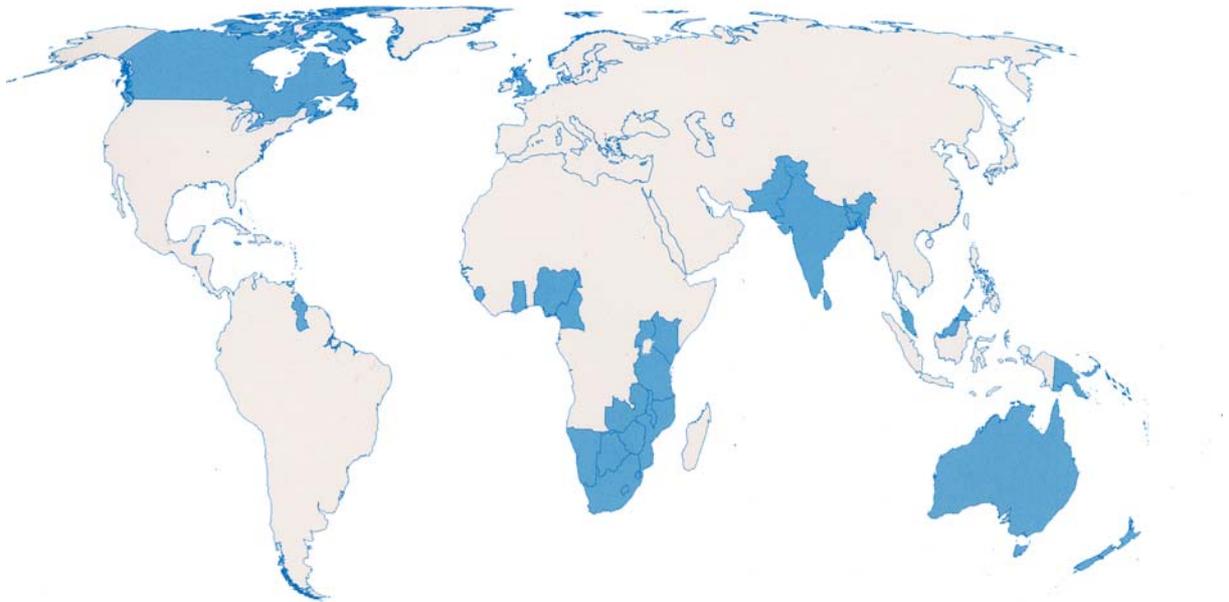


Commonwealth Press Union



**The Independence of the
Commonwealth Media and Those
Working Within It**

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NB: This report reflects the views of the authors and not necessarily individual members of the CPU or other international organisations

INTRODUCTION

Eight years ago in Zimbabwe, the Commonwealth Heads of Government sought to define the values which would provide future guidelines for member states. Their object was to reinforce the earlier 1971 declaration of Commonwealth Principles in Singapore. The result of their 1991 debate was the Harare Declaration, which established a core set of values to take the Commonwealth forward into the 21st century and beyond. It also clearly set out the priority values in fields where the Commonwealth is well placed to operate. Democracy, individual liberty under the rule of law, just and honest government, sustainable development and sound economic management, the celebration of pluralism and diversity provide a common view and purpose that binds the Commonwealth together.

As the handling of Nigeria's suspension showed, these aims and ideals have to be applied practically, day by day, if they are to have real meaning. Experience has shown that even the most well-intentioned governments and economic bodies can stray deliberately or inadvertently from the path the Declaration laid out. A thriving, vibrant, independent and responsible media is one of the best guarantors of such values. An independent media can keep a check on excesses, mistakes and misdeeds, accidental or otherwise, and encourage more open, fairer policy development. By shedding light on events and decisions

some might prefer to leave in the shadow, it enables the public to participate in the running of the country and to have a stake in its development.

To this end, securing the independence of the media in the Commonwealth is absolutely vital if the aims and ideals laid down in Harare in 1991 are to be adhered to. Whether in Nigeria or Uganda, the UK or Canada, India or Malaysia, an independent, responsible press is the *sine qua non* of a properly functioning modern state. Harare may not specifically have included in its stipulations the protection and nurturing of an independent media; but this requirement is implicit in every ideal it declares. Some developing nations have already worked the key principles into recently drafted constitutions, as in the case of Papua New Guinea's 1997 Constitutional Review which declared: "It cannot be stressed enough that independence of the media and the communications industry are paramount to ensuring that democratic processes are respected."

In much of the Commonwealth the situation is broadly positive in this respect. Across South Asia, high quality independent newspapers thrive in a competitive market. India, for example, has over 40,000 newspapers and periodicals, both general and specialist, published in over 100 languages for a literate population of 530 million. Similarly, East African states - Kenya, for one - have a plethora of competing newspapers, with healthy networks of local correspondents and

stringers to ensure national coverage. Although the media market in many developing countries is often dominated by state-owned titles - many of which take an independent stand as far as news values are concerned - there are almost universally one or two independent papers as well. In countries across the Commonwealth, local and national papers compete fiercely, often with high standard of training and professionalism. In South Africa, new media laws drawn up after the end of apartheid - structured around the Johannesburg Principles which were worked out in the early 90s - are widely recognised as among the fairest and most even-handed in dealing with the sometimes conflicting demands of freedom of information and the individual's right, and the state's occasional need for privacy or secrecy. There is a strong case for encouraging their use as a model for other countries when the opportunity of redrawing media laws arises.

Sadly, much remains to be done. Government suspicion of any who question decisions, the use by those in power of laws designed to protect themselves from scrutiny, methods of control and coercion all exist, in almost all countries in the Commonwealth. There is a commonality of problems: the tendency of those who wield authority to want to regard disagreement as destructive opposition is, tragically, encouraged by a common basis of shared law which is the legacy of member states' colonial past. Legislation designed by British colonial rulers as a tool to aid in the

oppression of indigenous populations is now used routinely by their own new leaders. This armoury of anti-democratic weaponry was defined and developed for very different circumstances from those which now apply. By outlining this largely shared body of laws, and the uses to which it is now put, perhaps that parting gift of colonialism could finally be put to rest.

This report aims to examine the current status of the media, particularly the print media, in the member states of the Commonwealth. It will look both at the issues facing individual countries, and also at the many common questions and problems that face member states, at whatever stage of development they find themselves. Although it will concentrate its attention on the legal status of the news media, it will also focus on the safety of journalists, as a means to focus the discussion on the actual situation on the ground; the coverage of elections, a vital element in ensuring genuine participation of civil society in the democratic process; ethics and ethical behaviour, which guarantees media independence by promising that journalists and media organisations take their responsibilities, as well as their rights, seriously; training, the prerequisite for the creation of journalists equipped to report, comment and criticise with fairness and independence; and self-regulation, which - when it works - obviates the perceived needs which governments cite when they attempt to enact controls on the actions of journalists.

1. SAFETY

Conventional wisdom suggests that life for journalists has become considerably more dangerous and difficult in many parts of the world in recent years. It is difficult to prove or disprove this kind of statement, given that different agencies and information-gathering organisations define risks and dangers in very different ways. As a result, this report has no intention of trying to achieve such an aim. Instead, it is hoped that a snapshot of the situation facing journalists in the Commonwealth between 1996 and 1998 will serve to illustrate the more detailed overview that the rest of this report hopes to offer.

The information used has been derived and collated from a number of sources. Prominent among these is the International Freedom of Expression database (IFEX) in Canada, the records of the Committee to Protect Journalists (CPJ) in New York, the International Federation of Journalists (IFJ) in Brussels, and of course the CPU's own records in London. Each of these bodies draws its information from media associations and monitoring groups on the ground, such as the Pacific Islands News Association (PINA) or the Media Institute of Southern Africa (MISA), to name just two.

A new initiative has added a new dimension to the exchange of information. Since late 1998, following a seminar of Commonwealth editors

which the CPU organised in Penang, participants have been regularly exchanging information through an email bulletin board. Editors send news of press problems, threats to freedom and general information on a regular basis, and the result has been lively and useful exchanges. Others are now joining in the exchange, which is proving to be a positive use of the internet to help monitor abuses and developments.

Given that each source has its own method of categorisation, this analysis has generated its own, and examined each report individually to determine how to fit it into the system used here. While it is certainly possible to reach highly precise definitions, it may well be counter-productive if the aim is to build a general picture across the 54 member states of the Commonwealth.

The categories here included are:

➤ **Death**

Journalists who have died as a result of their profession - a definition that includes murder, death in jail, and death while on professional duty in, for instance, conflict zones. Deaths which are of natural causes or appear to result from personal, rather than professional, motives are not included.

➤ **Torture**

This category includes

those who have been tortured, whether in prison, police or military custody, or by non-state actors. To avoid double counting, journalists tortured after arrest or imprisonment are not included in the arrested category as well.

➤ **Arrest, Assault or Attack**

Physical incarceration or harm, including - for example, death threats - directed at journalists in the course of their work. This category does not consider the question of whether the perpetrators are state or non-state actors. A physical threat is a physical threat, regardless of who administers it.

➤ **Harassment**

This is an equally important category, but is much more difficult to define. It includes the range of legal obstacles, damage, threats, intimidation or censorship, ranging from the use of defamation as a gagging tool to the banning of newspapers and the abuse of government advertising budgets. The implications of incidents falling under this category will be considered in much greater detail in the next section.

It should be noted that these categories represent incidents, not individuals. Where a number of journalists

were all involved, say, in an attack by police at a demonstration, a single incident is noted - as it would be if, for instance, three defendants from the same paper were tried for criminal defamation simultaneously. In this way, a better idea can be gained of the frequency with which journalists are exposed to risk in different regions and states.

It should also be remembered that this information is by no means necessarily comprehensive. Whilst all cases listed here have been checked against multiple sources and are as far as can be ascertained genuine - and we have excluded several cases over which there are doubts - there are no doubt many others which never make it to international attention.

What the charts suggest is that the biggest problem facing journalists is not necessarily physical harm or the threat of it, but the legalistic obstacles that are placed in their way. Particularly in Africa, these obstacles present by far the largest difficulty for journalists doing their jobs.

South Asian journalists appear, by contrast, to face a less limiting legal environment. Taking population into account, there are relatively few incidents of physical or legal threats, although the former are predominant - and recent months have seen a number of disturbing incidents which include, for instance, the abduction of one editor in the middle of the night by armed police, who threatened to shoot his wife when she asked to see a warrant.

In the Asia-Pacific region, particularly the island states, legal harassment is by far the biggest obstacle. This is, in part, due to the smallness of the states and - in some instances - the status of royalty, which in Tonga, for example, has led to a war of words between state-owned and independent media over whether the king should be subject to the same forms of investigative journalism as everyone else.

It is clear from the figures that although the number of incidents is high overall, many countries can be justly proud of their records. Many of the Caribbean states, for example, exhibit very low levels of both legalistic interference and minimal levels of violence directed against the media. Equally, in most of the other small island states in the Commonwealth the record of physical threats to media practitioners, especially when they originate from official figures rather than private citizens, is almost non-existent, although in Mauritius for instance a few religious groups have levelled threats of violence at some sections of the media. In many African member states the situation is similar. Mozambique scores the lowest of any of the African states, with few recorded instances of violent interference with the media, and a negligible record of legal obstructionism. Admittedly its media is relatively small, at least in terms of the number of titles and broadcast stations. Likewise Botswana has succeeded in coming out of its turbulent history as one of the Front Line States with little

evidence of physical threats against the media, although there are some incidents of legal forms of harassment.

Nonetheless, some states are egregious in the level of interference they maintain. In the Pacific, Tonga and Fiji demonstrate a number of instances of legal obstacles - largely deployed by senior government figures - despite their relatively small populations. Likewise, South Asia - especially Sri Lanka (again in proportion to population size) but also Bangladesh and, to a lesser extent, Pakistan - show worryingly high levels of violence against journalists, while legal obstacles also play a significant role. It should be noted, though, that some of Bangladesh's media organisations are highly partisan in their party affiliations and are perceived as being both powerful and well-protected, leading to allegations that the media sometimes behaves as if it were untouchable by legal means. It is also true that much of the violence directed against the media in Bangladesh is connected with party affiliations, and is perpetrated by the youth wings of parties which object to what they see as clearly biased and - in their view - malicious coverage. In Africa, the roll call is depressingly familiar. Nigeria far outstrips its fellow African states in all respects, with Sierra Leone, Cameroon and Tanzania - especially as a result of actions undertaken by the government on the semi-autonomous island of Zanzibar - in its wake. The UK, Australia, New Zealand and Canada - irrespective of the customary and comfortable as-

sumption among many in these countries that they are far ahead of their Commonwealth partners in this respect - are nowhere near immune. None of them score a zero rating across the board, and worrying developments, particularly in the field of official secrecy and privacy legislation, can be found in all four.

Why the high levels of interference in so many Commonwealth countries? It is impossible to analyse the underlying causes in depth in the space available, but there are many common factors that can be identified. The two main causes are war - whether international or, more usually, as the result of internal ethnic or regional strife - and political insecurity: either an unstable government, or one that attempts to secure its position. This may be by coercive means, or a political environment that for any of a number of reasons regards violence as an acceptable or necessary strategy.

Into the first category come such cases as Sierra Leone, where both the Revolutionary United Front (RUF), whose *coup d'etat* was brought to an end (at least temporarily) in 1998, and the government of Ahmed Tejan Kabbah have been responsible for numerous arrests, detentions, banings and deregistrations of papers, and the jailing of journalists. Sierra Leone also serves as an example of how many of the highest tallies of death, injury and other interference come about: not always through the deliberate exercise of policy by government, but as a disastrous by-product of a conflict situation. Paki-

stan, where the city of Karachi, for instance, continues to suffer high levels of violence both as a result of crime and political disagreement, is in a similar situation. But it also suffers from the problem of a situation where both the central state and locally powerful semi-feudal leaders, sometimes find the scrutiny of a modern media both unfamiliar and unwelcome, and whose solutions to this "intrusion" can sometimes be extremely direct. Arrests, abductions, assaults and threats are certainly not routine, but are far from uncommon.

In Sri Lanka, the vast majority of violent or physically repressive conduct is the result of the long-running civil war between the Sinhalese dominated government and the Liberation Tigers of Tamil Eelam in the north and east of the country. A state of emergency, which has persisted with brief interruptions since 1971, has greatly circumscribed the media's scope for action. Arrests, prosecutions, legal harassment and detention - largely at the behest of either government or military figures - have been the result. In South Asia, the struggles in Kashmir and Assam - as well as some evidence of local power-mongering - account for almost all the cases of physical repression.

Then there is the violence of domestic politics. Political volatility is at the root of most of the physical threats in Bangladesh, as we have seen, with the youth wings of the various parties responsible for numerous beatings, attacks and raids on newspaper offices. Similarly, the leaders of many

states show signs of using intimidation to ensure that news media do not function as a de facto opposition, especially but not solely in cases where genuinely organised political opposition, for whatever reason, is thin on the ground. Nigeria's poor record is perhaps not surprising in a country with such a long record of military dictatorship. Kenya, where a single party has dominated practically since independence, and Zambia are well versed in methods of attacking the media, as to a lesser extent is Zimbabwe, where recent events have stirred international criticism. The Gambia and Cameroon also demonstrate a readiness to muzzle the media. Despite a thriving media in Pakistan and a tradition of alternating parties in power, the recent governments of both Benazir Bhutto and Nawaz Sharif, have on occasion used the law as a stick with which to beat journalists who get out of line. And Malaysia's government has often shown its willingness to deploy legal obstacles as well as outright threats to ensure the media does what the administration sees as its job, of boosting both country and - to quote one government minister telling the media to cease all criticism of the government - its "honourable prime minister". Each country listed here - by no means an exhaustive list, it should be stressed - demonstrates a different mix between physical threat and legal attack. But the resistance to dissent and political critique is nonetheless a constant.

With more and more media outlets every year, the risks facing journalists

working overseas also remain a cause for concern. Not only are foreign journalists seen sometimes as parasitic on a country's problems, they can also serve as an enemy without, should one be deemed necessary. Nigeria, Sierra Leone, Cameroon, and Tonga, to name but four, have all deported or imprisoned foreign journalists on charges ranging from interference in domestic affairs to outright spying. Singapore has chopped the allowable circulation of publications which refuse to allow its government a right of reply when it believes coverage has not been "balanced".

Economic stories are also a potential source of risk for journalists. Disturbing levels of corruption in some member states can lead to dangers for those journalists who report on it; instances of intimidation or imprisonment following - although officially unconnected to - investigative reporting are legion, ranging from Malawi and Zambia to Pakistan and Sri Lanka, Fiji and Samoa to Trinidad and Vanuatu. But the downturn on the world economy has also wrought its damage on the media: in Malaysia, for instance, journalists have been threatened under national security legislation with unspecified repercussions if they collaborated with foreign media to assist the publication of "derogatory stories" while the financial crisis continued. The foreign media is routinely described as the root of much of Malaysia's troubles.

Even in the closing year of the 20th century, the power of royalty can pose its problems. In Lesotho, Swazi-

land, Tonga and Fiji, to name four, the offence of *lèse-majesté* is still a problem. Government ministers and even government-owned media have been known to encourage opprobrium, legal action or even incite violence against independent papers which stand accused of showing less than total reverence to the monarch.

Improving the situation outlined above is a long-term process and, naturally, much of it is out of the media's hands. But there are certainly steps media workers and organisations can take to ameliorate things - or at least to armour themselves to a certain extent against the forces which curtail their room for manoeuvre.

Predominant among these is professionalism and responsible journalism. The press is by no means always right, and journalists and journals libel, defame, misquote and misreport by accident or design all the time. While this can be explained partly as an inevitable adjunct of writing in real time, quality can certainly be improved. In many countries, there is little culture of verification; speeches and sayings are quoted verbatim, or out of context and lacking balance. Sometimes the press has only itself to blame as when journalists or editors take bribes to publish or pull a story, or as in the case of two journalists arrested in Bangladesh last year for calling, in the paper *Jago Mujahid*, for armed rebellion.

But there is absolutely no justification for locking up journalists or fire-

bombing their offices simply because they annoy the powers that be - which includes leaders of opposition political parties as well as those in government. A higher degree of professionalism and more ethical behaviour, can provide some armour against legal obstructions at least. Given better training - which will be addressed later in this report - it gives self-regulation, as opposed to statutory regulation, some credibility. For self-regulation to work, though, the feuding that riddles many countries' media is certainly counter-productive. There was the ongoing war of words in 1997 over a supposed insult to the King between the independent *Times* of Swaziland and the government-owned *Swazi Observer*. There is the sometimes poor relationship between papers addressing the English, Sinhalese and Tamil communities in Sri Lanka - although, as in so many places, the greater disunity is between government-owned and private media. Divide and rule is the first law of media control.

Regardless of how fairly the media conducts itself, the problem of the armoury of laws available to government and establishment figures in many Commonwealth countries if they wish to prevent the publishing of news they would rather was kept quiet, remains the biggest problem. As the figures attest, just over half the recorded incidents involved obstruction based on one form of restrictive legislation or another - and that figure does not include the many libel and defamation claims which, on the evidence, appear to be an attack

on a single story rather than on a journalist's or a publication's work as a whole.

2. COERCION

The majority of attacks on the media take the form not of simple physical intimidation but of the deployment of the law as a form of deterrence or punishment: a technique dubbed by one Pakistani journalist "covert coercion". The phrase embodies a range of laws and government actions, with similar functions regardless of the country in question even if the names vary, with definitions broad enough to be used to gag journalists, close publications, hamstring their finances or simply encourage a culture of self-censorship brought on not by responsible prudence but by government pressure, of "safe" reporting which offends no-one that matters.

The great irony inherent in the legislation and regulatory practices which constitute "covert coercion" in the Commonwealth is that most of it is a direct bequest from the colonial era. Public Order and Security Laws, Internal Security and Official Secrets Acts, powers of detention without trial for up to two years, newspaper licensing, newsprint control, criminal and seditious defamation offences, crimes of insulting parliament, the prime minister or the president: often these were devised by colonial rulers as a means of direct repression of a subject people, and as often they have

been renewed or tightened since. That they still exist is unfortunate. That they are still widely deployed by the leaders of long-independent states could be construed as being in breach of the Harare Declaration's support for individual liberty under the impartial rule of law.

Each of the key varieties of covert coercion will be examined here, but special emphasis will be placed on criminal defamation, a technique deployed widely throughout the Commonwealth and elsewhere. In many European jurisdictions - although not the UK - the criminal, rather than the civil, code is the standard means of dealing with defamation cases, but research indicates that its use in the Commonwealth often serves as a gagging tool, rather than as a means simply of compensating someone whose reputation has been genuinely damaged. Moreover, there is a sizeable body of legal opinion that suggests that the principles underlying criminal defamation are not only outdated; they also contravene the Universal Declaration of Human Rights to which all the Commonwealth's member states are signatories.

Detention without trial

A sizeable proportion of the countries in the Commonwealth allow governments and police forces to lock up those whom they determine pose a threat to internal security, public order or the maintenance of the rule of law. They include the 1960 Law and Order Maintenance Act in Zimbabwe, now redesigned as the Public Order and Security Act; the Internal Security

Acts in Malaysia, Singapore and Nigeria; the Maintenance of Public Order Act in Pakistan; the Special Powers Act in Bangladesh; a 1995 decree, still unrepealed, in The Gambia; and a number of others. No courts need be consulted and no warrants issued in many of these jurisdictions; if reasons are given, seditious or anti-social conduct are the customary justifications.

Official Secrets

No one could convincingly argue that governments can survive without secrets. But what those secrets can permissibly be is a matter for debate. In the UK, the culture of official secrecy is very strong - until 1989 all government information, including what kind of biscuits were served to the Prime Minister, was technically an official secret - and that culture has been transmitted throughout the Commonwealth. Malaysia's Internal Security Act defines any reporting of military activities without permission as a breach theoretically punishable by imprisonment; and the "Principle of national responsibility" says that anything the government considers undesirable cannot be covered. Nigeria's Official Secrets Act punishes actions "prejudicial to the security of Nigeria" with 14 years in jail, and its section 5 allows detention to force journalists to reveal their sources. Tanzanian law makes it a criminal offence for any public official to divulge information if he or she is not cleared to do so. Singapore's Internal Security Act of 1963 allows the authorities to prohibit printing, publication, circulation or possession of any material

seen to be prejudicial to the "national interest, public order or the city of Singapore". That being said, though, a court decision in the early 90s made it clear that simply stamping a document as "secret" did not give it automatic protection; some justification of its confidential nature had to be made.

Freedom of Information laws are often seen as the answer. But recent experience in the UK has shown that FoI legislation can be used to solidify the protection of and control over official information. The FoI Bill published by the UK government in May has been widely criticised for not only going back on promises made earlier in the present government's term of office, but also being less rigorous than the (voluntary) code introduced by the previous administration, which was roundly attacked when he was in opposition by the very Home Secretary who is presenting the new bill. In many ways, the bill is less a freedom of information act than a means of protecting and expanding the realm of exempt information already included in Official Secrets legislation.

Defence

As far as defence information goes, the rules are understandably even tighter. Sri Lanka, as part of the ongoing state of emergency that accompanies the war against the Tamil Tigers, bans publication of all military information which does not come direct from official sources. India's state of emergency in Kashmir gives the armed forces some latitude in controlling coverage, and similarly threats

and arrests - in one case for "attempting to wage war against the country" have occurred in the north-eastern state of Assam.

There is one generally accepted form of military censorship: the UK's DA (Defence Advisory) Notice system. Formerly the D-Notice system, it is voluntary, and carries no penalties for contravention. A board of civil servants and media representatives, with a retired senior military officer as secretary, decides on broad categories of protected information, and editors routinely discuss what they think might be sensitive stories with the secretary. In the past it has seemed to work because of its non-enforceability; in contrast, when Australia re-introduced D Notices in 1996, it included proposals for statutory penalties of up to A\$1 million for non-compliance, and was immediately attacked by both politicians and the media as a result. Nonetheless, the growth of the Internet appears to have fatally holed the DA-Notice system. When a list of alleged UK spies appeared with their addresses on a US web-site in April 1999, the committee issued its first notice in over five years. But the list was widely circulated electronically before pressure could be brought to bear on the original site's owners to remove the page. As a result, even though no UK newspaper printed details, the information is unquestionably now permanently in the public domain.

Registration

Many jurisdictions require the registration of newspapers as a matter of

form; but many Commonwealth member states take the principle a little further. Compulsory registration, combined often with the ability to take away licences at will, is employed in Malaysia, Kenya, Tanzania, Cameroon, Bangladesh, Nigeria, Singapore, Uganda, The Gambia (after the coup in 1994), Sierra Leone and others. Papua New Guinea nearly went down the same route in 1996, but backed off in 1998, its prime minister, Bill Skate, telling the media that "we have sometimes been unfair to you".

Some countries take registration particularly seriously. Section 17(1) of Tanzania's Newspaper Regulations, for instance, demand that not only may a paper not change its address, or the provisions of its constitution; it cannot change its "objects" - its aims and values - either. Two tabloids were banned under this regulation in June 1998.

As for registering journalists, Tanzania's 1993 Media Professionals Regulation Act makes it an offence for unlicensed journalists to work in the media, and includes a statutory code of conduct which allows commentary to be written only by "individuals whose competence, experience and judgement qualifies them for it". Tanzania's new regulations, passed in 1988, make it - in theory - illegal to work in the media without a licence; yet they were only activated against journalists on Zanzibar in 1997.

Economic Restrictions

There are many ways governments can put pressure on the economics of

the newspaper business. Singapore, for example, controls shareholdings in newspapers, with the ownership of voting shares, which carry 200 times the weight of ordinary shares, restricted to approved persons. In developing countries the main source of advertising is often the government, together with nationalised industries and parastatals; and Zambia, Swaziland, Samoa, Malawi, Uganda, Bangladesh and Cameroon, for instance, have all either restricted advertising to specific papers, or simply withdrawn all adverts except those appearing in the government-owned press.

Other, more direct methods are possible. In Singapore, the government claims a right of reply when it feels that a foreign publication has unjustly or unfairly criticised it; organs which refuse to offer it automatically when asked, including the Far Eastern Economic Review and the International Herald Tribune, have had their allowable circulation reduced, sometimes to double figures. Bangladesh, Pakistan and others restrict and control newsprint imports, while the imposition of new sales taxes, as occurred in Botswana in 1996, and the removal of favourable tariffs on newsprint can have similar effects. In 1998, the Trinidad & Tobago Publishing Group brought an action against the government for denying it sufficient foreign exchange for purchasing newsprint. They won, with the judge declaring: "Freedom of the press is ... a right enshrined in the Constitution; it stands without qualification." As for registration fees, The Gambia, for example, boosted the fees payable by 100 times

in 1996, threatening to drive most of the independent media out of business.

The worst recent example of a concerted economic attack on a single paper or group has been in Pakistan, where the Jang Group was hit by tax audits - a common move elsewhere, and often applied selectively against certain newspapers - in the latter half of 1998. Subsequently their newsprint allocation - centrally controlled and its distribution based on the (government-run) audit bureau's circulation figures - was slashed, with fresh supplies from friendly papers being impounded by police.

"False News"

What is "false news"? The roots of laws against disseminating false news are the same as those against criminal defamation (see below): as a means, developed in an English statute in 1275, of protecting rulers against rumour in societies where information moved slowly and unreliably. The 13th-century offence seems inappropriate for the 21st century. If the story is libellous, effective defamation law is what is required. Yet many Commonwealth jurisdictions punish those guilty of the ill-defined offence of "publishing false news" or "news liable to alarm the public" with long prison sentences. In Botswana, section 59 of the Alarming Publications Act makes it an offence for any person to publish any false statement, rumour or report that is likely to cause fear and alarm to the public or to disturb the public. In Malawi section 60 of the Penal Code covering

"publishing false information" has been used to force journalists to reveal their sources. Kenya makes "publishing an alarming publication" a criminal offence, as does Uganda for "false information". In Cameroon, the news does not even have to be officially "false"; Pius Njawe, editor of *Le Messager Popoli*, was jailed for two years simply for "disseminating unsourced news with the intention of affecting the head of state". Ghana's 1960 Criminal Code says an offence is committed "where a false report injures the credit or reputation of the State" or when "publishing false news with the intent of injuring the reputation of the State". Malaysia's Printing Presses and Publications Law of 1984, section 8a, specifies three years in jail as the penalty for "publishing false information". The Gambia has locked up journalists for news described as "irresponsible". Ugandan law also provides for the arrest of journalists for publishing false news. And in Zimbabwe journalists can get seven years for publishing "false reports likely to cause alarm, fear or dependency to the public or a section thereof".

Meanwhile, in recent years courts in both Canada and Antigua & Barbuda have struck down "false news" provisions on the grounds that they contravened constitutional freedom of expression guarantees.

In principle, publishing false news is wrong; and some of the stories which occasion arrest under this kind of legislation are unquestionably the result of mistakes, poor sourcing or check-

ing, or on occasion personal or political malice. But the evidence is clear in many of the countries listed above that the definition of "false news" tends to be Orwellian, with "false" taken as meaning "not the way the government of the day sees things".

Contempt, privilege and insults

Contempt of court is a common enough offence everywhere, but a number of Commonwealth member states seem fond also of levelling charges of contempt of or insulting parliament, the head of state or government, or the nation as a whole. In Cameroon, the offence is "abusing and insulting" the president and members of the National Assembly. India has a similar law covering its parliament. Antigua makes the "printing and distribution of a false statement concerning the PM which is likely to undermine public confidence in the conduct of public affairs", a crime. Namibia's Privileges and Immunities of Parliament Law - when introduced - would forbid journalists from interviewing MPs about upcoming legislation for fear of being in contempt, as well as imposing N\$20,000 fines for "intentional or unintentional" publication of false information. Zambia's National Assembly (Powers and Privileges) Act, section 27, makes it an offence to insult Parliament, and has been interpreted on some occasions as making Parliament itself - not the courts - the final arbiter of whether such a crime has been committed. Sierra Leone's governments, both military and civil, have used Article 95, which enables parliament to "prosecute and sentence any-

one who attacks its integrity". Section 70 of the Tongan constitution makes libelling the legislative assembly a crime, while Section 57, which deals with "inciting violence against an office of the government" was used in 1996 against the deputy editor of the Times of Tonga after the paper printed a letter from a reader critical of the minister of police. Fiji's Senate has on several occasions threatened the Fiji Times with contempt charges. And in Belize, questioning the validity of financial disclosures made by public officials is punishable by fines, imprisonment or both.

In Kenya, sedition legislation performing a similar function was repealed recently. But in March 1998 the broadcasting minister told the media that they were "taking advantage". He warned that they "did not appreciate [their] responsibility for protecting President Moi's image".

Sedition

The crime of sedition, or alternatively seditious libel, is another catch-all. Defined by the government of the day, the term is in far wider use than the much stronger-sounding "treason". A sizeable minority of Commonwealth countries, including but by no means limited to Ghana, Swaziland, Uganda, Kenya and Malaysia, all include sedition charges or their equivalents in their criminal justice systems. In other respects, though, the offence tends to be used in much the same way as contempt and false news charges. Frequently, a charge sheet will include two or more of these offences, since it is not diffi-

cult to portray the publication of false news, if categorised as a malicious act, as a deliberate strike against the state or against statesmen.

Privacy laws

Privacy laws - as opposed to defamation laws - are in their infancy in the Commonwealth. A statutory right to privacy is not yet recognised in English law. But one country, New Zealand, has made moves to introduce stringent rules on privacy - to the dismay of many of the country's media workers. Coroner's court reports on suicide cases, for example, are now covered by privacy legislation and are in theory unobtainable without the permission of the family of the deceased. Electoral rolls are no longer available to the media - again, in theory, to protect the privacy of those on the list. Family courts are closed to public and press unless the judge gives permission otherwise. And on more than one occasion, whistleblowers - those who reveal alleged misdeeds or mistakes in public or private bodies - have been prevented from speaking out because they might infringe the privacy of others, regardless of any public interest argument.

According to at least one New Zealand editor, this situation has arisen through the reluctance of media professionals to express media freedom as an end in itself. Campaigners for other rights, such as that to privacy, are more vocal and visible, and so media freedom moves down the list of priorities, not thanks to a single big decision - which would be easier to fight - but by myriad individual

choices by public figures and private individuals: a process he characterised as "death by a thousand pinpricks". The complacency of the media in developed countries about its own status and role is a key factor here.

Ownership

In a majority of the Commonwealth's member states, the government owns at least a section of the print media. In some cases, the sole print daily, if there is one, is a government paper. In the broadcasting world, state ownership is even more prevalent: in a number of countries, all broadcast stations and networks are held by the state. This is by no means a totally unhealthy situation. It ensures at least that media exist where none might have been before, and can encourage others to follow in its wake.

Some governments believe the media is an arm of administration and a vehicle for official propaganda. In other countries, too, the temptation to use public media as an extension of the civil service, or for official information, is simply too strong. In Lesotho, Swaziland and Malawi, for instance, government journalists have been banned from reporting strikes and protests. Namibian journalists from state-owned media groups have been castigated for mis-reporting - in one case, with the cabinet secretary reminding the offender that "after all, we're all one family". A number of states prevent interviews and news about opposition party activity being carried in state-owned papers and broadcasts. In July 1998, two editors of papers from Malaysia's New Straits

Times Group - owned by the ruling party UMNO - resigned, apparently after what was seen as a conflict of interest. Their papers had been backing calls from the now-convicted former deputy prime minister Anwar Ibrahim for political reform.

On occasion, the problem is not so much government ownership, but the illegitimate use of government position for personal ends. A few months before the May 1999 election, which pushed the SVT governing party of Sitiveni Rabuka out of power, finance minister Jim Ah Koy arranged for the government to buy 44% - effectively a controlling stake - of the Fiji Daily Post from the Fiji Development Bank, ostensibly in a straightforward attempt to attain government control of a critic. In fact, it appears that Koy has long wanted to own a paper, and simply used his government position to control one through the back door, putting pressure on staff soon after the purchase to influence editorial directions. Now control of the paper lies with the new Fiji Labour Party government of prime minister Mahendra Chaudhry, who has promised to sell off the shares.

Sometimes a paper does not even have to be government-owned to censor itself; the owners do it themselves. In 1996, two months after Trinidad & Tobago's prime minister asked the Trinidad Guardian to sack its managing editor, Alwin Chow, claimed he himself had been sacked because the paper's owners wanted columnists dismissed, prepublication censorship of editorials and no more reporting

of a Muslim fundamentalist group which had attempted a coup in 1990. The owners, he said, insisted that the paper could not have a "conflicting relationship" with the government.

As far as broadcasting is concerned, the issue of control, rather than ownership, is even more important. Since for many people, literate or otherwise, the radio and sometimes the TV are the only real source of mass media news and information, balance and impartiality take on even greater importance. Licensing of stations therefore needs to be as transparent as possible, to forestall accusations of cronyism and corruption.

Government ownership and control is only one side of the story, however. Private ownership too has implications for media independence. In some countries - India, for example, there exist papers where the owner has either appointed himself the editor, or simply neglects to appoint one. The paper thus runs the risk of being simply the mouthpiece for his opinions in news as well as commentary. In other countries, monopoly ownership can be the cause of some concern. The risk of monopoly or near-monopoly ownership is not so much that of direct interference with daily news, however; more significant is the narrowing of debate. Monolithic newspaper markets tend to shut out dissenting voices, as much to ensure profits and turnover as to influence politics.

Freedom of Movement

Freedom of movement is a key re-

quirement for responsible journalism. Without it, both on the domestic and international levels, stories cannot be checked and verified, accurate coverage cannot be accomplished, and the reader is the poorer. Indeed, MISA regards it as important enough to include a clause on the requirement for journalists to be able to move freely in its statement of principles.

Unfortunately, Commonwealth countries have often shown themselves to be unwilling to allow journalists to move around freely. The cause may be a single instance of a immigration officer exceeding his or her authority; it may be an attempt to silence or circumscribe a particular journalist. It may even be part of an deliberate policy of ensuring that certain geographical areas remain off-limits. And often the reasons given are entirely plausible, although the underlying agenda remains the same.

One example from The Gambia illustrates this last point. In January 1997, immigration officials ejected all the Senegalese employees of the Daily Observer from the offices on immigration grounds. A month earlier, the same thing had happened to the Liberian employees. The Gambia being a relatively small state, the majority of trained printers in the country come from its bigger neighbours, and the paper's management thus believed the move was an attempt to handicap the paper, rather than simply enforce immigration regulations.

More common are the attempts to remove individual journalists. In early

1998, South African immigration officials tried to eject a Zimbabwean senior reporter on a South African Sunday newspaper, supposedly for irregularities in his application for residence status under Southern African Development Community (SADC) rules. The International Press Institute, which took up his case, believes that the attempted deportation may be connected with his work, including an interview with Winnie Madikizela-Mandela in which she accused ANC leaders of going back on election promises.

Indian journalists have also had visa problems with South Africa. Some have reported unnecessary delays from the High Commission in Delhi, with visas requested in due time in one case being granted only 90 minutes before the flight was due to leave.

In early 1998, a Sri Lankan defence official ordered the arrest and expulsion of a Chinese journalist after he ran a story about the death in action of an admiral in the Sri Lankan navy, and then reported the government's denial of the incident rather than refuting the story altogether.

In May 1998, two Nigerian journalists working for a Ghanaian newspaper were arrested in Accra and threatened with deportation, ostensibly for working without a permit contrary to asylum law. In fact, Free Expression Ghana, the NGO which publicised the situation, believed the cause was articles they had both written about the Abacha regime in Nigeria which

could be embarrassing to a Ghanaian government keen on rapprochement. This theory is strengthened by instructions given to the two on their release on bail, that they should stop their activism while they remained in Ghana.

And in Nigeria itself in 1997, passport control at Murtala Mohammed International Airport in Lagos stopped the former chair of the editorial board of one of Nigeria's main dailies on his disembarkation off a flight from the US. His passport was taken from him. As far as domestic freedom of movement is concerned, note should also be taken of Kenya, where a number of laws including the Chiefs Act, the Sedition Act and the Public Order Act can all be used to impose blanket bans on reporters to stop journalists entering whole regions of the country.

Emergency Powers

When a country declares a state of emergency, powers restricting the media are usually high on the list of measures to be implemented. In theory, states of emergency are short-term measures to deal with a specific problem; and in those, limited circumstances, it is often the case that such restrictions are proper and necessary. In Ghana, for example, recent years have seen at least one declaration of emergency powers to deal with communal violence where, press restrictions were introduced some time after the powers were first invoked, because the government came to believe that partisan coverage was inflaming the situation. The restric-

tions were quickly lifted once the situation had calmed. Where a state of emergency deals with natural disasters, it is not unreasonable for governments to require papers and broadcasters to carry public safety information prominently.

But often states of emergency are long-lasting and their powers used as much to prevent public scrutiny of the handling of a situation as to preserve public order or protect a vulnerable population. In Sri Lanka a state of emergency has been in place for much of the last quarter-century, thanks to the continuing war with the LTTE (Tamil Tigers). Restrictions on what can be written about the military have thus been in effect for many years, and have arguably prevented papers from informing the Sri Lankan population about an internal conflict.

Criminal Defamation

The offence of criminal defamation exists, either as a common law offence, as English law has it, or codified into Penal or Criminal Codes, in the majority of Commonwealth countries. In many - including Singapore, Uganda, Sri Lanka, Tonga, some Australian states, Bangladesh, Cameroon, Swaziland, The Gambia, Sierra Leone, Nigeria, Samoa and Malaysia - it is still active and, more or less, in use. In others, such as Ghana, it is rarely used, the preference being for civil and therefore financial sanctions, but remains on the statute books thanks to, among others, staunch support from the Attorney General.

Unquestionably people need the right

to defend their reputation against defamatory statements, and have legal recourse should they need to defend that reputation in court if they consider themselves to have been libelled. Media independence does not, after all, mean the freedom to say what you want about anybody, regardless of truth or intention. But solving defamation through the criminal justice system is widely held to be an inappropriate anachronism. As successive review bodies in the UK, Australia, Canada and New Zealand have found, the offence is riddled with flaws which make it not so much an appropriate tool for repairing reputations - financial damages perform that task better - but more a gift to those who would muzzle legitimate criticism of public conduct. As a result, New Zealand has already expunged it from the statute books.

Firstly, the offence is explicitly designed as a means of shielding the actions of public figures from comment or critique. Its 13th century origins in the crime of "*scandalum magnatum*" are precisely that; and the development of the offence since has reflected its roots.

Uniquely in criminal law - at least as far as English-derived systems are concerned - the presumption is of guilt. The defendant has to prove his innocence of the crime, and proving that is often far more difficult than defending a civil libel. Not only does the information published have to be entirely true; it also has to be "in the public interest". Trying to prove that has historically been a heavy burden

for defendants. In addition, intent plays no part; whether the alleged defamation was accidental - the result of an entirely honest mistake - negligent or malicious, the result is the same.

This is a standing temptation for those who wish to control - as the evidence from the countries mentioned above amply demonstrates. In Bangladesh, for example, the courts need not be involved; government officials who feel they have been defamed can order immediate arrest, with up to 2 years in jail as the penalty.

It is usually public figures, political and administrative leaders, businessmen and those close to them, who use criminal defamation. But again, a sizeable body of legal opinion - including a judgement known as the "*Theophannus*" decision in Australia, several judgements from the European Court of Human Rights (ECHR) and accepted practice in the US - suggests that public figures should, if anything, have less recourse to defamation suits than their private counterparts, since their conduct is of necessity valid material for wide discussion. Indeed, the ECHR has passed judgements at least four times in the last 15 years which affirm that criminal defamation is contrary to the European Convention on Human Rights, going way beyond proportionate responses to the task of protecting reputations. It should, the Court declares, be abolished.

It is worth noting that civil defama-

tion is also widely misused, and different jurisdictions can define it in such a way as to make defending defamation cases almost impossible. In New Zealand, for instance, judicial attitudes are moving towards making any part of a story actionable in isolation, without reference to balancing arguments or evidence elsewhere in the piece. The most trivial factual error, or an apparently loaded comment in the first paragraph which is not backed up until further down the article, might place the writer and the publication in jeopardy.

The Courts

One further point should be made about covert coercion cases, concerning the question of who judges the case. The perception is that in many Commonwealth countries, the interpenetration between political leaders and the judiciary is such that a fair trial for journalists is a near-impossibility; and there are certainly worrying numbers of cases where there seemed little chance that a not guilty verdict could possibly be imagined. With that in mind, it is worth pointing to a few cases where the exact opposite is true.

In January 1996, a Pakistan Press International correspondent was jailed for "destroying state property"; in other words, burning down a telephone exchange. This was despite a police chief's letter declaring his certain innocence and saying the accuser should be prosecuted, and the view of the magistrate who committed him for trial that he was probably innocent. The Sindh High Court over-

turned the conviction forthwith.

In South Africa, a court blocked an attempt to stop the Mail & Guardian from publishing a report on corruption in tendering for public services in November 1997. If the subjects felt aggrieved, the court said, they should sue afterwards, not indict before.

In Lesotho, a government minister was using the Attorney General's office to sue the paper MoAfrika in 1997. In August of that year, a court banned him from doing so, telling him to use private, not state, lawyers for the purpose. And in 1996, Tonga's Chief Justice stood up against a number of cases where journalists had allegedly been in contempt of the Legislative Assembly, while several of his colleagues threw out criminal libel cases brought by public figures last year.

Methods of covert coercion are clearly myriad, and it is not the place of this report to make specific recommendations on how to solve the problems. But there are some relatively simple steps that can be taken. Independent circulation audit bureaux, in those countries where the bureau is government-controlled, can alleviate the problem of central control of newsprint. Newsprint tariffs should be entirely uniform across the industry, with no special breaks for particular segments; alternatively, encouraging domestic newsprint production would alleviate the effects of the wild swings in pricing which have been evident in recent years, and possibly provide export earnings. Crimi-

nal defamation should, in line with current thinking, be abolished. It is now widely agreed that criminal defamation laws serve no goals that are not adequately secured by less insidious means and should, therefore, be abolished. Law reform commissions in Australia, Canada and New Zealand have all recommended this. Lord Diplock, in a case before the House of Lords in the United Kingdom, suggested that only radical reform of the British law could avoid a breach of international guarantees of freedom of expression. The problems and temptations inherent in government ownership of media organs are hardly insoluble either: there is no reason why public ownership should mean that the government of the day controls output. In Kenya, despite the country's record of intimidation of the media, the government papers take their place in an active newspaper market with little apparent control from above on their content.

Journalists, for their part, need to find ways of addressing covert coercion issues through other means as well as head-on conflict, which can create in those who wish to restrict the press an unwillingness to be seen to back down. State media have a responsibility to work with the independent media to tackle these issues, and by doing so both stand a better chance of being able to enter dialogue with the authorities and make a persuasive case when required.

3. ETHICS

Journalists cannot work in isolation from the society in which they live. Local traditions and customs and an awareness and acceptance of what is acceptable in terms of culture and religion have a great bearing on perceived ethics. Any code of practice must take account of these facts.

Professionalism - a word that is used frequently in this report - is in many ways synonymous with ethical behaviour. What is the "ethical dimension" in journalism? Simply, it means behaving in a professional manner. This particularly applies to reporters, whether they work in broadcasting or the print media. Professional reporters will not, for example, knowingly misreport; will not quote out of context; will not suppress relevant facts; and will not slant a story to reflect their own or their editor's prejudices.

Of course, they may interpret or explain and indeed it is often their duty to do so. But the fact that it is interpretation must be made clear. Comment has no place hidden in the news columns, but is acceptable elsewhere. A newspaper often gains by being partisan and can parade its bias in editorials. Equally, named columnists and feature writers sometimes achieve their reputations by being partial and occasionally unfair. But a professional editor and an ethical proprietor will ensure that such items are clearly identifiable as comment. Sensible editors and far-seeing proprietors (and

this applies to government-owned publications and broadcasting stations) will include contrary views, though local conditions may make this difficult or impossible.

Professional behaviour adds to journalists' self-esteem and the way in which the public regards them. It also has a bearing on the way governments regard the media. It strengthens journalists in their defence against government interference, the imposition of government-appointed press councils, official registration and other attempts to shackle the press. It is much more difficult for ministers to deal with a professional group which is well-trained and aware of its role.

In Lesotho, for example, there was a positive dialogue in 1997 between the government and the Media Institute of Lesotho (MILES), which exists to promote training and ethical behaviour. This resulted in media legislation which features significantly fewer vague statements about unspecified "check and balances", encourages the development of an ethical code, and includes a degree of self-regulation to allow the media to take responsibility for its own actions.

There is continuing debate among many journalists about the use of words such as "ethics", "responsible journalism" and "profession". Some argue that other professions - medicine and the law for example - have codes of ethics which they monitor themselves and so should journalists. Others insist the journalism is not a

profession but a trade and prefer the expression "Code of Practice". To them the word "ethics" is liable to be interpreted by governments to suit themselves. In the same way, "responsible journalism" can be used to justify censorship and action against the press and broadcasting. (The late Lord McGregor of Durris, advisor on Press Freedom to the CPU, always insisted that "freedom of the press includes the right to be irresponsible".

But call it what you will, any rules for journalistic behaviour need to be codified. Each country needs to draw up its own code or practice because each has its own culture and traditions. There will be differing interpretations of "privacy", "the right to know" and "the public interest".

There cannot be any cross-border universal code, though some rules - accuracy, the protection of children for example - are universal.

Thus external organisations such as the CPU and the British Press Complaints Commission (PCC) can give help and advice in the setting up of self-regulatory bodies and the drafting of codes. The PCC's Code of Practice has been used in many places as a model (see Appendix I) as has that of the International Federation of Journalists (Appendix II), to which the majority of journalists' unions in the Commonwealth are affiliated.

But codes must be locally determined, and drawn up by journalists in collaboration with lay people. That can

only be achieved through co-operation between the media organisations within a country. Working together in this way by no means devalues the intense competition which can, and should persist between publications within a state. In many ways, a commonly agreed code of behaviour is an encouragement to fair competition; where adhered to, it ensures a level playing field, where the temptation to cut corners and unfairly steal a march on the opposition is reduced.

Unfortunately, compliance cannot be assured without a will to enforce it within the industry. In the UK, for example, the PCC's Code of Practice is supported by all the national and local print news media, and yet breaches, minor and major, occur daily. The result can be a clamour for new laws, especially governing privacy; and that, combined with the culture of secrecy which exists in the UK and has been widely transplanted throughout the Commonwealth, could prove disastrous.

But the principles exist, and it is undoubtedly the case that the kind of incidents which led to the PCC's establishment in 1990, amidst a raft of government pronouncements that the press "was drinking in the last chance saloon" as far as the possibility of statutory regulation was concerned, are considerably rarer than they were.

For a code to succeed it must be agreed by journalists, rather than imposed from outside by government or the courts. Tanzania's Media Professionals Regulation Act of 1993 writes

a code into the legislation, which - perhaps unsurprisingly - includes a number of clauses where the definitions of appropriate behaviour are left largely up to the government of the day to define as it sees fit. And it must take into account wider responsibilities than simply to other journalists; the only code existing in Tanzania prior to the 1993 Act, was that of the Tanzania Union of Journalists, which dealt entirely with the treatment of journalists by other journalists, and not at all with the wider responsibilities of the trade.

Gaining that agreement can admittedly be an uphill struggle. In many countries divisions between media groups, and especially between state-owned and private media, may be too wide to bridge in the short term. But professional journalists should still push for them to be drawn up: if not for the media as a whole, certainly for the publication for which they work, which could then be built into contracts of employment as a means of securing compliance. They can even function as a marketing tool: if a paper draws up a code of conduct, and then publishes it on its own pages, it is a powerful signal to the readership that of all the news sources on offer, this is the one to trust. At a later date, once the trend has been established and the precedent set, individual codes can be brought together to form a national structure.

Admittedly codes of ethics are a relatively recent development in most of the Commonwealth, although US and Canadian journalists have had them

for some years. This is not to say ethical behaviour is a new concept; far from it. The difference in many Commonwealth countries is that the reservoir of trained, experienced journalists - training being a key way of inculcating ethical behaviour - is smaller now than two decades ago. No longer does lengthy on-the-job training give journalists a chance to develop their professionalism from the inside out. And the explosion of news media, without an equivalent explosion in the opportunities for being trained and guided in what the job is about, has led in some cases to an ethical vacuum. Filling that vacuum will go some way towards giving Commonwealth journalists the professionalism to overcome their own unethical behaviour and resist any tendency by government to restrict their independence to do the job.

4. ELECTIONS

The Harare Declaration clearly underlines the importance of the participation of citizens in the democratic electoral process. Elections are about making choices, having a say in the way a country is run and affirming the involvement of every member of the electorate in public affairs.

But how can such choices be made unless the electorate has sufficient knowledge of the issues and personalities concerned - and of the situation in which the country finds itself? The dissemination of such informa-

tion is a key task of the media in any democracy: one which takes on even greater importance in emerging democracies, where the simple act of casting a vote, let alone dealing with the implications of doing so, may well be an entirely novel experience. For this reason, it is important that the information be presented in a manner that can be understood, so that the unfamiliar concepts embodied in a democratic election can become understood.

For this reason, the role of the media in the electoral process does differ between emerging and established democracies. In the former, simply informing the electorate about the alternatives presented to them may not be enough. It is often also necessary to educate voters and the mechanics and processes of an election: how to register, how to vote, how to avoid being entangled in electoral frauds and vote-rigging. In the latter, the key task may well be to avoid exacerbating the apathy that too often accompanies elections: to avoid contributing to a concentration on the person and ignoring the broader issues. In both, the nature of a mass electorate - its numbers and its geographical spread - means that the media has to provide a forum for relatively impartial discussion and debate.

This task requires a media, both print and - especially in developing countries where illiteracy levels may be high and newspapers confined to the cities - broadcast, which is itself well-informed. It must be able to communicate its understanding to its audi-

ence; the common habit of simply reporting candidates' speeches word-for-word, without analysing the import of what is being said (or, as some media outlets tend to do, reporting solely the words of their favoured candidate), is insufficient, as is the larding of news reports with politically-charged comment. Even where it is politically partisan, a newspaper or broadcaster must be prepared to admit to views other than its own, whether through a preparedness to take advertising from opponents or through ensuring its reporters cover all sides of the contest. This is especially important for the state-owned media, whose role - in theory - is to support the election, not the party in power.

Achieving this is difficult, dangerous or even life-threatening in some cases, and a legal minefield in others. There is always the risk of reprisals or preemptive threats from partisan groups unhappy with coverage that is "unfair" - which can simply mean not sufficiently glowing about their programme, candidates or organisation. It can come from both government and opposition groups, and in unlikely ways: Sri Lanka's bout of elections in March 1999 produced criminal defamation writs directed against journalists and local monitors, allegedly for suggesting that the government had used coercion and violence to influence the results in some areas. Article XIX and other campaigning groups have experimented with telephone hotlines advising journalists and monitors on the legal status of threats made against them, whether

from election officials, party workers and candidates, government officials or security forces.

None of which should suggest that the task of providing balance is any less key to the process. But it reinforces the fact that such a role is one which ideally should be ensured not only during the few weeks of a campaign - during which observers and electoral commissions may be watching - but in the longer run-up, weeks or months before polling day. Ten days of relatively fair reporting from state-owned media in particular, but independent media as well, cannot balance three or four years of bias. But there is no doubt that during the campaign special care has to be taken, since the stakes are especially high. The temptation to ditch multilateral coverage is very strong; but it is vital that the education process should continue; that violations of the democratic process should be highlighted; and that the media itself should beware of inspiring such violations itself.

Three examples of Commonwealth Observer Group reports serve to illustrate these points. In each case a team of observers arrived ten days or so before the elections took place, and talked to journalists, politicians, other civil society leaders, local monitoring groups and voters to determine how the election was being run.

The first report, covering the Sierra Leone presidential and parliamentary elections of February 1996, regretted the fact that the direct role played by

the media had been "minimal". Tiny papers, highly partisan and with skeleton staffing, meant that the print media came nowhere near fulfilling the kind of role outlined above - although their respective partisanship, the report suggested, effectively balanced out over the campaign, and advertising was handled generally impartially. As for the radio, run by the state-owned SLBS, reporters were rotated around the parties to prevent allegations of partisanship, and the station produced a 40-minute nightly broadcast; although station managers hiked advertising rates by 1,300% because, they said, "we have to make money to run our station", leading to a near-absence of election advertising on the radio. Overall, the report said, the electorate effectively received very little information, and rumours ran rife. "The reconstruction and development of public broadcasting services, the establishment of a community radio network, and ... of one or two good daily newspapers, and above all the training of journalists, should be regarded as priorities" if Sierra Leone's democracy was to take root, it said.

The second report covered the National Assembly Elections in Lesotho in May 1998. There, the monitoring team found few newspapers outside the capital, Maseru, and heard conflicting reports of bias and partiality. Journalists there complained that they did not have a right of access to polling stations, as did the observers. In the end, they were allowed to apply in writing for credentials for as many polling stations as they wanted. The

broadcast media impressed the observers immensely; parties seemed to have equitable access to the radio on a rota, and none complained to the observer team. The Independent Electoral Commission itself also used the medium well, broadcasting about two hours a week in the run-up and nearly six hours over the two days before the election. Reportedly, it used not only normal public information broadcasts, but also dramas and phone-ins, to educate the electorate.

The third concerns Nigeria's presidential and national assembly elections of February 1999. Nigeria's press is legendarily outspoken and confident, even taking into account the country's decades of military rule, and according to the observers the media surpassed themselves in this landmark poll. Syndicated articles by politicians and supporters of all parties found their way into a wide range of publications; paid advertisements from opponents of a paper's political line were commonplace; and the team reported a free-ranging debate across the print media. The state media, both print and broadcast, were reportedly commendably neutral. And although the national media tended to concentrate on the presidential elections, which largely overshadowed the assembly polls, the local and regional media strove to redress the balance. The media, all in all, played "a responsible and important part in ensuring that the views of the political parties and their candidates were publicised", the report said. Personalities and issues "were reported and analysed for the public. This, no doubt, assisted

them in making their individual decisions on how to vote."

The vital role of the media in elections is clear from these three reports alone. But all three are deficient in that the observer missions in question cover solely the immediate campaign. The presence of observers can often not only detect sharp practice, it can discourage it. And there seems little reason not to look for ways of expanding the scope, the further to encourage responsible reporting of elections and politics in general. This is a long-term task. There are no quick fixes available. But conversations with election officials and monitors, both within the Commonwealth Secretariat itself and those who have served on the missions it sponsors, have produced a number of avenues which might be explored.

Assistance in training journalists and editors is vitally important, as is the exchange of experiences between journalists in different countries; comparing practice at home with that abroad is a good way to learn what should, or should not, be done. In the past those with journalistic experience were regularly included in Commonwealth monitoring missions although this has become less prevalent in recent years. This is something that the Secretariat is striving to remedy. Inclusion of media personnel would certainly enhance both the mission and the media section of monitoring reports which - unfortunately for something so widely acknowledged as key - in many cases rarely extend beyond a single page or include detailed

statistical or observational data concerning the media's behaviour.

In order to make such monitoring possible, the suggestion has been made that support should be offered to local media watchdog groups, to enable them to carry out continuous monitoring. Thus an observer group could arrive in a country with a detailed background in how the media has behaved to date: a powerful tool with which to encourage better performance. Encouraging better dialogue on the role of the media between government and opposition not solely during a campaign but at other times too is another possible route to follow. And media lobby and monitoring groups, not to mention media organisations themselves, should be supporting the development of closer links between themselves and Ministries of Information to discuss election coverage so as to cut down on the levels of suspicion which, with the best will in the world, is an ever-present hazard.

5. TRAINING

The need for better training of journalists has been a thread running through this report, both for purely professional reasons and - as a by-product - to provide the media with arguments against tight statutory regulation of their activities. But in recent years a variety of pressures - some political but predominantly economic - have forced a contraction in

formal training opportunities. In January of this year, for instance, it was announced that cost-cutting at the University of Papua New Guinea had forced the closure of the 23-year-old South Pacific Centre for Communication and Information in Development (SPCenCIID), leaving only two schools for the whole South Pacific: Divine Word, also in PNG, and the University of the South Pacific's Journalism Programme in Fiji.

That is not to say that training isn't available in most Commonwealth member states. But the number of places their training institutions - government, educational institutions and media houses themselves - can offer is small in comparison to the pool of journalists in need of their services.

As has been pointed out, the upsurge in the number of publications, although clearly a positive development, has also paradoxically added to the problem: there are now proportionately fewer journalists working in environments where they can learn from older and wiser heads. Nor can experienced journalists find the time to train their inexperienced colleagues.

The need for independent training institutions is clear. The difficulty individual states have in sustaining and funding them is equally obvious. The answer, perhaps, is to move towards much greater co-operation, on national, regional and wider levels, pooling resources, experience and where possible personnel. Such co-operation is also important to ensure that, given

the ever-limited financial assistance available, countries and regions can avoid engaging in a beggar-my-neighbour game and instead work to open up new avenues of funding.

Regional media lobbies, such as MISA in Southern Africa, NDIMA in Kenya and PINA in the Pacific are already encouraging this kind of initiative. UNESCO, too, is looking to use the Internet to create GLOBJOURNET: a global network of training bodies, to allow all to draw on a shared, and continually updated, pool of resources, as well as a means of collaborating to supply funding for equipment and infrastructure in the many places where it is desperately needed. Commonwealth countries are in the forefront of the GLOBJOURNET effort, with PINA named as Pacific co-ordinator and The African Council for Communication Education, based at the University of Nairobi in Kenya, nominated as the overall network co-ordinator. Commonwealth bodies could perhaps look into participating in the UNESCO effort more fully, or creating complementary resource networks of their own on a stable, rather than an ad hoc, basis.

That being said, a great deal of assistance is also on offer from private bodies such as the Thomson and Reuters Foundations, as well as from the CPU itself and its sister organisations the Commonwealth Journalists Association (CJA) and the Commonwealth Broadcasting Association (CBA). The long experience these institutions possess is passed on to new generations of journalists every day.

But many of the courses are issue-based - election reporting, dealing with domestic politics, and so on - and could perhaps be more oriented towards fundamental job skills, including the inculcation of ethical awareness and the professional ethos which, too often, is mistakenly taken for granted. In addition, it is sometimes assumed that merely because journalists have years of experience under their belts, that automatically makes them suitable to train others. Trainers dispatched by these kinds of bodies need to be trained to teach, as do trainers working in their own domestic environment. Assistance in making sure they are equipped to pass on the skills they have worked so hard to acquire themselves will have a positive effect on generations of journalists to come.

Whatever the potential of cross-border collaboration, individual countries will still bear the heaviest load for training their own media workers. And here collaboration between media organisations could be extremely important. Papers and publications should be able to draw on the ample experience which exists within many individual companies and, if pooled, could make on-the-job training a much more rigorous and successful activity. Of necessity, the burden of this might fall disproportionately on those companies with deeper pockets; and if those companies are owned by foreign groups, calls are often made, with some justification, for their programmes to provide the same level of training as is on offer in the company's state of origin. But regardless

of ownership, the need for co-operation is there: to encourage best practice to spread throughout the industry, to enhance the competitiveness of the entire media industry, and to make it function more responsibly and with the minimum of statutory interference.

6. SELF REGULATION

Many of the problems which surround media independence stem from a single question: Should media be encouraged to regulate itself, or are statutory means of government regulation necessary? Countries with true self-regulatory bodies are in a minority in the Commonwealth; conversely, a number of Commonwealth member states have government-appointed press councils operating under more or less stringent structures of statutory regulation. Understandably, opinion tends to be polarised, with the media supporting the former option and governments the latter.

It is easy to understand both sides of the argument. From a governmental point of view, news media can often seem over-intrusive, careless of the effects of their output on those it concerns, and in some cases possessing a tendency to misreport and misstate at every opportunity. On the other hand, media workers' preference for self-regulation stems from a belief that statutory methods often

imply heavy-handed control, censorship or the encouragement of self-censorship, and the fear that the very organisations which are most often the subjects of hard news - governments, state institutions and so on - are writing the rules on how they may be covered.

The experience in the Commonwealth, given the descriptions above of methods of covert coercion in common use in many of the 54 member states, does tend to suggest that the media's fear of excessive control is justified. And there are other cogent reasons why - even from a governmental point of view - self-regulation is the better option. Statutory regulation tends to exacerbate the "them and us" tendency that exists between the media and state institutions. Government-appointed bodies - often with heavy representation from the legal profession, and with a thoroughly legalistic approach to handling regulation - may encourage non-compliance. They can certainly reinforce the siege mentality to which journalists can easily succumb.

For example, the News Media Communications Bill recently under consideration in Botswana included provisions for heavy fines to be imposed on journalists who transgressed vague stipulations of appropriate behaviour without warning, due process or even necessarily the journalist in question being informed of what he or she was meant to have done. Papua New Guinea's planned Media Commission Bill would have required annual registration for papers and journalists

which could be rescinded at will by the Commission members, all of whom would be selected by the Prime Minister, although the Constitutional Review Commission withdrew both in 1997. In December 1998 Samoa's government hardly inspired confidence in state regulation when the Prime Minister, Tuilaepa Sailele Malielegaoi, said he deserved a press freedom award for allowing the independent Samoa Observer to be published at all. This in an environment where the state media are not allowed to publish interviews with the main opposition leader.

The alternative - self-regulation - is typified by the Press Complaints Commission in the UK. With a membership composed of seven media representatives and nine lay members, including the chairman, it is empowered by the UK print media to take complaints from the public, judge them according to the code of practice laid down by the industry (see Appendix A), and where a complaint is upheld have the adjudication published prominently in the publication at fault. To some extent at least, self-regulation obviates the need for court cases to settle disputes over allegedly unethical or unfair behaviour by the media, encourages the media to debate and discuss questions of ethics and best practice, and helps force publications to examine the way they work from the inside out. Both Trinidad & Tobago and Guyana, for example, are trying to go down this route.

When effective, it also removes the need, and the excuse, for much of

what some see as repressive or coercive legislation. As long as the press itself takes self-regulation seriously, such a system proves the media's capability to sustain responsible and ethical behaviour.

Two points about the scope for self-regulation should be noted. Self-regulatory bodies should be responsible for overseeing the relationship between the media and the rest of civil society. That means for a self-regulatory body to work, it needs a lay element - if not a lay majority. In this model the media writes its own code of ethics or practice for the regulator to use as a yardstick; appearances, as well as principles, dictate that measuring the media's conduct against it should not be left to the media alone.

On top of that, self-regulation is about ensuring professional practice. It is not about getting involved in disputes within companies and media organisations. Formal self-regulatory bodies are not the sole means of regulating the media. Unions, too, can play an important role, especially in mediating intra-media disputes but also, for example, in running a system of accreditation - though there have been instances of bona fide journalists being refused accreditation because they did not belong to a particular union. In some Commonwealth states a journalist needs to be accredited separately by each state institution with which they deal, a standing temptation to license journalists on grounds other than their need for access to do their jobs. Elsewhere, unions run a single accredita-

tion system, where those in doubt of whether an accreditation is genuine can contact a single body to check the bona fides of the journalists they deal with.

But self-regulation can only succeed given collaboration between media outlets, which - in the same way as with codes of ethics - have to be prepared to work together to achieve it. Without a common approach, newspapers' attempts to ensure ethical behaviour on their own can sometimes be thwarted, as an example in Pakistan demonstrates. In January 1998, the newspaper Pakistan was raided by police searching for a journalist accused of "publishing objectionable material". The fact that the editors had already concluded that his behaviour was unacceptable, and had already disciplined him, cut no ice.

And even where bodies are set up to deal with self-regulation, the press has to take them and their adjudications seriously, or else the effect will be to reinforce the case for stricter outside control.

Cyprus is a case in point of the difficulties of both forms of regulation. A new press law introduced in 1989 called for a statutory press council. The council was indeed set up, but there were strenuous objections from the journalists' union to both statutory regulation and the person chosen as chairman. After a few meetings both journalists and publishers' representatives walked out, causing the chairman to launch a public broadside against what he saw as violations of

internationally accepted practice.

In its stead, and after long delays, the media produced a code of ethics broadly similar to that of the UK's PCC and set up its own press ethics commission, with an ex-judge as chairman but otherwise composed solely of journalists. But it meets only occasionally, and few of its rare adjudications are actually published in the offending publications.

The situation in the UK is often characterised as a model to be followed, but recent UK experience also demonstrates the way that complications of self-regulation can sometimes cause problems. In early 1999, the Sun newspaper published ten-year old semi-naked photos of the prospective bride of a member of the British royal family. Amid huge outcry about the apparent invasion of privacy, the paper printed an admittedly grudging apology and the PCC made a rapid adjudication against it. But the fact that the PCC has no powers of sanction against newspapers - other than having the ruling printed in the paper concerned - has led to renewed calls for privacy legislation and tighter controls.

If the media tries to make self-regulation work, it can stand against statutory control. If it is split and polarised within itself, unethical in its practices, and unwilling to submit to the discipline of self-regulation, it will have little defence against coercive legislation and statutory control, rendering it liable to the risk of becoming unable to carry out its prime func-

tion - that of informing the public - as it should.

SUMMARY AND RECOMMENDATIONS

The independence of the media in the Commonwealth is by no means as assured as it should be. The research underpinning this report has shown that no member state comes out of this analysis with a clean bill of health, and interference by public and private authorities for no reason other than to ensure quiescence and self-censorship is rife.

But the potential for improvement is vast. In the most unpromising of circumstances - Nigeria, for example, with its long history of military dictatorship - a vibrant, responsible press can still somehow survive. And the majority of the problems identified here are certainly amenable to change.

Much of the coercive legislation misused by governments is a direct result of colonial rule, even if it has since been renewed and updated. Its removal, repeal or at least reconsideration is entirely in line with the principles of a Commonwealth born of empire but now committed to liberty and pluralism, and can only improve the image of governments who choose to take on the challenge. The same applies to systems of regulation and electoral coverage, where a will-

ingness to open up to a pluralistic press is clearly in a country's long-term best interests.

But the first step may have to come from journalists themselves, working together to improve their circumstances. A free press is a responsible and accurate press, and can only be achieved through better levels of training and professionalism. Collaboration, discussion and consensus will help media workers protect themselves and their employers from interference much more effectively than solo confrontation with authority. In other words, united the media stands, and divided it falls; and concerned outside observers, including Commonwealth and all its constituent bodies, should stand with them. The Commonwealth's journalists need and deserve the greatest possible outside support, in financial, practical and other terms, that Commonwealth and other bodies can give them.

For example, the Commonwealth Media Development Fund (CMDf) has been a great source of assistance to date for media organisations throughout the Commonwealth. But the CMDf would benefit from more widespread support from more Commonwealth governments: only five contributed in the financial year ending June 1998, while 43 subscribed to the Commonwealth Fund for Technical Co-operation. The contributions from developing countries - Mauritius and The Gambia - are much appreciated; but it would be particularly welcome if Canada were to join the UK, Australia and New Zealand in sup-

porting the fund.

Across the board, support from the Commonwealth for media independence needs to be as formal as possible. The Harare Declaration clearly sets out the principles of good governance, pluralism and the rule of law on which the Commonwealth bases itself. Since a free, responsible and independent media is one of the best guarantors that these principles will be adhered to, it would strengthen the Declaration considerably were a statement on the independence of both the media and the journalists working within it to be explicitly included. Official blessing to both the concept and the reality of a responsible media, and the concomitant support that should follow, would help to ensure that the values enshrined in the declaration can be shared throughout the whole of civil society.

Following the CPU conference in May at Wilton Park on Promoting Press Freedom in the Commonwealth, the following recommendations for redressing the balance were drawn up:

1. In-depth studies of particular countries would be a sound development. Perhaps one country with inherent problems; one "developed" country facing issues of media ownership; and one "emerging democracy", examining the quality of its media as the situation develops over time.
2. Relationships between the media and government should be encouraged. Ghana's Minister of Communication offered to host a meeting between Ministries of Information and the media, to try to break down the tendency automatically to resort to confrontation and the "them and us" mentality.
3. Meetings between parliamentarians and the media, such as that envisaged next year in Pakistan by the World Bank Institute together with the CPA/CPU/CBA/CJA should be encouraged.
4. Regional organisations need to be supported in their role at the front line of efforts to protect media independence. Where possible, the perceived initiative should come from these bodies. New technologies now make this much easier to accomplish. When safety protests need to be made, regional organisations are more likely to have the real facts of the case at their fingertips, and are better able to ensure that protest and support is not weakened by factual inaccuracies.
5. Regional organisations should also be encouraged and supported in their monitoring of election coverage, for example, to counteract the fact that election observer groups usually arrive less than 10 days before an election, and are thus not equipped accurately to monitor coverage throughout the campaign. In some countries election monitors are targeted for defamation suits; active support to fight these cases is required.
6. Training needs to be systematised. In the past, it has sometimes

been ad hoc and lacking in follow-up; more structured training programmes need to be developed, including the training of trainers in situ so that knowledge and skills can continue to be transmitted once outside consultants have returned home. It also needs to stress the responsibilities inherent in journalism to counteract the entirely natural tendency, as governmental controls loosen, for journalists to go "over the top" with unsourced, uncorroborated material and thus give governments and other power centres an excuse to re-impose strictures.

7. Many Commonwealth countries have a record of using criminal defamation as a means to silence undesired criticism from the media, despite a series of reports from eminent lawyers and jurists concluding that the offence is anachronistic, flawed, inequitable and contrary to international human rights legislation. Even so, the belief persists in some circles that criminal sanctions should be available as a sanction against deliberate, malicious damage to a reputation. Commonwealth organisations, including the CPU, should investigate further the usage of criminal defamation with a view to campaigning for its abolition across the Commonwealth.

8. Developed countries need to be more proactive about their support for independent media, which is rarely carried through beyond words and into action. An independent media is the keystone of good governance, and needs to be seen as such. Development organisations should do likewise, with the UNDP and others

following the lead of, for instance, the World Bank Institute in prioritising media independence.

9. Commonwealth organisations should work harder to catalyse structural change through the use of consultants, advice and seminars. With reference to broadcasting in particular, such methods can be used to encourage the development of independent bodies to oversee frequency and licence allocation through objective criteria. Structural change is usually low on the list of priorities of funding bodies, Commonwealth organisations should work to push it up the agenda.

10. The Commonwealth is perceived as having a history of "not rocking the boat"; but the Nigerian experience has shown that naming and shaming can work. Analyses of in-country situations can lead to, if necessary, line-by-line comparisons with Harare and other Commonwealth principles, in order to build pressure for change, with as much follow-through as possible. The application of Harare principles, where it has happened, has been largely the result of sustained, rather than spot, effort on the part of Commonwealth organisations.

11. The Secretary General should be encouraged to use his "good offices" in aid of media independence more frequently. Pan-Commonwealth eminent persons' groups drawn from the media could be used when media independence is threatened.

12. Where possible, efforts should

be made to ensure that media independence issues are attached to the agenda for governmental meetings, regional and otherwise.

13. The Commonwealth Media Development Fund needs contributions from a wider spectrum of members; Canada in particular stands out as a non-participant. Contributions from Mauritius and the Gambia are acknowledged, and even the smallest contribution from other smaller states is welcomed.

14. Collaboration between journalists across the Commonwealth is to be encouraged. Alumni from training courses, from meetings and seminars, should be assisted to keep in touch, to share experiences and to offer continuing support.

15. Print and broadcast media need to work much more closely together. Daily reviews of the press on TV and radio, for instance, could provide a cheap and simple way of encouraging pluralistic coverage.

It was also agreed that the next step forward would be to draw up proposed guidelines which could be the basis for a Commonwealth Statement on "The Independence of the Commonwealth Media and Those Working Within It".

CPU and CJA Draft Guidelines on

The Independence of the Commonwealth Media and Those Working Within It

In the context of good governance and reaffirming the values set out in the Harare Declaration, Heads of Government commit themselves to the development of a free and fair media based on international norms and principles. To achieve this, the following guidelines are suggested:

- 1. Journalists must be free to operate without fear of their physical safety and liberty and it is recognised that they have the same broad legal protection as is available to all other citizens.*
- 2. Member countries should be encouraged to examine, in relation to the media, laws – many of which predate independence – with a view to removing those which unreasonably impede the freedom of the media.*
- 3. Proprietors and journalists should adhere to a professional code of practice and should promote training and educational opportunities.*
- 4. The value of the media's role in dispassionately reporting on and informing civil society of the electoral process must be recognised.*
- 5. The media should be safe-guarded by a system of self-regulation including an effective complaints procedure.*
- 6. Commonwealth associations and organisations should play a role in the implementation of these guidelines.*

APPENDIX I: WORLD BANK VIDEO CONFERENCE

Friday, 14 May 1999 – London Office

London, Dar es Salaam, Addis Ababa, Kampala

As a follow-up to the CPU's four-day conference on Promoting Press Freedom in the Commonwealth, at Wilton Park in the UK, the World Bank kindly offered to host a meeting using its video-conferencing technology, linking delegates from Wilton Park with colleagues from the media in Tanzania, Ethiopia and Uganda.

Approximately ten delegates were present at each of the four locations, with representatives from both the print and broadcast media.

After a comprehensive introduction from Mark Robinson, the CPU Executive Director, each participant from Wilton Park was invited to give his or her views on the contents of the conference and its significance for them and their countries. It was interesting, and encouraging, to note that the main points:-

- the need for responsible journalism
- a constant reaffirmation of the necessity for an independent, non-partisan media if democracy and good governance is to be a reality
- more access to both government and private sector information (a prerequisite to more accurate coverage, as one delegate pointed out)
- the need for more effective training to enable journalists to be genuinely professional
- action to remove both laws which unduly circumscribe professional journalism and the attitudes which perpetuate their use

were echoed by the representatives from the other three sites. The dialogue illustrated that there are genuinely common concerns between journalists, and that the discussions at Wilton Park could be held to be reasonably representative of the concerns which journalists share.

A major subject for discussion was centred around an incident which had occurred in Kampala the previous day. The Monitor – perceived to be the main independent newspaper in Uganda - had published a photo purporting to be of a number of Ugandan army soldiers torturing, or at least molesting, a bound and naked woman in a barracks in the northern town of Gulu. The editor and key staff had been arrested and charged with sedition and publishing false news.

The incident, the Ugandan delegates reported, had caused considerable divergence of opinion within Uganda. Women's groups, particularly, had protested that the picture was demeaning to women. The government said it would investigate the claims. But according to the journalists attending the videoconference, there was strong debate among Ugandan journalists as to whether the picture should have been published at all.

Thanks to the opportunity offered by a trans-national video-conference, the debate over this issue covered a wide range of cultural and ethical viewpoints, but the consensus was that if the picture was genuine, then it was entirely responsible to publish it. Specifically as a demonstration of a gross violation of human rights which, if not officially sanctioned, was being carried out by men in government uniform. It was agreed however, that it should not be published without strenuous efforts firstly to try to establish the veracity or otherwise of the photo and the credibility of the (unnamed) person who gave it to the Monitor. Secondly - in order to forestall the "false news" allegations – it was agreed that those accused, in this case the army, should be given an opportunity to reply. The extent to which the Monitor had checked out its story was not clear but it was pointed out by one of the Uganda journalists, that, "the photo could easily have been locked up somewhere while they researched it."

The meeting proved that video-conferencing is an ideal medium to assist with the work of supporting the independence of the media in the Commonwealth, both for following up training programmes and for enabling a meeting of minds and commonality of purpose between journalists in geographically diverse locations. The Ugandan incident strongly underlined the opportunity for a frank exchange of views, further enhancing the concept of video-conferences. It was universally agreed that the World Bank should be encouraged to make these facilities available in the future, not least because - as the substance of the discussions demonstrated - the firmer stance on good governance and transparency which the Bank now espouses can only be made effective if a strong, independent media is seen as part of the package.

Thanks must be extended to Frederick Stapenhurst of the World Bank Institute who initiated and participated in the event.

APPENDIX II PCC CODE OF PRACTICE

(Ratified by the Press Complaints Commission - 26th November 1997)

All members of the press have a duty to maintain the highest professional and ethical standards. This code sets the benchmarks for those standards. It both protects the rights of the individual and upholds the public's right to know.

The code is the cornerstone of the system of self-regulation to which the industry has made a binding commitment. Editors and publishers must ensure that the code is observed rigorously not only by their staff but also by anyone who contributes to their publications.

It is essential to the workings of an agreed code that it be honoured not only to the letter but in the full spirit. The code should not be interpreted so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it prevents publication in the public interest.

It is the responsibility of editors to co-operate with the PCC as swiftly as possible in the resolution of complaints.

Any publication which is criticised by the PCC. under one of the following clauses must print the adjudication which follows in full and with due prominence.

Comments or suggestions regarding the content of the Code may be sent to:
The Secretary, Code of Practice Committee, Olympic House 142, Queen Street
Glasgow G1 3BU

1. Accuracy

- i) Newspapers and periodicals should take care not to publish inaccurate, misleading or distorted material including pictures.
- ii) Whenever it is recognised that a significant inaccuracy, misleading statement or distorted report has been published, it should be corrected promptly and with due prominence.
- iii) An apology must be published whenever appropriate.
- iv) Newspapers, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact
- v) A newspaper or periodical must report fairly and accurately the outcome of an action for defamation to which it has been a party.

2. Opportunity to reply

A fair opportunity for reply to inaccuracies must be given to individuals or organisations when reasonably called for.

3. Privacy*

i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence. A publication will be expected to justify intrusions into any individual's private life without consent

ii) The use of long lens photography to take pictures of people in private places without their consent is unacceptable.

Note - Private places are public or private property where there is a reasonable expectation of privacy.

4. Harassment*

i) Journalists and photographers must neither obtain nor seek to obtain information or pictures through intimidation, harassment or persistent pursuit

ii) They must not photograph individuals in private places (as defined by the note to clause 3) without their consent; must not persist in telephoning, questioning, pursuing or photographing individuals after having been asked to desist; must not remain on their property after having been asked to leave and must not follow them.

iii) Editors must ensure that those working for them comply with these requirements and must not publish material from other sources which does not meet these requirements.

5. Intrusion into grief or shock

In cases involving personal grief or shock, enquiries should be carried out and approaches made with sympathy and discretion. Publication must be handled sensitively at such times but this should not be interpreted as restricting the right to report judicial proceedings.

6.Children*

i) Young people should be free to complete their time at school without unnecessary intrusion.

ii) Journalists must not interview or photograph a child under the age of 16 on subjects involving the welfare of the child or any other child in the absence of or without the consent of a parent or other adult who is responsible for the

children.

iii) Pupils must not be approached or photographed while at school without the permission of the school authorities.

iv) There must be no payment to minors for material involving the welfare of children nor payments to parents or guardians for material about their children or wards unless it is demonstrably in the child's interest.

v) Where material about the private life of a child is published, there must be justification for publication other than the fame, notoriety or position of his or her parents or guardian.

7. Children in sex cases

1. The press must not, even where the law does not prohibit it, identify children under the age of 16 who are involved in cases concerning sexual offences, whether as victims or as witnesses.

2. In any press report of a case involving a sexual offence against a child -

i) The child must not be identified.

ii) the adult may be identified.

iii) The word "incest" must not be used where a child victim might be identified.

iv) Care must be taken that nothing in the report implies the relationship between the accused and the child.

8. Listening Devices*

Journalists must not obtain or publish material obtained by using clandestine listening devices or by intercepting private telephone conversations.

9. Hospitals*

i) Journalists or photographers making enquiries at hospitals or similar institutions should identify themselves to a responsible executive and obtain permission before entering non-public areas.

ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

10. Innocent relatives and friends*

The press must avoid identifying relatives or friends of persons convicted or accused of crime without their consent.

11. Misrepresentation*

- i) Journalists must not generally obtain or seek to obtain information or pictures through misrepresentation or subterfuge.
- ii) Documents or photographs should be removed only with the consent of the owner.
- iii) Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means.

12. Victims of sexual assault

The press must not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification and, by law, they are free to do so.

13. Discrimination

- i) The press must avoid prejudicial or pejorative reference to a person's race, colour, religion, sex or sexual orientation or to any physical or mental illness or disability.
- ii) It must avoid publishing details of a person's race, colour, religion, sexual orientation, physical or mental illness or disability unless these are directly relevant to the story.

14. Financial journalism

- i) Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others.
- ii) They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest without disclosing the interest to the editor or financial editor.
- iii) They must not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

15. Confidential sources

Journalists have a moral obligation to protect confidential sources of information.

16. Payment for articles*

APPENDIX III: IFJ DECLARATION OF PRINCIPLES

This international declaration is proclaimed as a standard of professional conduct for journalists engaged in gathering, transmitting, disseminating and commenting on news and information in describing events.

1. Respect for truth and for the right of the public to truth is the first duty of the journalist
2. In pursuance of this duty, the journalist shall at all times defend the principles of freedom in the honest collection and publication of news, and of the right to fair comment and criticism.
3. The journalist shall report only in accordance with facts of which he/she knows the origin. The journalist shall not suppress essential information or falsify documents.
4. The journalist shall only use fair methods to obtain news, photographs and documents.
5. The journalist shall do the utmost to rectify any published information which is found to be harmfully inaccurate.
6. The journalist shall observe professional secrecy regarding the source of information obtained in confidence.
7. The journalist shall be alert to the danger of discrimination being furthered by media, and shall do the utmost to avoid facilitating such discriminations based on, among other things, race, sex, sexual orientation, language, religion, political or other opinions, and national and social origins.
8. The journalist shall regard as grave professional offenses the following: plagiarism; malicious misinterpretation; calumny; libel; slander; unfounded accusations; acceptance of a bribe in any form in consideration of either publication or suppression.
9. Journalists worthy of the name shall deem it their duty to observe faithfully the principles stated above. Within the general law of each country the journalist shall recognise in matters of professional matters the jurisdiction of colleagues only, to the exclusion of any kind of interference by governments or others.

(Adopted by 1954 World Congress of the IFJ. Amended by the 1986 World Congress)

APPENDIX IV: WINDHOEK DECLARATION

Declarations on Promoting Independent and Pluralistic Media - 3 May 1991 Endorsed by the General Conference at its twenty-sixth session - 1991

We the participants in the United Nations/ United Nations Educational, Scientific and Cultural Organization Seminar on Promoting an Independent and Pluralistic African Press, held in Windhoek, Namibia, from 29 April to 3 May 1991,

Recalling the Universal Declaration of Human Rights,

Recalling General Assembly resolution 59(I) of 14 December 1946 stating that freedom of information is a fundamental human right, and General Assembly resolution 45/76 A of 11 December 1990 on information in the service of humanity,

Recalling resolution 25C/104 of the General Conference of UNESCO of 1989 in which the main focus is the promotion of "the free flow of ideas by word and image at international as well as national levels",

Noting with appreciation the statements made by the United Nations Under-Secretary-General for Public Information and the Assistant Director-General for Communication, Information and Informatics of UNESCO at the opening of the Seminar,

Expressing our sincere appreciation to the United Nations and UNESCO for organizing the Seminar,

Expressing also our sincere appreciation to all the intergovernmental, governmental and non-governmental bodies and organizations, in particular the United Nations Development Programme (UNDP), which contributed to the United Nations/UNESCO effort to organize the Seminar,

Expressing our gratitude to the Government and people of the Republic of Namibia for their kind hospitality which facilitated the success of the Seminar,

Declare that:

1. Consistent with article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development.
2. By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essen-

tial for the production and dissemination of newspapers, magazines and periodicals.

3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.

4. The welcome changes that an increasing number of African States are now undergoing towards multi-party democracies provide the climate in which an independent and pluralistic press can emerge.

5. The world-wide trend towards democracy and freedom of information and expression is a fundamental contribution to the fulfilment of human aspirations.

6. In Africa today, despite the positive developments in some countries, in many countries journalists, editors and publishers are victims of repression—they are murdered, arrested, detained and censored, and are restricted by economic and political pressures such as restrictions on newsprint, licensing systems which restrict the opportunity to publish, visa restrictions which prevent the free movement of journalists, restrictions on the exchange of news and information, and limitations on the circulation of newspapers within countries and across national borders. In some countries, one-party States control the totality of information.

7. Today, at least 17 journalists, editors or publishers are in African prisons, and 48 African journalists were killed in the exercise of their profession between 1969 and 1990.

8. The General Assembly of the United Nations should include in the agenda of its next session an item on the declaration of censorship as a grave violation of human rights falling within the purview of the Commission on Human Rights.

9. African States should be encouraged to provide constitutional guarantees of freedom of the press and freedom of association.

10. To encourage and consolidate the positive changes taking place in Africa, and to counter the negative ones, the international community—specifically, international organizations (governmental as well as non-governmental), development agencies and professional associations—should as a matter of priority direct funding support towards the development and establishment of non-governmental newspapers, magazines and periodicals that reflect the society as a whole and the different points of view within the communities they serve.

11. All funding should aim to encourage pluralism as well as independence. As a consequence, the public media should be funded only where authorities guarantee a constitutional and effective freedom of information and expression and the independence of the press.

12. To assist in the preservation of the freedoms enumerated above, the establishment of truly independent, representative associations, syndicates or trade unions of journalists, and associations of editors and publishers, is a matter of priority in all the countries of Africa where such bodies do not now exist.

13. The national media and labour relations laws of African countries should be drafted in such a way as to ensure that such representative associations can exist and fulfil their important tasks in defence of press freedom.

14. As a sign of good faith, African Governments that have jailed journalists for their professional activities should free them immediately. Journalists who have had to leave their countries should be free to return to resume their professional activities.

15. Cooperation between publishers within Africa, and between publishers of the North and South (for example through the principle of twinning), should be encouraged and supported.

16. As a matter of urgency, the United Nations and UNESCO, and particularly the International Programme for the Development of Communication (IPDC), should initiate detailed research, in cooperation with governmental (especially UNDP) and non-governmental donor agencies, relevant non-governmental organizations and professional associations, into the following specific areas:

- (1) identification of economic barriers to the establishment of news media outlets, including restrictive import duties, tariffs and quotas for such things as newsprint, printing equipment, and typesetting and word processing machinery, and taxes on the sale of newspapers, as a prelude to their removal;
- (2) training of journalists and managers and the availability of professional training institutions and courses;
- (iii) legal barriers to the recognition and effective operation of trade unions or associations of journalists, editors and publishers;
- (iv) a register of available funding from development and other agencies, the conditions attaching to the release of such funds, and the methods of applying for them;
- (v) the state of press freedom, country by country, in Africa.

17. In view of the importance of radio and television in the field of news and information, the United Nations and UNESCO are invited to recommend to the General Assembly and the General Conference the convening of a similar seminar of journalists and managers of radio and television services in Africa, to explore the possibility of applying similar concepts of independence and pluralism to those media.

18. The international community should contribute to the achievement and implementation of the initiatives and projects set out in the annex to this Declaration.

19. This Declaration should be presented by the Secretary-General of the United Nations to the United Nations General Assembly, and by the Director-General of UNESCO to the General Conference of UNESCO.

APPENDIX IV: USEFUL LINKS

Commonwealth Press Union

The authors of this report.

<http://www.cpu.org.uk>

International Freedom of Expression Exchange

Canada-based Clearing house for press freedom alerts from well over two dozen organisations.

<http://www.ifex.org>

Committee to Protect Journalists

New York-based pressure group. Runs its own press freedom alert service; publisher of annual "Attacks on the Press" report. Also has excellent repository of links to online newspapers around the world.

<http://www.cpj.org>

International Federation of Journalists

International umbrella body for journalists' trade unions around the world.

<http://www.ifj.org>

International Press Institute

Pressure and lobby organisation based in Vienna.

<http://www.freemedia.at>

UNESCO

United Nations organisation dedicated to cultural, educational and media issues.

<http://www.unesco.org>

Inter American Press Association

Interest and campaigning group with a membership spanning the whole of the Americas.

<http://www.sipiapa.com>

Article 19

Lobby group responsible for in-depth reports and research on freedom of speech issues.

<http://www.gn.apc.org/article19>

Free Expression Institute

South Africa-based pressure group, campaigning for freedom of speech in South

Africa

<http://www.fxj.org>

MISA

The Media Institute of Southern Africa runs training programmes to enhance the professionalism of journalists in Southern Africa, and campaigns for press freedom.

<http://www.misanet.org>

Human Rights Watch

International campaigning group with regional branches around the world.

<http://www.hrw.org>

Index on Censorship

London-based bimonthly publication focusing on censorship issues in their broadest sense.

<http://www.indexoncensorship.org>

Cyber-Rights and Cyber-Liberties

UK-based group campaigning for both privacy and freedom of expression in the online environment.

<http://www.cyber-rights.org>

NDIMA

The Network for the Defence of Independent Media is based in Nairobi, and campaigns for press freedom in East Africa.

<http://www.oneworld.org/ndima>

Press Freedom Asia

A resource for training and press freedom issues for the Asia-Pacific region. The site also represents the Pacific Islands News Association

<http://www.pressasia.prg/PFA>

Pakistan Press Foundation

Campaigns for media independence in Pakistan.

<http://www.pakistan-news.com/ppf>

West African Journalists' Association

Looks out for journalists' rights in West Africa.

<http://www.webstar.com.gh/waja>