

sydney
PEN

PEN magazine



Greste warns of ongoing threats to free speech

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Draconian laws have real and dire consequences



Zoe Rodriguez

It's been an eventful half year. The best news has been the release of the Australian journalist Peter Greste from the Egyptian jail in which he had been imprisoned for over a year. The two *Al Jazeera* colleagues who were jailed with him, Mohamed Fadel Fahmy and Baher Mohamed, have also been released on bail, though the ongoing matters before the Egyptian courts, including his own, are of continuing concern.

This experience brings home to us that draconian laws and their enforcement have real and dire consequences for journalists as they do nothing more than their job of reporting the news. In the same period, we watched in horror the appalling attack on Charlie Hebdo, which represents an attack on freedom of expression. We mourn the loss of all those who died in this senseless act, and at the same time take heart from the widespread public demonstrations of people's commitment to freedom of expression.

I was very sad to learn of the untimely death of Lobsang Chokta, our friend and colleague working on behalf of Tibetan writers in exile. His commitment to freedom of expression and the continuation of Tibetan culture was unquestionable. I got to know him at the PEN Congress in Bishkek. I will miss his warm and passionate presence at the 2015 congress – as will the many delegates who have built up a friendship with him.

On our own shores public policy is challenging the freedom of expression. We have a government that states a firm commitment to it, while imposing some of the most overblown surveillance laws in the name of national security and countering terrorism. The effect is chilling. Established shield laws for journalists and their informants are at risk. This is of concern to democracy and the ability of our journalists to keep our governments accountable for their actions. PEN Sydney will watch this space closely.

In March, PEN Sydney hosted our first card signing evening at Copyright Agency's offices, led by PEN Sydney life-member and renowned author and human rights

activist, Rosie Scott. As you will read in this issue from psychologist Robert Pryor, who attended the session, what may seem like a small gesture in a comfortable room in Sydney can be a life-affirming signal to imprisoned writers who must begin to question whether the world knows about their plight and if anybody cares. Newcomers attending the signing were overwhelmed by the terrible treatment of writers whose profiles we had printed – imprisoned for reasons that are insupportable and for periods of time beyond imagining. Our communication with these writers and journalists is aimed at countering the dehumanising effect of incarceration. These evenings will be held quarterly, the next one on 24 June.

Apart from providing us with a space in which to hold some PEN events, Copyright Agency's Cultural Fund has generously provided us with funds to commission original content for our magazine over the next three years. This will enable PEN Sydney to provide thought-provoking insight into the issues surrounding freedom of expression in Australia, the Asia-Pacific and around the world. Some may know that in my professional life I run the Cultural Fund. I want all to know that this application was one in which I played no role at the Copyright Agency, and that the funding is very gratefully received, with a due sense of responsibility on the part of the editors of the PEN Sydney magazine and other Committee members to provide high quality discussion of issues that might well not be aired in other publications.

Copyright law may not sound like the most scintillating matter however, in 2013 PEN International's Board considered it important enough to form a PEN Lawyers group, for which I was asked to write a set of draft copyright principles. Copyright is the central framework providing protection for creators to trade in the works of their mind. The principles were adopted provisionally for one year at Bishkek in 2014.

The Congress agreed that as this is such an important policy area, they would allow a year for comment from PEN centres around the world.

I encourage all our members and any interested writer to send any comments to PEN Sydney about these principles.

Sydney PEN

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Home safe, but Greste warns of ongoing threats to free speech

Wearing a badge saying 'Journalism is not a crime' Peter Greste delivered a stirring speech about the threat to freedom of expression when he addressed the National Press Club in Canberra following his return to Australia.

After a worldwide campaign Greste was deported from Egypt last month after spending 400 days in jail, accused of aiding the blacklisted Muslim Brotherhood. His *Al Jazeera* colleagues, Canadian-Egyptian Mohamad Fahmy and Egyptian national Baher Mohamad were freed on bail, with Greste expressing 'deep concern' for their situation.

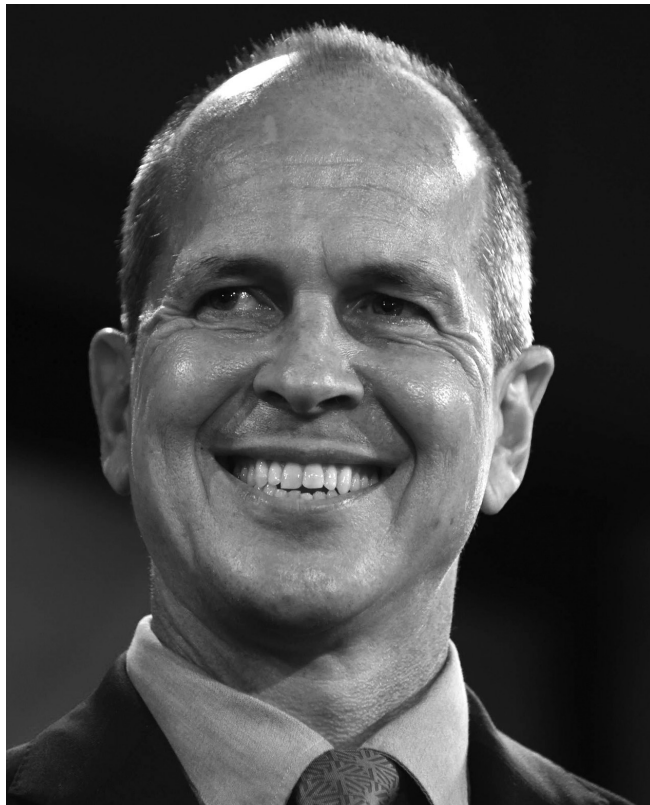
"We must not let up this fight for justice until both of them and all of those who were convicted in absentia have been fully vindicated and are free of the charges. And in a case that's become emblematic of press freedom, anything less would be not just a travesty, but would set a terrible precedent for this kind of debate and for governments that are considering draconian legislation everywhere."

Addressing a packed audience of journalists, politicians, including Foreign Minister Julie Bishop, and his own family, key figures in the campaign for his freedom, Greste thanked his supporters, noting in particular the work of the Minister. But he used the live broadcast to focus strongly on threats to press freedom both at home and abroad, making the point that governments must not block the media from doing its job.

"What concerns me is that we take great care to defend those things that have genuinely helped keep our society genuinely stable and truly free... Remember the media is the fourth estate. The fourth pillar of a healthy functioning democracy alongside the executive, the legislature and the judiciary. The more you weaken any one of those the more you destabilise the whole lot."

In more authoritarian places, he said, "I've often noticed that in the relationship between the government and the media there is a sliding scale that defines the

"If we make it hard for journalists to do their jobs, then we end up with dark spaces where things happen that certainly shouldn't be happening."



Peter Greste at the National Press Club. Picture courtesy of AAP/Mick Tsikas.

way the power is distributed. If you take power away from one, then you give it by definition to the other. In the current environment it is all too easy and too tempting for governments to use the war on terror as a convenient excuse for dragging that slider to the right, to claim more power in the interest of national security, trading off the media's oversight role in the process."

Asked about the refugee debate and media access to information, he said he was concerned about lack of access. "As uncomfortable as it is Minister," he said, directly addressing Ms Bishop, "we need to have access, we need to see what's going on, and as difficult as it is for the Government, if we close that down, if we make it hard for journalists to do their jobs, then we end up with dark spaces where things happen that certainly shouldn't be happening."

"The public has a right to know," he said. "It's as simple as that. This is our government. We hired the government, they work for us – not the other way around. And if we lose sight of that, if we lose sight of the public's need to know and to make decisions and to make democracy work then again I think we run the risk of losing control."

Susie Eisenhuth

Je Suis Charlie?

The murderous attack on the offices of *Charlie Hebdo* in Paris sparked a worldwide debate on free speech. Hundreds of thousands marched in rallies across France and around the world. Protesters adopted the 'Je Suis Charlie' hashtag in solidarity with the satirical magazine whose staff were gunned down by Islamist gunmen. Cartoonists depicted the attack as an assault on freedom of expression, critique and satire. Elsewhere critics of *Charlie Hebdo* were laying the blame on the magazine's famously provocative and unabashedly crude approach to its subjects. **Miriam Cosic** reports.

On January 7, two brothers armed with assault rifles forced their way into the offices of the satirical magazine *Charlie Hebdo* in Paris, killed 12 people and injured a further 11. They claimed affiliation with Al-Qaeda in Yemen, which quickly took public responsibility for the attack. That the brothers were French citizens has an ironic ring. "French" and "citizen" together evoke the country's long march towards individual freedoms, against the repressive forces of church and state, since the 1789 Revolution. The Revolution was bloody enough, and the *Charlie Hebdo* murderers might have taken some comfort in the wording of the French national anthem, the Marseillaise, with its glorification of armed violence and throat cutting.

But France has long since enshrined its doctrine of *laïcité*, the strict separation of church and state, in law. And for all the racial tensions that simmer there, France has also put colour-blindness at the heart of its anti-discrimination laws. Muslims - mostly immigrants from former colonies and their children - have topped 6 million, according to some estimates, causing fear in the kind of traditionalists who vote for the National Front. The number of Muslims in France is an estimate because the country is so officially blind to race, ethnicity and religion that there are no questions that would establish an official number in the national census.

Among those killed in the *Charlie Hebdo* attack were the magazine's former editor, Stéphane Charbonnier, and four other cartoonists: Philippe Honoré, Bernard Verlhac, Georges Wolinski and Jean Cabut. Two of the dead were Muslims: copy editor Mustapha Ourrad and policeman Ahmed Merabet. It happened in the morning, Paris time, late at night in Australia. As news filtered through time zones, shock and revulsion spread. Journalists, illustrators, writers, publishers - everyone to whom freedom of expression is of vital professional

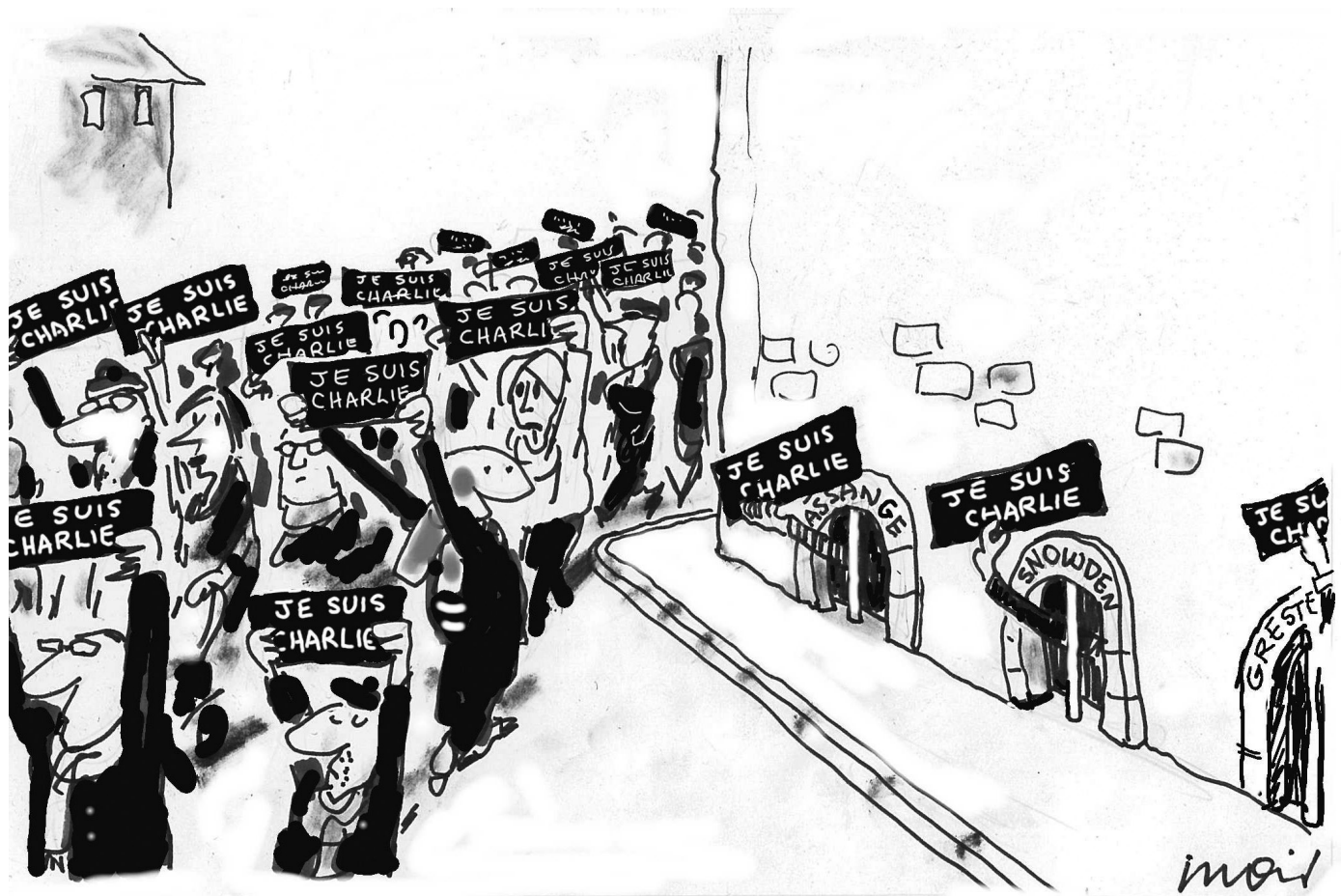
interest - went on alert. Again. So too did people whose lives suddenly got much harder: Muslims living in the West, already the target of suspicion and discrimination.

Cartoonists worldwide reached for their pens, and social media, as well as the MSM, were soon alight with illustrations that mourned, criticised, satirised and caricatured. In Australia, David Pope's brilliant piece for *The Canberra Times* - "He drew first" - went viral. It reduced the issue to its moral and political essentials: the savagery of the crime, the disproportionality of response to provocation, and the contemporary twist on terrorism which takes organised violence away from the realm of princes and armies into the everyday lives of non-combatants. And it didn't demonise the religion in the name of which the murders were perpetrated.

The Sydney Morning Herald published the thoughts of one of its cartoonists, Cathy Wilcox, within hours of the news coming through to Australia. "These hyper-sensitive gunmen, representing a small group of witless people looking for reasons to be offended, have attacked the proud French institution of satire, which has poked its tongue out at the follies and hypocrisies of the powerful for centuries," she wrote. "Some beloved, brilliant cartoonists and journalists have been killed for doing their job. I mourn their loss terribly, because I believe satire is where sanity is found. We cartoonists won't be changing the way we do things, because we're not going to let the lunatics call the shots."

Charlie Hebdo, of course, is crude in its satire: equal-opportunity crude, attacking Christian, Jewish, Muslim and the full spectrum of political sensibilities alike in the name of individual liberty. It specialises in sex acts, anuses and defecation. And it has form.

In 2006, a few weeks after the *Jyllands-Posten* newspaper in Denmark published several cartoons parodying Mohammed, sparking diplomatic protests, riots, death threats and boycotts from the Muslim



world, *Charlie Hebdo* responded. It published 12 of the Danish cartoons and a cover caricature of Mohammed with the caption, “C’est dur d’être aimé par des cons” - which translates into Australian English roughly as, “It’s hard being loved by dickheads”.

The issue sold out and tripled its usual print run. Jacques Chirac, French president at the time, called it an “overt provocation” and several local and international Muslim organisations sued the paper. Nicolas Sarkozy, later President but at the time Minister for the Interior and for Culture, wrote a letter, read out at the trial, supporting the magazine and “an old French tradition, that of satire.” The editor was acquitted.

In late 2011, *Charlie Hebdo*’s premises were firebombed and its website hacked after it renamed itself *Charia Hebdo*, listing Mohammed as editor-in-chief on its masthead, for one edition. The cover again featured the Prophet, with the legend, “1000 lashes if you don’t die laughing.” The leftwing newspaper *Liberation* invited *Charlie Hebdo* staff to use its offices while their own were being repaired, just as it would after the murderous January 2015 attack. In the wake of *Charlie Hebdo*, the BBC reported that the French press divided on the issue: broadly, centre to left-leaning organisations supported freedom of speech, rightwing publications urged caution.

Larry Pickering, who earned his notoriety drawing

pictures of politicians with huge penises, including Australia’s first woman Prime Minister, was quick to post Australia’s crudest response on his website: a picture of the Prophet roasting on a spit, skewered by a pencil. Was it needless provocation in an already tense situation already inflamed? It also highlighted the bottom line of free speech as a political issue: that I may not like what you say, but I’ll defend your right to say it. Pickering was quickly placed under protective surveillance and reportedly was asked to warn police if he planned any similar stunts in the future.

The chilling effect of physical attack is undeniable. When Salman Rushdie was condemned to death for his novel, *The Satanic Verses*, by the Iranian leader Ayatollah Khomeini in 1989, forcing him into hiding under police protection, the literary world went into shock. His Japanese translator Hitoshi Igarashi was murdered; his Italian translator seriously injured in a stabbing; his Danish publisher survived a shooting; and his Turkish translator survived an assassination attempt that resulted in the deaths of 37 other people.

Sturt Krygsman, *The Australian*’s savvy and subtle political illustrator, points out that what seemed inconceivable then is becoming a new normality. The world seems permanently braced for what will come next. Krygsman says he would take care in dealing with Muslim issues, not only because of the



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chilling effect of Islamist attacks, though that must factor into anyone's thinking now, but also out of simple decency. He is conscious of Muslim sensitivity to any depiction of religious themes, let alone demeaning ones, within a general prohibition of representing the human form. There have been iconoclastic moments within Christianity too.

Krygsman believes that Australian cartoonists in general are more respectful. Perhaps our interpretation of multiculturalism is more successful. Krygsman refers to Australians' instinct for giving people "a fair go". Legislation such as the controversial Section 18C of the Racial Discrimination Act, criminalising hate acts, helps reinforce the "internal editor" inside artists' and writers' heads that Krygsman says must be the final arbiter of taste.

"Me personally?," he asks rhetorically. "I don't find *Charlie Hebdo* funny and I don't see the point in deliberately going out there to offend. I don't believe in that at all. But I still defend their right to do it. And if it offends people, it offends people." Offence is in the eye of the beholder, and the *Charlie Hebdo* murders did not bring all sectors of the Australian press together in solidarity.

Andrew Marlton, who draws as First Dog on the Moon for *The Guardian's* Australian edition, has been attacked, not physically but verbally, by local right-wing columnists. Tim Blair in Sydney's *Daily Telegraph*, for example, accused Marlton of being a coward and pandering to Islamists. Blair quoted part of a cartoon on *Charlie Hebdo* in which Marlton wrote: "I don't depict Mohammad because it's probably racist and also I don't get to put my family and my co-workers at risk of being firebombed. But that's just me."

Blair's final lines: "*Charlie Hebdo* editor and publisher Stephane Charbonnier said he would 'rather die standing than live on my knees'. Even the latter option is unavailable to Marlton. His kind is kneeless." It's difficult to imagine Blair, and *The Australian's* Chris Kenny, who also attacked Marlton, defending the radically leftist and hyperbolically anti-clerical *Charlie Hebdo* in any other circumstance. Marlton declined to revisit the issue for this article.

Cathy Wilcox too, says she would err on the side of caution. She says that while she found herself on the day processing her thoughts quite intellectually, her husband, thinking of the implications for her, was much more emotional.

"Answering provocation with provocation is not a way I would go. I have done things that are critical... connected to regimes, not to all Muslims or the religion in itself, in the same way I would criticise the excesses of any powerful institution that curtails the freedom of people," she says.

"But I wouldn't choose to use a symbol that would end up overtaking the point I am trying to make. Choosing to depict Mohammed to make the point wouldn't be worth it"



"We cartoonists won't be changing the way we do things, because we're not going to let the lunatics call the shots."

She would have to interrogate her motives, she says: is she trying to be a martyr? Or trying to draw attention to herself? Larry Pickering, she points out, quickly became part of the story in Australia. "I have colleagues and I have family. It might be cowardly, because of this expressed threat, but I think I get plenty of opportunity to say a lot of things. And criticism is much more powerful when it comes from within the faith than from without."

The French, she adds, maintain the principle of free speech much more unequivocally than we do. "We have to face the fact there are pretty big contradictions between what we declare is the right to free speech and what we stand up for in terms of not offending other people," she says. "But ultimately, we had to say, Yeah, but they killed people. No matter how rude and over the top these drawing were, they were still just drawings."

When illustrator Bev Aisbett organised an impromptu exhibition in response to *Charlie Hebdo* in her Melbourne gallery, she expected more reflection of this type. "I was looking for a view of freedom of speech, the pros and cons of it, and whether there is an invisible line that shouldn't be crossed," she says. "My own contributions were along those lines, looking at blame on both sides, as in war in general."

She invited colleagues to contribute and more than 30 did. Most depicted the horror of the event, rather than the free speech issue. Some, she says, targeted the terrorists for just being stupid, focusing on the individuals rather than the ideology.

That view did reinforce her own suspicion that the attraction of violent jihad "is more about testosterone than it is about religion." A very Australian response in itself. Why else would anyone pick up a gun, or a bomb, or a knife, against a pencil?

Continuing protest urged over flogging of Saudi blogger

PEN International President John Ralston Saul applauded the massive *Charlie Hebdo* protest march staged in Paris in January in which world leaders joined the French President in a show of support for freedom of expression. “The march itself was remarkable for the way in which citizens of all backgrounds and beliefs came together in solidarity,” he said.

However Ralston Saul made the point that among the world leaders assembled for the march, “those first few rows included many representatives of regimes which play a central role in violence, imprisonment and impunity when it comes to writers.”

He singled out Saudi Arabia, “amongst the most important international missionaries of religious extremism”, saying that “for precisely anti-free expression reasons, that government is currently flogging Raif Badawi every Friday, fifty lashes at a time, until 1,000 have been suffered. This brutality may well be a sentence to death.”

As it turned out, the weekly schedule of 50 lashes did not continue as planned. The 31-year-old writer was too ill after the first flogging and the remaining public floggings were postponed on medical grounds.

Badawi was sentenced last year to ten years in prison and 1,000 lashes for “insulting Islam”, offences related to his blog encouraging critical discussion on Saudi Arabia’s clerics, who are central to the country’s justice system and governance.

Judges in the Saudi criminal court have since called for Badawi to be re-tried for ‘apostasy’, an offence that carries the death sentence. Under the Saudi interpretation of Sharia law, apostasy, like murder, armed robbery, drug trafficking and rape is punishable by death. According to Amnesty, 40 people have been beheaded this year.

Following widespread condemnation by human rights groups, rallies in support of the Saudi writer are ongoing, with several world leaders calling for his release. Meanwhile Badawi’s wife, Ensaf Haider, continues to plead for clemency from a safe haven in Canada, where she was offered refuge with her three children, saying her husband’s health is worsening.

In March Saudi Arabia reportedly defended its human rights record in response to international criticism. According to a Reuters report on March 8, an unnamed “Foreign Ministry official” expressed surprise and dismay at media reports, saying the kingdom’s constitution ensured the protection of human rights because it was based on Islamic sharia law.

A report in the London *Independent* newspaper on



Poster at Badawi protest in Paris. Picture by Alvaro

March 9 said that in its first official response the Saudi Ministry said it would not allow outside interference in its judicial system. Pressure from media and human rights groups would have no impact.

According to Professor Madawi al-Rasheed, of the Middle East Centre at the London School of Economics, Badawi’s website was mainly concerned with denial of personal freedoms and excessive religious interventions by government. Its campaigns included support for the introduction of a legal age for marriage for girls and in favour of allowing women to drive.

Writing in *The Conversation*, she said Badawi had not committed a crime “even within a narrow interpretation of Islamic law”. His punishment was an abomination, “and the international community must do all it can to bring pressure on its Saudi ally to stop it.” However, she concluded, “don’t hold your breath.”

Susie Eisenhuth

Report calls for united front on safety crisis in journalism

As the International Federation of Journalists (IFJ) published its 2015 report with record numbers of journalists and media staff killed over the past year, IFJ General Secretary **Beth Costa** called for collective action to address the safety challenges.

If there was anyone who did not know how serious the safety crisis in journalism is today, or thought the situation has topped out and the only way to go was downwards, then 2014 must have provided a rude awakening. The International Federation of Journalists has been producing annual reports on journalists and media staff killed in work-related incidents, this one being the 24th.

Throughout all these years, violence against journalists has been on the increase and reached record levels in the last decade. They are targeted in order to control the flow of information and to silence witnesses of atrocities, abuse of power and crime.

Journalists and media staff are also killed in cross fire incidents as well as in accidents. In this regard, 2014 provided more of the same. The IFJ recorded 118 killings in targeted killings and cross fire incidents as well as 17 accidental deaths. Pakistan and Syria loomed large, with 14 and 12 killings respectively, ahead of Palestine and Afghanistan with nine dead followed by Ukraine and Iraq with eight.

However, there was much worse. The beheadings of American journalists James Foley and Steven Sotloff by the so-called Islamic State shocked even the most hardened media professionals. For the first time, journalists were used as pawns and publicly executed in furtherance of a depraved political agenda.

It is little wonder that some news organisations are now advocating against sending journalists to Syria and refusing to take the work of freelance journalists intrepid enough to venture into the country.

In times of crisis, it is good safety policy to discourage competition for scoops which can lead to daring assignments, likely to put media professionals' lives at risks. But the reverse position, to systematically refuse work of freelancers undermines the efforts of many who take the necessary precautions to report safely. This is the essence of the balancing

act between ensuring the safety of media staff and independent reporting to overcome the smokescreen of propaganda, manipulation and misinformation on display during armed conflicts.

However, the inherent risks of covering armed conflicts can only account for some of the violence targeting journalists. Further and more frequent loss of life is caused by deliberate and reckless attacks on media and the detailed regional accounts of this report represent a damning indictment of such violence. They include wanton targeting of journalists, which we witnessed during the fighting between Israel and Hamas in the Gaza Strip last summer. Journalists have also come under attack in the Ukrainian crisis, victims of violence laced with a toxic mix of misguided nationalism and fanatical patriotism.

At the same time, the reign of terror and violence imposed by militants and organised groups continue to claim lives of journalists in many parts of the world, including in Pakistan, Somalia, the Philippines, Mexico and Colombia, among others.

In today's world full of anxiety and strife, peoples' fear of the uncertainty can turn to violence and journalists are likely to be among their prime targets. The case in point in 2014 was the mob lynching of three journalists in Guinea, murdered alongside health workers because of the public mistrust of the government's campaign to detect and contain the deadly Ebola epidemic.

But above all, the prevailing culture of impunity remains the single most important factor which fuels violence on journalists and media professionals. Cases of credible and successful prosecutions of journalists' killings are still few and far between. The IFJ believes that the safety of journalists cannot be properly addressed as long as the impunity for crime against them remains unchallenged.

In this regard, 2014 offered a glimmer of hope that



A statement of conviction. Image by Gallo

justice can be achieved for journalists who lost their lives to violence. In Pakistan, the killer of journalist Wali Khan Babar was found guilty of his murder, the first ever conviction in a Pakistani journalist's killing.

In Africa, the Human Rights Court of West African countries (Ecowas) ordered the Government of Gambia to reopen the investigation into the murder of Deyda Hydara, a prominent journalist murdered in 2004. The IFJ was a joint applicant with the journalist's family in the case brought in 2011 against the Gambian government for failing to investigate.

There was another encouraging development in Sri Lanka, after the new government announced its decision to reopen the investigation into the murder of Lasantha Wickramatunga. The former *Sunday Leader's* editor was killed in 2009 and went on to win posthumously the UNESCO/Guillermo Cane World Press Freedom Prize on the IFJ nomination.

But there is much more to do and the IFJ took new initiatives to boost the fight against impunity, such as the first Thunderclap campaign which scored 250,000 in social reach over three weeks in November. In another first, the IFJ took part at the World Forum on Human Rights in Morocco to argue the case for media protection at the global event which discusses the protection of people's rights and freedoms.

The Federation also conducted three missions; all focusing on the issue of impunity. The first

mission was to Gaza in support of journalists and to investigate crimes on media after the fighting ended there in July. Then, in September, a joint FEPALC and IFJ delegation visited the state of Guerrero in Mexico to urge accountability for violence on journalists. The third mission took place at the end of November in the Philippines, to mark the 5th anniversary of the Maguindanao massacre which claimed the lives of 32 journalists. There, too, justice for the victims and their families remains as elusive five years on.

Furthermore, in 2014, the IFJ also intensified its safety work, including training programmes for journalists from high risk countries, such as the Kurdistan region of Iraq, Afghanistan and Pakistan. It also joined partnership with the Council of Europe to establish an online safety platform for recording violations of journalists' rights and is currently testing new cutting edge safety tools to maintain contact with journalists while on assignments in dangerous zones.

Finally, the IFJ International Safety Fund continued to provide relief to journalists and their families throughout the year.

Journalists face serious safety challenges which require collective action and long term strategy to overcome them. The IFJ, working with its affiliated unions and partners, is committed to meeting these challenges in a united and resolute front with a view to delivering safety in journalism.

Call for urgent debate on embattled public broadcasting

Netflix, Stan, Presto, Quickflix, You Tube, Apple TV, Fetch TV, iTunes...Online video streaming via wi fi modem and cable to 'smart' TVs, tablets and mobiles is giving global content aggregators access to virtually all Australian households. Along with the popular catch-up TV services provided by free-to-air broadcasters, this will change the broadcasting game forever. With content either free or affordable, about 680,000 tech-savvy Australian subscribers have been accessing online video via American-linked domain name servers. This is one part of the 'digital revolution'. But as veteran broadcaster **Quentin Dempster*** argues, that's not the whole story. A key issue is the threat to public broadcasting. And the federal government's punitive approach isn't helping.

The ABC has access to all the households of Australia. Through the terrestrial transmission system, first analogue and now digital, its reach is virtually universal. With its radio transmission towers from 1932, then TV from 1956, the ABC has built itself into one of this country's most trusted institutions.

The ABC and SBS (Special Broadcasting Service), the ethnic public broadcaster founded by the Fraser government in 1978, were created by Acts of the Federal Parliament. But with the Abbott government dishonouring its 2013 election commitment that 'there will be no cuts to the ABC or SBS', the sustainable futures and Charter purposes of both broadcasters are now at risk.

Rather than being motivated by a claimed efficiency in the face of whole-of-government deficit reduction, it has emerged that the cuts to the broadcasters and other measures now under consideration are punitive.

The ABC, in particular, has been the target of sustained vilification by Rupert Murdoch's News Corporation through the front paging of alleged scandals, editorials and commentary which claimed 'leftist' bias systemically infected ABC journalism. In the now famous pre-emptive buckle to the same sorts of pressures in 2013, ABC chairman James Spigelman announced external bias monitors would be appointed by the ABC Board to report on randomly selected programs and issues. The appeasement failed to satisfy Murdoch henchmen, with one, Piers Akerman, demanding Spigelman's resignation.

There is an urgent need for a debate about the future of both the ABC and SBS, particularly if any hostile government seeks to reduce taxpayer subsidised free-to-air transmission by the re-allocation of spectrum for more lucrative commercial purposes.

In Canada Let's Talk TV: A Conversation with Canadians conducted by the industry regulator found: "Over 95 per cent of those surveyed and consulted referred to the importance and value of the ability to receive television programs inexpensively over the air and opposed proposals to shut down transmitters."

Universal access for the Australian public broadcasters, particularly because of the communication needs of far flung regional and remote populations, has been taken for granted. But, unlike Canada, there has been no such open consultation in Australia. It has not been mentioned publicly at this stage, but given the Canadian experience, spectrum reallocation away from the ABC and SBS is emerging as a significant threat to their survival.

Also under threat may be the Australian commercial networks and their capital city and regional transmission catchments. If everyone has access to wi fi, who needs terrestrial transmission?

The ABC Board is now actively considering monetising its popular iView catch-up service. Users may soon be charged for downloads after a certain 'free access' period. Although ABC managing director Mark Scott reassures everyone that this will be no more than charging for a DVD or CD sold through an ABC Shop, such a change will introduce for the first time the concept



Protesters rally in Sydney against ABC cuts. Photograph by Anne Barker

of user pays for ABC content in broadcast form.

This is content Australian taxpayers have already paid for. A future ABC Board under funding pressure from a hostile federal government could extend 'user pays' to cover all content posted immediately after a free-to-air showing. Mark my words.

SBS is now being further commercialised with Communications Minister Malcolm Turnbull seeking an SBS Act amendment to allow the broadcaster effectively to double its prime time TV advertising to 10 minutes per hour, including more ads within programs. Free TV, the peak body for the commercial TV industry, says this is akin to making SBS Australia's fourth fully commercial network 'by stealth'.

According to the Australian Bureau of Statistics, by 2031, one year before the ABC's (hoped for) 100th anniversary, there will be 11.4 million to 11.8 million households, up from 7.8 million in the Census of 2006 and thereby projecting rapid population growth.

At today's date – mid-April 2015 – the Abbott Government is grappling with policy changes to take account of global access to Australian households. Ideologically the Liberal/National Coalition seems to favour deregulation and the innovation and energy said to be unleashed by market forces. If and when the 'cross media' and 'reach' rules are reformed there would be a re-alignment of media ownership across radio, television and what remains of print within capital city and regional markets.

Little or no attention has been paid by the government to the future of the public broadcasting sector.

The Australian Labor Party under the Rudd and Gillard governments gave modest enhancements to ABC and SBS funding from 2007 to 2013, which helped to turn both into successful digital revolutionaries through repurposing video and audio content and developing digital multi channels, engaging news, entertainment, children's and youth, ethnically and regionally orientated websites.

The free-to-air broadcasters' great contribution to Australia, its national identity and culture, has been in the creation of local Australian content - in drama, sport, news, information, documentary and entertainment.

There would not be a commercial TV production industry in this country had there not been a legislated content quota imposed by the Federal Parliament. Can you imagine Sir Frank (or Kerry) Packer volunteering to create Australian programming unless required so to do by law? Local content production is expensive and it is always cheaper to acquire a foreign broadcaster's (mainly US and UK) programs from their audience-proven catalogues.

Now in response to global invaders, contemporary Australian governments have given the free-to-air commercial broadcasters a refund on their licence fees in acknowledgement that their markets are being impacted by 'over the top' content aggregators - none of which make local content and all of which are now taking tens of millions of dollars in user charges and advertising. Many of these global players pay negligible tax on income derived from Australian consumers. And many use tax havens.



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The ABC and SBS have also contributed to local content production under their respective Charters, but always within the constraints of funding allocated by the federal cabinet's expenditure review committee.

The most recent down-sizings of the ABC and SBS have seen the loss of programming and mass sacking of content creators as both were forced to reshape their operations. The ABC lost local current affairs, specialisation in Radio National, live broadcasts on Classic FM and regional TV production.

With Foreign Minister Julie Bishop's unilateral termination of the DFAT Australia Network contract, the ABC's network of in situ correspondents, which had helped to make ABC international coverage so distinctive, were decimated. Radio Australia was reduced to 'rip and read'.

To secure the sustainable survival of the ABC and SBS, their *raison d'être* needs to be restated. Public broadcasters view their audiences as citizens in a robust democracy and not as consumers to be delivered up to advertisers. Creative independence through a critical mass of program makers with a capacity to commission and make the full genre of programs based on the clash of ideas is vital for the ABC's continued relevance.

Although the digital revolution has enabled the ABC to cost-effectively extend its reach to younger audiences, its other Charter purposes (localism, international coverage, regional production, specialization) are being wilfully neglected.

For SBS the *raison d'être* is clear: In an era of geo political tension, drone, jihadi and lone wolf terror, a now polyglot Australia needs a broadcaster committed to build understanding, break down insularity, xenophobia and bigotry. The taxpayer investment in SBS's multi-lingual radio, TV and online services should be seen as a counter to both terrorism and ethnic isolation. The prize: a more informed,

"In an era of geo-political tension, drone, jihadi and lone wolf terror, a now polyglot Australia needs a broadcaster committed to build understanding, break down insularity, xenophobia and bigotry."



Veteran journalist Quentin Dempster

inclusive and cohesive polity.

These are the intangible benefits of Australia's unique mainstream public broadcasting system.

But all we are getting from Prime Minister Tony Abbott and his Communications Minister at the moment are proposals for user pays for ABC iView and more prime time ads on SBS.

An unholy alliance with the Murdoch Press has been exposed. A commitment has been dishonoured. There is no vision for the future.

In his recent play *Rupert*, the great Australian playwright David Williamson had the Murdoch character confront the audience after unfolding the drama of his global acquisitions, phone hacking, corporate double-crossing and Tea Party ideology to state with words to the effect: "I'm still here! What are you going to do about it?"

As always, it remains for Australians to stand up for these two crucial public broadcasting institutions. I think they will.

**After 30 years at the ABC, television presenter and journalist Quentin Dempster was retrenched in the most recent down-sizing. In 2000 he wrote Death Struggle: How political malice and boardroom powerplays are killing the ABC (Allen and Unwin).*

The (finely crafted) pen is mightier, says Zable

Writing can be a dangerous business. At any given time PEN International deals with up to one thousand cases of writers who have been imprisoned, tortured, persecuted and even murdered for pursuing their craft. They have dared challenge the authorities of the countries they live in. They write of social justice and human rights abuses, and employ the written word as advocates for social change.

It requires great courage to write in repressive societies. Writers have been forced to develop subtle literatures of protest, as in Eastern Europe during the Cold War period when irony and satire became dominant art forms. Stories and novels circulating underground created a sub-culture of dissident writing that kept the flame of freedom alive. Contemporary tactics include the use of Facebook aliases to get across dissenting views.

In March, I conducted workshops on writing and advocacy in Melbourne's Wheeler Centre. I included genres ranging from columns, essays and features, to book length works of non-fiction and fiction. What the genres share in common is the art of story. Story humanises. It gives face to the faceless, voice to the voiceless.

My feature, 'I am detainee CAI-20', published in *The Age* in 2001, employs the art of story to document the plight of Hazara refugee Arif Fayazi, reduced to a number whilst imprisoned in Woomera detention. The piece aims to restore Arif's name. It puts the reader in his shoes as he walks the streets of inner Melbourne, locked in the agony of separation from his wife and children left behind in Afghanistan.

The most famous example of newspaper advocacy is Emile Zola's *J'accuse*. Published in 1898 as an open letter to the president of the Republic, it exposes anti-Semitism and corruption at the highest levels of French society. It remains a model of impassioned, well-researched writing driven by controlled anger and a thirst for justice.

There have been times, recently, when I have been moved to follow Zola's model in protesting the brutal human rights abuses being perpetrated in the Manus Island Immigration Detention Centre. Asylum seekers whose 'crime' has been to seek a life free of oppression have been imprisoned, harassed, beaten and in the case of Reza Barati, murdered.

The column and feature are well suited to short-term advocacy. They can reach a broad audience via the mainstream press and social media. An opinion piece demands precision. A lot can be said in few words. There is room enough for both story and argument.

Book length works of creative non-fiction and fiction have a more lasting impact. Classics such as George Orwell's *1984* and Ralph Ellison's *Invisible Man*, for instance, remain as relevant today as they were when they were written. Kafka's metaphorical and darkly comic novella, *Metamorphosis*,



Writer and human rights activist Arnold Zable

speaks to the bullied outsider and the neglected. John Steinbeck's *The Grapes of Wrath* began as a journalistic account of the plight of dust bowl migrants.

The choice of subject matter can itself be a form of advocacy. Stories set in immigrant communities have brought new voices and perspectives into the public domain. A renaissance in indigenous writing has introduced readers to novelists such as Kim Scott, Alexis Wright and Melissa Lukashenko. Scott's novel *Benang*, exposes racism in an era when indigenous people were defined according to shades of colour ranging from 'octoroon' to 'full blood'.

There are many effective works of creative non-fiction exposing social injustice. Silence features in the titles of both W.E.H. Stanner's seminal essay, *The Great Australian Silence*, exposing the plight of indigenous people, and Rachel Carson's *Silent Spring*, documenting the devastating impact of unregulated chemical pollution.

Well-crafted, impassioned writing can break long held silences, and bring to light the darker aspects of our collective past and present. The pen can be, and has been, mightier than the sword. To be effective it demands skill, artistry and, above all, a sense of justice.

Outgoing Press Council chief highlights free speech concerns

Professor **Julian Disney** was chairman of the Australian Press Council from 2009 to 2015. In this edited extract from his final speech at the National Press Club, he warns that in the digital age there are risks to freedom of speech in both media and government practices.

There is a lot to like in modern print and online media. Every day I admire material that is especially perceptive, courageous, fair, entertaining or challenging. Many editors and journalists make great use of digital publishing while also becoming more aware of the dangers it can present. Many work very hard to maintain quality in severely depleted newsrooms, often against less scrupulous competition.

From the vast array of examples of the importance of press scrutiny, one could just mention almost at random the Australian Wheat Board, the detention of Dr Hanif, the exploits of Eddie Obeid, the Catholic Church, the Health Services Union and the Commonwealth Bank. Nevertheless, as in most if not all areas of human endeavour, some significant weaknesses need to be recognised and addressed.

Serious inaccuracy and misrepresentation

Indisputable errors or misrepresentations are too common. A perceived need to beat competitors does not justify inadequate checking of facts, especially because, as I have mentioned, it is often impossible to fully rectify the impact of errors - even if corrected online within minutes.

Many of the worst misrepresentations occur on prominent pages, often in headlines or opening paragraphs. Sometimes they may reflect editors' commercial or political concerns rather than the perspectives of the relevant journalist and article.

News reports are too often distorted by writers' opinions, especially through the use of loaded language (is a person a "freedom fighter" or a "terrorist"?), or by omission of key facts. Some prominent columnists can adeptly express strong opinions in ways which are highly likely to be read as indisputable facts yet are indisputably inaccurate or misleading.

Some publishers are very reluctant to correct significant errors promptly, clearly and prominently. Digital-only publishers may tend to be more willing to do so than newspapers. But the rush to publish first, even if by only a few seconds, can make them more prone to error.

Unfairness and undue harm

Unfairness arises too often from failing to contact a person who is going to be strongly criticised in an article, or not publishing their response in a reasonable and timely manner. Publishing a later letter does not necessarily provide sufficient opportunity for them to correct or comment on prominent and seriously damaging articles - especially if the letter is unreasonably edited or obscurely positioned.

The Council has long expressed concern about the unfairness of headlines and opening sentences which strongly assert facts or opinions that are not supported by the accompanying text but are likely to be left as the lasting impressions in the minds of many readers. This practice remains too common - indeed, it may have become more frequent in some publications.

The Council does not expect all articles or issues of a publication to be entirely fair or balanced, especially if different perspectives are also given reasonable exposure at some other time. That is reflected in the fact that the overwhelming majority of complaints to the Council on those grounds are not upheld.

From its earliest days, the Council emphasised what it called "the duty, which must be accepted if freedom of the Press is to retain the support of the public, to respect the right of the general reader to be informed of the arguments on each side of a public debate upon which a paper has expressed its own views."

The current Standard of Practice says that publications must take reasonable steps to ensure



Professor Julian Disney, chairman of the Australian Press Council from 2009 to 2015

“Freedom of speech should not be largely the preserve of powerful interests in government, business or the ranks of publishers.”

factual material (which includes reporting the opinions of others) is presented with reasonable fairness and balance. This does not preclude particular publications, or individual journalists and columnists, from running vigorous and sustained campaigns. Some recent examples have been powerful and effective without being misleading or grossly unfair. But there have also been instances where distorted reporting of facts and opinions has gone beyond acceptable limits.

The Council gives such weight to the public interest in free speech that it rarely upholds complaints about offensive material, unless it is likely to cause substantial distress, prejudice, or risks to health and safety. This does not mean the Council necessarily regarded the material in question as being fair or conducive to genuine democracy, whether it was presented in text or graphic form. Indeed, the Council been concerned from its inception that this kind of material can significantly weaken public support for press freedom.

Unjustified intrusions on privacy

Digital publishing has increased the opportunities and pressures to intrude on reasonable expectations of privacy. This includes widely re-publishing social media material that clearly was not intended to be

used in the different context or had been posted by someone else without due regard for the person's privacy and safety.

Some social media providers contribute to these problems with privacy settings that are complex or largely ineffective. But newspapers and other re-publishers also have responsibilities not to make intrusive use of the material, especially if a deceased person or vulnerable people like children or grieving relatives are involved

There is a common belief in the media that if a photograph is taken in or from a place to which the public has access, there is necessarily no breach of privacy. But the true test is whether the relevant place and activity meant that the person had a reasonable expectation of privacy from the intrusion or subsequent publication (for example, perhaps, when visiting a gravesite). The same applies to comments that have been surreptitiously overheard or recorded.

It must be strongly emphasised, however, that some intrusions are justifiable in the public interest (though not merely because the public is interested). This can apply, for example, to intrusions which help to expose serious malpractice, whether in government, business or elsewhere. Indeed, some intrusions may be ethically justifiable on this ground even though they are illegal.



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Press freedom and government practices

The Council's main and unique contribution to the cause of press freedom is its core work of developing standards of media practice and responding to complaints about possible breaches. This role necessarily consumes the dominant share of the Council's resources. So it is not usually appropriate or feasible to become heavily involved in particular campaigns to which major media outlets or other powerful organisations can devote much greater resources and influence.

The Council may be able to contribute on some occasions, provided that its resources are not diverted by having to handle some publications' unreasonable obstruction and misrepresentation. In that eventuality, prime contenders for its attention might include the major intrusions on press freedom caused by government restraints on coverage of security, police and so-called "border control" activities.

There are, however, some other areas in which substantially chilling effects on press freedom may occur but which are getting much less public attention. They include:

- A government repeatedly giving a closely-aligned publication advance access to key information and policies, ahead of other media and the general public;
- A government leaking details of an impending announcement to a particular publication on condition that the initial report does not include prior comment from anyone else;
- A major non-media organisation recruiting its own staff journalists and giving them sole or privileged access to key information and facilities to report on the organisation's activities;
- A publication's financial difficulties making it

"Some of the greatest obstacles to achieving and sustaining genuine freedoms are extremism and hypocrisy by people who prominently propound them and have privileged opportunities to exercise them."

especially vulnerable to demands for favourable coverage in return for advertising or other support.

It is important that the Council's statements on issues of press freedom avoid seeming to be docile echoes of publishers' views rather than fairly conveying the views of its diverse members. This independent credibility was especially important in resisting the recent proposals for a new statutory regulator.

Freedom of speech

A community does not enjoy genuine freedom of speech unless the freedom is realistically exercisable by as broad a range of people as possible. The freedom should not be largely the preserve of powerful interests in government, business or the ranks of publishers. These powerful interests also should not use their freedom of speech to gravely damage – even destroy – other people's freedom of speech.

It is especially important that freedom of the press is not abused in this way. For example, a publication can gravely damage or deny other people's freedom of speech by:

- Repeatedly and seriously misrepresenting what a person has said - especially if it also denies the person a reasonable opportunity to correct the misrepresentation by a letter to the editor or otherwise; or
- Repeatedly abusing or intimidating a person with whose views it disagrees, and repeatedly allowing – perhaps encouraging - its letters and comments sections to be used at length for those purposes; or
- Breaching without good cause the confidentiality of a person who wished to exercise their freedom of speech in private, not in public; or
- Publishing seriously false or misleading information on the basis of which some of its readers exercise their own freedom of speech to unwittingly express views they would not have held if accurately informed.

If a publication repeatedly and flagrantly engages in these kinds of practices, can it credibly portray itself as a supporter of free speech? Or is it only a supporter of free speech for people with whom it agrees or from whom it seeks support?

Indeed, can a Press Council credibly portray itself in that way if it quietly acquiesces in the publication's practices? And should other publications turn a blind eye?

Some of the greatest obstacles to achieving and sustaining genuine freedoms are extremism and hypocrisy by people who prominently propound them and have privileged opportunities to exercise them. This applies especially to freedom of speech and of the press, which are far too important to be put at risk in this way.

Loss of freedom means a loss of identity

Following a recent workshop where Sydney PEN members gathered to write letters to imprisoned writers around the world, psychologist **Robert Pryor** reflects that the simple task can have much weightier significance for people dehumanised by incarceration.

As part of its role PEN seeks to show solidarity and ongoing concern for writers subjected to incarceration as a result of their work. Superficially such solidarity and concern - as demonstrated in actions such as sending prisoners rather innocuously expressed cards - may appear almost trite when many of these detainees have been often subjected to prolonged and intense ill-treatment and torture. However, as a psychologist and writer I want to suggest that it may not be as unimportant as it may at first seem.

The United Nations, the International Red Cross and numerous other human rights and international medical associations, have produced numerous publications outlining both the methods and the effects of torture and prolonged incarceration. There is no need to revisit the hideous catalogue of crimes that one group of humans perpetrates on other groups. I want to focus on the dehumanising aspects of incarceration and in particular, the loss of personal identity that results from either the systematic or capricious methods of many of the worst prisons.

After incarceration, loss of identity is initiated by being issued with a number. Your name does not matter any more. Your loss of freedom means you lose the prerogatives of individual expression. Your clothes are a prison uniform. You are ordered and regimented. The times for all your activities are dictated by others. You are shunted from one prison to another or from one part of the same prison to another, without being told where or why. Your personal appearance becomes irrelevant and may be significantly marred.

You are rewarded (if that is the correct term) for docility, passivity and helplessness. You are punished for not following imposed rules. In some instances, to emphasise your complete powerlessness and to increase your stress, the reward schedules for behaviours are unpredictably altered so that behaviour once rewarded is now punished without your knowing why. You may be at the mercy of sadistic prison guards who delight in demeaning your beliefs and humiliating your person.



Survivors often describe such as an existence as not living but just surviving in an atmosphere of brutality, threat, fear and uncertainty. Alexander Solzhenitsyn describes the effects of loss of identity in terms of “feeling forgotten”: that your life does not matter, has no worth and you are incapable of doing anything of significance. It brings to mind Dante’s Hell above the gate of which is inscribed those harrowing words, “Abandon all Hope”.

In prisons there is a phenomenon called “sudden death” which describes the unexpected demise of an inmate for no pathogenic reason. They simply die of hopelessness and despair, having relinquished any motivation to go on living.

Taking all this into account, suddenly, writing cards to imprisoned writers no longer seems unimportant. It is one way to let those struggling to retain their own sense of identity and worth know that they are not forgotten and that they do matter.

Robert Pryor is a fellow of the Australian Psychological Society and an Adjunct Professor at the Australian Catholic University

'Tell me why freedom of expression matters?'

In his latest book *Australia Under Surveillance* Australian author **Frank Moorhouse** voices his concerns about ASIO and the extension of the state security arm into our daily lives. In this extract from the book, he explores the concept of freedom of expression and its changing interpretations over time.

'Freedom of expression may be described as the freedom par excellence; for without it no other freedom could survive,' Enid Campbell and Harry Whitmore wrote in *Freedom in Australia*. This is an often-expressed sentiment, which is probably correct, yet sometimes we do not make the best arguments for it.

As I see it, the liberal democrat strives to prove and to establish that, as a society, we can survive, flourish and be safe and orderly while still holding to and maximising freedom of expression. To a degree, the defence of freedom of expression is a question of political judgement, aspiration and faith.

Freedom of expression as it evolved in English-speaking countries was connected with the idea that individuals could have opinions or desires separate from those of their church and aristocratic leadership. Strivings for freedom of expression originally focused on political and religious opinion – what could be spoken in the contests for power and change – and then moved in our times to argument over which rights were necessary for the full exercise of democracy.

Coming from this is the liberal-democratic position that freedom of speech is an assertion of what could be called 'humanness' – the expression of the spirit of 'being truly alive', truly free, truly confident, truly safe – which in turn seems to have evolved as a Western proposition about the psychological nature of personality. And so some of us argue that it is also related to what might be called the mental health of a society. John Stuart Mill, in *On Liberty* (1859), made this observation when he wrote: 'We have now recognised the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion and freedom of the expression of opinion.'

Mental wellbeing in a society is a difficult thing to demonstrate, but we know it has to do with not being afraid of speaking out, of reading books we wish to read, of writing what we think is of value, of contesting, of scepticism, of humour. Part of the social-

health argument is that the restriction of freedom of expression debases society because the authoritarian 'tough talk' engenders abuse and social friction at what is sometimes called the 'sharp end' of policy – where policy is implemented in face-to-face situations.

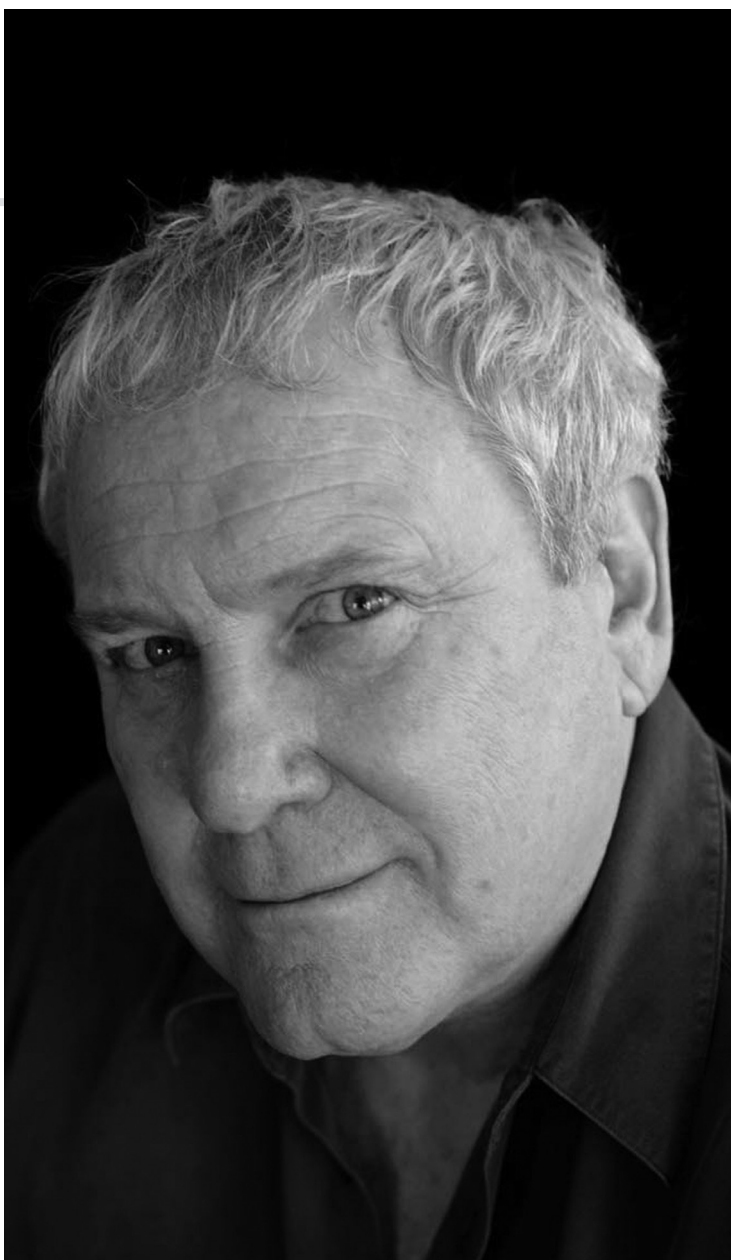
I have in mind the abuse and misuse that occur when officials and others feel empowered by the expressed attitudes of political and media leadership (not only by legislation) – officious bureaucrats, security people, police officers, individual soldiers, prison guards, customs officials, airport security guards. We see it in the refugee camps where guards are emboldened by a tough-talking immigration minister.

If it is okay for officers of the federal Attorney-General's Department or ASIO to raid bookshops, take over publishers' computers and question students about their reading matter, if it is okay for airline passengers to be pushed around, then those prone to bigoted behaviour also feel so empowered.

We reduce abuse by putting in place legal procedures, by training and by selective recruitment to security agencies. But we do it most effectively when governments avoid blundering into the nerve centres of society, such as freedom of expression.

The temptation and pressure at times of heightened civic fear are for government agencies to jettison the nuances of legality – those legalities that were put in place because of the injustices their absence caused in the almost forgotten past. We then begin to accept invasion of privacy and the misuse of 'clear and present danger' rules, and the creation of vague new crimes. Our sense of being changes.

It has taken centuries of mistake and struggle and injustice to arrive at the rules, practices and customs that make for an open society. But more, the abandonment of these legal safeguards in the interests of public safety paradoxically makes the society more unsafe. We run increased risk of harm from wrongful arrest and mistreatment when they are not in place – a different form of harm from terrorism, but still a physical harm



Author Frank Moorhouse

“Our experience with censorship is that it creeps as the censorship bureaucracy grows and finds work for itself by seizing on moral panic or public anxiety as an excuse.”

in the form of damage to people's minds and to their public and private life. Innocent people will be hurt.

There are arguments that freedom of expression makes us politically, even economically, more efficient, more effective as a society. Justice Brandeis of the US Supreme Court observed in 1927: 'Freedom to think as you will and speak as you think are indispensable to the discovery and spread of political truth.'

It is expressed in the term 'the marketplace of ideas': the concept that the competition of ideas progresses the society through eradication of error, rethinking, correction and change. It is, in a way, an extension of the free market philosophy to the intellectual realm, except that some exponents of the free market do not believe in free-ranging, robust freedom of expression.

The NSWCCCL used this utilitarian position to argue against banning the Islamist books: 'A citizenry well-informed by a range of competing ideas and a variety of information will always be better equipped to deal with challenges posed by people who oppose Australia's liberal democratic tradition.'

Passionate believers in a cause always hope, of course, that by allowing their enemy's ideas free play they will be defeated, not that the enemy will win. People rarely change their mind on the spot in the

heat of argument, but many exchanges – no matter how seemingly mindless and bitter and irrational – do involve an exposure to opposing ideas, and a transfer of information, and somehow a modification of our position. Perhaps. Sometimes.

Former US Secretary of Defense Donald Rumsfeld believes in the marketplace of ideas. On 17 February 2006 he stated: 'In this war, some of the most critical battles may not be fought in the mountains of Afghanistan or the streets of Iraq, but in the newsrooms in places like New York and London and Cairo and elsewhere . . . we have an advantage as well, and that is, quite simply, that the truth is on our side, and ultimately, in my view, truth wins out. I believe with every bone in my body that free people, exposed to sufficient information, will, over time, find their way to right decisions.' His decision.

The argument is that, even if one example of censorship may be widely acceptable, it is sometimes best opposed because of the dangers of encroachment, the fear that suppression keeps on spreading beyond its first rationale. Our experience with censorship is that it creeps as the censorship bureaucracy grows and finds work for itself by seizing on moral panic or public anxiety as an excuse. For example, Canadian authorities began censoring sexually arousing gay publications,



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and eventually began censoring publications dealing with anal health. This, more than ever, is a danger because of the growth of the security and espionage bureaucracy.

In my Balmain anarchist days we used to sing an American ballad with the line 'There's a man going round taking names, and he decides who to free, and who to blame'. I think that increased surveillance and intelligence-gathering is inescapable but, as we saw in the Cold War, ASIO had the power to interfere in a secret sub-judicial way with writers, journalists, publishing and academic appointments. The extent of this use of power back then is yet to be fully exposed, although David Horner's *Official History of ASIO*, published this year by Allen & Unwin, goes some way to revealing the damage done by ASIO during the Cold War.

It is true historically that there have been reversals of creep. The 1970s shows that the banning of books does social and intellectual damage until, like some crazy animal, it consumes so much that it becomes ridiculous and self-destructs.

Censorship usually shrinks only when the censors lose enough battles, or – as with prohibition of alcohol – more and more people break the law, or the debates extinguish themselves and are considered unthreatening. Recent Australian experience, despite the dramatic gains in freedom since the 1970s, shows that censorship will creep back. The Office of Film and Literature Classification raided the PolyEster Bookshop in Melbourne in November 2005 and confiscated videos and books relating to drug use. 'I think it's because they say the books encourage the committing of a crime,' owner Paul Elliott said. 'I still sell *The Anarchist Cookbook*.' The bookshop describes itself as 'Anarchist, sex'n'doogs, totally weird shit'. It was the second raid.

Yet the number of mainstream novels, films and television programs that show people how to commit crimes is beyond calculation, along with endless plans of how to commit the 'perfect crime'.

Part of the creep is that restrictive legislation tends to erode the boundaries of vilification – of what those in power consider unreasonable opinions, polemical, passionate argument, the intemperate, satire, heretical humour, fictional exposition and representation. And we find media practitioners engaging in sub-legislative censorship – excluding material 'just in

case' it infringes the law and causes trouble for, say, the books or magazines they are publishing: what is sometimes called the chilling effect on public discussion. (The French magazine *Charlie Hebdo*, whose staff were slaughtered by Islamic extremists, had as its editorial style and mission the vilification and mocking of all religions.) During the Cold War, the restrictions on freedom of expression crept to involve not only members of the Communist Party but also what were loosely and dangerously called 'fellow travellers' – non-authoritarian socialists, rebels with and without a cause, and so on.

The other consequence of the suppression of 'unacceptable messages' is that it does not eliminate these messages, but rather gives them a potent subterranean existence beyond the reach of intellectual refutation by open discussion and social contest. Pragmatically, it makes surveillance more difficult by driving the enemy underground.

Finally, it further alienates the Islamic minority. The climate following the anti-terrorist laws and the influence of overseas terrorist organisations has led to non-Islamic Australians demonising Muslims and their religion. Arabs, Jews, Israelis, Indians and others 'of Middle Eastern appearance' have felt denunciation and abuse.

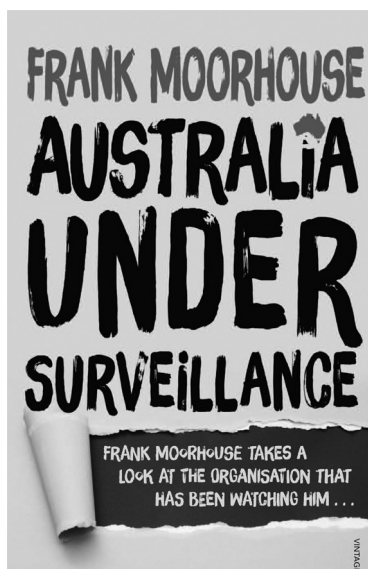
In the non-Islamic community, censoring of the Islamist books indirectly confirms and authorises racial and ethnic prejudice among citizens who are so inclined.

The core problem is that the simple thinking behind censorship misunderstands the nature of communication. Censors believe that they

understand the message that is being sent; the message that is being received; and what the effect of that message will be on the recipient. In truth, they are all unknowable in any precisely accepted way.

In storytelling, as in all communication, it is not possible to know what is being received and taken from a story. Even in the most basic storytelling, a person may identify with all – victim and aggressor, child and parent, male and female – or none of them. Those who study communications theory have long shown that there cannot be a 'solitary' or 'virginal' recipient of a media message – not even a child.

Communications theory tells us that although we might read or watch 'alone', we receive the message through social and personal screens put in place in our minds by the wider society as well as our primary groups and the experiences that formed us – family,



friends, education, workplace and ethics.

People are not sponges. In a relatively open society, every message is in collision. Even in the most closed of families or sects, forbidden messages ooze through. Only totalitarian states are single-message, and then things go horribly wrong. Paradoxically, censorship systems always edge towards the creation of 'single-message' or 'single-morality' states.

The publications and broadcasts of those who support terrorism do not so much cause terrorism as reveal its nature. That a book would make someone a terrorist is akin to the defence in court that 'the Bible made me do it'. One book can make a difference to our thinking, but only if it fits with an upbringing, a culture within our primary groups, and a mass of other influences and social conditions. We may feel that a book or a speaker's words have 'changed our lives', but only if the book or the speaker crystallises the myriad influences and unconscious processes that have formed our thinking and led us to the particular book or particular speaker at this time.

Yes, media does make up part of the confluence that forms our personality and our attitudes, but mainly we make our selection of media because it reinforces and endorses our position.

We do evolve through study and observation and intake of messages, and that is why censorship is not in our interests as informed citizens. In attempting to block media reinforcement of antisocial behaviour, governments also blind us as citizens, denying us the full picture.

Regardless of how obnoxious some films and publications are, no government or committee can ever be trusted to choose which books we can read or which films we may see. Would the banning of *Mein Kampf* have stopped the rise of the Nazis? Could we understand the Nazi mentality without knowledge of it? Could we understand communism without having read *The Communist Manifesto*?

Some exceptions to free speech are accepted by consensus: information that endangers the armed forces in times of conflict (this does not mean the suppression of debate about the rights or wrongs of a conflict or the suppression of the views of the enemy); misleading, false product information that might be physically injurious; the spreading of information useful to those who would inflict physical violence on the society (I have in mind information about, for example, how to make postal bombs);

the suppression of the names of children in juvenile courts; and suppression of the information networks of paedophiles which are intended to lead to sexually abusive behaviour against children and the publication online of the names of convicted paedophiles who have served their gaol sentence and which can lead to vigilante behaviour and interfere with rehabilitation.

Some exceptions to free speech are more contentious – it is still possible to be held in contempt of court or parliament, a rule that in my view should be abolished given that we are a sophisticated and robust society. Information on suicide methods is still banned. Technical information on the weapons systems of our armed forces is probably best safeguarded from the public, although some pacifists would want to be free to disrupt war plans. During the Cold War, an organisation existed called Spies for Peace, which believed that making scientific military information public would lead to a safer world by taking the advantage away from any single warlike state.

Then there is the slogan 'With freedom comes responsibility'. The question has always to be asked: 'Responsibility to whom? In whose interests?'

Editorial judgement is not censorship: it is usually tied to a professional assessment open to challenge of what the audience wants or can bear. Mainstream media professional codes try to ensure that all stakeholders in an issue get a fair hearing, that reporters are trained in techniques for gathering a picture of what accurately seems to be the case, and that if reporters offer an opinion it is empirical counsel rather than an insinuated

ideological position. I would argue, however, that those who are given privileged access to limited public communication networks such as radio and free-to-air television should behave with professional civility and professional fairness.

As editors or writers, we cannot always be asking ourselves: 'How will this be read in Tehran?' although, because of the internet, we must assume that it will be read in Tehran – as the satirical Danish cartoons depicting the prophet Muhammad demonstrated in 2005. In my view, the demand that journalists or artists be 'responsible' is usually the state or some religion or group asking them to do the censoring. It is more insidious because self-censorship is silent and hidden. As we would have said back in my Balmain anarchist days, it is the 'state within'. We cannot write by the ethical system of others.

**'Freedom to
think as you will
and speak as
you think are
indispensable
to the discovery
and spread of the
political truth.'**

Regarding liberty...

Writer **Angelo Loukakis** reflects on the notion of freedom raised by Frank Moorhouse in *Australia Under Surveillance*.

READING Frank Moorhouse's words from this chapter led me to think about the nexus between freedom of expression and the idea of freedom itself, more particularly that freedom which has its roots in the ancient Greek sense of '*eleftheria*', and which perhaps translates best into English usage as 'liberty'.

To be in a state of liberty is to experience a particular quality of life. In this experience, the protection of the individual's personhood, their corporeal well-being, is meant to be sacrosanct. Freedom from harm is paramount, otherwise there is no useful sort of freedom at all, certainly not the freedom 'to' do something – to be for example an active agent in one's affairs, or to express oneself without fear of punishment.

Over the past couple of centuries a variety of democratically-minded governments around the world have tried to institute laws based on the source moral and ethical values seen to inform the idea of liberty. However, we live in a time when all kinds of explanations are offered as to why a greater degree of social and individual control is required to be exercised, and for which surveillance is proposed as essential. Fears are exaggerated and sober policing is replaced with diffuse, freedom-limiting measures – to 'prevent terrorism', for instance.

When discussion of such a critical civil and political concept as liberty is so rarely heard in our formal politics, let alone in everyday discourse, we should not be surprised that populist governments come to assign themselves their own, revised definitions and begin to manage our affairs accordingly.

Over the past two decades and more, we have become used to those in power sniffing the electoral breezes generated by religion or aggressive forms of nationalism, and harnessing these to electoral politics. But when governments and parties take this path, abandoning the principles of liberty in favour of faith-based tribalisms, including racism, the consequences, sooner or later, are poisonous. Nowhere is this trajectory more obvious than in Australia's treatment of supposedly 'unauthorised' or 'illegal' refugees and asylum seekers.

Australia today operates a system of offshore and onshore detention 'centres', in which is practised an acute form of the deprivation of personal liberty. These centres are of course prisons that traduce the characteristics at the heart of a truly civil liberty: the right of ordinary



Angelo Loukakis

human beings to go about their lives free from harm or punishment by state or other forms of power, or where that has occurred, the right of complaint and redress under law.

Australian governments regularly abuse the precious quality of liberty by denying freedom of movement to certain categories of persons according to dehumanising views about their 'identity'. Asylum seekers whose origins or ethnicity or nationality are doubted and subject to questioning by officialdom and petty authority are already in a poor position to defend themselves in relation to power. The ill is compounded when such persons are also not free to speak beyond the prison gates.

A weak sense of liberty cannot help but authorise a compromised idea of freedom of expression. When governments cease to vigorously proclaim genuine, personal liberty as the highest of values – indeed as a human right – but default to a contingent and expedient version that causes profound harm, no-one should be surprised that the right to freedom of expression is also soon dispensed with.

Angelo Loukakis is the author of several novels, most recently Houdini's Flight. He is executive director of the Australian Society of Authors.

Going after whistleblowers, going after journalism

This has been a dire 12 months for the state of press freedom in Australia - for journalists, for the communities they serve and for sources that trust them to tell their stories. **Paul Murphy**, Chief Executive Officer of the Media Entertainment Arts Alliance, launched the MEAA 2015 Press Freedom Report 'Going After Whistleblowers, Going After Journalism', with this introduction.

On October 30 last year, Attorney-General George Brandis admitted that the controversial section 35P of the Government's first tranche of national security laws was written with the aim of targeting whistleblowers. "It was primarily, in fact, to deal with a Snowden-type situation," he said. Whistleblower Edward Snowden had worked with journalists to reveal US government officials had routinely and deliberately broken the law.

On February 27 this year, the report of Parliament's Joint Committee on Intelligence and Security revealed that targeting whistleblowers was one of the aims of its metadata retention scheme. Recommendation 27 of the committee's report said journalists' metadata would be accessed "for the purpose of determining the identity of a journalist's sources".

Public interest journalism relies on whistleblowers, the confidential sources that provide crucial information to journalists – sometimes placing both at great risk.

It is a well known ethical principle of journalism that journalists do not reveal their confidential sources. It's a principle that is vigorously defended because it is the only way many vital stories in the public interest can ever be told. Whistleblowers turn to journalists to help expose misconduct, illegality, fraud, threats to health and safety, and corruption. Our communities are the better for their courageous efforts to ensure the public's right to know.

If the identity of whistleblowers can be revealed then that has a chilling effect on public interest journalism; sources needing anonymity cannot rely on their contact with a journalist being kept secret. When that happens, we all lose.

The politicians who ignored press freedom concerns about the raft of national security laws failed to understand how confidential sources and public interest journalism are linked. If you are going after whistleblowers, you are going after journalism.

And even when they did register the concerns for press freedom, their solutions failed miserably. Take the so-called "safeguard" of journalist information warrants introduced as an amendment to the data retention scheme. The journalist information warrant will operate in secret on pain of a two-year jail term. It relies on "public interest advocates" appointed by the government. It will still allow a journalist's metadata to be accessed to identify a journalist's sources, and the journalist and their media organisation will never know access was granted. Nor will they be

able to argue the public interest in protecting the identity of a whistleblower.

In short, the three tranches of national security legislation passed by the Parliament represent a colossal failure to stand up for press freedom, freedom of expression, privacy, freedom to access information and the public's right to know.

As the 2015 report into the state of press freedom in Australia shows, press freedom has been under assault in many other areas. South Australia continues to reject attempts to introduce a shield law, thus exposing journalists throughout Australia to the prospect of plaintiffs going "jurisdiction shopping". Tasmania briefly considered breaking away from the uniform national defamation scheme to reintroduce the prospect of corporations suing for damages.

Freedom of information law reform continues to linger in limbo due to successive governments' inaction and a lack of courage in embracing sensible remedies that ensure the public can benefit from truly open government.

And while we are all delighted at the release and homecoming of Peter Greste from his Cairo prison, the re-trial of Peter and his colleagues goes on. MEAA is also awaiting the fate of Australian journalist Alan Morison, who faces up to seven years in a Thai jail for reprinting a paragraph from a Reuters news report.

This year marks the 40th anniversary of the murder of our colleagues Brian Peters, Malcolm Rennie, Tony Stewart, Gary Cunningham and Greg Shackleton in Balibo and Roger East in Dili in East Timor. MEAA is disappointed that the AFP spent five years on examining these war crimes only to abandon their investigation without seeking any co-operation from Indonesia and "without any interaction with their counterparts, the Indonesian National Police.

The result is that impunity has triumphed and the killers of the Balibo Five and Roger East have literally got away with murder.

It can only be hoped that over the coming year, greater effort will be made by governments, politicians, government agencies and those who like to talk about championing press freedom to turn away from repressing freedom of expression and actually respect and promote it.

The 2015 Press Freedom Report, Going After Whistleblowers, Going After Journalism, may be found at: <http://www.pressfreedom.org.au/press-media-alliance-freedom-report/introduction/foreword>

Global Chilling report raises alarm about self-censoring

From August 28 to October 15, 2014, the PEN American Center carried out an international survey of writers to investigate how government surveillance influences their thinking, research and writing, as well as their views of government surveillance by the US and its impact around the world. The survey instrument was developed and overseen by the nonpartisan expert survey research firm The FDR Group, with the survey yielding 772 responses from writers living in 50 countries. The report, **Global Chilling**, summarises the survey findings most relevant to the current debate in the US on the future of mass surveillance programs. PEN is releasing the findings of the report now in the hope that they will inform public and Congressional debates on the future of mass surveillance.

Because freedom of expression is so central to the craft of writers, they may be considered particularly sensitive to encroachments on their rights to communicate, obtain and impart information and voice their ideas and opinions. But the freedoms that writers rely on daily are the underpinnings of all free societies. Accordingly, in the words of novelist E.L. Doctorow, writers can be considered the “canaries in the coalmine” when it comes to the impact of surveillance on privacy and free expression in society writ large.

The survey results are striking, and confirm that the impact of mass surveillance conducted by the National Security Agency, other US government authorities, and US allies — including those in the ‘Five Eyes’ surveillance alliance of Australia, Canada, New Zealand, the United Kingdom and the United States — is rippling outward to curtail freedom of expression around the world. Levels of concern about government surveillance in democratic countries are now nearly as high as in non-democratic states with long legacies of pervasive state surveillance.

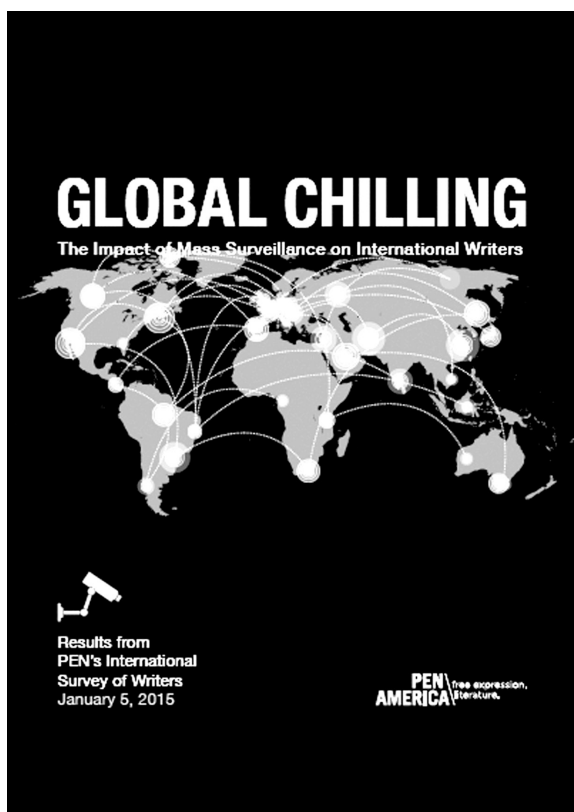
Writers living in liberal democratic countries have begun to engage in self-censorship at levels approaching those seen in non-democratic countries, indicating that mass surveillance has badly shaken writers’ faith that democratic governments will respect their rights to privacy and freedom of expression, and that — because of pervasive surveillance — writers are concerned that

expressing certain views even privately or researching certain topics may lead to negative consequences.

These results confirm and expand upon the findings of PEN’s October 2013 survey of US writers, published in PEN’s Chilling Effects report. That survey found that US writers were overwhelmingly worried about mass surveillance, and were engaging in multiple forms of self-censorship as a result. When combined with the results of this survey of international writers, the harm caused by surveillance to free expression, freedom of thought and creative freedom is unmistakable.

Surveillance conducted by government authorities induces self-censorship by writers around the world. The levels of self-censorship reported by writers living in liberal democratic countries — those classified as “Free” by US non-governmental watchdog Freedom House — match, or even exceed, the levels reported by U.S. writers. More than 1 in 3 writers in Free countries (34 per cent) said that they had avoided writing or speaking on a particular topic, or had seriously considered it, due to concerns about surveillance, compared to more than 1 in 4 US writers (27 per cent) surveyed by PEN.

Mass surveillance has also gravely damaged the United States’ reputation as a haven for free expression at home, and a champion of free expression abroad. In Free countries, 36 per cent of writers surveyed think that freedom of expression enjoys less protection in the U.S. than in their country. Only 17 per cent of these



writers think that freedom of expression enjoys more protection in the US than in their country. Furthermore, approximately 6 in 10 writers in both Western Europe (60 per cent) and the Five Eyes countries - Australia, Canada, New Zealand, and the United Kingdom (57 per cent), think US credibility “has been significantly damaged for the long term” by its surveillance programs. Another 3 in 10 writers in these regions think US credibility “has been weakened but can be restored” (28 percent and 29 percent respectively).

Key Finding #1

Writers in democratic and non-democratic countries are equally worried about levels of government surveillance in their countries.

Vast majorities of writers around the world said they were “very” or “somewhat” worried about levels of government surveillance in their countries, including 75 per cent in countries classified as “Free” by Freedom House, 84 per cent in countries classified as “Partly Free”, and 80 per cent in “Not Free” countries.

These levels are consistent with the findings of PEN’s October 2013 survey of US writers, which showed that 85 per cent of American writers were very or somewhat worried about current levels of government surveillance. The high level of concern among U.S. writers mirrors that of writers living in the other four countries that make up the “Five Eyes” surveillance alliance (Australia, Canada, New Zealand,

“Mass surveillance has badly shaken writers’ faith that democratic governments will respect their rights to privacy and freedom of expression.”

and the United Kingdom), 84 per cent of whom are very or somewhat worried about government surveillance. Writers are not outliers when it comes to their level of concern about government surveillance. Eighty per cent of Americans surveyed in a Pew Research Center poll released on November 12, 2014, agree that Americans should be worried about the government’s monitoring of phone calls and internet communications.

Writers’ fear and uncertainty regarding surveillance is so widespread that several survey respondents expressed concern over submitting their responses to PEN’s survey — a concern also expressed by U.S. writers completing the October 2013 survey. One respondent to our international survey remarked:

“As a final indication of the way the current ‘surveillance crisis’ affects and haunts us, I should say that I have had serious misgivings about whether to write the above and include it in this questionnaire. It is clear to me from the information I have given you that my responses to the questionnaire, and presumably also therefore this statement, can be traced back to me. It may be that this information will be hacked by security agencies. Surely anyone who thinks thoughts like these will be in danger—if not today, then (because this is a process) possibly tomorrow.”

Ongoing revelations of the broad scope of government surveillance programs in many democracies continue to fuel fear over surveillance and its impact on free expression. One respondent noted:

“What we have learned in the past couple of years and continue to learn, and what I had already suspected for many years, has cast a ghostly and intimidating cloak over many personal and professional communications.” Another respondent commented:

“As the daughter of a Holocaust survivor, I have always felt blessed to live in the UK, a relatively safe and free country where mostly people can live without fear. However the revelations of Edward Snowden, [NSA] whistleblower have made me think about what ‘freedom’ means in the 21st century and what we are and have been prepared to ‘pay’ for it. I can no longer take for granted that my children will enjoy the same benefits as I have. I believe that most UK citizens are



» *Continued from 25*

now regularly under levels of surveillance that make the Stasi seem amateurish. I may be paranoid, but I believe not.”

The passage of new national security-related legislation granting greater surveillance powers in countries like the UK and Australia are prompting greater concern among writers, leading one Australian respondent to comment:

“Had I taken this survey two weeks ago my answers would be different. With the introduction of legislation giving Australian security agencies greater powers in regards to all communications (as a reaction to terrorism) I think the freedom of expression of writers and publishers is under greater threat. It feels unprecedented and very concerning.”

Several respondents particularly noted their fear that communications data being collected and stored under mass surveillance programs today, even if not being utilized improperly by current officials, could be misused by future governments:

“Stored and analyzed data today that does not have any immediate consequences on the life of a minority-language author like me, can later become extremely dangerous, following a change towards a much more totalitarian government.”

Key finding #2

Writers around the world are engaging in self-censorship due to fear of surveillance.

Large numbers of writers in liberal democratic countries have engaged in various forms of self-censorship out of fear that their communications may be monitored by a government authority. PEN’s survey asked respondents whether they had engaged in different types of self-censorship in their written work, personal communications, and online activity.

The survey findings demonstrate that increasing levels of surveillance in democracies are seriously damaging freedom of expression and thought, the free flow of information, and creative freedom around the world. Perhaps most remarkably, the levels of self-censorship reported by writers in Free countries are beginning to approach the levels reported by writers in Partly Free or Not Free countries (as classified by Freedom House).

The levels of self-censorship reported by writers living in liberal democracies are astonishing, and demonstrate that mass surveillance programs conducted by democracies are chilling freedom of expression among writers. Awareness of mass surveillance in democratic societies is prompting many writers to behave similarly to those living in countries with histories of widespread state surveillance, indicating that these writers are not confident that their governments will not abuse the information collected under these surveillance programs.

Writers are reluctant to speak about, write about, or conduct research on topics that they think may

draw government scrutiny. This has a devastating impact on freedom of information as well: If writers avoid exploring topics for fear of possible retribution, the material available to readers — particularly those seeking to understand the most controversial and challenging issues facing the world today — may be greatly impoverished.

Key finding #3

Mass surveillance by the US government has damaged its reputation as a protector of freedom of expression at home.

The US government’s mass surveillance programs have clearly damaged the country’s reputation for offering some of the strongest protections for free speech in the world, under the rubric of the First Amendment to the US Constitution. PEN’s survey asked writers if they thought freedom of expression enjoys more protection in the US, less protection in the US, or the same compared to the country in which the writer currently lives. The results indicate that particularly in other Free countries, writers do not believe freedom of expression is better protected in the US than in their home countries.

Even in countries classified by Freedom House as “Partly Free”, nearly 1 in 3 writers (32 per cent) think freedom of expression enjoys less protection in the US than at home, with 27 per cent stating it is more protected in the US, and 24 per cent saying it is about the same. Writers in “Not Free” countries were much more likely to say that freedom of expression enjoys more protection in the US (70 per cent). Fifteen per cent of writers in these countries thought freedom of expression enjoys about the same level of protection in the US as in their country, and 7 per cent thought it was less protected in the US than in their country.

When results are broken down by region, a similar pattern emerges. Large percentages of writers in regions that are largely democratic think the U.S. offers less protection for free expression than their home countries: 43 per cent in Western Europe and 33 per cent in the Five Eyes countries. Only 14 per cent and 19 per cent, respectively, think free expression is more protected in the US than at home, and another 1 in 3 believe levels of protection for free expression in the US and in their own country are about the same (30 per cent and 36 per cent respectively).

Writers in Eastern Europe and Asia-Pacific are more likely to think the US offers more protection for free expression: 40 per cent in Eastern Europe and 50 per cent in Asia-Pacific. Even so, 12 per cent and 17 per cent respectively think the US offers less protection than their home countries, and 33 per cent and 15 per cent believe levels of protection for free expression in the US and in their own country are about the same.

Some writers were scathing in their assessment of the damage the US has done to its own constitutional values, and the long-term impact this will have around the world.

Key finding #4

Mass surveillance by the US government has damaged its reputation as a champion of freedom of expression around the world.

US mass surveillance programs have damaged its reputation not only in terms of upholding free expression at home, but also as a champion of free expression around the world. Writers were asked, “In your view, how have recent revelations about US government surveillance programs affected the United States’ credibility on free expression issues around the world?”

The results are striking, particularly in democratic regions: Approximately 6 in 10 writers in both Western Europe (60 per cent) and the Five Eyes (57 per cent) countries think US credibility “has been significantly damaged for the long term” by its surveillance programs. Another 3 in 10 writers think US credibility “has been weakened but can be restored” (28 per cent and 29 per cent respectively).

Large majorities of writers in Eastern Europe and the Asia-Pacific region also agree that mass surveillance has damaged US credibility on free expression, though they are somewhat more optimistic that credibility can be restored. Forty-three per cent of writers in Eastern Europe and 41 per cent of writers in Asia-Pacific think US credibility has been weakened, but can be restored, while 36 per cent and 38 per cent respectively think US credibility has been significantly damaged for the long term.

Recommendations

On the basis of these findings as well as those contained in PEN’s October 2013 Chilling Effects report on the impact of surveillance on US writers, PEN urges the US government to take immediate action to reform mass surveillance programs.

Writers’ accounts of the impact of mass surveillance sound a loud alarm bell about the pervasive damage that intrusive surveillance is wreaking on privacy and unfettered expression worldwide. US mass surveillance has badly damaged freedom of expression around the world, and has undercut the United States’ credibility as a global advocate for free expression.

Under both the First Amendment to the US Constitution and the International Covenant on Civil and Political Rights, the US is obligated not to infringe upon the free expression rights of its own people. Both President Obama’s Administration and those of his immediate predecessors have prioritized the promotion and defense of free expression and human rights worldwide as a key policy pillar.

Current surveillance practices are undermining these obligations and commitments, and may risk permanent damage to the US’ global stature and influence on human rights.

Both Congress and the executive branch should

implement reforms to mass surveillance programs to ensure that constitutional and international human rights to free expression, privacy, freedom of thought, and freedom of information are fully protected.

In particular, the provisions of the Patriot Act used by the government to collect phone and other personal records of Americans in bulk should be allowed to expire on June 1, 2015 if appropriate reforms have not been enacted. Reform measures should also include full protections for the rights of non-US nationals by reforming or ending surveillance programs carried out under Section 702 of the FISA Amendments Act and Executive Order 12333: As the United Nations has repeatedly stated, the International Covenant on Civil and Political Rights, to which the US is a party, requires it to respect the human rights to privacy and free expression of all individuals affected by its surveillance programs, regardless of whether they reside in US territory.

To reaffirm the US government’s commitment to preserving and protecting the privacy necessary for intellectual and creative freedom, reform measures should include:

1. suspending the dragnet monitoring and collection of domestic and international communications of US citizens pending the restoration of constitutionally required privacy and due process protections;
2. suspending the wholesale, unwarranted collection of telecommunications and digital metadata, also pending the restoration of privacy and due process protections;
3. reviewing the dragnet monitoring and collection of international communications and bringing such programs into compliance with established human rights protections, including privacy and due process guarantees;
4. making the right to be free of unwarranted surveillance a cornerstone of US surveillance policy and practice; and
5. implementing stronger oversight measures for US mass surveillance programs, and greater transparency regarding the full scope of those programs, including the publication of all legal and policy documents that include legal interpretations of US laws and orders on surveillance, with only those redactions that are truly necessary to protect legitimate national security interests.

This report was drafted by Katy Glenn Bass, Deputy Director of Free Expression Programs at PEN, based on research conceived and carried out by PEN American Center in close consultation with the FDR Group. The findings are based on the results from an online survey conducted between August 28 and October 15, 2014. A full report of all the findings will be released later in 2015. This is an excerpt from Global Chilling: The Impact of Mass Surveillance on International Writers.

Repressive tolerance and political correctness

Dennis Altman was Professor of Politics and Director of the Institute for Human Security at LaTrobe University in Melbourne, and is now a Professorial Fellow at LaTrobe. He was President of the AIDS Society of Asia and the Pacific (2001-5), and a member of the Governing Council of the International AIDS Society (2004-12). Altman first came to attention with the publication of his book *Homosexual: Oppression & Liberation* in 1972, widely acknowledged as the first serious analysis to emerge from the gay liberation movement. In 2005, he was Visiting Professor of Australian Studies at Harvard, and Board member of Oxfam Australia. In 2007, he was made a member of the Order of Australia.

It is an honour and privilege to speak for PEN. I have very warm memories of several international PEN Conferences I attended at the end of last century, and deep respect for those of you who continue to battle to protect the crucial role of writers in a world where so many people face persecution for expressing their ideas

When PEN was founded in 1921 its initials stood for “poets, essayists and novelists”, and it grew out of both a desire to build an international community of writers and to defend free speech and expression wherever they were threatened. Ninety years later we live in a world that the founding greats of PEN—including George Bernard Shaw, John Galsworthy and H.G. Wells—could not have imagined. There is an echo of that world in the PEN charter, which proclaims that: “Literature, national though it be in origin, knows no frontiers, and should remain common currency among nations in spite of political or international upheavals.”

That tradition lives on in the usual choice of established literary figures to be presidents of PEN International; there is an air of high culture around PEN that is a strength but may also threaten irrelevancy. I have memories of media coverage of Susan Sontag and Nadine Gordimer celebrating PEN in New York in the 1980s in ways that were only possible in a time when serious writers were seen as important figures.

Today most expression of ideas takes place in forms that the founders would not have recognised as ‘Literature’, and the web has changed dramatically

the ways in which ideas are shared and monitored. I have memories of being let into the rare books room of Sydney University’s Fisher Library in the very early 1970s to read books not deemed appropriate for public release. Today we worry how to censor abusive and criminal language on social media, and the idea that censoring “literature”, including novels that might now be taught in high schools, seems oddly old fashioned. Australia has a legacy of using customs and immigration departments to keep out dangerous ideas, although it is a lot easier to keep out individuals than the ideas they espouse. When Prime Minister Howard made his comment that “We will decide who comes to this country and the circumstances in which they come” he was expressing an attitude that is very much part of how governments have understood their power over the movement of ideas as well as of people.

Most discussion of freedom of expression emphasises the role of the state in infringing these freedoms. Thus the first chapter of the US Bill of Rights declared that: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” We do not have such a Bill of Rights in Australia, and there is of course an ongoing debate about whether or not we should. I would strongly support stronger Constitutional guarantees for freedom of expression. But to see the issue as simply one of protecting the



Writer and academic Dennis Altman

individual against the state fails to recognise the complex intersections of law, power and ideology in shaping what can and cannot be said, even where the state does not intervene.

Of course state persecution, imprisonment, even killing of dissident writers and journalists remains a major issue, and recent PEN campaigns have focused on the plight of journalists in Azerbaijan, Honduras, Kazakhstan, Russia, Saudi Arabia and Vietnam. In our region of the world there are worrying stories of persecution of writers and journalists from Burma and Sri Lanka, both countries with whom our government boasts of increasing ties. We need organisations like PEN and Amnesty International to keep the plight of those who are imprisoned, exiled and killed because of their views on the political agenda, and here PEN has a long and proud history.

I want to ask about other restraints that are imposed, even in liberal democracies, and sometimes by people who themselves believe passionately in freedom of expression. Clearly there are major current concerns around issues such as tighter security laws and the storage of cyber data allegedly required in response to perceived threats of terrorism. Current fears of insecurity are likely to lead to unnecessary restrictions of our freedom, and there is an irony when a government that seized upon Section 18C of the Racial Vilification Act as too repressive is the same government that has introduced new restrictions on expression in the name of protecting our liberties. Equally there is ongoing debate about how far

freedom of expression extends to a freedom to offend or vilify, as in the recent case of the American “pick up artist” Julien Blanc, whose visa was cancelled on the grounds that his advice to men advocated violence against women. Blanc was felled by a social media campaign, but his videos received enormous attention precisely because of the campaign against them.

But there is already an informed and vibrant debate on the laws governing freedom of expression on Australia, and the central question I want to pose is what does freedom of expression mean in societies where media empires control much of what we consume even as, simultaneously, electronic media allows for a cacophony of voices. Never have there been so many fora in which views can be expressed, and, equally, never have the possibilities for surveillance, both state and private, been greater. If we are to question the limits to freedom of thought and expression in contemporary liberal capitalist societies we need a broader framework than that of eighteenth and nineteenth century liberal ideals of freedom.

It is hardly a new thought to suggest that freedom of expression also requires some responsibility in how that freedom is used. Anatole France observed that a rich man has the same right as a pauper to sleep under a bridge, just as we all have the same right as Rupert Murdoch to start a newspaper, or maybe a radio station. But with the right to create and finance media comes a responsibility to be open to diverse voices and civil disagreement. What is striking about public conversation in Australia is how limited are the voices we hear; the same heads appear on television commentary, newspaper columns and radio chats, and stupidity, rudeness and ignorance seem to be little reason to drop them. In a country that took media responsibility seriously there would be real consequences for breaching basic codes of decency and respect: Edward Snowden would not be a fugitive for releasing material clearly of great public interest, but a radio commentator who proposed throwing the Prime Minister “out to sea in a chaff bag”, and claimed her father “died of shame”, would be removed once and for all from the public air waves.

Such a move against Alan Jones would have generated cries of abuse of freedom of speech from the right. Media proprietors claim that they have their own codes of conduct, and self-regulation is a better safeguard than the attempts at legislative control mooted by Senator Conroy in the previous government—which in effect proposed no more



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than strengthening the systems media companies already claim are in place. No system of control can be without potential problems, but there is an underlying issue about the responsibility of media at a time when the separation of fact from opinion is increasingly blurred, and newspapers and radio hosts see their role as propagandists rather than enablers of dialogue.

Thinking about these questions led me back to the phrase “repressive tolerance”, coined by the German refugee philosopher, Herbert Marcuse, whose works had a huge impact on me in the heady days of the early 1970s when revolutionary change seemed possible. A month after the death of Gough Whitlam it seems particularly appropriate to recall Donald Horne’s phrase about “the time of hope”, when the political sphere seemed to promise not just a marginal rearrangement of the status quo, but rather a collective attempt to build a better and more equal society.

I had been attracted to Marcuse by his search to combine a Marxist and a Freudian analysis of repression which provided some of the framework for my first book, *Homosexual: oppression and liberation*. I would still argue that there is an important connection here; most authoritarian societies are also remarkably sexually repressive. Re-reading his *Essay on Liberation* I find Marcuse both dogmatic and authoritarian in his willingness to dismiss the ability of people to know their own interests. But Marcuse’s phrase “repressive tolerance” still speaks to me, if not quite as he meant it. The idea that “tolerance” can also be used to limit and restrict freedom is an important one, and reflected in a certain unwillingness to sound critical of any position that might be “politically correct”. In an increasingly polarised political world there is political correctness of both the left and right, and freedom of expression too often means automatically supporting whichever ideological camp one feels part of.

Former Greens leader Bob Brown identifies one perception of political correctness as follows: “Society’s laws are being altered to reflect and enforce this new correctness and protect the advantaged and those who advocate equality, socialism (quelle horreur!), ecological wisdom or for the compensation of disadvantage must be sneered down and excoriated...Always go for the jugular: smash the intellectuals, sandal-footed do-gooders (including those advocating Jesus’s compassion) and whingers (people who don’t work, haven’t schooled themselves properly, or who are born black – it’s their own problem).”

Bob’s words are somewhat exaggerated, but they are probably more accurate than the ongoing fantasy in the Murdoch camp about radical control of the political culture. Both views reflect an increasing polarisation in political debate, so that the ABC’s Q and A program feels compelled to select its audience in proportion to party support, reinforcing the idea that every issue worth discussing can be reduced to a set of predetermined positions which map onto a partisan divide.

Freedom of expression also implies access to the means of expression, and here there are complex questions about gatekeepers and control. We do not need a conspiracy

theory that sees Rupert Murdoch as driving the political agenda to recognise the real problems for democratic process when so much of the mainstream media reflects one particular view of the world. What does it tell us when both the Australian and *The Monthly* constantly bad mouth each other for their biases, but neither is willing to publish intelligent and tough critiques of Israel? Why do all our television news programs—public and private—report on rises in the stock market as good, without any reflection on the underlying costs to workers and the environment of company profits? When alleged news stories are written and presented in emotive ways, which is increasingly true of both newspapers and television, can we seriously speak of a free press?

These are ongoing questions of political philosophy, and I cannot answer them definitively. International PEN, correctly, upholds the freedom “to express ideas without fear of attack, arrest or other persecution”, and we have too many examples where these freedoms are flouted. What I want to do is go beyond the obvious cases of persecution—evident in far too many countries today—to ask what is the fuller meaning of freedom of expression in a neoliberal democratic society such as Australia, where it is too easy for us to either assume we are without fault or, alternatively, to seize on clear lapses by government.

Beyond the role of the state are more complex issues about how freedom of expression is curtailed both by markets and by civil society itself, often acting in the name of freedom. In a sense the questions I want to ask are also questions about the nature of our current political culture, where concerns not to offend compete with a growing incivility in public discourse, and we seem increasingly to yell past each other in order to bolster those who agree, rather than persuade those who do not.

One of the crucial insights that grew out of the new radicalism of the 1970s was that tolerance and acceptance are very different. Tolerance can be the condescension the powerful accord to the powerless; acceptance implies a recognition that a society is richer when it is more diverse. This is most often expressed through the language of identity politics, and as someone who comes out of a movement built on creating and defending an identity based on sexuality I will admit to uneasiness about how far we can take this position. There is a point at which the invocation of identity politics can become a restraint on free expression of ideas.

For people who have been marginalised or oppressed because of their race, ethnicity, gender or sexuality, the battle for acceptance of those identities is crucial. The understanding that politics involves both recognition and redistribution, to use Nancy Fraser’s evocative phrase, has produced many important gains. Indigenous Australians, people who are disabled, trans* people—meaning anyone who seriously struggles with their apparent biological gender—have become visible in ways unimaginable even twenty years ago.

When I was growing up in Tasmania we assumed that no local Aborigines had survived—that is no one either knew

their ancestry or was able to acknowledge it. In the same way the unquestioning assumptions of white heterosexual male privilege maintained women, homosexuals and those few Australians of non-European ancestry in ongoing collusion with a sense of being second class citizens.

But assertion of identities can also lead to a different blindness, where every injustice is viewed through a single lens which is as misleading as are the dominant paradigms being critiqued. Except in particular cases no one category of identity is sufficient to explain all inequities. Thus analyses of gender inequity in the international development sector usually amount to demonstrating how “women and girls” are worse off on most criteria, ignoring the reality that in many cases class or race is more significant than gender or that many men, who do not measure up to the norms of hegemonic masculinity, are also victims of gender oppression. A classic example comes from Mauritania, where slavery of both women and men is largely based on racial lines, but even in slave owning families women are subordinated to male heads of household.

The assumption that progressive politics is based upon the recognition of multiple identities and oppressions raises deeper philosophic questions. The hard question is how far accepting diversity means accepting those who do not themselves accept others. While it is easy to attack right wing politicians who preach intolerance in the name of preserving our values, we need also recognise that the rise of a populist right across the western world arises from genuine conflicts that cannot be dismissed. Without adopting the language of European politicians such as Marie le Pen or Gert Wilders there are real issues posed by the collision of values, as in something as seemingly trivial as a demand for women-only days at public swimming pools. To dismiss anyone who voices concerns around clashes of cultural norms is to shut down genuine freedom of expression.

In the name of political correctness we hear demands that people can only speak out of their direct experience, and that it is improper to speak about any group of which one is not a member. Speaking “for” a group is clearly different from speaking “about” an issue, but that distinction is often lost. Thus on some issues debate is silenced, as neither those outside, or those who are part of a community, especially one that feels itself besieged, feel free to speak.

Too many Australian Jews fear voicing their doubts about Israeli politics because they don’t want to risk the disapproval of their community. Some members of that community are so determined to never read ill of Israel

that they refuse to read newspapers published by Fairfax, even though editors at Fairfax bend over backwards to give space to Israeli advocates. When former Foreign Minister Bob Carr declared he was now supporting the Australian Friends of Palestine he was met with a torrent of abuse, rather than a reasoned response to his charges that Israel had betrayed the principles that had led him to be one of its strongest supporters for many years.

The very sense of security provided by membership of a community can also extract a price through demands for conformity. It is not accidental that when the gay movement started to flourish people spoke of “gay ghettos” developing in large western cities: ghettos are both ways of creating communities and also of being walled off from the larger world. Increasingly identity politics create a silo mentality, in which the legitimate concerns of one group

become their sole focus. Because it is easier to be critical from within one’s own community let me cite the campaign for same-sex marriage, which is being pursued with great vigour by a number of people, both gay and not, often as the single focus of their political activity.

At one level this could be seen as a perfect example of Marcuse’s ideas of repressive tolerance: when PM David Cameron said that he supported same sex marriage because he was a conservative, he acknowledged that from a radical perspective the marriage push is in effect a very effective way of bringing homosexuality into a dominant social order based on couples and monogamy. Julia Gillard tried—belatedly—to make that argument, but never explained why homosexuals should have the same right she has to refuse to get married. But the focus on marriage has allowed conservatives like

Cameron to align themselves with the queer movement, and same-sex advocates are so single minded that this becomes the only criterion.

If one is to argue for same sex marriage as a right, and use the language of social justice, then there needs to be some consistency from those making the argument. I do not feel kinship with people who argue vehemently for their right to marry but ignore what is happening to asylum seekers who flee precisely because of their sexuality, and are then deported to Papua New Guinea where they face new persecution. While I would like the Marriage Act to be changed I do not see this as a major issue, even for people who are homosexual. Someone who wants to get married is both in a loving relationship and open about their sexuality, which is not the case for many people for whom the movement seeks to speak. Yet any questioning

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of the importance of the issue is immediately greeted by cries of homophobia, rather than a willingness to engage with a debate.

Over the past few years a newly energised queer movement—a term I far prefer to the compulsory “LGBT” terminology, which is both misleading and essentialist—has been attracted to calling for boycotts of anyone perceived as homophobic. Most recently this was directed at Opposition Leader Bill Shorten, when he agreed to speak to the Australian Christian Lobby, and then was extended to a call to boycott the Canberra hotel where they were meeting. In the end Shorten spoke, supported ‘equal marriage’—and was suddenly praised by some of the very people who had just denounced him for speaking at all.

Opera seems to have become a focal point for the current politics of boycotts against anything of which one disapproves. On one day in October one could read stories of a woman ejected from the Paris Opera for wearing a niqab, and protests in New York against the Metropolitan Opera’s production of *The Death of Klinghoffer*, John Adams’ opera based on the 1985 hijacking of an Italian liner by PLF militants. In both cases those who claimed to be “offended”—either by singing in front of a veiled woman or hearing an opera which insufficiently condemned terrorists—was seen as justification for direct attacks, rather than reasoned debate. In both cases the challenge to freedom of expression came not from the state but from within civil society,

I was caught in this argument earlier this year when there was outcry surrounding the Georgian opera singer, Tamar Iveri, whose appearance with the Australian Opera was cancelled after some offensively homophobic remarks on her Facebook page. I argued at the time that rather than pressuring the AO to cancel her there were alternative actions which did not risk making her a martyr in the eyes of those who see defence of gay rights as part of a western culture war. Whether my position was right or not, what shocked me was the vitriol my comments unleashed online. Clearly for some any discussion of an alternative response was regarded as lacking in solidarity. The more vitriolic our debates, however, the more we silence dissenting voices. Julia Gillard was right when she argued that she needed to persist in the face of misogynist abuse to make it easier for women who came after her.

Iveri’s statements clearly broached hate speech, and there is a good argument that public expressions of hatred, particularly when directed at vulnerable minorities, should be prohibited. Again the issue is one of drawing the boundaries. Recently a small group of sex workers tried to silence the Greens candidate for the state seat of Richmond (Victoria) on the grounds that her support of criminalising

the purchase of sex—based on the Swedish model—promoted hatred against sex workers. While I think the Swedish model is wrong, both ethically and pragmatically, it is not the case that any discussion of it necessarily means hatred of sex workers, although this is not an irrelevant consideration.

The level of public discussion will in part determine how far we feel able to express dissenting views. Recently I was part of a discussion at an academic advisory board in which the word “bravery” was used several times to describe people who speak in the public sphere. If one needs to be brave to take part in public debate there are real questions about how free we actually are.

The balance between accepting that we are a pluralist society, with a range of cultural and religious practices, and the need to defend certain universal rights is an on-going challenge for all western societies. Remember that the US Bill of Rights clearly links freedom of worship—and from an established church—with freedom of speech, although today the connection between the two poses rather

different questions. Too often we confuse racism and religion; fear and hostility towards Islam thus gets directed at people who appear Middle Eastern, even though they may well be Christian or agnostic. But while most people inherit their religious affiliation, religion is ultimately a set of ideologies that should be open to debate and criticism. The reason we fear the niqab is not because it poses risks to security, but because it symbolises devout religious belief that conflicts with other values, in particular equality for women. It should be legitimate to raise these concerns without confusing a questioning of religion with racism directed against

people on the basis of their appearance. As Salman Rushdie has argued, “A word I dislike greatly, ‘Islamophobia’, has been coined to discredit those who point at these excesses, by labeling them as bigots. But if I don’t like your ideas, it must be acceptable for me to say so, just as it is acceptable for you to say that you don’t like mine. Ideas cannot be ring-fenced just because they claim to have this or that fictional sky god on their side.”

Too often we feel unable to be critical of ideas because they are associated with groups who otherwise may be marginalised. Indeed some of those who would strongly support attacks on Christian institutions suddenly become affronted by any questioning of Islam. The challenge is how to allow people freedom to believe—or not believe—while not restricting space in the public arena to challenge those beliefs. The freedom for religion cannot become a reason to restrict ideas, however offensive they may be, unless they encourage hatred or violence against those who hold these beliefs.

**“It is not enough
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Australia is constitutionally a secular society, meaning that the Commonwealth is expressly prohibited from establishing a religion, requiring or prohibiting religious practice or imposing a religious test for public office. It is arguable that this provision of our Constitution is breached through the funding of religious schools and the establishment of a schools chaplains program, in both of which we are far more supportive of established religions than is the United States. The crucial difference is that twice as many of our students attend private schools as in the United States. Many of these schools are based on particular religious teachings which effectively teach distrust of those who do not share these teachings.

It is easy to claim religious beliefs are being infringed when they conflict with other social values. Church-based institutions are permitted to discriminate against those they employ, even when much of their funding comes from the state, so an unmarried teacher who becomes pregnant, or a gardener who is gay, could be dismissed even though they have broken no law.

Whose freedom of expression is infringed in a school that teaches homosexuality or pre-marital sex are immoral and how far can one demand that religious schools compromise their own beliefs by accepting the anti-discrimination laws of the broader society?

I would argue that all children should attend a government school for at least part of their education, because a cohesive society is one on which people mix with as diverse a range of their fellow citizens as possible. (More fundamentally I question the right of parents to enforce a particular set of doctrines on their children, but this goes beyond the scope of this particular discussion.) In the same way it is essential that all residents of Australia are encouraged and assisted to become proficient in English; too many of our fellow Australians are excluded from active citizenship by their lack of language skills. If we are to be genuinely committed to freedom of expression there need to be positive ways of promoting both inclusion and the encouragement of critical debate, balanced by the realities that many people will choose solidarity with their communal identity over expressing contrary views.

Let me end by suggesting that freedom is a constant process and not a state of being. It is not enough to defend free expression; the ongoing question is how best to make use of it to promote a more generous and inclusive society. There is a tendency by libertarians of both left and right to talk about individual rights as if they are always and self-evidently the most important, but most people will in practice balance them against other rights. International discourse recognises three types of human rights: civil and politics; economic and social; and – most problematic, environmental, cultural and developmental rights.

It is where these rights collide that the dilemmas become evident, and here we return to Anatole France's aphorism. Freedom of expression is crucial, but for it to be meaningful all people need access to basic needs. The freedom "to write and read" is meaningless if poverty, illness or dispossession deprives children of access to learning.

It has become clichéd to complain of the level of public debate in Australia, a complaint that is often accompanied by wistful if largely unsubstantiated complaints about how better it is elsewhere. If freedom of expression means more than the absence of restraints by the state it rests on an assumption that open exchange of ideas is possible without degenerating into vituperation or pressure to follow one particular line. It also means rejecting a false assumption that all issues can be reduced to a simple debate between two opposing positions, irrespective of what the scientific evidence demonstrates.

The obvious example of this is the ongoing battle over climate change and the increasingly successful demands by denialists to equal time with the position adopted by an overwhelming majority of scientific experts. Yes, there are good historical reasons to be sceptical of expertise, but there are more examples where denying the scientific consensus has disastrous consequences. Perhaps the best recent example comes from South Africa's President Mbeki's dismissal of the evidence that AIDS was caused by infection through the human immune deficiency virus (HIV), and his attempts to promote an African solution to the epidemic. The resulting loss of thousands of lives because South Africa delayed the roll out of anti-retroviral drugs is a graphic reminder of the dangers of ignoring scientific evidence.

The explosion of new media and the battle to remain relevant by what remains of the old media is leading to a world of fixed positions and political correctness, in which apparent diversity cloaks the tendency to retreat into silos in which we reassure each other that our viewpoints are the only possible right and proper ones. In the nineteenth century both Tocqueville and John Stuart Mill warned of the tyranny of the majority, or the pressures to conform that replace the need for police and censors. Drawing on Mill one commentator wrote: "A society in which 'you can't say that', a society that discourages dissent, that inhibits questioning, will tend to sink into the 'deep slumber of decided opinion'. This is the opposite of a great questioning; it is a great stagnation. And even the highest truth, if left uncontested, will sink into mere prejudice."

Silencing criticism because we fear it is incorrect is unhealthy. It is far better to encourage people to express their feelings so they can be examined publicly rather than held in to fester and possibly explode. If there is unease about how accepting sex work or same sex marriage or increasing numbers of women who are veiled there needs to be room for this unease to be discussed rather than just howled down as ignorant prejudice.

Globally the greatest threats to freedom of expression, and the freedom to write and read, come from dogmatic authorities, political, economic and religious. But even where these are not present we risk censoring ourselves out of fear of being attacked or an unwillingness to seem out of tune with our community. Freedom of expression is a great goal, but it is one for which we need constantly strive, finding a balance between maintaining civility and the pressure to conform to the received wisdom.

World Press Freedom Index: Decline on all fronts in 2015

The Reporters Without Borders World Press Freedom Index ranks the performance of 180 countries according to a range of criteria including media pluralism and independence, respect for the safety and freedom of journalists, and the legislative, institutional and infrastructural environment in which the media operate.

Top of the press freedom list for 2015, as so often, are three Scandinavian countries: Finland, which has been in first place for five years in succession, followed by Norway and Denmark. At the other end of the scale, Turkmenistan, North Korea and Eritrea, in last place, were the worst performers. France is ranked 38th (up one place), the United States 49th (down three places), Japan 61st (down two places), Brazil 99 (up 12 places), Russia 152 (down four places), Iran 173rd (unchanged) and China 176th (down one place).

The 2015 World Press Freedom Index highlights the worldwide deterioration in freedom of information in 2014. Beset by wars, the growing threat from non-state operatives, violence during demonstrations and the economic crisis, media freedom is in retreat on all five continents.

The indicators compiled by Reporters Without Borders are incontestable. There was a drastic decline in freedom of information in 2014. Two-thirds of the 180 countries surveyed for the 2015 World Press Freedom Index performed less well than in the previous year. The annual global indicator, which measures the overall level of violations of freedom of information in 180 countries year by year, has risen to 3,719, an 8 percent increase over 2014 and almost 10 percent compared with 2013. The decline affected all continents.

The European Union-Balkans region is in the lead by far, but nonetheless recorded the biggest fall between the 2014 and 2015 editions. This disturbing trend reflects a two-fold phenomenon: the excesses of some member countries on the one hand and the inability of EU mechanisms to contain them on the other. The region that is bottom of the freedom of

information list, North Africa and the Middle East, this year once again contained information “black holes”. Comprising entire regions, these are controlled by non-state groups in which independent information simply does not exist.

Striking developments: The Fallers

Andorra (32nd), the sharpest fall, has paid the price for the lack of independence of its media from financial, political and religious interests. It fell by 27 places as a result of the many conflicts of interests and the great difficulty experienced by journalists in covering the activities of Andorran banks, coupled with the lack of any legal protection for freedom of information, such as the confidentiality of journalists' sources.

In Asia, **East Timor** (103rd) fell by 26 places. The creation of a press council and the adoption of a code of ethics in October 2013 have been a disappointment. In 2014, the government proposed a tough new media law, which has led to widespread self-censorship.

In sub-Saharan Africa, **Congo** (107th) fell 25 places after a difficult year for independent news outlets. The government stepped up its witch-hunt of critical journalists, at times resorting to extreme violence. Journalists who refuse to keep quiet are forced to flee the country or are expelled.

Western Europe saw numerous countries in decline. **Italy** (73rd) fell 24 places after a difficult year for journalists for whom threats from the mafia, among others, and unjustified defamation suits, skyrocketed. **Iceland** (21st, down 13) paid the price of worsening relations between politicians and media. The drop was an alarm call for this “model of democracy”.

In South America, **Venezuela** (137th) fell



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20 places. The National Bolivarian Guard (national army) opened fire on journalists during demonstrations, although they were clearly identified as such. In **Ecuador** (108th, down 13), the promising Organic Law on Communication soon revealed its limitations. Forced corrections became a means of institutional censorship.

Journalists working in **Libya** (154th, down 17 places) have lived through a chaotic period since the fall of Gaddafi, during which Reporters Without Borders recorded seven murders and 37 kidnappings of journalists. Faced with such violence, more than 40 people working in the media decided to leave the country in 2014. Reporting on the activities of the militias that have carved up the country is an act of heroism.

In **South Sudan** (125th, down 6 places), gripped by civil war, the radical polarisation and constant harassment of news organizations caused it to fall down the rankings. Press freedom was suspended “because of civil war”, as a Reporters Without Borders headline said in July last year on the third anniversary of the country’s birth.

Pressure on independent media continued to intensify in **Russia** (152nd, down 4), with another string of draconian laws, website blocking and independent news outlets either brought under control or throttled out of existence. The repressive climate encouraged some local despots to step up their persecution of critics.

In the Caucasus, **Azerbaijan** (162nd, down 2) suffered an unprecedented crackdown on critics and registered the biggest fall in score among the index’s 25 lowest-ranking countries. With media freedom already limited by one-sided regulation and control of

the advertising market, the few remaining independent publications were either collapsing under the impact of astronomical damages awards or were simply closed by the police. The number of journalists and bloggers who were jailed turned Azerbaijan into Europe’s biggest prison for news providers.

In the Americas, the **United States** (49th, down three places) continues its decline. In 2014, the *New York Times* journalist James Risen came under government pressure to reveal his sources. Although the Obama administration backed away, it continues its war on information in others, such as WikiLeaks.

The Risers

There are few of these. **Mongolia** (54th) rose 34 places, the Index’s biggest jump. It had few violations in 2014, while the benefits of legislation on access to information began to be seen. Problems remain, however, including on the legislative front, but there has been a clear improvement.

Tonga (44th), which held its first democratic elections in 2010, strengthened its position thanks to an independent press, which has established its role as a counter-weight to the government. The Polynesian nation has risen an enviable 19 places.

The long-running political crisis in **Madagascar** (64th) came to an end with the election of Hery Rajaonarimampianina as president in January 2014 and the departure of the information minister. This democratic transition eased the previous polarisation and boosted the country by 17 places. Yet some subjects remain taboo, such as the financial monopolies in the hands of leading political figures.

In Europe, **Georgia** (69th, up 15) continued to rise for the third year running and is now close to where



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Alliance/dpa/L. Langsdon

it was before the 2008 war. It is enjoying the fruits of reforms undertaken after a change of government through elections, but it continued to be handicapped by the extreme polarization of its news media.

In 86th place, **Ivory Coast** (up 15 places) continued to emerge from the political and social crisis that plunged the country into full-scale civil war in 2010. The results are still mixed in a country where the broadcasting sector is expected to be opened up in 2015, although there are some fears that this might usher in institutional censorship.

Nepal (105th) was up 15 places thanks to a drop in violence by the security forces against journalists, especially at demonstrations. This improvement remains to be confirmed in 2015.

Tunisia (126th) rose seven places, a relative increase although in absolute terms the country stagnated. However, the fact remains that political stabilization in 2014 had benefits for news and information. On the other hand, the number of attacks on journalists remains too high and the implementation of measures to ensure freedom of information has been long in coming.

A cause for satisfaction was **Brazil** (99th, up 12 places), which rose above the symbolic 100 mark thanks to a less violent year in which two journalists were killed compared with five in the previous year.

Still in the Americas, **Mexico** (148th) managed to pull itself up four places. In November, which is not included in the 2015 Index, journalists were attacked during demonstrations about the disappearance of 43 trainee teachers in the southwestern state of Guerrero. Reporters Without Borders recorded three cases in Mexico of journalists killed as a direct result of their work, compared with two in 2013.

Reasons for the worrying decline:

Conflicts proliferated in 2014: the Middle East,

Ukraine, Syria and Iraq. All warring parties without exception waged a fearsome information war. The media, used for propaganda purposes or starved of information, became strategic targets and were attacked, or even silenced.

Non-state groups follow no laws and disregard basic rights in pursuit of their own ends. From Boko Haram to Islamic State, Latin American drug traffickers and the Italian mafia, motives vary but their modus operandi is the same – the use of fear and reprisals to silence journalists and bloggers who dare to investigate or refuse to act as their mouthpieces.

Stretching sacrilege prohibitions in order to protect a political system is an extremely effective way of censoring criticism of the government in countries where religion shapes the law. The criminalization of blasphemy endangers freedom of information in around half of the world's countries. When "believers" think the courts are not doing enough to ensure respect for God or the Prophet, they sometimes take it upon themselves to remind journalists and bloggers what they may or may not say.

Can journalists be seen as the common enemy of protesters and police alike at some demonstrations? This is the sad conclusion of Reporters Without Borders this year with an increase in violence towards reporters and netizens covering demonstrations.

The European Union recorded a bigger decline in 2015 than in the 2014 Index, exposing the limits of its "democratic model" and highlighting the inability of its mechanisms to halt the erosion. Democracies often take liberties with their values in the name of national security.

Faced with real or spurious threats, governments arm themselves routinely with an entire arsenal of laws aimed at muzzling independent voices. This phenomenon is common to both authoritarian governments and democracies.



Violence against journalists on rise, climate of impunity prevails, says UNESCO

The UNESCO Director-General's biennial report on The Safety of Journalists and the Danger of Impunity was presented on 21 November 2014 in Paris. **Silvia Chocarro Marcesse** wrote about the presentation for IFEX, a network of organisations connected by a shared commitment to defend and promote freedom of expression as a fundamental human right.

Prahlad Goala was a journalist. He began receiving threats after publishing a series of articles in the *Asomiya Khabar* newspaper linking local forestry service officials to timber smuggling in the district of Golaghat, India. On 6 January, 2006, he left his home on a motorcycle and was apparently struck by a truck. When police arrived at the scene, they found that he had been stabbed.

Nearly eight years later, Omar al-Dulaimy died on 31 December 2013 while covering an armed confrontation in the city of Ramadi, west of Baghdad. Goala and al-Dulaimy occupy the first and last place in a list of 593 individuals who have died for practicing journalism between 2006 and 2013. Goala was the first victim in 2006, a year that saw 70 journalists die. Al-Dulaimy was the last of a total of 91 in 2013.

The years 2012 to 2013 were the most deadly since UNESCO's Director-General began producing the biennial report on The Safety of Journalists and the Danger of Impunity. The report reveals that the 10 most dangerous countries in that period were

Syria (48 victims), Somalia (25), Iraq (18), Pakistan (18), the Philippines (12), Brazil (11), Mexico (10), Honduras (9), India (7) and Colombia (6). The situation in Egypt is also noteworthy since during the previous seven years only one journalist was killed, while six were assassinated in 2013 alone.

Goala and al-Dulaimy were local journalists, not foreign correspondents in countries in conflict. According to the report, for which an executive summary is available, 94 per cent of the victims have been journalists who reported on local affairs. These two journalists were also men, as were 94 per cent of those who have died, although the report also highlights specific risks faced by women, including harassment and sexual assault.

UNESCO requests judicial information, but receives few responses. Nearly nine years on, the investigation into the death of Prahlad Goala has been inconclusive. The same applies to another 171 cases. During the presentation of the report, UNESCO Deputy Director-General Getachew Engida, noted that



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29 percent of the investigations documented by UNESCO in the last eight years remain open.

With respect to Omar al-Dulaimy, however, nothing is known. It is not known whether his death was or is being investigated since UNESCO has not received any information from the Iraqi government regarding an inquiry into his case. This situation applies not only in al-Dulaimy's case, but also in the cases of another 105 journalists killed in Iraq in the period covered by the report. In producing the report, the United Nations (UN) agency requests information from governments regarding the progress of investigations, but no information has been received in 382 of the 593 cases, 64 percent of the total. Only 39 cases, representing less than seven percent, have been resolved.

The danger of these figures, as noted by Engida, is that this "climate of impunity allows perpetrators to continue attacks without restraint."

With respect to the low response rate by governments to UNESCO's requests for information, the Director-General, in an article recently published in the Mexican newspaper *El Universal*, stated, "This cannot go on. I wish to encourage all governments to better show their commitment to justice for killed journalists by responding to requests to voluntarily report on what is happening with judicial follow-up."

UNESCO will facilitate improved participation by governments

The failure to provide information could be due not only to a lack of political will but, said UNESCO's Director for Freedom of Expression and Media Development, Guy Berger, it could also be due to a lack of understanding of the process and, at times, deficiencies in the institutional capacity required to provide the information. This was one of the reasons given by Pakistan during the discussion to explain the lack of information for 29 of the 43 cases documented in the report for that country.

Yemen said it was in "shock" at the news that UNESCO had received information in less than 36 per cent of requests, although according to the report it was one of the countries that failed to respond to UNESCO. Berger confirmed that support will be offered to governments to assist them in responding in a timely and appropriate manner in future.

Of the 62 governments that were asked to provide information on the progress of investigations into violent deaths of journalists, 26 failed to respond in any way. Among them were Iraq (106 victims), Syria (48), Somalia (45), Pakistan (29), Mexico (28), India (15) and Brazil (14).

More transparency in spite of everything

Despite the low response rate from governments, some of the information that has come in has begun to be made available on the UNESCO web page. This information is proving especially useful for civil society groups, including IFEX members. Governments provide information and allow for publication on a voluntary basis. Doing so in and of itself demonstrates a move towards "transparency" and acting "in good faith", Guy Berger told IFEX.

In addition, the UNESCO Deputy Director-General

noted that the information received is fundamentally important because this is the only report produced at a global level that details the status of judicial investigations into the deaths of journalists.

In the latest report, several countries provided approval for publication of the data they sent to UNESCO, among them Bahrain, Brazil, Croatia, El Salvador, the Philippines, Honduras, Indonesia, Kazakhstan, Kenya, the Dominican Republic, Tanzania, Turkey, Turkmenistan and Vietnam. Documentation for each case can be found on the UNESCO web page. The representative for Honduras, for example, said that they have done this because "they have nothing to hide."

Consensus decision to continue with the report, including in cases of "non-conventional" journalists

In 2008, when the first report on The Safety of Journalists and the Danger of Impunity was produced, it primarily included information about journalists who worked for "conventional" media outlets. The reality of journalism in today's world, however, led UNESCO to include "social media producers who generate a significant amount of public-interest journalism" in its 2012 report. During the 21 November 2014 discussion, the participants agreed to redefine the objective of the report in order to include the deaths of "journalists, media workers and social media producers who are engaged in journalistic activities and who are killed or targeted in their line of duty."

This definition now forms part of the Decision on The Safety of Journalists and the Danger of Impunity of the IPDC, as approved by the Intergovernmental Council based on a proposal by Denmark.

Within the Decision is a request for UNESCO to continue producing the biennial report due to its "relevancy", and an appeal to governments to get involved in the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, which was approved in 2012.

Freedom of expression and safety of journalists, key for Sustainable Development Goals

A decision, approved by consensus, calls on all states to encourage the inclusion of freedom of expression, including press freedom and the safety of those who practice journalism, in the Sustainable Development Goals (SDGs) that are currently being developed at the UN headquarters. In addition, on 20 November, the IDPC approved a related decision.

Both decisions note the key importance of the proposed Goal 16, as it seeks to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels". The possibility of incorporating freedom of expression in the SDGs, however, has been a topic of intense debate and achieving its inclusion remains a challenge that is being closely followed by civil society groups and the IFEX network.

Silvia Chocarro Marcesse is a journalist and consultant on freedom of expression issues.

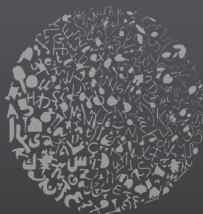
David Malouf, a member of Sydney PEN's Writer's Advisory Panel, explains why he supports PEN



“As a writer who has the freedom to write without fear or constraint, and for whom silence is a choice, I would feel ashamed if I did not speak up for a writer anywhere on whom silence is enforced with all the terrible machinery of the state”

Join us >>>

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PO Box 123, Broadway, NSW 2007
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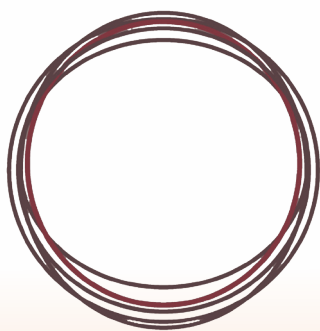
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