photograph that changes the world, but the story that it tells. These stories, when voiced, become communal property and, by extension, a political tool to create change. Storytelling changes people's perceptions. It is then people who have the ability to act and change the world.

PART 6

THREATS TO MEDIA FREEDOM AND FREEDOM OF INFORMATION IN THE SOUTH PACIFIC

Although named the ‘peaceful sea’ (*Tepre Pacificum*) by early foreign explorers because of its seemingly calm waters, the South Pacific region has proven anything but tranquil for journalists and news editors in recent times. Small and geographically remote island nations face specific political challenges, particularly in cultural environments where a traditional hierarchical social system fits uneasily with modern democratic principles of a public sphere, transparency and the equal rights of all citizens. FOI legislation is at a fledgling stage in many Pacific nations, while censorship and a lack of media freedom are regular companions of reporters, many of whom have been gaoled or faced Court action. Contributors from Samoa, Cook Islands, Vanuatu, Fiji, Papua New Guinea and Solomon Islands recounted the reality of life for Pacific media people.

VOICELESS IN THE NEWSSTAND

BY SOPHIE FOSTER,
ASSOCIATE EDITOR, FIJI TIMES

“You are not the same as you were before,” said the Mad Hatter to Alice.

“You were much more muchier. You’ve lost your muchness.”

“My muchness?” Alice asks.

“In there,” the Mad Hatter says, pointing to Alice’s heart, “something’s missing”.

We don’t need a Mad Hatter to tell us that over the past year in Fiji much ground has been lost for the universal cause of freedom of expression. And with it is going freedom of the press.

For those of us for whom it is a daily reality to come face to face with just how much we have lost – how viewless or voiceless our society has become – it would be easiest to simply succumb and say that the heart has gone out of the journalism profession in Fiji.

And yet we find that journalists in Fiji continue to try as best they can, working under trying conditions, to ensure that their readers, listeners, viewers and other audience – the people of Fiji – receive as much information as possible that is relevant to their lives and essential for them to make informed decisions.

■ DELIVERING THE NEWS

In considering the various ways to approach this panel discussion, it was clearly very important that the views of journalists in Fiji are represented. So, last month, I conducted a survey of mainstream journalists in Fiji to gather first-hand knowledge of the impact of the past year of State censorship on freedom of the press. The survey respondents represented around 13.6 per cent of the number of journalists in the country, just over half of them were women.

Every journalist who responded said that they did not feel free to report the news as they found it.

What exactly not feeling free to do their job means is journalists in Fiji are being systematically forced into being selective with the types of stories they explore, a direct result of government censorship since last Easter.

Sub-editors and news editors – the guardians, if you like, of principled accurate journalism – have seen an obvious trend towards reporters’ hands being tied – figuratively.

One respondent said “... gone are the days when a reporter writes a news article and we as subeditors know that it’s a balanced report and feel comfortable with it ...”

Another respondent laments that censorship of stories by State officials has made it hard for journalists to produce stories about what is really happening, or to allow for the free expression of the feelings and comments of the people of Fiji over their own situation. I quote: “These kinds of stories are not allowed... they want everything to be good and a very positive picture painted all the time. The truth is somewhat hidden by the censorship.”

The situation you will find is journalists in Fiji being steadily pushed into a position where they have to water down stories to suit censors, which in most cases, results in real stories never being told. It is an extremely frustrating situation – especially for those who know what it is like to work under free media.

■ GROWTH OF SELF-CENSORSHIP

Which brings me to my next point – the growth of self-censorship within the Fiji media industry.

With journalists now coming face to face with the fact that the “‘whole truth or freedom of expression” is not being fully exercised, some are now having to consider self-censoring stories they work on – because they know that it won’t meet the censors’ approval. The fact that journalists are beginning to consider this course of action – considering going against their professional ethics and beliefs – is a telling factor and a worrying one for the future of freedom of expression in Fiji.

But the fact of the matter is that self-censorship is already occurring in mainstream media in Fiji. In the words of one journalist: “We are restricted in what we can report, especially if it is “negative” news with regard to the economy, crime, public service. We also cannot run news items on unions or on human rights advocates

unless we tailor the story a certain way that would pass censor's eyes."

Most troublesome for the future of the media industry in Fiji is the fact that the months of hardline tactics against professional journalism seems to be wearing down practitioners. One respondent summed up this new worry, suggesting that to avoid the media being "told off", "they should just try and just report on what the authority of the day wants them to report on. Let's see how or what they (government) are trying to achieve. Because we have tried our media way and we're being told it's wrong. So let's try their way and see. Just try."

■ THE CENSORSHIP PROCESS

Of all the journalists who responded to the survey last month, 100 per cent of them have had stories, pictures, layouts or footage that they or their colleagues worked on censored from publication.

One respondent said they had lost count of the number of stories that have been censored. "It's very frustrating especially when I know that a reporter has done a good job getting balanced news and the fact that it's of public interest... Stressful – the word is not even enough to describe the situation".

Another respondent said they had a collection of censored articles, with their latest calculations putting the number of censored articles at over 2000.

An example of what journalists have to face, is the treatment provided to an article about an area in the interior of Viti Levu – Fiji's biggest island. In that area – called Yalavou – the people produce a small amount of cash crops as the only source of income. These crops were unable to reach the market because of deteriorating road conditions and a broken bridge. Even public transportation providers stopped operations in the area. So farmers resorted to bullocks dragging makeshift sleds to cart their crops to the main road. The article began: "...Life drags by an inch at a time in Yalavou..." Because of that sentence, the respondent said, the article was censored.

Another respondent highlights the fact that censorship seems to depend on the whims of individual censors, with some stories being allowed in some media and not in others, some passing censorship after being rewritten or even after being presented to other censors. "There is no guideline on censorship ... it seems to be on a day-to-day basis or on the whim of the censor in charge."

■ ISSUES TARGETED BY CENSORSHIP

Journalists were asked which issues they felt confident could pass censorship. One hundred per cent felt confident that Community Issues would be allowed to run, which would mean school fundraising events, bazaars, clean-up campaigns.

93.3 per cent were confident that Sports would pass censorship, followed by Business, and Industries.

Women and Infrastructure returned a 73.3 per cent confidence, while Health and Legislation Changes saw 66.7 per cent confident on passing censorship, and 53.3 per cent confident on Social Welfare issues.

Respondents were least confident that stories on Political Parties would pass censorship, as well as the Military, Police and Union Issues.

Only one in three were confident that stories on the economy, employment issues and rape would pass censorship, while only 40 per cent were confident that articles concerning crime, the cost of goods and services, and State and Public Service Issues would reach readers, viewers and listeners.

Just over half of these respondents said that because there was no criteria for censorship, every issue highlighted above could also be dropped from publication if it painted a negative picture.

"It is difficult to pinpoint which ones can pass censorship because most of the issues which I clicked on can also be dropped by the censors... the bottom line is they approve 'positive' stories, the ones that don't tarnish or provide a negative image of the regime." The journalist goes on to say that a human interest feature can be dropped if it highlighted the high cost of living or poverty.

■ HOW JOURNALISTS RESPOND TO CENSORSHIP

The survey also attempted to gauge what steps were taken, if any, to ensure that stories, pictures or footage passed censorship. Somewhat surprisingly, given the past year of censorship, 73.3 per cent of journalists who responded said they continued to write as normal, regardless of whether it would be censored.

Not a single respondent said that their stories always passed censorship, while 60 per cent said they always ensured there was a State comment or involvement in the piece.

One in five respondents said they did not cover issues that may be banned while 13.3 per cent said they did not quote or picture people who may be banned.

■ CAUSES FOR CONCERN

Putting aside the ethics of the situation journalists in Fiji are in, in the words of one respondent it is “frustrating writing ‘positive’ notes about issues that have negative implications on the public.”

But what’s “even more frustrating”, according to the same respondent is “when the everyday citizen is led to believe that publishing a person’s view or an issue against the higher authorities” is inciting civil unrest.

Many of the journalists, who do the work they do in Fiji, do so because they believe that they are in the midst of delivering a public service and a public good. One that involves them being the watchdog for the average citizen, keeping an eye on injustices, insufficiency, inaction, and highlighting these for the purpose of making a better Fiji. The survey found that 100 per cent of respondents did not believe that the work they did as journalists was a threat to national security.

That work is now hampered.

■ WHERE TO NEXT?

The vast majority of journalists said they needed censorship measures lifted in order to do their job better. One respondent said: “Censorship needs to be lifted so we can get on with our jobs, which is to keep the people of Fiji as informed as possible about decisions and stories which affect their lives.”

73.3% felt that more journalism and other training as well as better work conditions were necessary. Comments in this area centred on concerns over bills, mortgages, mouths to feed, as well as finding work/life balances and handling stress better.

Two-thirds felt that access to counselling for stress and other impacts would help, as well as access to more sources of information.

In the words of another respondent: “I can’t work freely now. I always have to consider the media censorship that takes place in the country now... I once saw a 60 Minutes program about a dog barking controller device that is attached to the dog’s neck. It sprays a sharp spurt of water to the dog’s throat whenever he barks. Just days later, the dog is quiet... I feel like that dog now. I can’t even express how I felt for the past months.”

When the so-called “watchdog” is silenced, where to then for freedom of expression, where to for the right to know?

Article 19 of the Universal Declaration of Human Rights states that everyone has the right to freedom of expression, through any media, regardless.

In Fiji, we live in hope that one day soon we will achieve this.

Vinaka.

THE SAMOA OBSERVER STORY

BY SAVEA SANO MALIFA,
PUBLISHER/EDITOR, SAMOA OBSERVER

I've been asked to speak on "Threats to Media Freedom and Freedom of Information in the South Pacific," which is something all of us at the *Samoa Observer*, as some of you are probably well aware, know very much about. We have been through some grueling challenges over the last 20 years or so, but we don't believe it's a good idea dwelling in the past, or holding grudges against anyone, or pointing a finger at any group of people.

We believe in going forward, and in this paper, the issues I shall be discussing are meant only to be used as lessons to learn from, in the hope that those snags do not recur, so that we become much more tolerant and wiser because of them.

The *Samoa Observer* was founded in a cookhouse in a village near Apia in August 1978. Almost right away it struck problems. The government of Prime Minister Tupuola Efi did not like the idea of this new newspaper publicly revealing all these things that had never been revealed before.

But Tupuola was an understanding man and a very tolerant one too. It was his cabinet ministers who were doing things they shouldn't be doing, and Tupuola got the blame. He is now Samoa's Head of State, and his name has changed to Tui Atua Tupua Tamasese Efi.

HAPPY BIRTHDAY

Anyway, when the paper completed its first year of operation, and we were planning its first birthday party, we invited Tupuola to deliver the keynote address. At first he was reluctant, but later he accepted.

This is what he said:

"I suppose I can get away by saying: 'Happy birthday and I wish you well. I would like to say a little more. The *Observer* was launched one year ago by way of indulging the (whims) of a somewhat querulous reporter who believed that he could do it better on his own. It was a brave effort because striking out on newspaper business in Apia has not by and large brought good fortune, let alone spiritual and mental fulfillment. There was a tendency, therefore, for people to say when the first issue appeared on the streets of Apia: 'Very good for a start but

can the effort be sustained? One year later I will have to acknowledge, even if a little grudgingly, that the *Observer* has become an established feature of the Apia scenery.

Tupuola goes on:

"It is, one year later, better patronised by business and even by patrons, who ironically, the *Observer* spends most of its time rubbishing. The last reason why I say it is heading happily towards the status of a survivor is that the editor seems, again on the face of it, well able to indulge his idiosyncrasies, even to the point where he feels he can thumb his nose at politicians, bureaucrats, their values and their cocktail parties, and still manage to retain his contacts, 'deep throat' and all.

And he ends:

"Nevertheless, I look forward to another year of being, on turns, lifted, prodded, annoyed, misrepresented – which reminds me that the headings 'PM wants CJ out' and 'Appealing to PM' is time wasting' do not represent fair reporting. With all that, I hasten to say, I wish the *Observer* many happy birthdays.

LONG CONFRONTATION

That was August 1979. Two years later, public servants went on strike seeking better wages, but Tupuola did not grant the request. He believed the opposition Human Rights Protection Party (HRPP) was behind the strike so he refused to listen. As a result, the confrontation dragged on for 13 weeks, which was when the HRPP launched a vote of no confidence against Tupuola in Parliament. The vote was carried and Tupuola was no longer PM.

The HRPP became the new government, and some years later the *Samoa Observer* struck worse problems. They included threats to kill from a cabinet minister, physical assault by the minister's brothers, a "suspicious fire" that completely destroyed the paper's printing plant, web presses and newsprint supplies, editorial and advertising offices.

Soon afterwards, the lawsuits from the PM and his cabinet ministers began, all because of our love of press freedom and freedom of information in the Pacific. But then

these are the things that all of us who work as journalists in this part of the world, know very much about.

They've been around us for a long time, and I don't think they are going to go away any time soon. I say this because as long as our politicians refuse to totally accept, and respect, modern-day democracy, these threats are going to remain with us for sometime yet.

We know and accept, that like any other freedom, media freedom is not absolute, which is why we also accept that laws must be instituted, to prevent and discourage media owners, editors and journalists, from abusing this freedom.

■ QUICK TO SUE

The problem however is that, whereas these laws are made by politicians to protect themselves and members of the public from a critical media, there are no laws to protect media owners, editors and journalists, from angry politicians. Besides, whereas politicians are quick to sue editors saying they've been defamed by them, all that editors can ever do is try to defend themselves.

And to get an idea as to why these threats from politicians are continuing to be a tenacious enemy of media freedom and the free flow of information, we have to go way back to those pre-independence days, when modern-day democracy was unheard of in our part of the world.

In those days, all island nations had their own forms of democracy, driven by their respective cultures and inherent customs. In Samoa for instance, pre-independence democracy was dictated by the fa'asamoa or the Samoan way of life, which was where the matai or chief of the family made all the decisions.

The reasoning though is sound enough. Since the matai is chosen unanimously by the extended family, based on his ability to adequately provide for that family, for his kindness and his wisdom, his decisions are also the rules by which the family is governed in peace and unity. In other words, the matai is respected, and his decisions are obeyed without question.

Then along came political independence accompanied by modern-day democracy and everything changed. Now driven by foreign-influenced Constitutions which give much emphasis on such alien terms as human rights, freedom of expression, freedom of the press, freedom of religion, and whatnot, which are themselves inalienable human values that at the same time diminishes the matai's culturally-inherited authority, since under this new form of governance, the non-matai is now just as human and important as the matai himself, modern-day

democracy becomes a threat to the old system, and it is now looked upon with scepticism and even contempt.

In Samoan politics, what's important is that most of the members of parliament are matai. Of its 49 MPs, 47 are matai, and the other two are elected from "individual voters," or those with mixed ancestry. Which means the laws parliament makes are predominantly made by matai, since they make up the majority in the House.

And since matai are so used to being obeyed without question by their families, they think of their roles in Parliament as extensions of their family and village roles, so that now as politicians, they also do not want their decisions questioned, especially by the media which to them is a foreign concept that's both irrelevant and potentially dangerous.

■ COMMON GOOD

And that's where problems start. What they have to accept though is that as their country's political leaders, they are now occupying much more responsible positions where the whole country, not just their immediate families, is dependent on them. Which means that this time, they have no option but to give up their personal ambitions and devote more of their energies to working together for the common good, not just for that of their own families.

They also have to realize that despite their differing views, both the government and the opposition must sit down in a compromising way and work together to solve tough problems, in order to arrive at meaningful solutions that benefit everyone.

They have to agree that although compromise may sound bad, it is essentially good, because with it great achievements are possible. And yet so far, that is not working in some parliaments of the Pacific. There is still senseless bickering between the government and the opposition, so that basic public services such education, health, electricity, roads, living conditions in the villages are in general, very much sub-standard.

In Samoa, where the Constitution can be changed by a two-thirds majority of Parliament, the government has been holding defiantly onto that majority over the last twenty years by using public resources under its control to achieve that purpose, so that compromising has been impossible and even negligible.

Which means that while the government has been enjoying that majority, it has also been quite liberal in changing the Constitution to maintain its supremacy, while at the same time making new laws, one of which amounts

to a deliberate threat on media freedom and freedom of information.

Called the Printers and Publishers Act 1992, this law directs publishers and editors to reveal their sources of information to government leaders – PM, cabinet ministers, MPs, heads of government departments – who claim they have been defamed by the media, mainly newspapers.

Previously however, only the court had the authority to do this. Although other democratic countries have laws similar to this one, we believe they do not have this particular requirement in them. So that when the Publishers and Printers Act was passed, Samoa ceased to be democratic in the modern sense of the word.

FRIGHTEN SOURCES

Since it seems clear this law was designed to frighten sources from revealing information about political corruption to the media, it effectively undermines media freedom and freedom of information. What's interesting though is that only newspapers are singled out as a target for this law, not TV and radio. Why? We don't know.

When that law was passed however a lawsuit by the Prime Minister against the Samoa Observer, claiming he had been defamed by it, was already with the court. It was a private claim. And yet in parliament, an amount of \$783,000 was proposed and approved to pay for the prime minister's legal fees. Later, another amount of \$400,000 was also approved for the same purpose since the first one was not enough.

And as if to justify using public funds to pay for the PM's legal fees, the government announced inside Parliament that all the legal fees to be incurred by public figures who pursue defamation claims against newspapers, would also be paid for by public funds. Meantime, the newspaper has had to pay its own legal fees amounting to hundreds of thousands of tala.

Now the question arises: Is that a threat to press freedom and freedom of information? You tell us what you think.

Anyway that was in May 1998. And only one man stood up in Parliament when those funds were approved and said yes, that was not only a threat to press freedom, but a breach of press freedom and freedom of information as well.

That man was the Leader of the Opposition, Tuiatua Tupua Tamasese. He told Parliament: "This decision breaches freedom of speech guaranteed in the Constitution. The Prime Minister does not worry about money because the government is paying.

"However the *Observer* is bound to be hurt financially whether it wins or not, since it is paying for its own legal fees. And if this is what will be happening to newspapers, their freedom to express themselves as required by the constitution cannot be protected."

MANY LAWSUITS

Tuiatua added: "The Prime Minister and other government officials will keep on suing them for defamation knowing well they do not have to part with a cent of their own."

Tuiatua was right. Soon afterwards, the PM sued the paper again, and so did two of his cabinet ministers, all at about the same time. This time they sought between \$200,000 and \$250,000 in damages.

However almost two years later, the PM and one of the ministers withdrew their lawsuits without explanation. In other words, their intentions were to intimidate, frighten, and discourage alleged government corruption from being exposed. And the third plaintiff, his own claim still in court, was jailed in 1999 for plotting the murder of another cabinet minister. He is still in jail today.

But then as if that was not enough, the PM later used the British law of criminal libel which carries the penalty of six months in jail against the *Observer*. And yet it was an ancient law meant to quell rebellion and treason in Great Britain's colonies around the world. We believe that neither New Zealand nor Canada nor Australia has this law in their law books. However it was being used in Samoa in an attempt to put the editor behind bars.

And so, as we can now see, governments in the Pacific are quite capable of using any old law to stifle press freedom and freedom of information in their countries. In Samoa, not only is the government constitutionally able to make any new law it wants, it is also financially able to use foreign lawyers and judges to carry out its desires legally. In the case of the late PM suing the newspaper for defamation a few times, his legal fees were paid for by public taxes, and so were the expenses of lawyers from abroad he'd hired to represent him, as well as for the expenses of the judges who presided in those cases.

■ TROUBLING ADMISSION

At the start of the PM's defamation action against the *Observer* in 1998, he declined to give evidence. In response, Justice Bisson, a New Zealander, admitted this was the first time in his knowledge that a plaintiff suing for defamation had refused to appear in court to explain how he had been defamed. It was a troubling admission but then he allowed the trial to go ahead anyway.

Later when Bisson delivered his judgment on 16 September 1998, he said he did not take into account that the Prime Minister's case was being funded by the Samoan government. He then denied the PM's full claim of \$600,000 for his legal costs and awarded just \$75,000 instead.

And on the PM's claim of damages for \$400,000, Bisson said he took into account that the plaintiff was only 12.5 percent successful, and awarded him \$50,000. What about the other 87.5 per cent? Isn't defamation either 100% successful or there is no defamation at all? Anyway, by then the government – with Parliament's endorsement – had \$1.18 million allocated for the PM's legal costs and legal fees.

And then on 3 October 1998, a notice seeking payment of a total of \$125,000 in judgment and costs awarded to the PM was filed in the Supreme Court. It said the full amount must be paid within three weeks or the plaintiff "will petition the Supreme Court for an order to wind up the Samoa Observer Company Limited." Two days later, another notice saying an "interest of 8 per cent per annum" had been added, was received. It also said failure to comply could lead to "bankruptcy proceedings taken against you."

By this time, the manner in which these legal proceedings had been handled clearly showed it was an attempt to bankrupt the newspaper. First, the PM sued for defamation, then he arranged for an overseas Queen's Counsel to defend him, later the government hired an overseas judge to hear the case, and then armed with its two thirds majority in Parliament, the government got that substantial sum of money approved for the PM's legal fees, later when the hearing began, the PM refused to give evidence, and yet he was supposed to explain how he had been defamed, which was also when he would have to be cross-examined, and then the judge appeared shocked but he allowed the trial to go ahead anyway, then afterwards when he delivered his ruling, he said "had the PM elected to open and give evidence in the usual way in support of his case, there would have been a substantial saving in time and expense."

■ CRIMINAL LIBEL

At the time however, the PM's claim of criminal libel was still pending. And then he passed away and everything changed. The court matters – including the criminal libel charge – were discontinued, the threat to institute bankruptcy proceedings was not heard of again, life returned to near normal. But did the PM have to die for justice to be finally made? And did the threats to media freedom and freedom of information in the Pacific stop then?

No, they did not. A few years ago in Honiara, Solomon Islands, editor John Lamani was in his *Solomon Star* newspaper office when armed soldiers – or were they police officers? – walked inside, and at gunpoint, demanded that the editor hand over a large sum of money. They then revealed their orders were from a cabinet minister. Later the money was handed over.

Just over a year ago in Suva, *Fiji Sun* editor Russell Hunter was woken up in the middle of the night by soldiers, who said he was wanted at the barracks for questioning, and he was taken away by force. Back in his house his frightened wife and their young girls remained in confusion not knowing what was happening, but then instead of taking him to the Suva barracks, Hunter was driven across the country to Nadi where he was led inside a passenger aircraft and deported to Australia. Hunter is now working for the *Samoa Observer* as its development editor.

And then you ask: What kind of people would do this sort of thing as if it was quite normal? Don't they have families of their own, wives, children? Sad to say, we're living in what has been lovingly described as a free and peaceful Pacific, and yet where is that freedom and that peace?

Samoa is not free. Despite glowing reports it is free, deep inside it is not. It is a country sobbing day and night under the rubble of suppressed freedom. Even the Church, which is supposed to be the pinnacle of freedom, is not free. Perhaps those church leaders who are so involved in politics should become politicians themselves, and let the rest go free.

Fiji, similarly, is far from free. Bainimarama talks freedom but acts suffering. He wants corruption cleaned up, but then he also wants the media shackled, so that they are unable to do the cleaning up. Solomon Islands is not free, nor is Papua New Guinea, despite what their government supporters are saying. The only freedom in the Pacific is poverty. How then can the media be free in a place where there is no freedom?

■ DICTATOR ACCUSATION

Today, it is interesting to see that Samoa's prime minister, Tuilaepa Sailele Malielegaoi, is having a go at Fiji's strongman Frank Bainimarama accusing him of being a dictator.

He's troubled that Bainimarama has recently announced the introduction of a decree to control the Fijian media, and another one to legally protect him and his soldiers, in case they are accused of wrongdoing.

Now Tuilaepa, who has been looking for ways over recent weeks to attack Bainimarama for reasons we are not sure about, simply could not hold back. "If anything," he said recently, "the decrees are an admission of guilt. They cannot face the consequences of what they've done to their country, so they cloak themselves in immunity decrees."

He advised that "democratic governments that want to tackle institutional corruption need a free, strong and robust media." Now that sounds good to the ear. And he went on: "You know, Bainimarama's regime came to power to address presumed corruption in government. So if anything, they should strengthen the media, and give them the freedom to do their work. Not try to strangle them to death."

■ WORDS INTO ACTION

Wonderful! And so, perhaps Tuilaepa should now turn those words of his into action, and remove all the restrictive policies threatening to stifle media freedom and freedom of information in his own country.

He can start by repealing the Publishers and Printers Act 1992, declare defunct the policy allowing public funds to be used for the legal fees incurred by government leaders suing newspapers for defamation, and chuck out the ancient British law of criminal libel from Samoa's law books. That would be a big improvement.

And then to really convince he intends to make Samoa's media "free, strong and robust" so that they can help him and his government "tackle institutional corruption," all he has to do is introduce an Official Information Act in his country. That will surely endear him to the leaders of the free world who are just tired of having to deal with small time dictators, and only then can he successfully achieve what he's striving so hard for.

And when all that is done, he can sit down then and tell himself that unlike Frank (Bainimarama), he has noble ideals driving him forward. That way, media freedom and freedom of information in the Pacific are finally assured, and he's the man who has made that happen.

But today, celebrating World Press Freedom Day one more time reassures us that we all need media freedom. In a world where political wars are continuing to gobble up the world's resources, many developing countries are impoverished, so that people dying there from starvation and malnutrition is commonplace. And as brutal dictatorships are causing many to suffer in silence, so that they are deprived of their pride and dignity, media freedom should remain the sustaining lifeblood of democracy.

Therefore, as journalists, we should never neglect our role as watchdogs of our governments, since the moment we do, the little freedom we're enjoying today is likely to be taken away from us.

Soifua.

PACIFIC MEDIA FREEDOM SOUP: HIV/AIDS, MEDIA REGIONALISM, AND THE RIGHT TO KNOW

**BY LISA WILLIAMS-LAHARI, FOUNDING MEMBER AND PROJECTS LEADER
OF PACIFIC WAVE (WOMEN ADVANCING A VISION OF EMPOWERMENT)
MEDIA NETWORK.**

Kia Orana tatou katoatoa it e aroa maata o to tatou Atua, Talofa
lava, I bid you warm Pacific greetings.

This week last year, the inaugural meeting of a regional media freedom watchdog group, the Pacific Freedom Forum, was held in Samoa. Twelve months later, to the exact week, we are witnessing the inaugural meeting of a regional network of women in Pacific media, called WAVE. We have delegates from both groups here at this event, one a regional media freedom monitoring and advocacy body – the other a newly confirmed network of women working in news and media in the Pacific region. Together, both groups form a constituency of almost 400 online members spread across the Oceania region's 22 countries and 9 million people – not forgetting many millions of square kilometres of saltwater in all that. So we are excited to affirm our place at this key event.

I'm going to dive in to the overall theme of this session with an invitation to have some media freedom soup with me.

I've spent the better part of the last year and a half as a founding member of the Pacific island journalist's online network, which gave birth to the Pacific Freedom Forum, which gave birth to the Pacific WAVE media network. Like our founding coordinator, Ulamila Wragg, this work, and most of my journalism, was able to be done from a computer linked to the Internet from my kitchen. Many of my WAVE media sisters share the Pacific reality of juggling the hats of women balancing their unpaid work at home with their paid career in media work. I spice up my time with vast amounts of post-grad student, stir fried with the roles of activist, wife, mum, and freelancer. So welcome to my kitchen, and let's get cooking.

The key ingredient which I'll begin with is how we in Pacific media have approached coverage of HIV/AIDS. Yes, HIV/AIDS. What I have seen as a journalist, trainer and commentator is that HIV/AIDS, more than any other

global trend for this part of the world, has created interesting parallels through which we can examine and better understand the main threats – and solutions, to media freedom in the Pacific.

The first key challenge which HIV/AIDS sets out for media freedom in the Pacific is that it can often give us, in the media, the freedom to get it wrong. Throughout the late 80's and into the following decade, Pacific reportage of HIV/AIDS was geared towards a sense of it being someone else's problem. Pacific media had reported it, but mainly along the lines of feeding misinformation that this was the death sentence delivered by God to gay men, adulterers and prostitutes. Of course, this situation was not exclusive to the media. It also highlighted the lack of media-friendly medical and development professionals able to break down what was also a new and emerging epidemic for the region, and the lack of quality statistics and surveillance data to draw on. It was creating all kinds of new questions around 'talking heads' who were misinforming, rather than informing, the news agenda, and what reporting the truth in the public interest really is. It began to raise curly issues around objectivity, the credibility of traditional 'talking heads' like church leaders and how we, in our reportage, were contributing, or not, to highly emotional issues. It underlined the lack of privacy and confidentiality in small islands communities and the stigma, discrimination and fear which abound when people simply don't have access to the information they need. And it was all gaining momentum as the key regional conference for Pacific media workers, called PINA, was hosted in French Polynesia at the end of 1998.

And it was at PINA, to a regional audience of Pacific journalists, that a young journalism student, by the name of Maire Bopp Dupont, was to stand up in a plenary

session and declare her HIV-positive status. In asking her media colleagues to step back from fear-mongering and get back to being journalists, Maire took a gamble and spiked a trend of new debate, thinking and reflection by Pacific colleagues in their work. Her stance also opened up spaces on the 'no go' zones, the taboos around sexuality, culture and tradition, and our own attitudes and behaviours which inform the internal news-filters for us. Importantly too, it highlighted an issue which continues to define challenges around news practice to this day, given all the internal filters we face in glean-ing what is news and how it is reported, and how all the commitments to ethics, accountability, truth and the public interest are defined. Who monitors the notion of just how free, truthful and 'independent' independent journalists are? What about the language and words we use? And the gendered stereotypes and labelling we are dealing with? All these questions began to emerge on media as partners in development, gender dimensions of media work, human rights and social justice issues. In 1999, in recognition of her 'breaking the silence' on HIV and AIDS, Maire was awarded the PINA Media Freedom Award.

This takes me to my next key challenge, the need to respond to gaps and failures in order to address the challenges around media freedom work, FOI and the right to know. Shortly after Maire's wining of the Media Freedom Award, her journey as a Pacific advocate and voice on HIV/AIDS was cemented. As an advocate, she soon identified a regional gap that required a regional fix. A network of organisations and partners needed to work, and work effectively. Out of the absence of a regional entity for those with HIV/AIDS, the Pacific Islands AIDS Foundation was formed and it got on with addressing a problem. It was established as a response to a clear need and has since become a secretariat for a regional coalition of partnering organisations, called the Pacific NGO Alliance on AIDS. It provides lessons at a critical time for us, of being responsive, current, owned by the Pacific region we claim to represent, and transparent to our members.

Media freedom, free speech, the right to information and freedom of information – these challenges are a dynamic and changing set of issues, always changing, just as the PIAF organisation has done in approaching the HIV/AIDS crisis for our region.

I'm not alone in this room in knowing that Pacific media partnerships are now at the same crossroads where HIV/AIDS forced a regional, industry-led response that had to be strong, effective and transparent. Just as the most affected people got together and formed their own networks and chain of accountability, we, as journalists and Pacific news and media organizations, must do the

same to ensure we remain true to the mission and values which are now no longer being met.

It's at this point that our media freedom soup comes to the boil. For a range of reasons, we have seen the relative lapse into silence and internal conflict of PINA, the regional media body which claims to represent our interests as a region. I say it's a regional challenge of crisis proportions because any regional body which falls apart doesn't do so silently, and we need to be honest and open about learning from failure. If there's anything the global economic crash in recent years can teach us, it is that. I challenge us all, in truth and respect for the right to disagree, to urgently seek a space for mediation and, most of all, for transparency to resolve this situation. At this point in time, a fractured and poorly managed Pacific media regionalism is itself providing the biggest threat to media freedom and FOI. We will always have our dictators and tyrants to deal with, but we need to set our house in order. Some will have to decide if they even want a regional house to support our networking. Without a resourced and effective monitoring, advocacy and coordination effort owned and endorsed by all of us, from our different parts of the region, we will continue to remain in crisis mode. We will not be able to dream of excellence and standards outside the *ad hoc* pockets that do exist. We will not be able to hope to grow media literacy amongst our youth, leaders and communities so that the Right to Know is an accepted flip-side to the right to ask the taboo questions.

As a last spoonful, I want to celebrate all the stirring with a dash of indigenous hope. I note the inclusion of another key forum at this WPDF event, that of indigenous voices and the need to close the gaps in ownership, participation, content creation and diversity. Paying homage to the wisdom provided by our ocean-navigating ancestors, here's a Cook Islands proverb often quoted by a former Cook Islands Prime Minister. His belief in the right of a free and independent media to exist meant he was accessible and accountable in ways that would put many current Pacific leaders to shame. It was the doors opened by Sir Geoffrey Henry in the early 90's which helped pave the way for the Cook Islands to create history on FOI legislation more than 15 years later.

The proverb goes like this: taraia to toki, ei toki tarai enua. Taraia to toki, ei toki tarai enua. (Sharpen your adze, the adze to carve nations.)

In transforming that into the context of this session the toki, the adze, can be seen as the media. The Right to Know is the tool which keeps the adze strong and effective. When the toki is well prepared for its work, the impact on public debate and protection of media freedoms is strongest. The diversity of news outlets and

talking heads in the public domain helps foster a sense of public participation and ownership of the governance process. When the adze is blunted by lack of FOI legislation, or media workers themselves pressuring for the public interest and the Right to Know, we have the deadening impacts many of us can attest to in our countries.

So, from the ancestors to us here today -- Taraia to toki, ei toki tarai enua: how sharp is your media freedom adze, and who is holding it? Is the adze sleeping in a corner somewhere, growing dull with lack of use? Has it left newsrooms and taken up residence in Ombuds offices, public auditing processes, or is it no longer to be found? I challenge us in this room today to reclaim the toki and locate it online, in digital spaces accessible for more of us, a toolkit for the future generations of Pacific journalists at events like this.

I hope you enjoyed that funky taste of Pacific media freedom soup.

SOME VANUATU EXPERIENCES

**BY MARIE-NOELLE FERRIEUX PATTERSON,
PRESIDENT, TRANSPARENCY VANUATU**

People living in westernized, first world countries have lived with a free media being part of the fabric of society for so long that it probably doesn't occur to them to ask themselves what it would be like not to have it.

However, if you live in a country that does not have media freedom, or where media freedom is a very recent phenomenon, you perhaps, understandably, take it much less for granted.

Even when a country's constitution guarantees such things as freedom of expression, as Vanuatu's does, that does not necessarily mean that it occurs automatically, nor does it mean it is accepted – even by those who signed the Constitution!

Vanuatu is not the only country that has had to move from the 'subsistence age' to the 'Internet age' in a generation or two. Extreme change happening extremely rapidly is not easy for anyone to cope with, so it can hardly be surprising that there are 'growing pains.'

Adapting from a traditional closed 'chiefly' society where tribal 'big men' rule almost unquestioned to an open democracy with all the freedoms that implies is bound to create friction.

Most people do not know what their own national constitution says and do not understand well how their democratic system works, or is meant to work.

Having said that, in some ways, Vanuatu faces just as many practical problems as it does ideological issues. The simple broadcasting and receiving of information presents huge problems. For years, until it was fixed recently, people living in the outer islands had no way to receive radio broadcasts. This represents more than half of the population 240,000 people in eighty islands.

And even when it is possible, because there is no mains electricity available beyond the outskirts of the main towns of Port Vila on Efate Island and Luganville on Santo Island, people must buy batteries for their radios, which means they need cash, something that is in perpetual short supply in the rural areas and smallest islands. Because there is no electricity outside of the towns, there is also no television reception and no Internet access.

There is also a very limited and unreliable distribution network to the outer islands that inhibits the delivery of newspapers. Air freight is expensive and shipping services very erratic.

The only development that has considerably increased communication and information has been the recent introduction of the mobile phone, with small solar chargers, allowing some form of communication in many islands. Mobile phone technology now, reportedly, covers about 80 per cent of the country.

The Government controls much of the flow of information within the country. The only local television channel is Government owned, so there is no analysis of Government policy or actions, and certainly no criticism. There are no regular press conferences or media releases, or meaningful interviews with politicians where they are asked any difficult questions that might make them feel uncomfortable.

Vanuatu Governments are not used to being held accountable. They act like they don't owe any explanation to the public about what they are doing. Rather than taking the initiative, successive Vanuatu Governments seem to address significant issues only if they are forced by sustained public pressure in the private media to do so. And even then their responses are often 'wishy washy', avoiding the central issues.

A recent Coroner's report on the death of a re-captured prisoner in custody highlighted the serious disfunctioning of the Police Force. In Vanuatu both the Police and the Mobile Force are under one umbrella. The Coroner's report and the reactions (or lack of reaction) to it represent perhaps the most serious potential threat to the freedom of information and democracy. The members of the Vanuatu Mobile Force resisted in an extraordinary way when questioned by the New Zealand Supreme Court Judge who was sitting as Coroner. Witnesses were reportedly threatened and the Coroner was temporarily evacuated from the country.

The Coroner's report also stated that the Force did not appear to have any loyalty to the rule of law and to the country, but only to themselves, and this represented a threat to the country. This was a rather chilling reminder

of what has happened in neighbouring countries like Fiji. The politicians and media are all very cautious, and only one somewhat meek and mild response from the Government eventually came out after the Coroner's report.

So, the potential threat to democracy is also a threat to freedom of information.

Vanuatu had an attempted coup, staged by the Police Force, in 1997, allegedly to fight perceived widespread political or official corruption. At the same time, there is no shortage of criticism in the media of official misconduct in articles, editorials and letters to the editor, although letter writers often do not provide their names, and editors allow letters to be published anonymously. Radio talkback shows are more informed and more critical, expressing people's dissatisfaction with how their leaders are behaving.

Transparency Vanuatu also has a half page every week in the national daily newspaper that has allowed many important issues to be raised but, despite all this, overall the public's tolerance of official misconduct often seems unlimited.

It would be fair to say that Vanuatu also needs a much higher standard of journalism, especially investigative journalism, whereby serious issues are properly looked into and followed up, and Government officials are held to a much higher standard of accountability.

In some ways, journalistic reticence is understandable. In the past, journalists have been threatened and even deported. The Australian woman who owned Vanuatu's first private newspaper was deported in the 1980s by Father Walter Lini's government. The current publisher of the *Daily Post* newspaper has over the years been threatened and beaten up, and he was deported by former Prime Minister Barak Tame Sope, before returning to the country and eventually becoming a Vanuatu citizen.

The publisher, Marc Neil Jones, was assaulted recently because of criticisms he wrote about the Vanuatu Mobile Force and the Correctional Services Department. Not long ago, a young, pregnant Vanuatu journalist lost her baby after being assaulted by someone.

There were no consequences for any of the people involved in these incidents. No investigations, no charges, no prosecutions.

At election times, almost no coverage appears in the media about the individual candidates or their policies, or the backgrounds of those who have already been discredited in Ombudsman's public reports. On the other

hand, in the Pacific, people tend to be passive in general and accept authority without too much question. Furthermore, they hesitate to challenge each other in their small communities. The 'wantok' [family/clan line] system has been acknowledged for the limitations it creates in matters such as prosecution of alleged wrongdoers. Vanuatu is even handicapped by the fear among most people that they can somehow be harmed by 'black magic' (or 'nakaimas') and other superstitions.

Transparency Vanuatu, from its onset, has recognised this situation and has put its priorities into the awareness of citizens in all the islands of the nation. It has done so through workshops on legal literacy, while also introducing civic education in the school curriculum and also working regularly on media projects with journalists and other citizens.

In summary, unless there is a fundamental change of heart within official circles (and when or where has that ever happened?), more rigorous investigative journalism, and perhaps, most importantly of all, an increasing appetite from the general public for a higher standard of government at all levels, transparency will not come about.

This, of course, takes time. It is likely to take decades. Modernised, westernized countries that were industrialized over two hundred years ago are still evolving and maturing and we are still unearthing one corruption scandal after another, whether that be political, commercial, sporting or personal.

But change has happened elsewhere, so I am optimistic that it can occur in a small, recently born country like Vanuatu. If I wasn't possible, I wouldn't be there.

WORLD PRESS FREEDOM DAY

PRIZE AWARD CEREMONY AND CONFERENCE CLOSING

CLOSING ADDRESS

BY PROFESSOR MICHAEL BROMLEY, HEAD OF THE SCHOOL OF JOURNALISM AND COMMUNICATION, THE UNIVERSITY OF QUEENSLAND

For the first time, to my knowledge, this unique event, the global World Press Freedom Day Conference, has been available in 'real time' around the world for free.

This access was not provided by a media conglomerate, but by the students and staff of a journalism school. Not by someone seeking market advantage, but people who share the purpose of exposing, as it were, the event to global scrutiny.

And you, the participants, gave your intellectual property freely, too, for dissemination, examination and discussion. Of course, it would be naïve to suggest that this is an un-problematical answer to the troubling issue of sustaining a free press. Intellectual capital, technical and critical capacity, basic material rights and much more stand in the way of a global free press.

But when we think of a free press in the twenty-first century, I believe we should now think of journalists and journalism. We should think of the content which Rupert Murdoch says is no longer king but 'emperor', not of the vessels that carry it, and certainly not of the diminishing number of corporate or neo-corporate entities driven by stock market share values. If the mainstream media are in trouble, then they should not be permitted to bring journalism into strife, too.

That is not to say that journalism does not have its own problems, it does. And many of them are of its own making.

But a free press is not a press detached from government, and then put in the hands of the government's cronies. Or a corporate press which seeks accommodation with governments to protect its market interests. A free press is a public good.

Education bears a heavy responsibility for promoting this and for facilitating the development of new generations of both journalists and users of journalism. We have to acknowledge and work with the collapsing distinction between journalists and their so-called audiences.

In that, I think we can take a lead from participatory communication. We are now in the era of participatory

journalism, a participatory press. That may be the best guarantee yet of a free press. But we also need models of exemplary practice, of journalists doing honest journalism.

It has been an enormous pleasure and privilege to host World Press Freedom Day here at The University of Queensland. Madam Director General, the University and the School of Journalism and Communication in the University, hope that this will provide a platform for continued cooperation with UNESCO, particularly around the conference theme of *'The Right to Know'*.

That could be operationalised through the creation of a UNESCO Chair here at UQ in the area of *'The Right to Know'*.

Too many people have worked hard and long – and, I hope, smartly – on this Conference to name them all; however, I do thank all of them. And I particularly thank you, Madam Director General, for being here with us for the two days.

The real focus of World Press Freedom Day is, of course, the awarding of the prize. It is among the laureates that we can find the first of the exemplary practitioners who can provide inspiration for those who would carry the beacon of journalism into the future.

Finally, on behalf of the Convenor of the Conference and The University of Queensland School of Journalism and Communication, I offer my congratulations to you, Monica, winner of the World Press Freedom Prize 2010, not just on the receipt of this award, but for a life-long achievement in journalism.

CLOSING ADDRESS

**BY IRINA BOKOVA,
DIRECTOR-GENERAL, UNESCO**

It is a tremendous honour and a great pleasure for me to be here with you today on the occasion of World Press Freedom Day. I am very touched by the famously warm Aussie welcome I've received "Down Under", as you say, on this, my first visit to Australia as Director-General of UNESCO.

I would like to congratulate all the participants for making this World Press Freedom Day Conference, on this year's theme of "Freedom of Information", so very stimulating and thought-provoking. Thank you, John McMillan, Australia's Information Commissioner, and all the many representatives from Australia's government, civil society, media and academia.

I am most grateful to the Australian National Commission for UNESCO, for facilitating the cooperation between our Organization and Australia's authorities and civil society institutions. UNESCO's long-standing working relations with this country concern many key areas, such as the World Heritage and the Memory of the World committees. I very much look forward to us continuing this fruitful collaboration.

Professor Bromley, on behalf of UNESCO, please allow me to reiterate our sincere appreciation for the University of Queensland School of Journalism and Communication's partnership on this World Press Freedom Day.

I also thank Mr John Thloloe, President of the Jury, the Guillermo Cano and Ottaway family foundations, and Jyllands Posten/Politiken Newspapers Ltd, sponsors of the World Press Freedom Prize.

It seems particularly appropriate that we should be celebrating this International day here in Australia, a country whose press is outspoken, vibrant and unfettered, as befits a truly free and open society.

Australia adopted freedom of information laws in 1982, many years before the current wave of legislation being passed in countries all over the world. In recent years, you have embarked on a thorough reform of your freedom of information regime which will strengthen this fundamental right even further.

By setting such an excellent example, Australia is furthering the cause of Freedom of Information – and the transparency, justice and social progress that spring from that freedom – not just in this country, but all over the world.

These issues are of tremendous importance to UNESCO, which has been mandated to promote the universal right of freedom of expression and its corollaries, press freedom and freedom of information, universal access to information and knowledge. These are indispensable for the attainment of all human rights, and they are fundamental to strengthening democracy, facilitating peace and fostering sustainable development.

"There is a terrific disadvantage in not having the abrasive quality of the press applied to you daily.

Even though we never like it, and even though we wish they didn't write it, and even though we disapprove, there isn't any doubt that we could not do the job at all in a free society without a very, very active press."

These words were uttered by the late President John F Kennedy. Nearly 47 years after his death, they ring as true as ever. While the scrutiny of the press is not always welcome, it is a fundamental and necessary part of any society whose government and institutions purport to be accountable.

Is it not the press's role to be a thorn in the side of the authorities, at every level of society?

Co-operating with the media by giving them the facts – in other words, "freedom of information" – is essential to press freedom.

We all need information about matters that affect us or have the potential to affect us, to make informed and meaningful decisions, to take part fully in society. Put another way, "Knowledge is power," as the British philosopher Francis Bacon declared 400 years ago.

It is not enough for governments and organisations to provide access to information. Journalists are essential to our enjoyment of the "right to know", and they must therefore be able to work in an environment conducive to free and independent reporting.

In this regard, once again, this year, a shadow is cast over our celebration of World Press Freedom Day.

I am of course referring to the ill-treatment of journalists.

Last year, UNESCO condemned the killing of 77 journalists. Most of these were not war casualties – they were local reporters going about their everyday business of covering the news. Countless other journalists all over the world continue to endure harassment, intimidation or physical assault in the course of defending our right to know.

We cannot help but be overcome with indignation and concern that serious violations against press freedom persist - despite repeated international calls to end impunity for those who harm journalists.

In the past decade, in eight out of ten cases, those responsible for murdering journalists were not brought to justice. This is simply unacceptable.

I cannot emphasize strongly enough that national authorities have the primary obligation to prevent and punish crimes against journalists. Today, I call upon governments everywhere to assume this responsibility as a matter of urgency.

To quote the late Corazon Aquino, former President of the Philippines and Asia's first female president:

"The media's power is frail.... it can be shut off with the ease of turning a light switch."

Let us do what it takes to keep the light of press freedom burning brightly.

The journalists who take the gravest of risks to keep us informed are truly remarkable people. In recognition of this, in 1997 our Organization established the UNESCO/Guillermo Cano World Press Freedom prize.

Named after the Colombian newspaper editor Guillermo Cano, murdered in 1986 by the drug-trafficking mafia he had bravely denounced, the prize honours a person, organization or institution that has made an outstanding contribution to the defence and/or promotion of press freedom.

This year, the prize has gone to a truly exemplary journalist who I am delighted to say has honoured us with her presence today - Ms Mónica González Mujica.

This dauntless journalist let nothing – and I mean nothing - stand in the way of her search for the truth, and her

determination to inform the public, in her native Chile during the military dictatorship.

She was repeatedly fired from different jobs for reporting uncomfortable truths about the regime. When this didn't stop her, she was jailed and tortured for uncovering the dictatorship's human rights violations and financial wrongdoings.

Upon her release from prison, she continued publishing books and articles which regularly landed her in court. She was detained yet again and an attempt on her life was made in 1988.

This story has a happy ending, because Ms González Mujica survived to see the dictatorship fall. After Chile's return to democracy in 1990, she continued her work as a journalist and newspaper editor. Today, she shares her knowledge and experience of working under the very toughest of conditions with students at the Center of Journalism and Investigation in Santiago, and in workshops abroad.

She still champions the cause of "freedom of information" on behalf of the innumerable victims of human rights crimes. She still works as an investigative journalist, scrutinizing government, public institutions, and in the private sector, exposing poor labour conditions and other issues affecting Chile's most disadvantaged. Her work, and that of other Chilean investigative journalists, has been made easier by a freedom of information law that came into effect in the country last year.

As the first woman elected for the position of UNESCO's Director-General, it gives me great pleasure to honour an extraordinary woman journalist during this first World Press Freedom Day of my tenure.

Mrs González Mujica, it is with the highest admiration that I present you with the 2010 World Press Freedom Day Prize. Please accept this certificate and a check for US\$ 25,000 in recognition of your truly unwavering commitment to press freedom. My congratulations to you!

SPEECH BY MÓNICA GONZÁLEZ MUJICA

ON THE OCCASION OF BEING AWARDED THE UNESCO/GUILLERMO CANO WORLD PRESS FREEDOM PRIZE 2010

When the news that I had been awarded the UNESCO/Guillermo Cano World Press Freedom Prize 2010 reached my computer screen, the emotions, and an avalanche of faces, screams, whispers and images repressed in my memory emerged like a torrent. For many days, the voices of those with whom I lived through the 17 years of dictatorship in Chile – many of them no longer here – paraded before me, like a swollen stream threatening to break its banks.

A sense of modesty came over me. Very soon questions arose in my mind: *“Why now – when the culture of death is finally giving signs of disappearing in my country – am I being given this accolade?”* *“Why a Chilean journalist, when there are so many journalists around the world who risk everything to fulfill the inalienable right of every citizen to know how mafias operate; mafias that deprive them of their right to life, to dignified wages, to simple pleasures, and that erode the institutions dedicated to defend such rights?”*

Only a few days ago, Ngota Ngota Germain, the editor of the weekly *Cameroon News* died after being detained. This is one more proof of a commitment, taken to the limit, by many journalists who inform and denounce abuses of power.

And finally... I found the answer. And I would like to share it with you on this day when we are evaluating the health of freedom of the press around the world.

I am a Chilean journalist who was part of a group of professionals who, since the first day of the *coup d'état* and until the end of the dictatorship, did what she had to do: find a way to inform and save lives and clear the road to freedom – without posturing and in close collaboration with other citizens who shared the same objective. Today, they are all here with me. I also take with me the voices of journalists from several countries of Latin America who are going through critical times.

We are living through an unprecedented process of consolidation of democracy in a region where the flavour of the day used to be the throttling of democracy and the permanent dispossession of the most vulnerable. This is a historic milestone that has changed the supremacy of

the military boot, in cahoots with economic powers and political authoritarianism, to people's votes.

The change would be even more surprising when in December 2005, Evo Morales became the first indigenous leader to reach the *“Palacio Quemado – Burnt Palace”* in Bolivia; and when, in October 2006, the worker's leader, Lula Da Silva, was re-elected in Brazil after a dramatic election poll.

On December 10th 2006, the death of dictator Augusto Pinochet marked with fire the end of a year when ten elections had by then changed the face of Latin America in a progressive turn into democracy.

The black smoke from Pinochet's remains emerging from the crematorium stacks bore the seal of horror that shook the continent under his stamp and the stamp of other dictators, such as Somoza, Videla and Stroessner. Survivors of that brutal hunt now faced the challenge of building new spaces for justice and freedom in democracy.

Journalists could now use our talents to fuel the engine of access to information and to help draw the maps that citizens require to bridge the gap of wealth distribution, the great unpaid debt to Latin Americans.

But something happened. While the drunkenness of democracy has continued dominating the official discourse, fear and even death have returned to some countries – with new weapons and methods – poisoning our streets.

Journalists have been the first victims; they face the constant threat of organised crime, which through terror, seeks to conceal its links with police, the military, parliamentarians, business people, ministers, mayors, judges and also with others who call themselves journalists.

In Guatemala, the former military and economic rule, which left a balance of 200,000 dead, is trying to maintain its grip on its old feudal system through the use of paramilitary gangs. Each day, 16 people on average are murdered by, they say, *“organised crime”*. Journalists who dare to denounce what is really hiding behind this violence live under constant threats.

In Honduras, in the last two months, six journalists and a radio announcer have been assassinated. Some journalists in San Pedro Sula, for example, already go to work wearing flak jackets.

And... in Colombia, Mauricio Medina has just been assassinated. He was a founder of the community radio station CRIT operated by the association of the Pijao indigenous people. According to police, the motive for the crime lies in his personal life. Reporters without Borders have reminded us that the “crimes of passion argument” has been used before, and other journalists’ murders have also been left unsolved, with impunity.

Colombian journalists well know threats, intimidation and assassination. The award I receive today bears the name of Guillermo Cano, a symbol of this battle, and other journalists have taken the relay baton despite the on-going harassment. Last year, investigative journalists uncovered telephone bugs and stakeouts by the DAS, the state intelligence agency of the Colombian Presidency, against 16 journalists. All these journalists are distinguished professionals who were investigating corruption and links between politicians and the paramilitary. And so is the director of the famous TV program “*Contravía – Against the Traffic*”, Hollman Morris, whom President Alvaro Uribe accused publicly of being a terrorist’s accomplice.

Colombian journalists continue with their investigations. They know that the rivers – where they threw many of the bodies of murdered peasants – contain a chunk of collective memory to be rescued and thus enable some restraint to impunity. The proof being that some perpetrators have confessed and confirmed what the courageous Colombian journalists have repeatedly stated, even when being accused of lying: that many of those executed under the banner of being guerrilla were no more than poor peasants; that the paramilitary ransacked and set fire to villages; that they burnt and mutilated bodies with saws; that they raped women and abducted children; and that they did all of this with political, and also economic support. One of their objectives was to evict the people from their lands, to leave the terrain free for others to start agricultural or mining exploitation. So, here we have million displaced people in Colombia; innocent peasants held prisoner by the FARC and the paramilitary.

In Brazil and other countries of the continent, some journalists risk their lives investigating owners of “*new slaves*”, very poor immigrants or peasants who work for miserable wages and exhausting hours and without any social or health laws and least of all, without any right to be informed. They are the victims of a new dictatorship that very few are condemning.

In Mexico, 32 editors and journalists have been assassinated in the last 10 years. In 2009, eleven homicides of journalists were recorded. And this year, already five journalists have been murdered. The latest victim is the journalist Enrique Villicaña Palomares, from Michoacán, who was kidnapped on April 5th and found on April 11th with his throat slit.

Authorities allege that the perpetrators of these crimes are members of organised crime, but in many cases, the leads provided by journalism agencies in that country point to public servants and State law enforcement agencies. Mexico is a democracy, but the resulting balance of the “war against organised crime” is of at least 20,000 victims in the last six years. According to the National Commission for Human Rights, 8,000 was the figure for 2009. This is a higher figure than that achieved by the dictatorships of some countries in the South, and one that explains the prevailing climate of violence that has taken freedom of the press hostage in Mexico.

Today, Mexico has more and more diverse avenues to disseminate and receive information and also more avenues for dissent. Notwithstanding, the official discourse attributes attacks and assassinations of journalists exclusively to drug trafficking – in-depth investigative journalism has an even lesser chance of counteracting it. The evidence gathered by journalism agencies shows that agents of the State continue being the main perpetrators of attacks against freedom of the press. There are safety manuals, put together by journalists themselves, being distributed in press rooms. Meanwhile, regions more heavily hit by corruption are starting to feel the effects of this intimidation.

As in Colombia, where self-censorship has been identified as the main impact of the constant threats against journalists, so too in Mexico, many choose to keep silent and do not denounce corruption to avoid addressing the real core of the armed conflict that ails that country. With the exception of incredible efforts by some professionals, investigative journalism is becoming a chapter in a text book, not the product of day-to-day delivery of information.

The picture I am painting does not inspire much solidarity from the rest of the world. “*They are democratic countries...*” we are told over and over; “*... they have institutional mechanisms to overcome the threats*”. Let me indulge in a small personal memory. When I was in jail for revealing the thefts by Pinochet and the atrocities committed by his secret service, one of the factors that gave me strength to continue was the knowledge about the voices and actions of hundreds of journalists and journalistic organisations around the world that were demanding my release.

Nowadays, the courageous journalists who in Mexico, Guatemala, Honduras, Colombia and other countries dare to “x-ray” the covert networks of organised crime find themselves crashing against impunity and silence. In this uneven fight, honest journalists also collide against other journalists.

From the perspective of human rights, reports from both Mexico and Colombia indicate that in both countries there is proof of summary executions and excessive abuses of power from law enforcement agencies. The perpetrators avoid being identified by submerging bodies of victims in acid to destroy any traces. *“But they are democratic countries...”* And we have continued celebrating democracy’s consolidation around the continent despite the fact that organised crime has continued making its way in several countries; and, in its wake lie institutions demolished, silence bought and freedom suffocated – silencing of the press, for starters, is a basic condition for impunity.

This is not the only threat to freedom of the press; another threat emerges from the actions of democratic governments who identify journalism and journalists as their main enemies. They exert pressure through diverse mechanisms, including termination and denial of access to governmental publicity, thus attempting to disperse all criticism. This is happening in Venezuela and in Nicaragua. This persistent assault heard from the lips of Chamorro, Sergio Ramirez and Gioconda Belli makes the unforgettable celebration of the end of the absolute power of dictator Somoza simply choke our throats.

There is one true fact, if we look at the technological and legal frameworks of journalism today; we now have more tools than before. Except in situations such as Cuba, where there is absolute opacity, we now have new spaces for diversity and the denouncement of irregularities impacting on the life of citizens. However, it is within the economic structure of the media where a third threat to freedom of the press emerges (and our region does not have the monopoly on this): the ever-growing concentration of media ownership in large private economic groups that extend their control over written media, radio and TV stations, within a market lacking regulation.

And it is this lack of regulation that allows great journalistic conglomerates to end up absorbing or expelling smaller enterprises from the market. They end up taking away freedom of the press from smaller groups that are destined to marginalisation. The serious matter is that, in general, those large industry conglomerates also hold a diversity of investments and the consequent ramifications into other areas of the economy. As such, they are very liberal in their economic pursuits, but act very differently when it concerns their social and political behaviour. This results in a predominating monotonic

discourse that suffocates diversity and inhibits scrutiny of their investments.

The latter engenders an incestuous relationship between political and economic powers and the media, making it ever harder to exercise dignified and in-depth journalism that is independent of pressures and self-censorship.

The economic crisis that we have just traversed worsened freedom of the press, as it has many times been utilised as an excuse by the proprietors to undertake staff cuts, precisely applying these cuts to their investigative units... yet another way of eliminating journalism that scrutinises rings of power.

To this, one can add the power that publicity concentrated in the media of great conglomerates attracts under these conditions, and that is utilised by governments and private entities to silence and gag – a dark game by which journalists are reduced to simple peons, dispossessed of our abilities to ensure compliance of the right to information.

The eruption of the Internet and digital tools has caused many not only to herald the death of the newspaper, but also the concept that *“real democracy is reaching the media at last”*. Digital media and on-line debate are emerging everywhere; anyone with access to a computer can take part. The question: *“Are journalists necessary?”* is heard from many places. The extraordinary Argentinean journalist, Horacio Verbitsky, has already written about the nightmare embodied by that question in his book *“A world without journalists”*.

I was saying before that I had found meaning to the lofty honour that I have been granted with this Award: it is directly linked to the emergency situation my region is experiencing at present, a region I am proud to belong to, whose situation I have described for you. I am convinced that the judging panel and UNESCO have wanted to alert us all to the dangers that we face in Latin America, but also to the wealth of wisdom we possess in order to overcome them.

I am not an exceptional journalist. I was very fearful then and I still am afraid. My great privilege is to be part of a generation that fulfilled, and continues fulfilling in Chile, my own country, in Argentina, in Uruguay, in Peru and other countries, the commitment to public service even in the face of great difficulties – this is the commitment to freedom of the press and the right to life. We know how, under dictatorships, journalism is a key factor to mobilise and save lives of citizens who are tortured within secret jails; to inform of the looting by dictators and of crimes kept secret, thus overcoming the paralysing fear; to deliver testimonies that would keep alive the

hope that democratic change is not a utopia – it is up to us to achieve. We cannot capitulate now and allow ourselves to succumb to organised crime, which attempts to take our lives, or to capitulate to the power of economic groups or governments with a bias for authoritarianism that now poses a threat to democracy itself.

We know that the stakes are very high. Behind the scenes of this web of threats, negotiations are being carried out about control over water, electricity, gas, lithium, wheat and other vital elements for industrial development and the wellbeing of our peoples.

To decipher this riddle, courage alone is not enough; we also need journalists with knowledge of economics and the sciences as well as team work and collaboration between professionals from different areas and different countries. To solve the puzzle of the invisible web of corruption that links political, economic and media power one needs to co-opt the best talents to tell stories and capture our readers, listeners and TV viewers. We must combine rigour and dramatic tension to compete with the banal narration that floods our media with the “*bed and pleasure seeking*” secrets of the rich and famous. These are stories that capture the attention of a citizen burdened with fear and needs... this is a new and dangerous narcotic, the media drug.

In view of the advances of organised crime, we must take bolder steps and have a journalistic commission of the highest order, with the support and seal of an international body that will visit repeatedly and monitor closely those regions most punished by violence. We need to investigate and rescue journalists’ stories and narrations about these webs that move with impunity; we must come together and build a media network that can open spaces in different countries to gather data, facts, events and stories that others want to keep under wraps.

To act and not allow ourselves to succumb – to protect journalists. This is how I understand this Award. I am profoundly convinced that if we are held prisoner by threats and violence, we will be well serving those who want journalists to be fearful, to be stripped of dignity, and to serve as instruments of a system that seeks to keep the power by purchasing our talents to continue undermining democracy with tales of “*crimes of passion*”, spiteful lovers and insignificant but noisy spats between politicians with no real power.

It is a scientific equation: when show business is imposed upon us as real information, this is when impunity has won.

If we allow investigative journalism to die, if we are only the repositories of the rubbish of society, then regular

citizens will not have maps that help them survive and defend themselves from abuse – they will continue ignoring that they indeed have a right to seek pleasure and happiness.

If we do not press on to attain democratic regulations to publicity and concentration of the media, if we do not demand transparency of media ownership so that every citizen knows who is the owner of the media who is providing them with information, and what other investments this owner may possess – the same as we demand from politicians and governments through transparency laws – we would have to assume that it is not only freedom that is weakened but that journalism itself is becoming an endangered species.

I am privileged to be a lecturer in the “Fundación Nuevo Periodismo – New Journalism Foundation”, and through these workshops and seminars, similar to those delivered by Rosenthal Alves at the Knight Centre for Journalism, I have come into direct contact with the professional excellence and democratic and ethical convictions of more than 300 journalists from Iberoamerica. Through them I have learned that this time we will not allow ideological differences, indifference, exhaustion and, least of all, fear to dominate us. There are millions of men and women waiting for us to help them overcome fear. There are millions who dream about recovering their dignity, their right to pleasure. We, journalists as well.

We know too much already about past and unaddressed cowardice. We need to use all the knowledge acquired in times of anger to help us react. We need to do it, not because we are enlightened, or heroes, or clowns, least of all. We are merely journalists.

Thank you for this enormous honour granted to me, which I receive on behalf of all worthy Chilean journalists and of all others who, from all corners of my region, honour this wonderful profession. Thank you.

(Written translation from Spanish by Patricia Avila, Brisbane, Queensland, Australia)

ANNEXES

ANNEX 1

BRISBANE DECLARATION

FREEDOM OF INFORMATION: THE RIGHT TO KNOW

We, the participants at the UNESCO World Press Freedom Day conference in Brisbane, Australia, 3 May 2010:

Recalling Article 19 of the Universal Declaration of Human Rights, which states: “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.”

Noting that the Millennium Declaration highlights good governance as being central to development and the eradication of poverty, and acknowledging that press freedom and the right to know are essential to promoting democracy and ensuring respect for all human rights and fundamental freedoms;

Underscoring the principles set forth in the Declarations of Windhoek, Alma-Ata, Sana’a, Santiago and Sofia, which identify a free, pluralistic and independent media as a cornerstone of democratic societies and development;

Reaffirming the principles and recommendations of the Doha Declaration of 3 May 2009 on the Potential of Media for Dialogue, Mutual Understanding and Reconciliation, and the Maputo Declaration of 3 May 2008 on Fostering Freedom of Expression, Access to Information and Empowerment of People;

Recalling the Geneva (2003) and Tunis (2005) phases of the World Summit of the Information Society, which reaffirmed freedom of expression and universal access to information as essential foundations of inclusive knowledge societies;

Reaffirming that the right to information is an integral part of the right to freedom of expression, and that both are fundamental underpinnings of democracy and all other rights and freedoms;

Defining the right to information as the right of everyone to access information held by public bodies at all levels, local, national and international;

Emphasizing that the right to information is critical for informed decision-making, for participation in democratic life, for monitoring of public actions, and for enhancing transparency and accountability, and represents a powerful tool to fight corruption;

Highlighting that the right to information is instrumental to the realization of people’s empowerment, and strengthened civic trust, and for promoting the equality of all groups in society, including women and indigenous peoples;

Noting that improved access to information contributes to strengthening markets, increasing investment, reducing financial vulnerability and enhancing the effectiveness of development aid;

Recognizing the potential of information and communication technologies (ICTs), when accessible to all, to facilitate full realization of the right to information for all people, including women and indigenous peoples;

Welcoming growing global recognition of the right to information, reflected in international statements, conventions and jurisprudence, as well as in the significant recent trend to adopt right to information laws at the national level;

Aware that the majority of the world’s States have still not adopted legislation giving effect to this fundamental right;

Concerned that even where right to information laws have been adopted, their implementation faces significant challenges, including political and bureaucratic resistance;

Honoring the journalists and media personnel who contribute to press freedom and the right to information through their work, often bravely risking their lives in the process;

Condemning the intimidation, attacks, arrests and murders faced by journalists and media personnel all over the world, which dramatically violate their own fundamental

rights and the right of everyone to receive a diversity of information and ideas.

CALL ON MEMBER STATES

To enact legislation guaranteeing the right to information in accordance with the internationally-recognized principle of maximum disclosure;

Such legislation should establish limited exceptions, proactive obligations to disclose information, clear and simple procedures for making requests, an independent and effective oversight system, and adequate promotional measures;

To ensure the effective implementation of the right to information by allocating sufficient financial and human resources for the structures and systems that are required to successfully implement legislation;

To ensure that the wider legal environment is consistent with and supports the right to information, including by protecting freedom of expression and press freedom, by establishing other disclosure systems, and by bringing secrecy rules into line with the principle of maximum disclosure;

To foster public awareness about the right to information and to develop the capacity of everyone to exercise that right, placing particular emphasis on disadvantaged and vulnerable groups, including women, minority language groups, indigenous peoples and disabled persons;

To enable unfettered access to information relevant to human rights violations, including information held in current and historical archives.

To harness the power of information communication technologies (ICTs) to realize the right to information and to foster enhanced pluralism in information flows;

To bridge the digital and knowledge divide by overcoming low literacy levels and poor Internet connectivity, and by making information available in local languages and in a form that is easily understandable by diverse audiences;

To urge international organizations of which they are members to adopt enforceable and effective right to information policies, based on the principle of maximum disclosure;

To give renewed emphasis to public debate on the role of journalism and independent media in the creation of a culture of democratic pluralism, through journalism that is transparent, credible, relevant and with a degree of accountability founded on principles of self-regulation

that will build public trust in journalism and independent media;

To examine, in consultation with all relevant stakeholders, new forms of assistance to media, including supporting innovation in the development of media, encouraging investigative and ethical journalism, and promoting public service values in journalism, while ensuring that the provision of assistance does not compromise editorial independence and journalistic freedom;

To promote media literacy and awareness about the right to information, including through incorporating these topics into school curricula and higher education courses, and training programs for civil services;

CALL ON PROFESSIONAL ASSOCIATIONS, MEDIA OUTLETS AND INDUSTRY

To raise awareness about freedom of expression and the right to information;

To promote and support investigative journalism and to raise awareness about the role played by the right to information in journalism;

To implement innovative strategies aimed at channeling relevant information to the marginalized and underrepresented, and at promoting diversity in the workplace;

To contribute to disseminating good practices and experiences showcasing the direct link between the right to information, journalism, democracy and people's quality of life;

To provide leadership in support of the principles of transparency and accountability by adopting policies on the disclosure of information within the media industry, especially regarding ownership, revenues from official advertising, and other forms of funding;

To promote social dialogue between employers and media personnel aimed at creating partnerships in order to strengthen attachment to ethical standards and the creation of transparency, credibility and relevance in the provision of information;

To respect freedom of association and core labor standards, to work towards improving the safety and working conditions of journalists and other media personnel, and to provide adequate training opportunities;

To promote and strengthen forms of self-regulation and new forms of review of performance of media that enhance and support ethical journalism, with the aim of building public trust;

CALL ON UNESCO

To sensitize Member States, public authorities, civil society and individuals about freedom of expression and the right to information, and their centrality in a democratic society;

To provide assistance and to promote synergies between relevant actors for the development and implementation of laws and policies fostering freedom of expression and the right to information, with particular attention to the needs of small island States;

To support initiatives aimed at promoting professional and ethical standards in journalism and to promote a new approach to media accountability based upon principles of self-regulation;

To promote the free flow of information and ideas through the Internet, and to condemn censorship and other violations of Internet freedom of expression;

To support efforts to increase media and information literacy and awareness about the right to information through their inclusion at different levels of educational and training systems;

To foster research, documentation and the sharing of good practices on and implementation of the right to information;

To ensure the inclusion of freedom of expression, press freedom and the right to information, and the related issues addressed throughout this Declaration, as key topics within the development agenda, and to facilitate discussion and a coordinated approach on these matters among UN agencies and other relevant stakeholders;

To adopt a UNESCO framework giving effect to the right to information in relation to its own operations, and to promote the adoption of similar policies by other agencies of the United Nations;

To communicate this Declaration to Member States and other international and regional organizations for their consideration;

To use this Declaration as a reference for UNESCO's activities in the field of freedom of expression and the right to information.

ANNEX 2

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

ARTICLE 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

ARTICLE 3

Everyone has the right to life, liberty and security of person.

ARTICLE 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

ARTICLE 6

Everyone has the right to recognition everywhere as a person before the law.

ARTICLE 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 9

No one shall be subjected to arbitrary arrest, detention or exile.

ARTICLE 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE 11

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 13

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

ARTICLE 14

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE 15

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

ARTICLE 16

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

ARTICLE 17

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

ARTICLE 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

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.

ARTICLE 20

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

ARTICLE 21

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

ARTICLE 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

ARTICLE 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

ARTICLE 25

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE 26

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

ARTICLE 27

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

ARTICLE 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

ARTICLE 29

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.