

UNSAFE AT WORK

ASSAULTS ON JOURNALISTS

THE MEAA REPORT INTO THE STATE OF
PRESS FREEDOM IN AUSTRALIA IN 2021





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FOREWORD

BY PAUL MURPHY, CHIEF EXECUTIVE, MEAA

For 20 years MEAA has examined, catalogued, reported and responded to the attacks on press freedom in Australia. Sadly, over those two decades the freedom of journalists to report matters of legitimate public interest have diminished.

The first press freedom report, *Turning Up The Heat: The decline of press freedom in Australia 2001-2005*¹, examined issues that perpetuate today: laws that criminalise journalism; excessive and secretive anti-terror and "national security" powers; the pursuit and prosecution of whistleblowers; inadequate journalist "shield" laws; the misuse of defamation laws and suppression orders; cuts to the funding of public broadcasters; ongoing job losses and concentration of media ownership; bans on reporting Australia's immigration activities; and impunity for the killers of our colleagues.

The past 12 months, like the past two decades, are no different. If anything, the press freedom climate has worsened – to Australia's great shame.

In 2002, Reporters Sans Frontières (RSF) published its first World Press Freedom Index² with Australia ranked in 12th place. In 2020 Australia was 26th prompting RSF to observe, "It is the Asia-Pacific region that saw the greatest rise in press freedom violations. Australia... used to be the regional model but is now characterised by its threats to the confidentiality of sources and to investigative journalism."³

In the latest index, published in mid-April 2021, Australia continues to

perform poorly: "Despite appearances, press freedom is fragile in Australia. Its constitutional law contains no press freedom guarantees and recognises no more than an 'implied freedom of political communication'.

"Federal police raids in June 2019 on the home of a Canberra-based political reporter and the headquarters of the state-owned Australian Broadcasting Corporation in Sydney were flagrant violations of the confidentiality of journalists' sources and public interest journalism. 'National security,' the grounds given for these raids, is used to intimidate investigative reporters, who also have to cope with a... defamation law that is one of the harshest of its kind in a liberal democracy, and terrorism laws that make covering terrorism almost impossible.

"... political attacks on investigative journalism are all the more worrying because pluralism in Australia has been badly eroded by one of the world's highest levels of media ownership concentration... This oligarchic media model, in which media outlets focus above all on cost-cutting and profits, constitutes an additional curb on public interest investigative journalism."⁴

The past year has seen an emerging danger to press freedom: the threat to the safety of journalists at work. According to MEAA's 2021 press freedom survey, 88.8% of Australian journalists are fearful that threats, harassment, and intimidation are on the rise.

Australian journalists are being harassed by online abuse, primarily

through unmoderated social media platforms. Much of this is gendered cyberhate, targeting and dangerously threatening women journalists. This has prompted MEAA to work with Gender Equity Victoria and Australian Community Managers to develop *Australian Media Moderation Guidelines* and *Responding to the Comments: Workplace Support Guidelines*.

Politicians have fostered the abuse directed at journalists. Former US President Donald Trump turned media baiting into a weapon against legitimate reporting of him and his administration. The verbal disparagement has evolved into unabashed targeting of journalists.

The COVID-19 pandemic has been a critical concern as some people chose to aggressively embrace misinformation, targeting journalists for telling truths they refused to believe.

Journalists, as an essential service, have been under immense stress, trying to report while trying to stay safe. As revenues slumped under COVID restraints, news outlets shut down temporarily or forever. About 150 print publications were closed in 2020, most of them in regional areas, and at least 1000 journalists lost their jobs.

The impact of those losses has hit hard. Communities suddenly found their local news voice silenced. MEAA's Our Communities, Our Stories campaign has sought ongoing government assistance to keep regional media open.

The stark statistics of the emerging threats to press freedom reveals that the number of journalists murdered for their journalism in 2020 was 65, up from 49. Last year also saw a record 274 journalists in jail.

Australia's reputation on press freedom is tarnished. Now, journalists face very dangerous threats to their health and safety at work. Urgent action is needed to ensure journalists can carry out their duties to our communities free from abuse, harassment, arrests and violence. There is no time to waste.

Paul Murphy is Chief Executive of the Media, Entertainment & Arts Alliance (MEAA)

Around the world

International Federation of Journalists – “There can be no press freedom if journalists exist in conditions of corruption, poverty or fear.”

International Federation of Journalists February 4, 2021 – “The year 2020 will go down in history as the year of an unprecedented global pandemic crisis, but also as the year of the resurgence of murders of journalists and media staff around the world....65 killings occurred during targeted attacks, bomb attacks and cross-fire incidents in 16 countries. 2680 journalists have been killed worldwide since 1990.”⁵

Press Emblem Campaign April 13, 2021 – “From March 1, 2020 to April 10, 2021, at least 1060 media workers died from COVID-19.”⁶

Committee to Protect Journalists December 15, 2020 – “At least 274 journalists are in jail in relation to their work on December 1, 2020. China was the world’s worst jailer for the second year in a row. Lack of global leadership on democratic values – particularly from the United States, where President Donald Trump has inexhaustibly denigrated the press and cozied up to dictators... has perpetuated the crisis.”⁷

US – anti-lockdown protesters May 15, 2020 – “You shouldn’t be here, you’re fake news.” “Go home, you’re fake news.” “You are the enemy of the people!” “You’re fake news, we all know it. You’re disgusting. You’re the virus!”⁸

US – report May 29, 2020 – “Linda Tirado, a freelance photographer... was shot in the left eye... while covering the street protests in Minneapolis.... ‘I was aiming my next shot, put my camera down for a second, and then my face exploded. I immediately felt blood. [I] was screaming ‘I’m press! I’m press!’”⁹ Tirado has permanently lost sight in that eye.

US – report May 29, 2020 – “A television reporter... was hit by a pepper ball on live television by an officer who appeared to be aiming at her, causing her to exclaim on the air: ‘I’m getting shot! I’m getting shot!’.”¹⁰

US – report May 30, 2020 – “*Los Angeles Times* photographer Luis Sinco was lowering his camera from his eye, holding it near his stomach, when a rubber bullet hit it... The rubber bullet then ricocheted off and hit him near his elbow on the inner bicep of his left arm. The projectile ripped through metal alloys of the body of the camera.”¹¹

US - report May 30, 2020 – “Caught in the middle of a scrum covering protests in Minneapolis, photojournalist Ed Ou could feel his hands and face were wet. For a long time, he didn’t know if it was teargas, pepper spray, or blood – in the end, it turned out to be a combination of all three. Sheltered behind a wall in a pack of journalists, Ou had not seen the attack coming. “They literally started throwing concussive grenades in our direction, in the middle of the journalists.’ The police approached Ou directly and maced him in the face, spraying his camera, too. What ensued was a prolonged attack that involved being hit at with batons, being teargassed, dodging concussive grenades and begging for help... This is what freedom of the press in America has looked like over the past week.”¹²

US – tweet by photojournalist Ed Ou May 30, 2020 – “This weekend, journalists in a group covering the protests in Minneapolis were hit with pepper spray, concussion grenades, batons, and tear gas by Minnesota State Patrol. We had our cameras out, press badges on and were clearly identifiable as media. I ended up with 4 stitches.”¹³

US – video by Vice News correspondent Michael Adams, while holding a press pass over his head May 30, 2020 – “Press! Press!... Press!

Press! Press! Press!... Press! Press!... I’m press! I am press!” Minneapolis police officer: “I don’t care. Get down!” Adams: “OK, I’m down, I’m down.” While lying prone and still holding his press pass over his head, another officer pepper-sprayed Adams in the face.¹⁴

US – 7News correspondent Amelia Brace reporting in Washington D.C. June 1, 2020 – “We’ve just had to run about a block as police moved in, we’ve been fired at with rubber bullets, my cameraman has been hit. We’ve also seen tear gas being used... You heard us yelling that we were media... but they don’t care. They are being indiscriminate... They were quite violent, and they do not care who they’re targeting... We were trying to move on; the last thing we ever want is to get in the way, but there was just no opportunity. There was no choice but for us to hide in that corner and hope they would pass by... As you saw in those pictures, they did not.”¹⁵

US - report June 1, 2020 - “Nicole Roussel... had been filming peaceful protests near the White House and Lafayette Square when police in riot gear began to fire rubber bullets [and] mace at the crowd, brandish their batons and use their shields to shove people... She got hit with rubber bullets [and maced] despite yelling, “I’m press! I’m press!” to police, holding up her press badge and donning a reflective orange vest. When police advanced on the crowd, an officer pushed her with his shield, causing her to fall and hit her elbow, ribs and leg on the ground.”¹⁶

US - report - June 1, 2020 “*Des Moines Register* reporter Katie Akin identified herself as press 17 times in 30 seconds before being pepper sprayed in her eye.”¹⁷

US – former President Donald Trump September 23, 2020 – “Sometimes they grab. They grab one guy. ‘I’m a reporter. I’m a reporter.’ Get out of here. They



Clockwise from above left: Seven News’ team Amelia Brace and Tim Myers were assaulted by police in Washington DC | SBS; Photojournalist Ed Ou after being assaulted by Minneapolis police May 30 2020 | *Chandan Khanna, GettyImages*; Photojournalist Linda Tirado lost sight in one eye after being hit by a police round | *Linda Tirado*; Los Angeles Times photographer Luis Sinco’s camera was hit by a rubber bullet | *via Twitter*; Michael Adams was pepper-sprayed

IN THEIR OWN WORDS

threw him aside like he was a little bag of popcorn... When you see it, it is actually a beautiful sight.”¹⁸

US – US Press Freedom Tracker

December 14, 2020 – “... There have been at least 117 verified cases of a journalist being arrested or detained on the job in the United States in 2020. More than 36% of the arrests were accompanied by an assault... Arrests of journalists skyrocketed by more than 1200% in comparison to 2019.”¹⁹

US – Proud Boy graffiti Capitol Building Washington DC January 6, 2021 – “Murder the Media”²⁰

Brazil – President Jair Bolsonaro to a journalist August 24, 2020 – “What I’d really like to do is smash your face in, yeah? You dirtbag!”²¹

Philippines – news website Rappler executive editor Maria Ressa January 6, 2021 – “I face five tax evasion cases that the [the Duterte] government has filed, and all because we’ve been reclassified from a news organization to a stock brokerage... And because we are, we then should have paid all the taxes that a stock brokerage agency would...”²²

Philippines – Ressa, on being arrested eight days later January 14, 2021 – “It’s my 10th arrest warrant in less than two years. That’s definitely a pattern of harassment.”²³

Philippines – MEAA on the guilty verdict in Ressa’s cyber libel case – July 15, 2020 “This court finding is the culmination of years of intimidation by government authorities. It is just one of a notorious catalogue of press freedom assaults by President Duterte’s Administration. The President is known the world over for saying ‘just because you’re a journalist you are not exempted from assassination’. The President and his Administration have not only encouraged but continue to blithely ignore thousands of extrajudicial killings, with almost total impunity for their murderers. This issue, along with many others involving the role of the powerful in Filipino society, have been rightly scrutinised by the media, and by Rappler, as anyone would expect journalists to do in a healthy, functioning democracy.”²⁴



Clockwise from left: A nose made from media cables at the storming of US Capitol building | *Paul McLeod of BuzzFeed News via Twitter*; Murder the Media written on an entrance to the US Capitol building on January 6, 2021 | *Anthony Quintano*; Reporter Nicole Rousell was struck by rubber bullets fired by police | *Nicole Rousell, Sputnik via Twitter*; Belarus journalist Katsiaryna Andreyeva inside a detention cage during her trial

Philippines - MEAA after Congress failed to renew broadcaster ABS-CBN’s licence May 7, 2020 - “The closure of the network has led to almost 11,000 people being put out of work at a key time when the provision of information about COVID-19 is a vital service to the Filipino community. It is apparent that some of the motivation behind the failure to renew is political. President Rodrigo Duterte has made no secret of his disdain for public interest journalism. He has also openly complained about the network since he ran for office in 2016. It is more than ironic that President Duterte has thanked the network for its essential service role during the pandemic.”²⁵

Hong Kong – Chief Executive Carrie Lam November 7, 2020 – “Press freedom is still guaranteed under the Basic Law. We will not suppress press freedoms. However, news professionals should also abide by the law.”²⁶

Hong Kong – report August 10, 2020 “Hong Kong police have arrested billionaire media tycoon Jimmy Lai on national security charges and raided his *Apple Daily* newspaper headquarters. Reporters were told to stop broadcasting live as up to 200 police officers entered the *Apple Daily* newsroom on Monday morning. Police rifled through desks and banned journalists from attempting to enter executive offices before cordoning off key sections of the newsroom with tape.”²⁷

Hong Kong – Chief Executive Carrie Lam March 30, 2021 - “Things that can’t be seen by others need to be seen by journalists? ...No one in Hong Kong has privilege. I have emphasized that I do not see why journalists should hold special rights.”²⁸

Turkey – report March 31, 2021 – “At least 95 journalists have faced trial in Turkey this month, with seven

IN THEIR OWN WORDS



Clockwise from top left: Slain 20-year-old intern Pelumi Onifad; Kenyan journalist Betty Mutekhele Barasa was shot dead in her home; Graffiti in Belfast targeting Patricia Devlin; Justice4Lyra McKee campaign billboard; The offices of *Rio Negro Diario* after the violent protest | *Rio Negro Diario*; A death threat directed at Irish News journalist Allison Morris | *Teresa Craig via Twitter*

receiving jail sentences... Another three journalists were taken into police custody and two were attacked.”²⁹

Turkey – report April 2, 2021 – “At least 10 journalists, including the Turkey representative of Reporters Without Borders (RSF), are due to appear in court during the next few weeks on charges under Turkey’s terrorism law...”³⁰

Belarus – report February 16, 2021 – “... police in Belarus raided the Minsk headquarters of the Belarusian Association of Journalists and the apartments of two of BAJ’s employees... Police officers confiscated mobile phones, laptops, and money from the homes...”³¹

Belarus – journalist Katsiaryna Andreyeva at her trial for covering protests against authoritarian president Alexander Lukashenko February 19, 2021 – “Every time I went to work, I risked my health and life. I managed to hide from rubber bullets, explosions of stun grenades, blows from truncheons. My colleagues were much less fortunate. I have everything: youth, a job that I love, fame, and most importantly, a clear conscience.”³²

Belarus – report March 30, 2021 – “Between March 18 and 27, Belarusian authorities detained at least 16 journalists... All had recently covered protests calling for the resignation of the Belarusian President Aleksandr Lukashenko.”³³

China’s Embassy in Sweden – report April 8, 2021 – “Jojje Olsson received an email from the political section of the Chinese Embassy... After he was accused of conspiring with separatists in Taiwan, spreading disinformation to provoke China hostility, being described as ‘dishonest’ and ‘morally corrupt’, the email concludes with the sentence: ‘We urge you to immediately cease your wrongdoing, otherwise you will eventually face the consequences of your actions’.”³⁴

Russia – report July 10, 2020 – “On July 3, 2020, 17 people were detained outside of the [Russian] Federal Security Service (FSB) building in Moscow as they protested the prosecution of Svetlana Prokopyeva for her journalism. The majority of those detained were



Indian journalist Milan Mahanta was tied to a post and beaten

journalists. The following day two journalists were detained in Pskov.... On July 7, 28 more journalists and activists were detained outside the FSB building in Moscow...”³⁵

Russia – report January 26, 2021 – “... police in at least 20 cities throughout Russia detained, beat, and otherwise interfered with the work of at least 58 journalists, assaulting at least 8 and detaining at least 49, while they were covering protests in support of the opposition leader and anti-corruption blogger Alexei Navalny.”³⁶

Senegal - report February 18, 2021 “At least six journalists working for different media outlets received death threats from unidentified persons through text messages and social media platforms, following their reporting on an alleged rape case involving a senior political figure.”³⁷

Cambodia – report April 1, 2021 – “More than 70 journalists harassed in Cambodia in 2020.”³⁸

Myanmar – report April 2, 2021 – “Ten days after seizing power in Myanmar, the generals issued their first command to journalists: Stop using the words ‘coup’, ‘regime’ and ‘junta’ to describe the military’s takeover of the government... Since then, the regime has arrested at least 56 journalists, outlawed online news outlets known for hard-edge reporting and crippled communications by cutting off mobile data service. Three photojournalists

have been shot and wounded while taking photos...”³⁹

Northern Ireland - the family of murdered journalist Lyra McKee April 8, 2021 “Can you imagine what it feels like to know that the police know the identity of your sister’s killer, yet they continue to walk free? Can you imagine what it feels like to know that ‘the dogs on the street’ know the identity of your sister’s killer, but you do not? One bullet struck our sister in the head and she was killed.”⁴⁰

Northern Ireland – Belfast-based reporter Patricia Devlin February 2021 – “I received a message to my personal Facebook account in which the sender threatened to rape my newborn son. That was reported to the police [but] there has still been no arrests...”⁴¹

Northern Ireland – Devlin February 15, 2021 – “Male journalists who do the same job as me, who have written closer to the bone about paramilitaries, do not get the same level of abuse. I suppose these people think that these women are an easier target. Unfortunately, it’s escalated and now we’re seeing my name on walls in east Belfast with a picture of a crosshair. It’s almost like we’re going back in time, that we’re not in a society that’s going forward.”⁴²

Northern Ireland – Belfast graffiti targeting Irish News security correspondent Allison Morris February 19, 2021 – “Alison [sic] Morris [sic] M15 agent”⁴³



Maltese investigative journalist Daphne Caruana Galizia was murdered when a bomb in her car detonated metres from her family's home

Nigeria – report October 24, 2020 – “Pelumi Onifade, a 20-year-old intern for Gboah TV, an online news outlet based in Lagos, was found in the Ikorodu morgue after he had gone missing. He had gone out to report on a protest on the outskirts of Lagos and never returned. Reports said that he had been detained by police.”⁴⁴

Argentina – attack on the Río Negro newspaper after it reported sexual assault charges against a union official – March 24, 2021 “The attackers entered the building and demanded to see [reporter Luis] Leiva, who was not at the newspaper at the time. They then demanded that he resign and wrote graffiti on the walls reading ‘Death to Leiva’. The attackers then poured alcohol and paint on a receptionist and insulted her, punched a photographer, and destroyed documents and computers...”⁴⁵

India – journalist Milan Mahanta, who was tied to a post and beaten for reporting on illegal gambling activities November 18, 2020 – “They wanted to kill me, I guess. I had written a series of reports against them. They also tried to attack people who came forward to save me.”⁴⁶

Somalia – report March 1, 2021 “Freelance journalist Jamal Farah Adan was shot dead by two gunmen on March

1 in Galkayo city, in the Somali state of Puntland. Adan, 56, was a veteran freelance journalist... was hit by two bullets in the head and one in the neck, according to doctors at Galkayo Medical Centre, where he died upon his arrival.”⁴⁷

Kenya – report April 7, 2021 – “Betty Mutekhele Barasa, a senior video editor and television producer working for the Kenya Broadcasting Corporation, was assaulted and shot dead at her home in Nairobi, on April 7 by unidentified gunmen. According to her family, three men had been waiting for her to arrive from work and two of them were armed with AK-47 rifles. The assailants stormed the house, ransacked it and killed the journalist with two shots in the head. While in the house, one of the attackers made a call saying they had completed their mission.”⁴⁸

Yemen - report April 8, 2021 – “The Yemeni Journalists Syndicate has documented 24 violations of press freedom in the country between January 1 and March 31, 2021, ranging from arbitrary detentions to assaults and threats.”⁴⁹

Greece – report April 9, 2021 – “Veteran crime report Giorgos Karaivaz... was gunned down as he returned home from a shift... He was ambushed by two men on a moped and shot with a silenced

weapon, killing him instantly. If [killing him for his journalism] is confirmed, this would be the first targeted assassination of a journalist in the European Union since the 2018 murder of Slovak journalist Ján Kuciak [killed with his fiancée Martina Kušnírová in their home in Veľká Mača].”⁵⁰

Saudi Arabia – report of the US Office of the Director of National Intelligence February 11, 2021 – “We assess that Saudi Arabia’s Crown Prince Muhammad bin Salman approved an operation in Istanbul, Turkey to capture or kill Saudi journalist Jamal Khashoggi. We base this assessment on the Crown Prince’s control of decision making in the Kingdom, the direct involvement of a key adviser and members of Muhammad bin Salman’s protective detail in the operation, and the Crown Prince’s support for using violent measures to silence dissidents abroad, including Khashoggi.”⁵¹

Malta - report March 24, 2021 - “Full justice can only be served if Daphne’s killers receive the punishment that fits their crime – the murder of a mother by criminals who were willing to blow up her family with her to make sure she is killed. Justice for Daphne Caruana Galizia means her murderers should not be pardoned. Past crimes should not be cashed as currency for killers to escape justice for murder.”⁵²

Australia

Health Minister Greg Hunt to ABC journalist Michael Rowland February 10, 2021

Rowland: “Why did you need to attach a Liberal Party logo to a government announcement? ...I’m asking why the Liberal Party logo was there... I’m asking why.”

Hunt: “In fact we made the Australian Government announcement as the Government...”

Rowland: “I’m asking why the Liberal Party logo was there...”

Hunt: “Michael, I know you have strong views...”

Rowland: “I’m asking why.”

Hunt: “Because we predicted that you seem to be the most exercised of any person in the Australian media about this... I was elected under that banner, multiple members from across multiple parties do that. I’m a very proud member of that party with a great heritage and tradition in Australia and that’s part of the Australian democratic process. Overwhelmingly, we do these things as an Australian Government. On a particular channel, there’s no

problem with identifying entirely appropriately within the rules. The origins and heritage of that banner under which we were elected by the Australian people.”

Rowland: “It’s an Australian Government announcement. Who paid for the vaccines?”

Hunt: “Well, let us draw a clear distinction here. I know this is an issue for you. In many ways, you identify with the left; you do this a lot, and I respect that. You’re open about that. And that’s entirely a matter for you.”

Rowland: “No, minister; no, no no. I find that offensive. I’m asking you...”

Hunt: “I’m exercised about what’s right and wrong.”

Hunt: “Oh come on, Michael. There’s nobody who’s watching who doesn’t identify you as the left. You should be open about that. I’m open about my origins... It’s important for you to be honest about your position and your origins... I’m bemused but I did predict to people that Michael Rowland would spend 50% of this interview on this topic...”

Rowland: “I’m exercised about what’s right and what’s wrong...”

Hunt: “...rather than on the safety of vaccines, rather than the rollout of vaccines, rather than the protection of the Australian public.”

Rowland: “It’s very important, I’m exercised by that as well. But it just struck me as odd – and I would ask the same question about the Labor governments – a party political logo attached to an Australian government announcement.”

Hunt: “... I win the bet with my office that you would spend 50% of this interview on that topic...”⁵³

Report May 28, 2000 – “Australian Federal Police investigations into unauthorised leaks of government information have been hampered by fears efforts to obtain telephone records and documents from political offices may be regarded as a contempt of Parliament... The AFP is regularly asked by federal ministers and government departments to investigate leaks to journalists...”⁵⁴



Health Minister Greg Hunt’s appearance on ABC News Breakfast, February 10, 2021 | ABC via Twitter

IN THEIR OWN WORDS

Andrew Warnes, assistant secretary – Department of Home Affairs and shadow attorney-general Mark Dreyfus – May 14, 2020

Dreyfus: “The Inspector-General of Intelligence and Security has given us a very detailed submission, commenting on many aspects of this proposed legislation [*Telecommunications Legislation Amendment (International Production Orders) Bill 2020*]. One of the things that she draws attention to is that, unlike the current domestic data access regime for access to telecommunications data, the IPO scheme does not include any specific protections for journalists. Are you able to tell us why an Australian journalist whose telecommunications data is held by a US carrier should have fewer protections than an Australian journalist whose telecommunications data is held in Australia?”

Warnes: “I wouldn’t characterise it as journalists having fewer protections. In actual fact, under this regime there’s no longer the ability to internally authorise—so under the *Telecommunications (Interception and Access) Act*, where we’ve carved out the space for Journalist Information Warrants. Now all requests for metadata have to be made under this regime at a higher level of authorisation, where they’ll go to an independent authoriser. So those protections in terms of authorisation remain the same—as in the Journalist Information Warrant, that’ll have to be authorised by an independent person, whether that be a judge or an AAT [Administrative Appeals Tribunal] member.”

Dreyfus: “The Journalist Information Warrant process is a very specific one. It is not replicated in this Bill, is it?”

Warnes: “As I have said, it’s not replicated. What has changed is that the authorisation process has been lifted up so that IPOs for telecommunications data can be authorised by an independent AAT member, which is not the case for the general telecommunications authorisation process under the *Telecommunications (Interception and Access) Act*.”

Dreyfus: “Is it your position that there is the same level of protection for journalists? I draw your attention to the fact that the Journalist Information Warrant process has a public interest monitor provided. There is no such public interest monitor provided in the authorisation



International Federation of Journalists

– “Press freedom can be endangered by an assassin’s bullet, fired to kill an investigative journalist and to intimidate and silence his colleagues. But it can also be endangered by the knock on the door from the police, arresting a reporter to question her on her sources, or to jail her, with or without a proper trial. It is threatened by restrictive media laws and defamation lawsuits which put the power over editorial content into the hands of censors and courts or by violence of all kinds, cyber-bullying and internet shutdowns; by poverty pay, a growing concentration of media ownership and a media environment in which ethical concerns and quality journalism are sacrificed for profit or political advantage.”⁶³

process in this Bill, is there?”

Warnes: “Are you referring to the public interest advocate in the Journalist Information Warrant scheme?”

Dreyfus: “Yes.”

Warnes: “Yes, that’s correct.”

Dreyfus: “So it’s not the same level of protection for journalists whose data is held by a US carrier. It’s a lesser level of protection, isn’t it?”

Warnes: “There are different considerations at play. Again, I’d refer to the authorisation framework we’ve put in place, which lifts it up to the same level of authorisation.”

Dreyfus: “You’re really hanging your hat on the fact that there’s an authorisation. Can I draw your attention to the fact that the protection available to journalists in the *Telecommunications*

(*Interception and Access*) Act also includes additional criteria to be considered for Journalist Information Warrants—criteria that we do not see anywhere in this IPO scheme. That’s so, isn’t it?”

Warnes: “That’s correct.”

Dreyfus: “I ask again: why is it that an Australian journalist whose telecommunications data is held by a US carrier is given fewer protections than an Australian journalist whose telecommunications data is held in Australia?”

Warnes: “I don’t think I have anything further to add, other than the fact that we have sought to change the regime in terms of the international production orders regime to match the authorisation process that you see

in the Journalist Information Warrant regime. That will apply to the data of all Australians.”⁶⁵

Foreign Minister Marise Payne on Dr Yang Hengjun October 14, 2020 – “The Government is disappointed and deeply concerned that Chinese authorities have decided to prosecute Australian citizen and academic Dr Yang Hengjun. We regret that after a lengthy investigation period, Chinese authorities have stated that he has been charged with espionage. We have seen no evidence to support this charge. We have made clear to the Chinese authorities our expectations that Dr Yang’s case will be resolved fairly and transparently, and in keeping with China’s international legal obligations. We have repeatedly and consistently

raised our concerns with Chinese authorities and representatives since Dr Yang was detained in January 2019.”⁶⁶

Payne on Cheng Lei February 8, 2021 – “The Australian Government has been advised that Australian citizen Ms Cheng Lei was formally arrested in China on 5 February, after 6 months of detention. Chinese authorities have advised that Ms Cheng was arrested on suspicion of illegally supplying state secrets overseas. Ms Cheng has been detained since 13 August 2020. The Australian Government has raised its serious concerns about Ms Cheng’s detention regularly at senior levels, including about her welfare and conditions of detention. Australian Embassy officials have visited Ms

Cheng six times since her detention, most recently on 27 January 2021, in accordance with our bilateral consular agreement with China. We expect basic standards of justice, procedural fairness and humane treatment to be met, in accordance with international norms.”⁶⁷

Payne on Julian Assange January 5, 2021 – “We note the UK Court’s decision in relation to the application to extradite Mr Julian Assange to the United States, which the Court has made on the grounds of his mental health and consequent suicide risk. Australia is not a party to the case and will continue to respect the ongoing legal process, including the UK justice system’s consideration of applications for release, or any appeals. We have made 19 offers of consular assistance to Mr Assange since 2019 that have gone unanswered. We will continue to offer consular support.”⁶⁸

Then Home Affairs Minister Peter Dutton threatening to sue Twitter users March 26, 2021 – “A lot of lazy journalists pick up these tweets and believe that they’re representative of the larger community view, when they’re not.”⁶⁹

Dutton – “If people are here as journalists and they’re reporting fairly on the news, then that’s fine. But if they’re here providing a slanted view to a particular community, then we have concern with that.”⁶⁰

Prime Minister Scott Morrison to a News Corporation journalist, press conference, March 23, 2021 – “You are free to make your criticisms and to stand on that pedestal... but be careful.”⁶¹

A Canberra press gallery journalist responding to a threat on Twitter March 23, 2021 – “Just for a moment, imagine what it has been like to be a sexual assault survivor working in Parliament House at the time, listening to this stuff. Doing your job. Calling it out. And then you keep getting stuff like this. All. The. Time... The accounts very quickly cease to exist. They get deleted. They get blocked. They’re anonymous trolls who appear only for this stuff. And for the most part, I get off lightly. I swipe, delete, don’t respond. I’m fine – but this is what so many of us are dealing with.”⁶²

A GLOBAL PROBLEM

In 2020, 65 journalists were killed in targeted attacks, bomb attacks and crossfire incidents in 16 countries.⁶⁴ Since 1990, 2658 journalists have been murdered.⁶⁵

At the end of 2020, at least 274 journalists were in jail for their journalism.⁶⁶ Sixty-six journalists were missing.⁶⁷

In the US, the protests that erupted following the death of George Floyd sparked a wave of police assaults on journalists. There were at least 117 verified cases of a journalist being arrested or detained on the job in the United States in 2020. More than 36% of the arrests were accompanied by an assault. Arrests of US journalists skyrocketed by more than 1200% from the nine arrests recorded in 2019.⁶⁸

There is nothing new about journalism being an unsafe profession.

It is the role of journalists to bring vital information to the community they serve. Reporting on the disasters of fires, floods and cyclones are familiar duties for journalists. Incidents such as accidents, deaths, destruction and

conflict are traumatic as journalists seek to get to the heart of a tragedy to tell the story.

There is also nothing new about journalists being criticised for their work – journalists are entrusted with information and wield enormous power, not least when their scrutiny probes deeply into sensitive issues. Clearly, journalists must be accountable for what they do. As the preamble to MEAA's *Journalist Code of Ethics* says: "Journalists search, disclose, record, question, entertain, comment and remember. They inform citizens and animate democracy. They scrutinise power, but also exercise it..."⁶⁹ But there is also a history of abuse directed at journalists for questions they have asked, what they choose to report, and what was actually broadcast or published. Accountability takes the form of complaints made directly to the journalist, to editors and to media outlets - at their simplest form, acknowledgement of error can be expressed in the acceptance for publication of a letter to the editor or in a correction.

Governments also impose accountability. Through regulation, a mechanism can

be established for the public to have their complaints addressed. Public broadcasters have a strong internal complaints regime to maintain their obligations under their legislation.

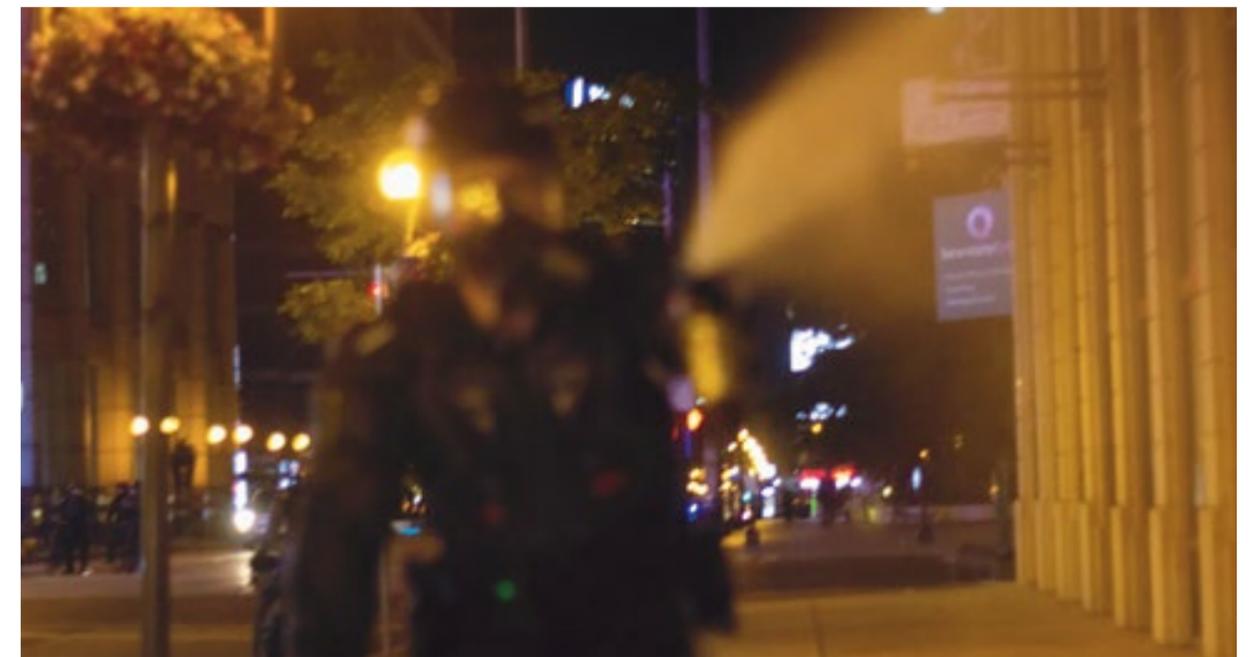
Similarly, to avoid government regulation, media companies have created complaints processes and created industry lobby groups to handle complaints. As the union and professional association for Australia's journalists, MEAA developed the *Journalist Code of Ethics* in 1944 to promote the self-regulation of members and to provide a mechanism for handling complaints made against members.

But in recent years, journalists are being exposed to much more than acceptable critique of their work. The digital revolution that swept through the media industry has opened journalism to greater contact with audiences. News websites now encourage comments on news stories to boost traffic to the site and eyeballs to individual stories. Media outlets have embraced social media platforms to increase audience reach and they expect their journalists to be active on social media to "boost their profile" and to help promote news stories. Unlike the days of letters to the editor, social media posts are all about commentary. Opinions can be delivered immediately and anonymously. Others can join the "discussion".

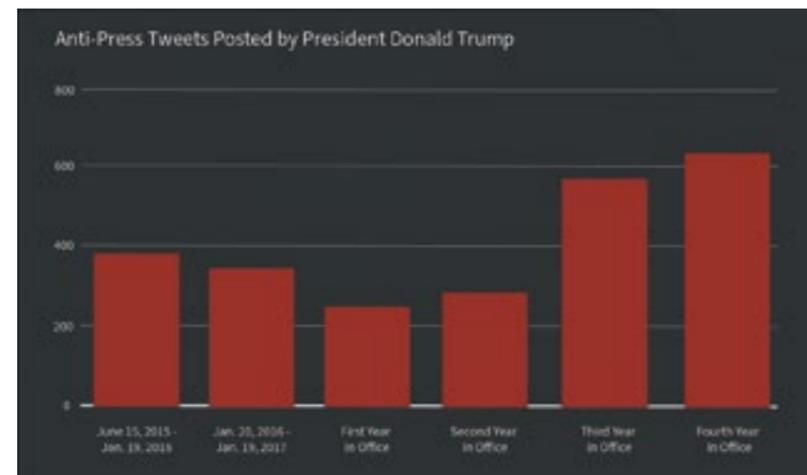
However, social media has now evolved into the vehicle for abuse, harassment and threats against journalists. Sometimes these attacks are one-offs but increasingly they are part of a torrent of abuse. The abuse can be a brief flashpoint or part of an ongoing assault.

Much of the abuse, harassment and threats are directed at women journalists. Often the abuse relates not to their journalism but to their gender. The abuse is a weapon to hurt and to harm, to goad and provoke a response and to spur others into piling on. The abuse directed at women is the exercise of deeply ingrained misogyny from male abusers.

The polarisation of politics is a key feature of much of the abuse. The polarisation plays on perceptions of



Top: NBC News' journalist Jo Ling Kent is struck by a tear gas canister while reporting live | MSNBC via YouTube; Above: Journalist Julia Lerner, a graduate student at the University of Maryland, took this picture as she was being chased and pepper-sprayed by police in Columbus, Ohio on May 30, 2020. | Julia Lerner, via Nieman Journalism Lab, Harvard College



the audience. Politically polarised audiences seek news they agree with and condemn news that does not match their view. The audience does not accept or allow balance in journalism.

The polarisation is a resource for politicians. US President Donald Trump was the key exponent of polarising tactics designed to avoid or downplay

scrutiny by media outlets while pandering to his base. The lack of scrutiny enabled Trump to make wild claims with impunity. As Trump left the White House, the *Washington Post* reported: "By the end of his term, Trump had accumulated 30,573 untruths during his presidency — averaging about 21 erroneous claims a day... What is especially striking is how the tsunami of untruths kept rising the

longer he served as president and became increasingly unmoored from the truth."⁷⁰ Trump's use of the term "fake news" to label news outlets or individual stories was a label applied to news he didn't like. In October 2019 Trump took credit for inventing the term "fake news": "I'm very proud of it, but I think I'm gonna switch it to corrupt news."⁷¹

Trump's promotion of attacks on the

media and on individual journalists were taken up elsewhere. His “fake news” mantra was a rallying cry for politicians seeking to avoid scrutiny, who couldn’t defend their actions, who wouldn’t answer difficult questions or who sought to whip up public opinion against truth-tellers.

As the Committee to Protect Journalists said about the rise of journalists jailed around the world for their journalism: “Lack of global leadership on democratic values – particularly from the United States, where President Donald Trump has inexhaustibly denigrated the press and cozied up to dictators... has perpetuated the crisis.”⁷²

In October 2019 Singapore, which already has enacted laws that provide for harsh civil and criminal penalties for speech deemed to be seditious, defamatory, or injurious to religious sensitivities⁷³; passed a “fake news” law that placed enormous power in the hands of the government. “The *Protection from Online Falsehoods and Manipulation Act*, which passed the country’s parliament... requires online platforms – including social networking, search engine and news aggregation services – to issue corrections or remove content that the government deems false.”⁷⁴ Similar laws were created in Russia, France, Germany, Malaysia and others.⁷⁵

In the Philippines, a country already riven by violence against journalists, the practice of “red-tagging” by politicians and others sought to imply that journalists were communist sympathisers. Given the Philippines history of gunmen murdering journalists, such labels amounted to invitations to

threaten “red-tagged” journalists, and even kill them with the impunity that has been rife in the country since the return to democracy in 1986.

Politicians will also seek to avoid scrutiny by accusing journalists of partisanship.⁷⁶ That implication is a diversion as old as time, but it is, in the current polarised environment, a particularly dangerous one for its ability to further incite attitudes against individual journalists. It doesn’t take much incitement to have mobs storming the offices of media outlets – such as CNN’s Atlanta headquarters⁷⁷ – and democracy’s legislatures – such as the US Capitol Building.⁷⁸

The polarisation of politics has combined with deep-seated misogyny that has become all too apparent in our communities. Fact-less opinions can be wielded without challenge in just a few typed characters in a Twitter or Facebook post and delivered directly and publicly to the target.

In the months of the COVID-19 pandemic, the ability to create and spread dangerous misinformation has been a key factor in the difficulty authorities face in protecting the population from the virus.

The polarisation and mistrust of facts has been coupled with the rejection of traditional media and a lack of understanding in the community of what traditional media does. For some audiences, celebrities’ beliefs are valued more than facts. Misinformation is spread through social media channels unchecked. While traditional media has made efforts to fact check and push back against COVID misinformation and

disbeliefs, social media has only lately taken steps to moderate or take down dangerous posts.

While COVID misinformation has gained the public’s attention, insidious cyberhate has been around for much longer.

Cyberhate is a dangerous weapon that takes little effort to send hate messages, abuse and threats. Its dramatic and dangerous rise in recent years, piggybacking the take-up of social media, is regularly directed at journalists. Political partisanship and a preference of fact-less opinion leads to male journalists being challenged on their facts; they are accused of going “soft”, not asking the “right” questions, being biased or being dupes – and these accusations quickly escalate into virulent abuse and ongoing harassment.

Women journalists receive all this too. But women journalists, are also attacked for their gender. The abuse and harassment that are hurled at them in fury and rage quickly escalates into gender-based threats of retribution that include extreme violence directed at the journalist and members of their family. It quickly becomes dangerously unhinged.

Cyberhate has sunk to depraved lengths that are largely unchecked. It is worsening with time because it is spurred on by a lack of moderation of online comments, the freedom to run social media accounts anonymously without any fear of being traced, and a lack of enforcement to address abuse, harassment and threats that utilise a telecommunications carriage service.

In Australia, MEAA has partnered with other organisations to seek workplace health and safety solutions for individual journalists and media organisations to address the cyberhate that has become a regular part of journalism – in recognition that cyberhate is a workplace health and safety issue.

But there are also measures being adopted overseas that show a way of challenging the rise of cyberhate, with government authorities taking action to address the problem.

In the US, the protests that erupted following the death of George Floyd sparked a wave of police assaults on journalists.



CYBERHATE SEXISM'S TOLL ON JOURNALISM

In March 2021, a Reporters Sans Frontières (RSF) survey found that of the 112 countries where journalists were polled, 40 were identified as dangerous or very dangerous for women journalists.⁷⁹

“The dangers are not just to be found doing traditional reporting in the field. Women journalists also encounter danger in the new virtual reporting domains, on the Internet and social media, and even in places where they should be protected, including their own newsrooms.”

The survey found that the internet has become the most dangerous place for women journalists (reported by 73% of the respondents). The workplace follows with 58% of respondents saying work is the place “where sexist violence has been perpetrated.”

“This perception has been reinforced by the #MeToo movement’s spread throughout the world and the fact that women journalists are now daring to denounce sexual attacks or sexual harassment in such countries as the United States, Japan and India,” the survey’s report said.

RSF’s secretary-general Christophe Deloire said: “We have a pressing obligation to defend journalism with all our strength against the many dangers that threaten it, of which gender-based and sexual bullying and attacks are a part. It is unthinkable that women journalists should endure twice the danger and have to defend themselves on another front, a many-sided struggle since it exists outside the newsroom as well as inside.”

The survey also found that women journalists who specialise in covering women’s rights, sport or politics are particularly exposed to violence.

The report cited the case of ‘Nouf Abdulaziz al-Jerawi, a Saudi journalist who was tortured, subjected to electric shocks and sexually molested during detention after being arrested for denouncing the system of male guardianship that women must endure in her country.

In Brazil, “50 women journalists specialising in covering sport launched the #DeixaElaTrabalhar (‘Let Her Work’) movement to denounce the frequency with which they are forcibly kissed by

team supporters while providing live coverage of sports events.

“In France, nearly 40 women journalists working for the French sports daily *L’Equipe* issued a joint statement condemning the harassment to which female journalists are subjected within news media sports departments.”

The RSF report said the impact of this violence on journalism and the associated trauma “often ends up reducing its victims to silence and reducing pluralism within the media”.

“As well as causing stress, anxiety and fear, this kind of violence may induce the targeted women journalists to close their social media accounts temporarily or for good (according to 43% of the respondents to RSF’s questionnaire), to censor themselves (48%), to switch to another speciality (21%) or even to resign (21%).”⁸⁰

ONLINE ABUSE OF WOMEN

“They arrive via comments, direct messages, or tweets. The rape threats, the death threats, the explicit language – the mildest might be slut, whore or bitch – then there is the criticism of

appearance, hairstyles, figures and clothing, or the comments that they are lucky to have a job.”⁸¹

The amount, breadth and ferocity of the online abuse directed at women journalists, that takes the form of the basest misogyny, is a massive issue for their employers. But it is also indicative of a social issue – these threats are coming from people in community who know they can make such attack with impunity.

The online abuse of women journalists is so widespread and becoming increasingly dangerous that it is urgent that action is taken before a tragedy occurs.

PARLIAMENT AS A WORKPLACE

In the wake of allegations and revelations of sexual assault, harassment and misconduct in Parliament House in Canberra, Sex Discrimination Commissioner Kate Jenkins’ began conducting an independent inquiry into the workplace culture at Parliament House and responses to sexual harassment and assault.

In mid-March MEAA held a meeting of members and non-members of the Press Gallery to acknowledge that for them, Parliament House is their workplace. The meeting was open to MEAA members and non-members to discuss how journalists could be supported by MEAA as the revelations about sexual harassment in the building escalated and particularly how support could be offered during the investigation – a process that may cause distress.

MEAA also issued a confidential survey seeking input on how to make Parliament safer for all journalists working in Parliament House by allowing journalists to have a say about how sexism and harassment at work impacts them.

“The survey will help inform MEAA’s support of members during ongoing inquiries into the workplace culture at Parliament House. Members, non-members and journalists of all genders are welcome to participate,” MEAA said.

SAFETY ONLINE

The trauma that arises from the wave of abuse is a clear workplace health and safety issue that must be addressed by media employers, social media

platforms and lawmakers.

In 2019 MEAA and Gender Equity Victoria (GEN VIC) launched Australia’s first effort to address the online abuse of women journalists. The landmark study *Don’t Read the Comments: Enhancing Online Safety for Women Working in the Media*, recommended media organisations should begin treating gender-based abuse against women journalists on social media and websites as an issue of health and safety and take more responsibility for ensuring that women journalists are supported in the aftermath.⁸²

The study found that “a vast majority of journalists had experienced online harassment, trolling and stalking during the course of their work, but only 16% said they were aware of their workplace having existing policies to address online abuse.”

GEN VIC identified the importance of the cyberhate crisis. “Online abuse of women journalists threatens democracy because it limits the participation of journalists in the public sphere, thereby reducing the diversity of voices contributing to the media. Media requires a diversity of voices in order to remain relevant to contemporary discourse and engaging to audiences.”

The *Don’t Read the Comments* report recommended:

- A whole-of-organisation approach to address systemic and structural sexism in the workplace.
- Training on gender, implicit bias and bystander intervention for all staff in a media organisation.
- Treating gender-based abuse against women journalists on social media and websites as an issue of workplace health and safety.
- Moderation guidelines and training that explicitly address gendered and other identity-based abuse as a subset of abuse that requires a strong response from the organisation.
- Requiring audience members to complete a simple comprehension quiz before they are permitted to comment.
- Requiring commissioning editors to provide specific support for freelance journalists even after the story has been published and invoices paid.

As part of the Enhancing Online Safety for Women Working the Media project, the next phase was to follow-up the report’s recommendations with the development of practical resources for media outlets and newsrooms.

MEAA worked again with Gender Equity Victoria (GEN VIC) and also with Australian Community Managers (ACM) to launch three critical resources to help media organisations and publications better support women journalists who experience harassment:

- *Australian Media Moderation Guidelines*: comment and online discussion moderation guidelines are the industry standard for Australian media to moderate comment sections using a gender and intersectional lens.
- *Responding to the Comments*: workplace support guidelines that outline organisational responsibilities for helping women journalists deal with the effects of online harassment.
- *Media Cybersafety Training*: a 3-hour training session designed for human resources professionals and management at media organisations to develop policies and procedures aimed at reducing the traumatic impact and emotional labour of online harassment on journalists.

MEAA said: “These much-needed resources have been developed through surveys, interviews and focus groups with women working in the media, and months of extensive consultation with project partners and academic experts in media production and moderation. The resources address a gap in the Australian media industry where responsibility for dealing with online harassment is often left to the journalists who experience it the most.

Tanja Kovac, the chief executive officer of GEN VIC said: “When women journalists are left to deal with online harassment on their own, it creates a ‘chilling effect’ on their reporting and drives them away from journalism. A free press is fundamental to a functional democracy, and these resources will help to ensure women journalists feel supported doing their work.

“The Australian media industry needs to take urgent action to address the



impacts of online harassment on women journalists. We have developed these resources to ensure the welfare and safety of women journalists is at the forefront of media organisational policies.”

MEAA Media director Adam Portelli said: “In an age where social media and other online platforms are part of a journalist’s workplace, online abuse and harassment must be treated as a workplace health and safety issue. It is unacceptable that women journalists continue to feel unsafe while doing their job because of bullies and trolls. MEAA is proud to have been involved in the development of this initiative to ensure that safety of women journalists is a priority.”

GEN VIC’s project lead Caitlin McGrane said: “Too often the emotional labour of dealing with online harassment and moderating comments falls to those least equipped or empowered to deal with it.

“In addition to recommending workplaces support women journalists, these resources are the first supported by the media industry in Australia to recommend moderation and community management professionals should be offered counselling and supports to ensure they are able to safely and effectively perform their work.”⁸³

BRINGING IN THE LAW

In March 2021 the British Government announced steps to protect journalists from threats of violence and intimidation. It published an action plan and ensured every UK police force provides a designated journalist safety liaison officer.⁸⁴

“Abuse aimed at UK journalists going about their work has included them being punched, threatened with knives, forcibly detained and subjected to rape and death threats... In the past year two men have been jailed for threatening regional journalist Amy Fenton on Facebook while two female journalists in Belfast, Patricia Devlin and Allison Morris, have been the subject of threats both online and in graffiti.”

British Prime Minister Boris Johnson said: “Freedom of speech and a free press are at the very core of our democracy, and journalists must be able to go about their work without being threatened. The cowardly attacks and abuse directed at reporters for simply doing their job cannot continue.

“This action plan is just the start of our work to protect those keeping the public informed and defend those holding the government to account.”

In July 2020, a UK National Committee for the Safety of Journalists, bringing

together representatives from the industry, government and policing, had been established. A Chief Constable took responsibility for crime against journalists at national level and every police force would be given access to a designated journalist safety liaison officer. Police would engage with the National Union of Journalists and the Society of Editors to update training for police in investigating crimes against journalists and the ability of journalists to cover demonstrations.

Britain’s prosecution services each reaffirmed their commitment to taking a “robust approach to crimes against journalists and bringing those responsible to justice”.

The British Government’s Department for Digital, Media, Culture and Sport and Home Office would call for evidence to better understand the volume and type of threats and abuse faced by journalists and to work developing ways to tackle them. The department would also publish a media literacy strategy to help the public better understand their role in society.

The role to be played by social media platforms was not forgotten with the department saying that Facebook and Twitter had committed to respond promptly to threats to journalists’ safety.⁸⁵

Online attacks on female journalists are increasingly spilling into the ‘real world’ – new research

BY **JULIE POSETTI, JACKIE HARRISON AND SILVIO WAISBOARD.**
THIS STORY PREVIOUSLY APPEARED IN THE CONVERSATION*

The insidious problem of online violence against women journalists is increasingly spilling offline with potentially deadly consequences, a new global survey⁸⁶ suggests.

Nearly three-quarters (73%) of female respondents to our survey – taken by 1210 international media workers – said they had experienced online abuse, harassment, threats and attacks. And 20% of the women surveyed reported being targeted with offline abuse and attacks that they believe related to online violence they had experienced. The survey, which concluded this [October 2020] month, was fielded by the International Centre for Journalists (ICFJ) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Online violence is the new frontline in journalism safety – and it’s particularly dangerous for women. In the digital environment, we’ve seen an exponential increase in attacks on women journalists in the course of their work, particularly at the intersection of

hate speech and disinformation – where harassment, assault and abuse are used to try to shut them up.

Misogyny and online violence are a real threat to women’s participation in journalism and public communication in the digital age. It’s both a genuine gender equality struggle and a freedom of expression crisis that needs to be taken very seriously by all actors involved.

Our survey provides disturbing new evidence that online violence against women journalists is jumping offline. Frequently associated with orchestrated attacks designed to chill critical journalism, it migrates into the physical world – sometimes with deadly impacts.

In 2017, the Committee to Protect Journalists reported that in at least 40% of cases, journalists who were murdered had received threats, including online, before they were killed. The same year, two women journalists on opposite sides of the world were murdered for their work within six weeks of

one another: celebrated Maltese investigative journalist Daphne Caruana Galizia and prominent Indian journalist Gauri Lankesh. Both had been the targets of prolific, gendered online attacks before they were killed.

Parallels between patterns of online violence associated with Caruana Galizia’s death and that being experienced by another high-profile target – Filipino-American journalist Maria Ressa – were so striking that when digital attacks against Ressa escalated earlier this year, the murdered journalist’s sons issued a public statement expressing their fears for Ressa’s safety.

Likewise, the death of Lankesh, which was associated with online violence propelled by right-wing extremism, also drew international attention to the risks faced by another Indian journalist who is openly critical of her government: Rana Ayyub. She has faced mass circulation of rape and death threats online alongside false information designed to counter her critical

20% of women journalists participating in a UNESCO/ICFJ survey say they have been attacked **offline** in connection with **online** violence targeting them.



Illustration: Franziska Barczyk



ICFJ International Center for Journalists

#JournalistsToo

73% of women journalists participating in a UNESCO/ICFJ survey say they have experienced online violence in the course of their work.



STAND UP AGAINST ONLINE HARRASSMENT OF WOMEN JOURNALISTS

Illustration: Franziska Barczyk



ICFJ International Center for Journalists

#JournalistsToo



Above: Gauri Lankesh | *Esha Lankesh*; Right: A memorial to murdered investigative journalist Daphne Caruana Galizia

reporting, discredit her, and place her at greater physical risk.

Pointing to the emergence of a pattern, the targeting of Ayyub led five United Nations special rapporteurs to intervene in her defence. Their statement drew parallels with Lankesh’s case and called on India’s political leaders to act to protect Ayyub, stating: “We are highly concerned that the life of Rana Ayyub is at serious risk following these graphic and disturbing threats.”

‘SHADOW PANDEMIC’

Physical violence against women has increased during the COVID-19 pandemic, in what is called the “shadow pandemic”. At the same time, online violence against women journalists also appears to be on the rise. In another global survey, conducted earlier this year by ICFJ and the Tow Center for Digital Journalism at Columbia University as part of the Journalism and Pandemic Project, 16% of women respondents said online abuse and harassment was “much worse than normal”.

This finding likely reflects the escalating levels of hostility and violence towards journalists seen during the pandemic – fuelled by populist and authoritarian politicians who have frequently doubled as disinformation peddlers.

Significantly, one in 10 English language

respondents to the ICFJ-Tow Center’s Journalism and the Pandemic survey indicated that they had been abused – on or offline – by a politician or elected official during the first three months of the pandemic. Another relevant factor is that the “socially distanced” reporting methods necessitated by coronavirus have caused journalists to rely more heavily on social media channels for both newsgathering and audience engagement purposes. And these increasingly toxic spaces are the main enablers of viral online violence against women journalists.

Since 2016, several studies have concluded that some women journalists are withdrawing from frontline reporting, removing themselves from public online conversations, quitting their jobs, and even abandoning journalism in response to their experience of online violence. But there have also been numerous cases of women journalists fighting back against online violence, refusing to retreat or be silenced, even when speaking up has made them bigger targets.

WHAT CAN BE DONE?

We know that physical attacks on women journalists are frequently preceded by online threats made against them. These can include threats of physical or sexual assault and murder, as well as digital security attacks designed to expose them to greater risk.



And such threats – even without being followed by physical assault – often involve very real psychological impacts and injuries.

So, when a woman journalist is threatened with violence online, this should be taken very seriously. She should be provided with both physical safety support (including increased security when necessary), psychological support (including access to counselling services), and digital security triage and training (including cybersecurity and privacy measures). But she should also be properly supported by her editorial managers, who need to signal to staff that these issues are serious and will be responded to decisively, including with legal and law enforcement intervention where appropriate.

We should be very cautious about suggesting that women journalists need to build resilience or “grow a thicker skin” in order to survive this work-related threat to their safety. They’re being attacked for daring to speak. For daring to report. For doing their jobs. The onus shouldn’t be on women journalists to “just put up with it” any more than we would suggest in 2020 that physical harassment or sexual assault are acceptable career risks for women, or risks which they should take responsibility for preventing.

The solutions lie in structural changes to the information ecosystem designed to combat online toxicity generally and in particular, exponential attacks against journalists. This will require rich

and powerful social media companies living up to their responsibilities in dealing decisively, transparently and appropriately with disinformation and hate speech on the platforms as it affects journalists.

This will likely mean that these companies need to accept their function as publishers of news. In doing so, they would inherit an obligation to improve their audience curation, fact-checking and anti-hate speech standards.

Ultimately, collaboration and cooperation that spans big tech, newsrooms, civil society organisations, research entities, policymakers and the legal and judicial communities will be required. Only then can concrete action be pursued.

Survey results are non-generalisable because they are based on a self-selecting group of journalists and other media workers. The survey is part of an ongoing global study commissioned by UNESCO.

This article is republished from **The Conversation under a Creative Commons licence.⁸⁷ **Julie Posetti is Global Director of Research, International Center for Journalists (ICFJ) and Research Associate, Reuters Institute for the Study of Journalism (RISJ), University of Oxford. Jackie Harrison is Professor of Public Communication, University of Sheffield. Silvio Waisbord is Director and Professor School of Media and Public Affairs, George Washington University.***

COVERING PROTESTS

Rubber bullets, pepper spray and tear gas

On June 1, 2020, MEAA wrote to the US Ambassador to protest the attacks on journalists while carrying out their duties. MEAA cited its concerns that Australian media personnel had been assaulted by police while reporting in Minneapolis.

- On May 30 a Seven news reporter was hit in the arm by a projectile.
- On May 31 a Nine news crew were pulled over at gunpoint, handcuffed and searched – even though they had shown their media credentials.

MEAA wrote: “It is apparent that across the US, law enforcement agencies have used the protests to attack the media. On many occasions the incidents have been videoed and in many cases the media is some distance away from the active protests, and sometimes even standing behind or within police lines.

“The videoed incidents show police deliberately targeting the media. Working journalists, clearly identifiable, have been shot at with a variety of munitions. There are reports that two journalists may have lost their sight after being shot in the head with rubber bullets.

“These dangerous actions by law enforcement have also been echoed among protesters. One assaulted a reporter and tried to seize her microphone while she was live on air. In Washington DC, a news crew was forced

to flee after a large crowd discovered the network they worked for. In Atlanta, the CNN headquarters was subject to physical attack by a large crowd.

“It appears from these incidents that the media in the US is seen by many as a legitimate target to attack. This attitude is likely attributable for the most part to the comments made almost daily by President Trump, by members of his administration and family, and members of the Republican Party. The US President has used the microblogging website Twitter to name media outlets that he regards as ‘fake news’, including... CNN, MSDNC (sic), the *New York Times* and the *Washington Post*.

“The relentless verbal assaults, particularly the President describing ‘Fake News’ outlets as the ‘Enemy of the People’ – a phrase he used again on Sunday – have dangerous consequences.

“The 48 hours of protests show that journalists are being routinely demonised, harassed, targeted, shot at and arrested. This war on media freedom and journalists’ rights must stop.”

After MEAA’s letter was sent, more incidents took place involving Australian media personnel.

- On June 2, a Seven news crew was attacked in Washington when the then US Attorney-General William

Barr ordered Lafayette Square to be cleared of protesters for a photo opportunity.

- On June 3, a Nine news reporter was assaulted in London while reporting on the protests (albeit in an unrelated assault).
- On June 4, a Nine news crew had to flee from protesters in London.

After the degree of violence being directed at journalists by police and protesters, the weapons arrayed against them and the failure to respect the media as observers carrying out their duties but being caught between the two groups, MEAA wrote to Australian TV news directors on June 6, 2020. MEAA said it had observed some media crews were improperly equipped and were not taking steps to ensure their safety. MEAA urged Australia’s news networks to ensure their crews were provided with the same level of training, equipment and support that they receive when reporting on bushfires and other natural disasters; were properly equipped with PPE including gas masks, flak jackets and helmets; and provided with ongoing support and counselling. MEAA also pointed members to the resources for journalists on covering riots and civil unrest provided by the DART Centre for Journalism and Trauma.⁸⁸

ON THE GROUND AND UNDER FIRE

The protests in the US (which spread to



US Capitol building rioters destroy AP equipment

other parts of the world) following the death of George Floyd and the related #BlackLivesMatter campaign arose out of an act of police brutality towards a person of colour. The protests were on such a scale that the police response in many locations only reinforced the scale of the police brutality issue and the impunity enjoyed by police departments who were captured targeting not just protesters but reporters who were clearly identified as working journalists.

Australian news crews, like many others, were sometimes caught trying to cover and report as protesters and police jostled for territory and control. It was often the actions of police that caused the most concern. Police would open fire with rubber bullets and other projectiles without due care of who was hit, use pepper spray directly in journalists’ faces, use truncheons and riot shields to batter journalists and arrest journalists who they deemed were in the way. Indeed, identifying as a journalist sometimes appeared to provoke police into action against reporters.

The image that captured the world’s attention was the US Park Police charge on protestors in Lafayette

park, opposite the White House in Washington DC. Under orders from the then US Attorney-General William Barr who wanted the area cleared so that the then President Donald Trump could have a photo opportunity. Seven News’ US correspondent Amelia Brace and cameraman Tim Myers were attacked as police charged the protesters. While seeking shelter, live footage showed Myers being hit with a riot shield and then his camera lens was punched by the officer; Brace was clubbed with a truncheon.

“Brace said they were both hit by rubber bullets prior to the altercation, as police used batons and tear gas to push hundreds of protesters back away from the White House. Brace shouted, ‘We’re media!’ as officers targeted her and Myers.”⁸⁹

Brace said she and her crew were targeted at 6.30pm - half an hour before the curfew was due to come into effect, despite media being exempt.⁹⁰

“We were at some distance, expecting a crackdown at curfew time... but their surge took everyone by surprise. We sheltered behind a tree and then ducked for cover behind a building that had

been burning just 12 hours before. Our expectation was that the police would pass by in a wave as we’d seen them do as the last curfew was enforced. Pushing protesters back. Aggressively. But not violently. It was to no avail, so we ran. Feeling the thwack of a baton across the back of my neck and the sting of rubber bullets. Next came the tear gas. Burning our lungs as we tried to run.”⁹¹

Brace reported live that riot police aren’t differentiating between protesters and media. “You heard us yelling that we were the media, but they don’t care. They’re being indiscriminate.”⁹²

“Minutes before the vision was filmed, Brace and her crew were shepherded out of the thick of the protest after they were hit with tear gas and rubber bullets. ‘We just had to run a block as police moved in. We’ve been fired at with rubber bullets, my cameraman has been hit, we’ve seen tear gas used... We are surrounded. They do not care who they’re targeting at the moment... You just saw how they were with my cameraman. Quite violent.’”

Seven’s director of news and public affairs Craig McPherson described the

police actions against Brace and Myers as “nothing short of wanton thuggery.”⁹³

Prime Minister Scott Morrison instructed Australia’s embassy in the US to investigate the assault. Cabinet minister Greg Hunt said the federal government was always concerned about the wellbeing of Australians overseas.⁹⁴

The US ambassador to Australia Arthur B Culvahouse Jr said the embassy took the mistreatment of journalists seriously, “as do all who take democracy seriously.”⁹⁵

“Freedom of the press is a right Australians and Americans hold dear. We take mistreatment of journalists seriously... We remain steadfast in our commitment to protecting journalists and guaranteeing equal justice for all.”⁹⁶

It was reported that two of the US police that were involved in the assault had been “stood down” and placed on “administrative leave.”⁹⁷

Brace subsequently testified for two-and-a-half hours before a US House Committee on Natural Resources. She recounted the incident. “Suddenly the police lines surged forward. We moved back along with many protesters. Police lining the park used automatic weapons to fire non-lethal rounds. As a reporter I have no interest in becoming the story but over recent weeks many of us have been left with no choice.

“As I began reporting live, the line of police suddenly and without warning began charging forward at a sprinting pace, knocking protesters to the ground. A park police officer who was passing us stopped, turned towards Tim, and rammed him in the chest and stomach with the edge of his riot shield, causing Tim to keel over and drop down. The officer then took a step back, paused, then punched his hand directly into the front of Tim’s camera, grabbing the lens. As this happened, Tim and I were both repeatedly shouting the word ‘media’.”⁹⁸

“A second officer appeared to intervene, giving us the opportunity to move. As I was running away a third officer pushed through the group, going out of his way to strike me with a truncheon.’ Brace told the committee she was shot in the legs and backside and Myers was hit in



Nine News' Ben Avery threatened at the London Black Lives Matter protests | *Nine News*

the neck by non-lethal rounds from a police automatic weapon. A “chemical irritant” also filled the air.”⁹⁹

Democrat congressman Ruben Gallego asked Brace: “When you were attacked by this police officer, were you resisting?” Democrat congressman Ruben Gallego asked Brace. “No,” she replied. “Was your cameraman resisting?” Gallego asked. “No,” Brace replied. “You had your back to them, as I remember, and you were fleeing?” he asked. “That’s correct,” she replied.¹⁰⁰

Brace told the hearing: “I’ve been shocked to see how many journalists have been attacked, beaten and detained just for doing their jobs. Covering protests does carry unavoidable risks, but the media’s role is essential. We don’t just have a right to be there, we have an obligation.”¹⁰¹

The incident in Washington D.C. was not the only one where Australian news crews were assaulted by police. 7News’ US bureau chief Ashlee Mullany and cameraman Cam Wallis were fired upon as they stood with other media. Mullany told the cameraman she had been hit in the arm with a projectile. On May 28, 2020, Mullany crossed to the Sunrise newsroom. Footage showed the journalist duck for cover as a stun grenade was fired in her direction by police officers who descended on the protest.

On May 30, 2020, 9News US correspondent Tim Arvier, and his crew detained and searched by police at gunpoint in Minneapolis while reporting on the riots. Although the city was in lockdown, media were exempt from the curfew. Arvier said he and his crew, including a cameraman and

security guard, heard gunfire nearby, they approached a police blockade by car. As their vehicle approached, the trio yelled out that they were press. Police drew weapons and ordered the trio out of the car and searched them and their car.

“You have to stop, put your hands out the window and show your credentials. We were yelling out we were press. One police officer freaked out, pulled his gun out and got us to get out of the car. They pulled out our camera man hand cuffed him, pulled out the security, handcuffed him. They pulled me out of the car, sat me down, they searched me.”

Arvier tweeted: “Just been detained and searched by #Minneapolis Police. They cuffed my cameraman and our security but were respectful and have now let us go.”¹⁰²

The Black Lives Matter protests that had begun with the killing of George Floyd spread overseas. On June 6, 2020, In London, 9News Ben Avery London correspondent and cameraman Cade Thompson were doing a live cross when a group of men approached the pair and started making threats and pushed the camera.

“Avery pulled back but had his microphone stolen, while a security officer hired by the network to shadow the reporters held off the aggressive group of about 15 men. ‘The crowd grew to about 50 or 60 people standing there and the only thing between them and us was this line of police which had arrived.’

“The Nine crew was escorted to their nearby car and left the scene rattled but unhurt.

“Avery said he felt sympathy for the peaceful protesters whose message had been overshadowed by the violence of a minority. ‘We had been following that protest all day today. It was really peaceful and occasionally you would get a few comments from people who were anti-media. There was no pushing, no shoving, no aggro, and that was despite there being thousands of people. But there was this one group that hung around and caused the trouble.’”¹⁰³

The previous day, Nine’s Europe correspondent Sophie Walsh was reporting in a live cross from a Black Lives Matter protest but in an incident unrelated to the protesters, she was assaulted in London’s Hyde Park by a man shouting “Allahu Akbar” and making stabbing motions.

“Walsh initially feared the man may have been wearing an explosive vest and was trying to kill her on what was the third anniversary of the deadly London Bridge terrorist attack. ‘I pushed him off me but one of the scariest things was the fact that he was super calm. Normally when someone confronts you, you scream, and they sprint off. But he was lingering and saying Allahu Akbar. He had his hand in his pocket and I was just thinking ‘do you have a knife, are you going to go on a stabbing spree, or do you have a suicide vest under all of that and are you going to blow us all up?’”

Walsh’s cameraman Jason Conduit chased the man and, with bystanders, detained the man until police arrived. He was arrested on suspicion of making threats to kill and possession of an offensive weapon - believed to be a screwdriver.

“Walsh said the twin incidents demonstrated how exposed television reporters are when they are performing a live cross in the public. ‘You are completely vulnerable and sometimes you forget that. Your eyes are trained on the camera, you are thinking about what you are saying, and you don’t really have that peripheral vision because you are thinking about how to tell the story to the viewers.’”¹⁰⁴

Walsh’s assault was sentenced to two years and four months jail.¹⁰⁵

THE ATTACK ON THE US CAPITOL BUILDING

A mob of insurgents spurred on by a concerted campaign of misinformation from then President Donald Trump and other senior Republican Party figures, stormed United States Capitol building in Washington DC on January 6, 2021. In a statement, the International Federation of Journalists (IFJ) and its American affiliated member union, said they deplored these barbaric attacks against journalists and stand in solidarity with journalists protecting citizens’ right to know.

The statement said: “A violent mob assaulted a media crew when they were reporting on the attack on the US Capitol during the certification of the Presidential vote perpetrated by supporters of outgoing president Donald Trump. Assailants destroyed media equipment and made a noose out of camera cables and hung it from a tree while screaming ‘get out of here’ and ‘we are the news now’.

“A spokesman for The Associated Press confirmed that its equipment had been stolen and destroyed, adding that none of its staff members had been injured.

“A CBS News journalist reported that a protester had told him that law enforcement officers would not protect journalists and denounced the lack of protection. ‘There were no police around us, we were on our own. We high-tailed it out of there.’ He described the mob as ‘absolutely, ferociously angry at the media.’

“While journalists outside the Capitol were threatened and surrounded, media workers inside the Capitol were forced to shelter in secure locations for hours as violent protesters entered the building. One of them wrote ‘murder the media’ in a door inside the Capitol.

“More incidents against media workers were reported in Canada, where a CBC News photojournalist was assaulted at pro-Trump protest in Vancouver, according to media reports.”

“The NewsGuild, an IFJ affiliate, called on its members who were covering the unfolding events at the capital to please stay safe and be in communication with them and offered any kind of support or assistance if needed.”

The IFJ general secretary, Anthony Bellanger, said: “We are appalled by the violent attacks against media workers who were just doing their job. This is the final result of a long process of demonisation and hate-speech narrative against the media in the United States by Donald Trump. We stand in solidarity with our American colleagues. You are not alone”.¹⁰⁶

AUSTRALIA

There are also confrontations with police in Australia when journalists try to identify themselves as working media carrying out their duties. In Melbourne on February 20, 2021 *Sunday Herald Sun* reporter Olivia Jenkins and senior photographer Jake Nowakowski were handcuffed and escorted from an anti-vaccination protest.

The pair were wearing facemasks, carrying their *Sunday Herald Sun* accreditation cards in open view and identified themselves as journalists. They were detained by police and given a notice that they may be issued with a \$1652 fine for failing to comply with the Chief Health Officer’s directions. They were detained for about 10 minutes while their identities were verified.

A subsequent Victoria Police statement said the force was “very sorry” the two were caught up in the incident and confirmed they would not be fined. “In the past 12 months, Victoria Police has seen an increase in hostile and at times violent protests throughout the state.

“To be clear, it is not our intention to arrest journalists who are simply doing their job. We understand and appreciate the important role media play reporting on news events such as this and we are generally only too willing to assist them with their request,” the police statement said.

“However, the reality is we have seen an increased number of protesters claim to be media in order to actively avoid police enforcement. We are very sorry the journalist and photographer got caught up in this incident. Our focus is always to keep the community safe and maintain public order. We have since spoken to the relevant media outlet to explain why the police action occurred and reaffirm those involved would not be fined.

“We understand police have a job to do but the arrest of Olivia and Jake is an appalling misuse of power by Victoria Police.”

SUNDAY HERALD SUN EDITOR NICK PAPPS

“Our police do a great job day in and day out, often in difficult circumstances, but on occasion issues like this arise and we must learn from them to maintain the balance between individual rights, enforcing health directions and media reporting on these issues.”

Jenkins told the *Sunday Herald Sun*: “I was really shocked they arrested us knowing we were from the media. The officers who arrested us weren’t rough. But it was very confronting. We were there to cover the protest — to do our jobs — just as the police were there to do theirs.”

Nowakowski added: “Police started clearing protesters from the park. We found ourselves in one of these police encirclements. Once we presented to police, we were media they let us out. Almost immediately afterwards we found ourselves in another cordon with a handful of protesters. There wouldn’t have been more than seven of us. Specialist police started coming in and arresting individuals. At no time were we given the option to leave. The police knew we were media. We had our identification out. Olivia and I were the last left in that cordon. They just came in and arrested us. They handcuffed us and they took us away for processing.”

“Police have powers of discretion; they can tell the difference between a protester and a journalist and the intentions of an individual. They could have just let us off with a warning and said try not to congregate in groups of more than 20 people, which is what the charge was. It was obvious that we weren’t protesting, we were media who found ourselves in the wrong place at the wrong time.”

Nowakowski said there was a lot of anger and abuse from the protesters directed towards the media and TV networks. He said they had also filed a police report after a female protester tried to punch Jenkins because she took offence to her wearing a face mask.¹⁰⁷

The *Sunday Herald Sun* editor Nick Papps said the actions of police were unacceptable. “We understand police have a job to do but the arrest of Olivia and Jake is an appalling misuse of power by Victoria Police. Our reporter and photographer were just doing their jobs and made it clear they were members of the press. Yet they were handcuffed, frogmarched and then issued with notices. This is not how democracy operates and this is not how Victoria Police should uphold the right. We will be making our views clear to Victoria Police and ensuring we stand up as we always stand up for the freedom of the press.”¹⁰⁸

This incident echoes an earlier issue that MEAA examined in its 2020 press freedom report.¹⁰⁹ On October 30, 2019, during an Extinction Rebellion protest in Melbourne, a Seven News reporter was manhandled and pushed while he was attempting to join other TV media representatives as they were filming the protest.

MEAA wrote to the then chief commissioner of Victoria Police Graham Ashton about the incident: “We write to express concern over the actions of police against journalists during the protests at this week’s International Mining and Resources Conference at the Melbourne Convention and Exhibition Centre... We are particularly concerned that subsequent police statements do not convey the reality of events that

have been recorded on video. During the demonstrations this week, journalists have been hit by pepper spray which has been wildly streamed into a broad swathe of the crowd without due care and regard for non-protesters including journalists who were affected. On another occasion, video recorded media outlets’ camera operators being pushed away by a police member who pointed pepper spray container directly into their faces.

“In a well-publicised incident, a Channel 7 reporter was assaulted by police... He was clearly recognisable as a working journalist. He was holding a Channel 7 microphone in his hand. He was dressed in a suit and tie. He was standing with other media and proceeding to where other media were already working. Many others repeatedly identified him as a journalist — indeed the video was taken by a reporter from *The Australian* who loudly and repeatedly identified him as a journalist.

“Despite all this, the assaults by police members only ended when he reached the very location that he had been walking towards — next to the camera operator. The journalist later said: ‘Incredible. I was obeying their direction to move to another area. I’m stunned.’

“We believe a Victoria Police statement misrepresents what took place. The statement said: “It is unfortunate that members of the public, including journalists, are not following instructions by members of Victoria Police. In this case the reporter did not follow police instructions... This was a safety issue and Victoria Police believes an appropriate amount of force was used to move the reporter from the area. We have given media repeated advice to be mindful of their surroundings to ensure their safety to avoid risk of injury.

“MEAA would contend that the safety of this journalist and other media reporting on this event have been put at risk by the actions of Victoria Police. We believe it is important that Victoria Police members receive training that acknowledges and respects the role of the media in reporting public events. We believe it is important that guidelines are designed to protect members of the



Top: 7News US bureau chief Ashlee Mullany and cameraman Cam Wallis were hit by police projectiles | 7News; Above left: A Nine News crew is stopped at gunpoint by police in Minneapolis | Nine News; Above right: Nine’s Sophie Walsh was assaulted by a man carrying a screwdriver during a live television cross in London. | Nine News

media as they carry out their duties as well as ensuring that police members can also carry out their responsibilities — it is a two-way street.”

In the wake of the February 2021 anti-vaxxer protest incident, Victoria Police went further, deciding to issue its own media accreditation. MEAA became aware of the practice on April 4, 2021 and immediately wrote to the acting Police Minister Danny Pearson.

MEAA wrote: “... at no stage has MEAA been consulted about this move. It also appears that Victoria Police have only contacted a small number of

major media organisations, ignoring hundreds of journalists working at smaller media outlets, working as freelance journalists and also student journalists.

“It is MEAA’s view that such a move by Victoria Police is an outrageous overreach and represents a fundamental assault on press freedom as well as a dangerous measure that threatens people’s right to protest. In essence, it allows Victoria Police to choose who can attend a protest and goes further by allowing Victoria Police to select which journalists and which media outlets will be permitted

to report on newsworthy events. The regulation by a government agency over the ability of the media to carry out its fundamental duties is a dangerous step.

“As demonstrated on February 20, journalists already carry accreditation from their employer. MEAA’s journalist members also have their membership card which carries their photograph.

“MEAA cannot accept that a government agency should be able to regulate the media by granting itself the ability to select who can report on stories of public interest.”

Reporting the Black Lives Matter protests

Amelia Brace and Tim Myers won the 2020 Television/Video: News Reporting Award at the 2020 Walkley Awards for Excellence in Journalism for their work entitled “Beat the Press: Journalism under Attack.”*

Their coverage of protests outside the White House had a profound impact around the world. The far-reaching nature of their reporting, their storytelling ability and their gripping pictures provided a raw insight into the civil unrest that was engulfing the US.

Brace and Myers showed not only outstanding camera work but also outstanding courage. They were live on-air outside the White House when riot police violently moved in, assaulting both Australians. Myers was struck in the stomach by a shield and punched in the face; Brace was struck in the back with a truncheon and gassed with a chemical irritant. Both were hit with non-lethal rounds from automatic weapons. They displayed composure under stress, continuing to broadcast live as they made their way to safety.

The Walkley judges said: “Brave and composed, Amelia Brace and Tim Myers were a standout. When they were both physically attacked during a live cross, Brace stayed on the air for several minutes amid the chaos, continuing to provide nuanced and incisive commentary. They showed courage and strong news judgement, maintaining clarity of message while under fire.”

The Walkley Foundation spoke with Amelia shortly after the 2020 Walkley Awards about keeping your cool and reporting calmly in chaotic, violent and unexpected situations, her passion for politics and regional news, and how the US attack footage brought out a heartening solidarity from Australian media.¹¹⁰

Congratulations Amelia to yourself and cameraman Tim Myers for taking home the TV News Reporting Walkley Award — how does it feel to be recognised by your peers for this particular piece of exceptional work? It’s really exciting and really humbling for Tim and I to be recognized by the Walkley Foundation. It’s such an esteemed award and I think both of us never, never expected that we would even be finalists, let alone winners in this category.

But as we’ve both said, for us, this story and now this award really isn’t about us. It’s about what happened that day and the benefit of what happened to us — despite the fact that we were both quite battered and bruised — is that it drew attention to what happened there outside the White House and the fact that this group of people were peacefully and legally protesting. And just like us, they were treated very brutally.

“If we weren’t there, right in the middle of it, on the front lines, people wouldn’t know what truly happened that day”



It also draws attention to the role of the media, and the fact that if we weren’t there, right in the middle of it, on the front lines, people wouldn’t know what truly happened that day.

And it draws attention to the fact that we need to be able to do that safely or there will be times when people don’t know what’s happening, and that is very important, but also very scary.

Taking us back to Washington Square, where the events happened, can you talk us through how it unfolded and what the aftermath was?

It’s a cliché, but it all happened quite quickly. We were there for the afternoon and we’d actually been out the night before covering police enforcing the curfew. So despite the fact that was an actual violent evening, we did feel like we were across how we could cover that safely, while still making sure that we were getting the story out there accurately.

But on this day the police moved in significantly earlier, about half an

hour before that curfew was due to be enforced. So, not only were we caught off guard, but all the protesters there were. And as you can hear in my reporting on the day, there were people yelling, “It’s not time yet, there’s still half an hour, or there’s still 20 minutes.” I think the timing was a huge factor in the chaos that we saw.

The fact that it was so unexpected, but also the fact that it was just so brutal. They came charging forward at an alarming pace and it meant that people who were trying to get away, including us, just couldn’t. There was an absolute bottleneck of protesters who couldn’t move away. We saw people genuinely trying to do the right thing who were getting hit in the back, as I was, which very much proves that you’re trying to move away from the police, and that just kept happening.

It felt like every time people would move back, the police would come forward again in this big charging motion. That was the first incident that happened, but then it just kept getting worse.

After that, that’s when we started getting hit by the nonlethal projectiles. They were being fired from inside the park into the crowd. They’re meant to be fired at the ground and they bounce up and hit — I actually got hit directly by one, which really hurt. I’m just really pleased that I knew that they were using nonlethal bullets because the pain, I honestly would have thought that I’d been shot. Then all of a sudden there’s gas in the air.

“We started getting hit by the nonlethal projectiles... I actually got hit directly by one which really hurt. I’m just really pleased that I knew that they...were using nonlethal bullets because the pain, I honestly would have thought that I’d been shot. Then all of a sudden there’s gas in the air”

There’s still debate over exactly what kind of gas it was, but I can tell you, there was a chemical irritant in the air that day. It just felt like everywhere we turned there was some other form of danger. All the while, this line of police was coming through, some on horses by this stage, just chasing us. It ended

Police use a riot shield to assault Seven News cameraman Tim Myers | *US ABC 7NewsDC via Twitter*

up going for about 35 minutes, just desperately trying to get away from them.

But also, we’re live on air the entire time trying to explain to people what’s going on while keeping one eye on trying to make sure that we’re in the safest place we possibly can be.

Did you have any training or sources that you called upon to keep your calm and continue reporting at the same time as all this chaos was going on?

No, not really, to be honest. I don’t think you know how you will react in a situation like that until it’s upon you. There were a few times I felt like my voice went a bit high and I sounded a bit shaky and I was annoyed at myself about those because I was, obviously, trying to stay composed and keep telling the story of what was happening. I didn’t want it to be about myself or Tim, I wanted it to be about, “This is the

situation that you are seeing outside the White House.”

I remember making that point that, “This is the United States of America. This is meant to be the world’s greatest democracy and take a look at the way these people are being treated when they are doing something that are legally allowed to do.”

In terms of the first incident, where I got struck across the back, my main motivation was that I knew my dad was watching live at home, and I knew if I didn’t pop my head back up and show him that I was okay, he’d probably spill his cup of tea. That’s when I gave the big thumbs up. Initially, it was very much about making sure that my family saw that I was still OK, I was still going strong. But then it just became this rolling chaos, and it became really important to me to explain exactly what was happening and why it was so egregious.

What have been, for you, some of the most significant impacts that this footage has had?

It became a huge story, and the whole time we were trying to make it very clear that it wasn’t about us. It’s your goal always as a member of the media to not become the story. Sometimes, obviously, you cannot help it, but again we just wanted to highlight the fact of what was going on there.

The fact that these protests were about police brutality, and then the way that we were treated as, clearly, members of

the working press, was just naturally a huge headline. It was big news in the US, it was big news across the world, really, with the Australian government becoming involved. I was called to testify before Congress about what happened.

That in itself was quite terrifying, to be quite honest, but I think that shows the magnitude of it. And I think it’s important that it is taken seriously, that when something happens to the media it’s not because we are more precious or more important than anyone else, it’s because we are everyone else. And if we are not there telling you what’s happening, then you won’t know what’s happening. And that’s really dangerous...

I’m obviously really proud of this story and what Tim and I did that day, but again, it just kind of happened and now it’s almost in hindsight. Whereas there are other things that I’ve worked on over a longer period of time [that] you look at in a different way. It’s not about the scale of what you do, it’s not about the exposure, I think it’s about the importance and telling the stories of the people that you meet along the way...

There is an incredibly dangerous rhetoric at the moment — the fake news rhetoric, the press as the enemy of the people rhetoric. And it’s easy for people to get swept up in that because, like any industry, there are some bad actors or there are some people who are just looking for fame or looking for a headline.

But on the whole, there are many journalists who take their job very seriously, and it is a serious and important job. We are the Fourth Estate, we are there to hold people to account so that everyday Australians don’t have to. I think what happened in Washington, DC was a perfect example of that. People said to me, “Well, you were in the way. You were on the wrong side of the fence.” Both of which were very much untrue.

The fact is, we can’t do our job from a block down the street, we can’t do it watching at home on Twitter. We have to be there to tell you exactly what is going on. I put to people, “What if it was the police being attacked that day? Would you not want someone there to tell you that this is what I saw and you can trust me?” I do hope that over time we can repair the relationship between the media and the people because we really are on the same team and it’s important that we work together to hold others to account.

Is there anybody that you would like to give a shout out to for their help with this story and their contribution towards winning this award?

Obviously, I would like to thank Tim, he took a much heavier hit than I did on the day. He really copped it in the guts, is what I think I said at the time. But he was so calm in making sure we got out of that situation. We actually listened to the full tape for the first time just before I went to Congress and it was so interesting to hear what we were saying to each other that wasn’t going live to air and how much he was supporting me and vice versa. We’re actually neighbours in LA so to find ourselves in that situation was very unexpected, certainly not a situation we ever want to be in again. I definitely want to thank him for his support and guidance...

**This interview is part of the Spotlight series published by the Walkley Foundation.*

Amelia Brace has been a reporter for Seven News for more than a decade. Timothy Myers ACS is an award-winning freelance camera-journalist based in the US.

“The fact is, we can’t do our job from a block down the street, we can’t do it watching at home on Twitter. We have to be there to tell you exactly what is going on.”

REPORTER AMELIA BRACE

THE PANDEMIC

“From March 1, 2020 to April 10, 2021, at least 1060 media workers died from COVID-19. The month of March 2021 was particularly deadly with 93 journalists deceased from the coronavirus, or three per day. An additional concern is that the age of victims is dropping, with nearly half of journalists dying from COVID between the ages of 40 and 60 in March 2021... Of the 1,060, more than half died in Latin America, or 611 in 19 countries. Asia follows with 183 deaths in 17 countries, ahead of Europe (including Russia and Turkey) with 167 deaths in 19 countries, Africa with 52 deaths in 16 countries and North America 47 (2 countries).” **Press Emblem Campaign, April 13, 2021**¹¹¹

COVID-19 is a health and safety issue. Its impact has been particularly brutal to the media industry which has been struggling for almost 15 years – first from the impact of the global financial crisis and then the immense disruption of the digital transformation that continues to savage the industry.

MEAA estimates that, in calendar 2020, COVID-19 contributed to the suspension or permanent closure of more than 150 newspaper mastheads, many of them in regional Australia, and that 1000 editorial jobs disappeared.¹¹²

The impact of this sudden and massive decline in Australian media is profound.

The pandemic placed enormous pressures on everyone. For media professionals, despite being classified as essential workers, it has been a very trying time.

COVID meant a skeleton crew working in the office under strict controls. Working from home meant trying to interview and broadcast from a spare room – sometimes with everyone else in the home confined with you. It meant discovering that the NBN didn’t always work and neither did Zoom calls. It meant travel to news stories was arduous and needed to be conducted under strict safety measures. The slump in advertising left many specialist journalists, including freelancers, without work for months – and that



problem is ongoing as the media may take a long time to recover fully, if at all.

The disturbing escalation of misinformation placed journalists in a position of being abused by people who choose not to believe media reporting. That has spilled into protests of groups opposed to the wearing of face masks, gatherings of anti-lockdown protestors, and protests by anti-vaxxers – people prepared to believe social media posts but not working journalists.

All this made COVID-19 a massive workplace health and safety issue for working journalists. Like everyone in the population there were fears of catching the virus and there are many

instances of losing loved ones to the disease or having family members trapped behind borders or overseas and unable to get home.

The harm to mental health that the pandemic inflicted is severe.

COVID also changed the way journalists work, and the pandemic’s effect on press freedom is considerable, causing a significant dislocation. The impact of the pandemic is ongoing.

In a March 2021 report, Medianet reported that a survey of 1008 Australian journalists found that 90 per cent of journalists believe the COVID-19 pandemic has heightened



threats to public interest journalism due to the closure of newsrooms and media organisations.

Most journalists believe the financial impacts of the pandemic on media organisations have:

- Undermined journalists' ability to work effectively,
- Affected job security for journalists, particularly women and non-binary people and those without permanent positions, such as freelancers,
- Changed workloads for journalists, and
- Changed content for journalists, including a greater emphasis on producing content that will generate revenue.¹¹³

Sixty-six per cent of survey respondents said the closures of media companies and newsrooms had affected journalists' ability to work effectively and the same number of respondents said the closures of media companies/newsrooms have heightened threats to public interest journalism.

"Many respondents highlighted the effects newsroom closures may have had in smaller or regional communities, for example in holding local authorities accountable. Some also noted the impact the closures have had on remaining media, such as increasing pressure on journalists to produce content quickly, reducing the depth of coverage and placing further stress on resources."

There were signs of despair among some survey respondents. "It feels like the journalism industry is crumbling, with so many titles either closing or laying off staff, or drastically reducing budgets."

Another said: "Our newsroom already suffered cutbacks. This could be the nail in the coffin."

Another respondent said what government help that had been promised was not enough to keep newsrooms alive: "So many newsrooms have closed or downsized but thankfully there have been many grassroots new independent start-ups. Disinformation has been rife making it more important than ever to have local news but local

news from independent outlets receives little to no government funding or support through tax or charitable measures."

The hurt was particularly painful in regional media outlets. "It was awful to see so many small country newspapers close or have to reduce their paper page numbers due to COVID. In country areas, newspapers are vital to providing information to the community. COVID-19 has also dramatically impacted the viability of media organisations even further. My old editor at a country newspaper always said he enjoyed having multiple competitors in the area because it keeps all journalists on their game and encourages good journalism. His

newspaper was the only company that survived COVID-19, the other newspapers closed their doors."

The report said: "Half of the journalists surveyed said their employment circumstances have changed in the past year." The most common changes were an increase in unpaid work, salary cuts, and reduced hours. Digital and print journalists said they experienced higher losses of job security than those working in TV or radio.

"Work for freelancers [18 per cent of survey respondents] has been particularly affected, with 41 per cent saying they have far less job security since the beginning of the pandemic, and 61 per cent reporting a decrease in workload."

The survey, conducted in November and December 2020, also found women (59 per cent of survey respondents) have been more affected than men by the pandemic when it comes to job security and employment. Fifty-five per cent of female journalists said they have less job security because of the pandemic, compared to 42 per cent of male journalists.

One survey respondent said: 'I believe journalists were already in a position where lack of resources and staffing were an issue, but the pandemic accelerated that.'

The pandemic led to markedly different ways of working. Before the pandemic, 18 per cent of respondents said they were working from home, this jumped to 82 per cent at some point during the pandemic, with Victorian respondents reporting the lowest return-to-office rates in the country.

Fifty-nine per cent of respondents believed there has been an increase in disinformation as a result of the pandemic, heightening threats to public interest journalism. One respondent warned: "The increase in social media has seen many reports on various topics that have been proven to be false or at best misleading, and as more people use social media as their first source of news,

they are mistakenly seeing mainstream media outlets as almost irrelevant."

A journalism.co.uk survey found that more than 60 per cent of respondents had been negatively affected, with many suffering from late payments and increasing financial pressure.¹¹⁴

RACISM

In the United States, the Coalition for Women Journalists is cataloguing threats, assaults and attacks on press freedom surrounding women journalists. Recently, it has reported on a disturbing rise in threats to Asian-American journalists in the wake of the COVID-19 pandemic¹¹⁵.

"Numerous incidents of discrimination, violence, and hate crimes have been reported since the former U.S. president coined terms such as "Kung flu" and "China virus" to reference the coronavirus. The former president also insinuated that Chinese people were responsible for the eruption of the virus in the country. In reality, it was President Trump who could not control the pandemic situation in the United States. During this time the CFWIJ recorded Asian-American women journalists at the receiving end of vicious xenophobic and racist comments online from the former president. The hate fuelled by the right-wing supporters online is now showing its physical manifestation..."

"Many hard-working and talented Asian-American journalists have also shared how they were gaslighted in newsrooms, and at times, by a former president of the United States."¹¹⁶

On May 13, 2020 at a press briefing held in the White House's Rose Garden, then US President Donald Trump responded to a question from CBS News' Weijia Jiang, a Chinese-American journalist. The president told her to 'ask China' instead of her own country about its reaction to the coronavirus. 'Sir, why are you saying that to me specifically? That I should ask China?' Weija challenged the president. He went on to call her question "nasty" before moving on to another reporter.¹¹⁷

ATTITUDES ABOUT PRESS FREEDOM

OUTCOMES OF THE 2021 MEAA PRESS FREEDOM SURVEY by MARK PHILLIPS

Australian journalists are fearful of an increasingly hostile working environment where physical assaults, online abuse and harassment by law enforcement agencies are becoming common, according to the fourth annual MEAA press freedom survey.

Verbal and physical attacks on journalists are generally associated with authoritarian regimes rather than progressive democracies like Australia.

But 88.8% of working journalists who completed the 2021 press freedom survey said they were fearful that threats, harassment and intimidation was on the rise.

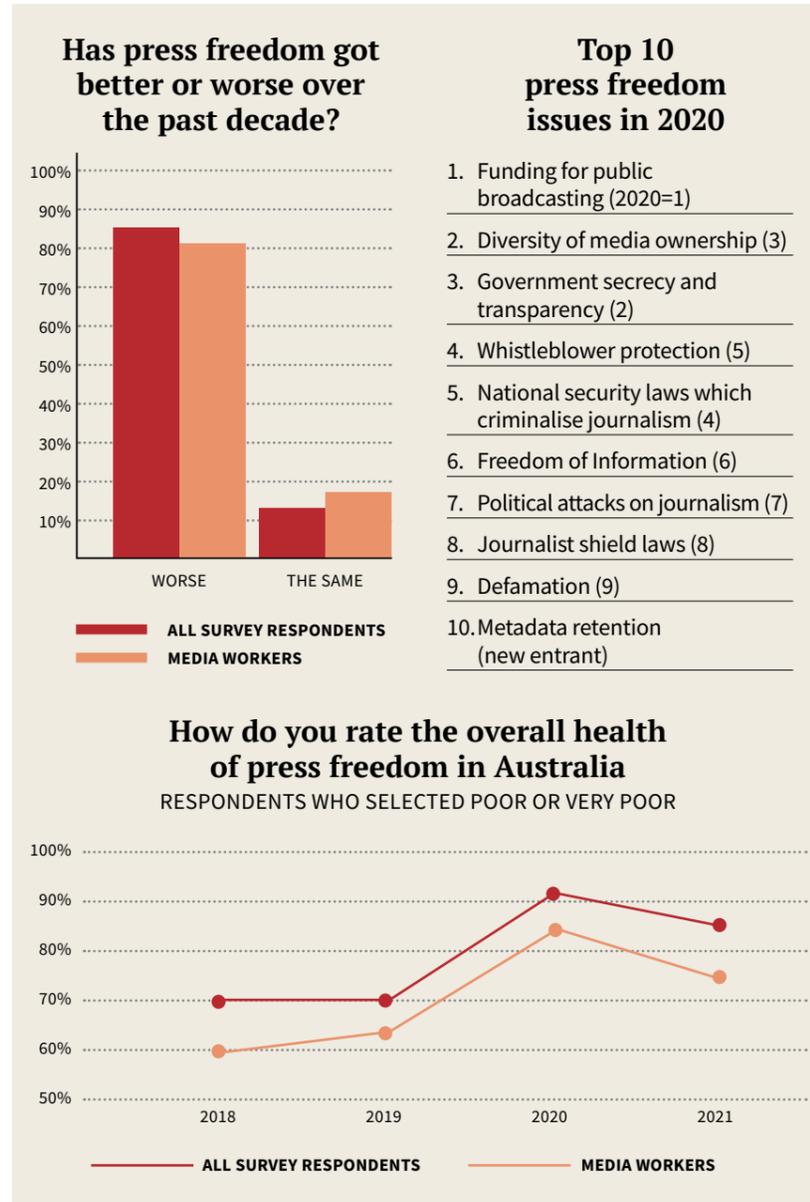
After watching the disturbing tendency by former US President Donald Trump and some Australian politicians of targeting the media as ‘enemies’ manifest itself as attacks on journalists, several new questions on this subject were added to the 2021 survey.

Overall, 214 media workers completed the survey, 11.9% of the total 1797 respondents.

Just under 20% of media workers said they had been harassed by police while covering public events such as protests over the past year, even though 87.8% of them were wearing identification of their role as journalists.

Almost a quarter of working journalists (24.3%) say they have been physically assaulted at some stage in their career but only 30% were provided with adequate training and support by their employer.

The online space is also becoming unsafe for Australian journalists. More than 35% of working journalists said they had experienced threats online, either in their personal or work social media accounts or by email. And in 74% of cases, the attacks were over their journalism, not their opinions.

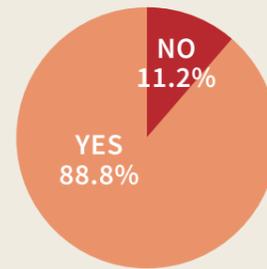


This is the fourth year MEAA has conducted a press freedom survey. The survey was available online for a month from mid-March to mid-April. This shorter time frame resulted in a decline of total responses to 1797 from the previous year, when memories were also fresh from the Australian Federal Police

raids in June 2019 of journalists’ offices and homes.

A higher proportion of the full respondents (11.9%) were working journalists this year, while an additional 9.6% were retired or unemployed media workers, or studying for a career in

Are you fearful that threats, harassment, and intimidation of journalists are on the rise?



journalism. 43% of working journalists described themselves as freelancers, while 37% were in permanent employment.

About 14.6% of respondents were MEAA members.

Asked how they would rate the health of press freedom in Australia, 86.6% of all survey respondents said poor or very poor. This was a slight fall from 2020, when the same question resulted in 89.9% replying poor or very poor.

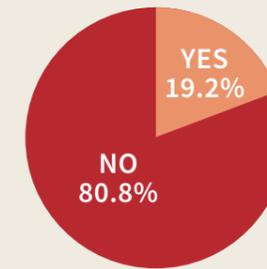
There was a fall in concern about the overall health of press freedom among journalists as well, with 71.5% rating it poor or very poor, compared to 84.4% in 2019.

When asked if press freedom in Australia had got better or worse over the past decade, an overwhelming 96% of people said it had got worse, compared to 98% in 2020. This was marginally lower among journalists, with 92.1% saying it had got worse, compared to 95.1% in 2020.

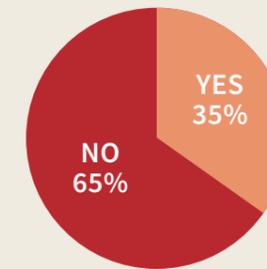
Asked to rank in importance current press freedom issues, almost a quarter of respondents (23.7%) put funding of public broadcasting first, followed by diversity of media ownership (20%), government secrecy and lack of transparency (18.6%), whistleblower protection (12.3%) and national security laws which criminalise journalism (9.9%).

More journalists who completed the survey said they had received a defamation writ in the past two years (7.9% compared to 5% in 2020), and a steady 88.3% said they believed defamation laws make reporting more difficult. This was reflected by 32.7% of journalists saying they had had at least

Have you ever been harassed by police while reporting during the past 12 months?



Have you experienced any threats to your safety online – either on your personal or work accounts/email?



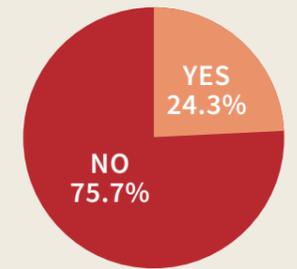
one news story spiked in the past 12 months because of fears of defamation action (compared to 31% in 2019).

Almost two-thirds of journalists (64.5%) said they believed judges were actively discouraging open courts and taking a more aggressive view of media reporting, while 17.8% said their reporting had been hindered by a suppression or non-publication order.

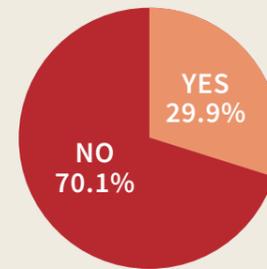
About 34% of journalists said they used information from a confidential source to publish or broadcast a news story, but in a worrying trend, just 7.5% said they believed legislation in the public and private sector was adequate to protect whistleblowers.

Half of journalists said they or their employer took steps to ensure they did not generate metadata that could identify a confidential source, but only 32.7% were confident this would be sufficient to protect their source. Additionally, only 30.5% of employed journalists (excluding freelancers) said their employer kept them informed of changes to national security laws and

Have you ever experienced physical assaults while working as a journalist?



Do you believe your employer provides sufficient training and support in situations where you face threats and/or assaults?



how they may affect their work. The survey also asked questions only for MEAA members about the MEAA *Journalist Code of Ethics*. Awareness and understanding of the Code has improved, with 55.8% saying they knew the code well and followed it to the letter, compared to 46.8% last year. While 32.5% said they knew it existed but were not sure of all the details.

Almost one-in-five MEAA members (18.9%) said they had at some stage in their career felt pressured to do something in breach of the Code, and 35.5% of employed journalists (excluding freelancers) said their employer promoted the MEAA *Journalist Code of Ethics*.¹¹⁸

Sixty-three per cent of journalists say what they read, hear or saw in the media is their main source of information about press freedom issues, followed by MEAA (25.7%). But less than 1% said their employer informed them about press freedom issues.

Mark Phillips is director – communications at MEAA

AFTER THE RAIDS, THE INQUIRIES

Following the global outcry arising from the Australian Federal Police actions, including raids on the home of a Canberra journalist and the offices of the ABC, in early June 2019 (see *The war on journalism - the MEAA Report into the State of Press Freedom in Australia in 2020*¹¹⁹) the Australian Parliament announced two inquiries into matters relating to press freedom.

THE PJCIS POWERS INQUIRY

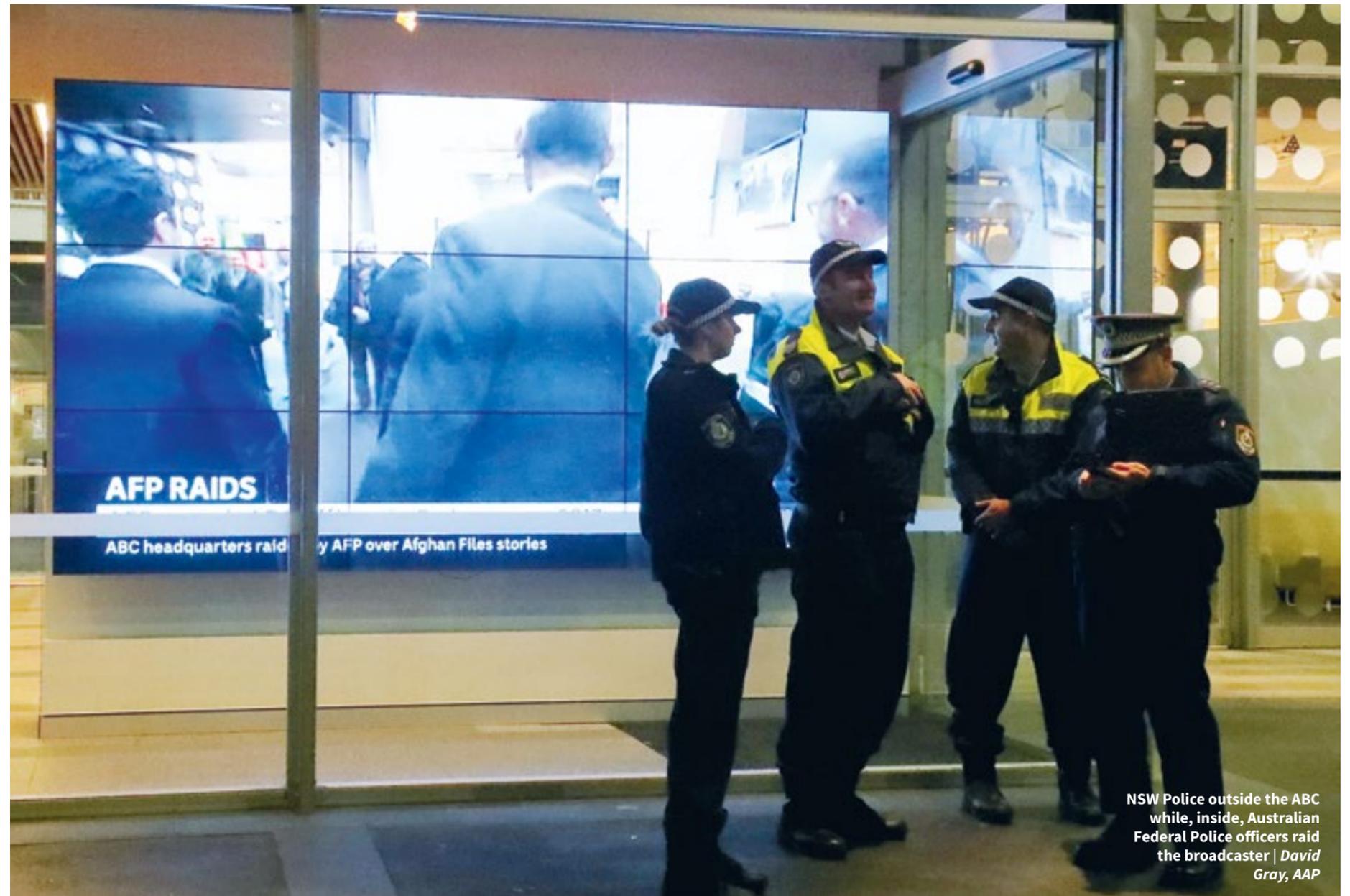
On July 4, 2019 – a month after the raid on the journalist’s home – the Parliamentary Joint Committee on Intelligence and Security (PJCIS) commenced an inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press. The inquiry was referred by the then Attorney-General Christian Porter who noted that “the Government will consider proposals from media organisations and interested bodies which aim to ensure the right balance is struck between a free press and keeping Australians safe.”¹²⁰

The PJCIS “conducts inquiries into matters referred to it by the Senate, the House of Representatives or a Minister of the Commonwealth Government. The Committee also has certain review functions under section 29 of the *Intelligence Services Act 2001*.” It is the body that has overseen the extraordinary and ongoing “national security” response to terrorism. These powers, as MEAA has documented in successive reports, while ostensibly directed at preventing and investigating threats to “national security” have been used to stifle the

flow of information, grant government agencies extraordinary powers and have increasingly criminalised legitimate public interest journalism.

The PJCIS inquiry’s terms of reference were to inquire into:

- a) The experiences of journalists and media organisations that have, or could become, subject to the powers of law enforcement or intelligence agencies performing their functions, and the impact of the exercise of those powers on journalists’ work, including informing the public.
- b) The reasons for which journalists and media organisations have, or could become, subject to those powers in the performance of the functions of law enforcement or intelligence agencies.
- c) Whether any and if so, what changes could be made to procedures and thresholds for the exercise of those powers in relation to journalists and media organisations to better balance the need for press freedom with the need for law enforcement and intelligence agencies to investigate serious offending and obtain intelligence on security threats.
- d) Without limiting the other matters that the Committee may consider, two issues for specific inquiry are:
 - whether and in what circumstances there could be contested hearings in relation to warrants authorising investigative action in relation to journalists and media organisations.



NSW Police outside the ABC while, inside, Australian Federal Police officers raid the broadcaster | David Gray, AAP

- the appropriateness of current thresholds for law enforcement and intelligence agencies to access electronic data on devices used by journalists and media organisations.

The inquiry received submissions from 61 organisations and individuals. MEAA, the Walkley Foundation and the Australia’s Right To Know media industry lobbying group (of which MEAA is a member) made submissions.¹²¹

On August 13, 2020, MEAA spoke at a public hearing of the inquiry. MEAA

told the hearing: “The public’s right to know is a key tenet of a healthy, functioning democracy. It is one of the responsibilities of open and transparent government. It’s also a cornerstone principle of journalism.

“In April this year, MEAA’s annual press freedom survey found that the national security and metadata retention laws, the widespread use of defamation laws, and excessive court issued non-publication orders are combining to make it more difficult for Australian journalists to do their jobs. The survey found that:

- 63 per cent of journalists believe

the overall health of press freedom in Australia is “poor” or “very poor”.

- And 85 per cent say press freedom has worsened over the past decade.

“In each of the surveyed issues currently surrounding press freedom, more than half the journalist respondents say Australia’s performance is woeful.

“And why? Because increasingly governments are looking to operate in secret; shroud its activities and suppress all the information about them; discourage freedom of information searches; pursue and punish

whistleblowers; and place barriers in the way of journalists seeking to tell the truth of what governments are doing in our name.

“Waves of new laws have been introduced by our Parliament. They are framed as being about ‘national security’ but contained within them are powers allowing the government to intimidate the media, hunt down whistleblowers, and lock-up information.

“This national security assault on press freedom has worked to criminalise legitimate journalism. The various tranches of national security legislation

when applied to journalists and their journalism, clearly have little to do with protecting the nation and more with making sure the public is kept in the dark. Prison terms for reporting on the activities of government agencies and for handling certain information are now enshrined in laws that were examined by this committee.

“Journalists’ sources continue to be targeted and intimidated. While new laws seek to provide some whistleblowers with protection, and only under certain conditions and in defined circumstances, there are a number of high-profile prosecutions.

“The court actions mounted against Witness K and lawyer Bernard Collaery, the threat of 161 years in prison being faced by Richard Boyle, and the charges against former Defence Force lawyer David McBride all demonstrate that even when whistleblowers have told their stories to journalists and the public finally learns the truth, the truth tellers will still be pursued and punished.

“Meanwhile, the government continues to equip itself with new weapons in the attack on whistleblowers. Having used the metadata laws to capture everyone’s telecommunications data, Journalist Information Warrants allow government agencies to secretly access journalists’ and media organisations’ data for the explicit purpose of identifying a journalist’s confidential source — thus placing the journalist in breach of their key ethical obligation to protect the source’s identity under all circumstances.

“And the peak of the intimidation of

whistleblowers and journalists came during four days in June.

- On June 3, Ben Fordham of 2GB is pressured by an official from the Department of Home Affairs to reveal his source for a story about asylum seeker boats.
- On June 4, there’s a dawn raid by the AFP on a journalist’s home that goes on for seven hours.
- On June 5, the AFP raids the offices of the ABC, using a warrant so dangerously broad that it allows the AFP to “add, copy, delete or alter” material in the ABC’s computers;
- On June 6, the AFP calls off what was a planned raid on the offices of News Corporation.

“Four days of outrageous and unprecedented assaults on press freedom in Australia. Four days that caught the world’s attention and besmirched Australia’s reputation as an open and transparent healthy, functioning democracy.

“Locking up information, punishing those who tell the truth, and placing barriers in the way of information getting out — all these are increasingly tainting Australian democracy.

“It’s time to push back this tide of secrecy, intimidation and harassment — not least because government has granted itself and its agencies extraordinary powers that are getting dangerously out of control.

“The public’s right to know must be upheld and championed by all those that value it. Empty words by politicians

who say that “of course, we believe in press freedom” must be followed up with genuine action.”

The inquiry reported its findings on August 26, 2020.¹²²

The Guardian reported that the Morrison government has accepted several reforms recommended by the PJCIS, including a requirement that the government consider additional defences for public interest journalism for secrecy offences. “The government on Wednesday responded to the recommendations of the intelligence committee after a year-long inquiry that was sparked by controversial police raids on the ABC and the then-News Corporation journalist Annika Smethurst. The attorney general, Christian Porter, said the changes would mean that only supreme or federal court judges would be able to issue search warrants against journalists for disclosure offences, and then only after consideration of the issues by a public interest advocate.”¹²³

MEAA responded to the inquiry’s findings, saying: “Recommendations from a powerful parliamentary committee mean that journalists can still be jailed for doing their jobs.

“MEAA is disappointed that the committee’s report, tabled tonight, has rejected the proposal of exemptions for journalists from laws that would put them in jail, including security laws enacted over the last seven years.

“MEAA Media federal president Marcus Strom said: “Despite a year-long inquiry into the impact of security laws on the public’s right to know, journalists still face jail for legitimate news reporting in the public interest. We still have a situation where journalists are considered guilty before the law. It should be up to the government agency to prove a case, not for a free media to prove it hasn’t breached any laws.

“The inquiry was triggered by the raids on the home of a News Corporation journalist and the offices of the ABC. Most troubling in the inquiry’s recommendations is the fact that warrants can still be issued for police raids on journalists and media companies without those warrants being challenged. While we welcome the proposal that such warrants



The former Attorney-General Christian Porter | Dominic Lorrimer, Fairfax Photos

must be issued by a superior court, journalists must be able to challenge warrants before they are acted upon,” Strom said.

“The inquiry has made several welcome recommendations, including support for defamation law reform, journalist shield laws, and improvements to freedom of information and information flow from government — including how information is classified as “secret”. MEAA also welcomes the proposal to improve public interest disclosure arrangements for public servants and will examine the proposal for improved exchanges of information with government departments and their media liaison personnel.

“MEAA has never said that journalists are above the law; rather that bad laws must be reformed. There can be no press freedom when journalists can be criminalised for doing their job. Journalists and their whistleblowing confidential sources will still face outrageous penalties for being truth-tellers.”¹²⁴

MINISTERIAL DIRECTIONS

Two months after the AFP raids, on August 9, 2019, the then Home Affairs Minister Peter Dutton issued a ministerial direction to the AFP to change its procedures to “take into

account the importance of a free and open press in Australia’s democratic society” before executing search warrants.

On September 19, 2019, three months after the raids, the then Attorney-General Christian Porter, in consultation with the Director of Public Prosecutions, issued a formal ministerial direction “that journalists not be prosecuted without his consent for reporting on issues such as national security, defence and crime that might be uncomfortable for government.”

MEAA together with the Australia’s Right to Know media industry lobbying group (of which MEAA is a member) responded that they find ministerial directions to be highly problematic.

MEAA said in last year’s press freedom report: “bad law cannot be patched up with a possibility. Bad law requires reform. Ministerial directions do not fix bad laws.

“In the recent past both MEAA and ARTK have expressed concerns over the use of ministerial directions. On February 2 2019, following an outcry raised over the government’s *Espionage Bill* [the then] Attorney-General Christian Porter was reportedly seeking advice on issuing a direction to the

Commonwealth Director of Public Prosecutions that prosecutions of journalists could not proceed without his sign-off, replicating a safeguard his predecessor as attorney-general, George Brandis, had put in place for offences relating to reporting on special intelligence operations where section 35P of the *ASIO Act* would lead to jail terms of up to 10 years for journalists.”¹²⁵

THE SENATE PRESS FREEDOM INQUIRY

On July 23, 2019, the Senate referred an inquiry into press freedom to the Environment and Communications References Committee for report by 4 December 2019. The inquiry’s deadline to present its final report has been extended five times to April 28, 2021.

The inquiry’ terms of reference called on it to inquire into:

- a) disclosure and public reporting of sensitive and classified information, including the appropriate regime for warrants regarding journalists and media organisations and adequacy of existing legislation.
- b) the whistleblower protection regime and protections for public sector employee.
- c) the adequacy of referral practices of the Australian Government in

“Despite a year-long inquiry into the impact of security laws on the public’s right to know, journalists still face jail for legitimate news reporting in the public interest.”

MEAA MEDIA FEDERAL PRESIDENT MARCUS STROM

- relation to leaks of sensitive and classified information.
- d) appropriate culture, practice and leadership for Government and senior public employees.
 - e) mechanisms to ensure that the Australian Federal Police have sufficient independence to effectively and impartially carry out their investigatory and law enforcement responsibilities in relation to politically sensitive matters; and
 - f) any related matters.

The inquiry received 48 submissions including from Australia’s Right To Know (ARTK) media industry lobbying group (of which MEAA is a member) and the International Federation of Journalists (of which MEAA is an affiliate member).¹²⁶

The ARTK submission said, in part: “As the Committee is aware, ARTK has also made a submission to the Parliamentary Joint Committee on Intelligence and Security (PJICIS) inquiry into the impact of the exercise of law enforcement and intelligence powers on freedom of the press... We believe a key issue to explore is the importance of a free media to ensure that the public’s right to be informed of the actions taken by Government in their name is sufficiently protected.

“It is important to recognise the breadth of this issue, that it is not limited to ‘national security’ matters. In recent years many legal provisions that undermine and threaten the Australian public’s right to know have been passed by the Federal Parliament under the guise of various national security concerns and national security legislation.

“The culture of secrecy arising from these legal provisions that unnecessarily restrict Australia’s right to know has permeated attitudes and processes more broadly. We have tackled some of these issues on a legislative amendment by legislative amendment basis and provided submissions and evidence to Parliamentary inquiries, particularly the PJICIS.

“But with each of these laws the tide of secrecy rises. This is deeply disturbing in a modern and robust democracy.

The tool that is used – laws that are designed to put journalists in jail for doing their jobs – has a chilling effect on reporting. It is not far-fetched to conclude the impact of the AFP raids, and the approach the Government has taken to the fate of the journalists that are the subject of those search warrants, is intimidatory.”¹²⁷

The inquiry’s deadline to present its final report has been extended five times. It is now expected to be delivered on April 28, 2021.

RAID CHARGES DROPPED

On April 15, 2020 the full bench of High Court of Australia ruled that the warrant used to authorise the search of the Canberra home of the then News Corporation journalist Annika Smethurst’s home, was invalid and should be quashed. The court found that “the warrant relied upon by the AFP was invalid on the ground that it misstated the substance of s 79(3) of the *Crimes Act*, as it stood on 29 April 2018, and failed to state the offence to which the warrant related with sufficient precision. The entry, search and seizure which occurred on 4 June 2019 were therefore unlawful.”

The court did not seek to rule on the issue of infringement of the implied freedom of political communication in the Constitution. Having ruled that the warrant was invalid “it was not necessary for the court to consider whether the warrant... infringed the implied freedom of political communication.”

But in a grim portent for press freedom, the court ruled that, it would not grant the injunction sought by the plaintiffs for the seized material to be returned, destroyed, or not provided to prosecuting authorities. “A majority of the court declined to grant the injunctive relief sought by the plaintiffs, pointing to the plaintiffs’ inability to identify a sufficient right or interest that required protection by way of a mandatory injunction.”

In short, even though the warrant was unlawful, the material seized through the use of the unlawful warrant would not be protected – the authorities would be keeping the documents. The prospect that the journalist would be charged was still possible. But there may yet be

a legal battle to be fought about using documents that had been seized using an unlawful warrant.

MEAA welcomed the decision to quash the warrant used by Australian Federal Police, however MEAA Media federal president Marcus Strom said: “The raid was an attack on the public’s right to know what our governments do in our name. The warrant has been quashed on a technicality but the powers that enabled the raid remain.”

On May 27, 2020, the Australian Federal Police ruled out laying charges against News Corporation journalist Annika Smethurst following their raid on her home a year earlier, but MEAA warned that the laws remain in place that could see any Australian journalist face the same fate.

MEAA Media section federal president Marcus Strom said: “It has taken almost a year for common sense to prevail and for the AFP to rule out charging Annika Smethurst. But we still wait to hear if ABC journalists Dan Oakes and Sam Clark will be charged for their 2017 news story on alleged war crimes. Like Annika’s story, their report on allegations made against Australian Defence personnel is also true but that still led to a raid on the ABC the day after the AFP raid on Annika’s home.

“That’s two raids in two days for reporting the truth. The raids represent a clear indication that the government and its agencies have been pursuing a war on journalism using the powers of a police state. It shows how Australia’s national security laws are being misused in order to criminalise legitimate public interest journalism, punish whistleblowers who seek to expose wrongdoing, and deny the public’s right to know the truth about what our governments are doing in our name,” Strom said.

“The laws that enabled these assaults on press freedom still exist. Two Parliamentary inquiries have yet to report their recommendations on how to fix this crisis. Australia was denounced around the world for these raids and there are concerns that if such things can take place in Australia, that will only encourage other countries to do the same,” he said.



Dan Oakes and Sam Clark’s investigation into alleged war crimes committed by Australian troops in Afghanistan led to a raid on the ABC offices almost two years after the story was broadcast

MEAA, through the Australia’s Right to Know industry group, has called for an urgent suite of reforms:

- The right to contest the application for warrants for journalists and media organisations;
- Exemptions for journalists from laws that would put them in jail for doing their jobs, including security laws enacted over the last seven years;
- Public sector whistle-blowers must be adequately protected – the current law needs to change;
- A new regime that limits which documents can be stamped secret;
- A properly functioning freedom of information (FOI) regime; and
- Defamation law reform.

Strom said: “Until our statutes are overhauled, Australians’ right to know will continue to be threatened. Journalists will be jailed for doing their jobs, whistleblowers will be intimidated into silence, government information will be locked away and the public will be denied the right to know. In the current crisis, Australians need to be reassured that they are being kept informed – that’s how a healthy, functioning democracy should work.”¹²⁸

On October 15, 2020, charges against ABC journalist Dan Oakes were dropped. Oakes was one of the two ABC journalists whose work was being investigated when the Australian Federal Police raided the ABC on June 5, 2019.

MEAA said: “Laws that allow for the criminalisation of journalism need urgent reform despite the dropping of charges against ABC reporter Dan Oakes.”

MEAA welcomed the decision of the Commonwealth Director of Public Prosecutions to drop the prosecution but said it will continue to fight for genuine reform of laws that restrict the public’s right to know and put public interest journalism in peril.

MEAA Media federal president Marcus Strom said: “This is clearly good news for Dan who has had this threat hanging over him since he and colleague Sam Clark revealed allegations of war crimes by Australian soldiers in Afghanistan. That story, reported in July 2017, is true. But because they told the truth the ABC was subjected to a nine-hour raid by the Australian Federal Police in June 2019

– almost two years after the news story was aired.

“It’s disturbing that Australia can operate like a police state by criminalising journalism, raiding journalists in their homes and workplaces, and threatening them with jail for their legitimate journalism that is clearly in the national interest.”

The Commonwealth Director of Public Prosecutions believed “there were reasonable prospects of conviction” in relation to two of three charges relating to the ABC news story. Strom said: “That is a clear indication that Australia’s laws must be reformed. These laws allow government agencies to operate in secret. These laws punish journalists and whistleblowers for upholding the public’s right to know and are being used in response to news stories that embarrass governments. They are being used to pursue and punish whistleblowers, and to threaten and muzzle the media.

“That undermines our democracy because these laws have a chilling effect on journalism by using jail terms to punish legitimate scrutiny of government.”¹²⁹

Security committee recommends bare minimum of reform to protect press freedom

BY REBECCA ANANIAN-WELSH. REPRINTED FROM THE CONVERSATION¹³⁰

In 2019, Australia dropped five places in the World Press Freedom Index. Australia was once the model for press freedom in the Asia-Pacific, but Reporters Without Borders, which collates the index, said: “Australia [...] is now characterised by its threats to the confidentiality of sources and to investigative journalism.”

These criticisms followed two Australian Federal Police raids on journalists in June 2019. Those raids ignited widespread calls for law reform and prompted two parliamentary inquiries into press freedom.

The first of those inquiries has now reported.

The 16 recommendations by the Parliamentary Joint Committee on Intelligence and Security (PJICIS) range from warrant procedures and whistleblower protections to shield laws, journalism-based defences and more.

The recommendations are important, but minimal. They call for greater statistical reporting, further reviews and public sector training. The four Labor members of the

committee – Anthony Byrne, Mark Dreyfus, Jenny McAllister and Kristina Keneally – say the recommendations “do not go far enough” and should be regarded “as a bare minimum – a starting point – for reform”.

Nonetheless, the report recognises key inadequacies in existing laws and points toward areas in critical need of reform.

WARRANTS: THE PUBLIC INTEREST ADVOCATE SOLUTION

With the dust still swirling from the AFP raids, the committee was asked to report on the adequacy of warrant procedures in investigations concerning journalists or media organisations.

Media organisations, advocacy groups and several experts called for such warrants to be issued (as a general rule) in contested proceedings before a superior court judge. The AFP argued that notifying someone of a warrant application would undermine law enforcement efforts.

The committee’s most forceful recommendation seeks a compromise position. It leaves the vast network of Australia’s warrant provisions largely untouched but would expand the

(presently little used) Office of the federal Public Interest Advocate.

This advocate does not stand in the shoes of an absent party. Rather, their role is to independently assist a decision-maker to assess “the public interest”. Press freedom and source confidentiality are in the public interest; so are effective law enforcement and national security.

The committee recommends the advocate be given a mandatory role in warrant applications relating to a journalist or media organisation in investigations that concern a breach of government secrecy. The gravity of the task is reflected in a requirement that they have most senior legal standing (a queen’s counsel, senior counsel or a superior court judge). Crucially, and commendably, the advocate would be subject to a new obligation to represent the interests of public interest journalism.

The expansion of this role would provide a welcome avenue for the public interest in press freedom (and, relatedly, government accountability, source protection, free speech and so on) to be represented in warrant proceedings. It

might also provide an additional guard against the kind of poor drafting that led to the warrant against News Corp journalist Annika Smethurst being declared invalid by the High Court.

But the advocate scheme falls short of true representation. The advocate has no opportunity to receive information from a client – a key factor in how lawyers operate. The only information they receive will come from the agency applying for the warrant. The advocate will have considerable legal experience, but not necessarily experience in journalism or the media.

There is little public information available about the experiences of similar officeholders. So, it is difficult to say whether the involvement of a public interest advocate is capable of preserving the vital balance between press freedom and law enforcement.

SOURCE PROTECTION

In the United Kingdom, New Zealand, Victoria, and elsewhere, information about a journalist’s confidential sources is subject to a form of privilege: it simply cannot be obtained by police, even under a warrant. A judge applying a public interest test may remove that privilege, usually in a contested proceeding.

A similar protection is sorely needed in federal law. Reform could be modelled on the UK’s comprehensive model, or it could be as simple as extending existing shield laws. These laws provide that a journalist does not have to disclose information in court that could reveal the identity of a confidential source. (The only exception is if the judge rules the public interest in disclosure outweighs the public interest in secrecy.)

Australian law offers journalist far less protection than in other countries. Shutterstock

The committee recommends the national cabinet be asked to harmonise and update Australian shield laws. However, it stops short of recommending that journalists’ privilege extend to police investigations. This leaves a gap in the law whereby police may access and use information that would be protected in court.

The committee justifies its approach to shield laws by reference to the public interest advocate. It seems the advocate is to bear the brunt of preserving the “balance” between public interest journalism and national security in intelligence or law enforcement investigations of the media.

This approach is a clear improvement on the present situation. But it remains the bare minimum. If adopted, Australia would still lag well behind our overseas partners in protecting press freedom and source confidentiality in the law enforcement context.

THE FIRST REVIEW OF MANY

The PCJIS had been criticised from the outset for being an inappropriate body to undertake this inquiry. The shadow attorney-general and committee member, Mark Dreyfus, admitted its national security focus meant this committee was “only going to be able to look at part of the problem”.

Similar concerns regarding this government-controlled committee drove the Greens’ successful push for a parallel Senate inquiry into press freedom. Not only is the Senate inquiry yet to report, a number of other inquiries are on foot.

In addition, the committee report recommends fresh inquiries. For instance, the government is urged to consider extending limited defences

to criminal prosecution for legitimate journalism, and the ongoing attorney-general’s review of secrecy offences is encouraged to consider impacts on public interest journalism.

Although press freedom is central to free speech, public accountability and the rule of law, in Australia this notion lacks the legal protections found in other liberal democracies. This has allowed legislation and police powers to encroach on press freedom by criminalising journalism and compromising source confidentiality. This is particularly the case in the national security field, where Australia has set itself apart by the sheer quantity and complexity of laws.

Reviewing that vast body of law for its impact on press freedom is a colossal undertaking. But it is critically important for the health of Australian democracy as well as for national security.

The PJICIS report has been the first word on how governmental transparency, accountability and protection for the public interest might be improved by supporting a free press within national security frameworks. It will certainly not be the last.

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An AFP officer departs the ABC studios led by ABC News Executive Editor John Lyons. | Wolter Peeters, The Sydney Morning Herald



“NATIONAL SECURITY” POWERS

IDENTIFY AND DISRUPT

The then Minister for Home Affairs Peter Dutton referred the Parliamentary Joint Committee on Intelligence and Security (PJCIS) to conduct a review into the *Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020*.

The Bill would give Australian Federal Police (AFP) officers and the Australian Criminal Intelligence Commission (ACIC) access to three new types of surveillance warrant:

- a Data Disruption Warrant, which enables the AFP and the ACIC to access data on one or more computers and perform disruption activities.
- a Network Activity Warrant, which enables the AFP and the ACIC to collect intelligence on online activities; and
- an Account Takeover Warrant, which enables the AFP and the ACIC take over a person’s online account.

The Bill seeks to amend the *Surveillance Devices Act 2004 (Cth)* (*Surveillance Devices Act*) and *Crimes Act 1914 (Cth)* (*Crimes Act*). It expands the number of activities that will fall under a warrant to target minor criminal activities.

In its submission¹³¹, the Human Rights Law Centre (HLRC) said “the breadth of these definitions means that the Warrants can be used to target relatively minor criminal activities, such as theft,

as well as the activities of individuals acting in the public interest, such as whistleblowers.”

The HLRC looked included in its examples:

- a whistleblower communicates information obtained under a surveillance warrant in a way that prejudices an investigation.
- a whistleblower discloses information relating to the “assistance and access” regime in the *Telecommunications Act*; and
- a lawyer or journalist assists a government whistleblower to uncover wrongdoing, in a manner deemed to constitute “incitement”.

MEAA is concerned that this Bill, and particularly the Data Disruption Warrant, may be related to the enormous scope of the warrant used by Australian Federal Police when it conducted the raid on the offices of the ABC, effectively cementing the powers that were used in the *Crimes Act* warrant to access the ABC’s computer networks.

As John Lyons, head of investigative journalism at the ABC, noted as the raid on the ABC offices was in progress: “The AFP is allowed to ‘use any other computer or a communication in transit to access the relevant data; and if necessary, to achieve that purposes (sic) — to add, copy, delete or alter other data in the computer’... I’m still staggered by the power of this warrant. It allows

the AFP to “add, copy, delete or alter” material in the ABC’s computers. All Australians, please think about that: as of this moment, the AFP has the power to delete material in the ABC’s computers. Australia 2019.”¹³²

The Bill goes much further and, as the HLRC warns, it can be used to target individuals acting in the public interest.

Investigative journalist Brian Toohey, writing in *The Sydney Morning Herald*: “In a bold move, [the then] Home Affairs Minister Peter Dutton last month



The former Minister for Home Affairs Peter Dutton | Lukas Coch AAP

introduced a bill creating extraordinary new powers to affect a wide range of people, not just paedophiles as the government claims. The bill covers all crimes with a jail sentence of three or more years. This includes whistleblowers and journalists and innocent people expressing an opinion that falls foul of foreign influence laws. If passed by our politicians, Dutton’s bill will give the AFP and Australia’s Criminal Intelligence Commission the ability to covertly take over a person’s online account to gather evidence of a crime. Even more disturbingly, they will

have an unprecedented “data disruption power” to add, copy, delete or alter data on the internet.

“... No Australian government should be able to destroy individuals’ online data without a court finding them guilty of a crime.”¹³³

INTERNATIONAL PRODUCTION ORDERS

The Parliamentary Joint Committee on Intelligence and Security (PJCIS) is reviewing the effectiveness of the *Telecommunications Legislation*

Amendment (International Production Orders) Bill 2020. The bill review was referred to the Committee by the then Minister for Home Affairs Peter on March 12, 2020.

According to the review’s terms of reference, the Bill 2020 seeks to amend the *Telecommunications (Interception and Access) Act 1979* to:

- provide a framework for Australian agencies to obtain independently- authorised international production orders for interception, stored communications and

telecommunications data directly to designated communications providers in foreign countries with which Australia has a designated international agreement

- amend the regulatory framework to allow Australian communications providers to intercept and disclose electronic information in response to an incoming order or request from a foreign country with which Australia has an agreement
- make amendments contingent on the commencement of the proposed Federal Circuit and Family Court of Australia Act 2020; and
- remove the ability for nominated Administrative Appeals Tribunal members to issue certain warrants.

“The Bill intends to provide for the legislative framework for Australia to give effect to future bilateral and multilateral agreements for cross-border access to electronic information and communications data, such as that being negotiated with the United States for the purposes of the *US Clarifying Lawful Overseas Use of Data Act (CLOUD Act)*.”¹³⁴

MEAA warned that proposed law will further erode press freedom in Australia because it ignores the need for a warrant to access journalists’ telecommunication data and is another dangerous move that will weaken the public’s right to know.

An International Production Order would allow ASIO to access Australians’ personal information that is held by US information technology organisations such as Google, Facebook, Apple, Microsoft, YouTube and more. The Bill would also allow US government agencies to access Australians’ data. An order could be obtained by applying to the Administrative Appeals Tribunal’s security division.

MEAA Media section federal president Marcus Strom said: “This Bill is another shocking overreach by the Australian Government. The Bill undermines a journalist’s ethical obligation to never reveal the identity of a confidential source. If a government, US or Australian, accesses that information it

imperils the whistleblowers who seek to expose wrongdoing, undermining the public’s right to know what our governments do in our name.

“The privileged telecommunications data of journalists must not be a commodity to be trafficked among the spy agencies of the world. Governments must be held accountable for the powers they grant themselves,” Strom said. “The AFP raids on the home of a Canberra journalist and the offices of the ABC show that the government can use excessive means to hunt down whistleblowers and intimidate journalists. Our three colleagues who were subjected to those raids are still waiting to learn if they will be charged,” Strom said.

“The government has already equipped itself with Journalist Information Warrants that allow 22 agencies to simply bypass journalists’ ethics to secretly trawl through their data to identify sources. Now this new Bill would allow data held offshore to be accessed without a warrant.

“Australia is steadily repressing the essential freedoms of a democracy. This must stop. There is an urgent need for comprehensive law reform. Warrants must be required before accessing journalists’ data. An application for a warrant must be contestable and subject to review. Whistleblowers must be adequately protected. And there must be a roll back of the so-called ‘national security’ laws that have been passed by the Parliament in the past two decades,” Strom said.¹³⁵

Investigative journalist Brian Toohey, writing in *The Sydney Morning Herald*, said: “... the Morrison government is pushing for more powers that undermine free speech and civil liberties. Its International Production Orders bill would give ASIO and the AFP the right to order communications providers in “like-minded” countries to produce any electronic data they request and remove encryption.

“One downside is that the FBI and a wide range of American law-enforcement and security bodies will have reciprocal rights to access private

data held by Australian people and corporations. A big stumbling block is that the US law, called the CLOUD Act, prohibits other countries accessing American data if they have weaker privacy and civil liberties protections than the US. Australia falls into that category. The protection in European countries is even stronger than in the US.

Toohey said: ... [no] foreign security agencies be allowed to access Australians’ private information under the *US Cloud Act*.”¹³⁶

Bernard Keane, Crikey’s political editor noted that in hearings before the PJCIS, the shadow attorney-general Mark Dreyfus had asked Department of Home Affairs’ bureaucrats why existing protections around accessing the metadata of journalists were not part of the proposed process.

Keane wrote: “When the Abbott government introduced mass surveillance laws in 2015, the mainstream media belatedly realised that journalists’ phone and IT records would be easily accessed by intelligence and law enforcement agencies under ‘data retention’ laws. In response, a ‘Journalist Information Warrant’ (JIW) process was hastily put together that would require agencies to apply for a special warrant, with more stringent thresholds and procedural safeguards, like a Public Interest Advocate, if agencies wanted to obtain data relating to a journalist’s sources.”

Keane warned that under the International Production Orders (IPO) process, no such safeguard existed which would mean that if a journalist’s data was held by a US company — such as Google, Apple, Facebook or Microsoft — it could be obtained by ASIO or the Australian Federal Police (AFP) via an International Production Order without the necessity of obtaining a Journalist Information Warrant.

Dreyfus asked: why the Journalist Information Warrant process was not replicated in the bill. “The Journalist Information Warrant process has a public interest monitor provided. There is no such public interest monitor



AFP officers use a powerful warrant to access ABC computers during their raid on the national public broadcaster | John Lyons ABC via Twitter

provided in the authorisation process that is provided under this bill is there?”

Andrew Warnes of Home Affairs admitted that was correct.

Dreyfus continued: “So it’s not the same level of protection for journalists whose data is held by a US carrier. It’s a lesser level of protection isn’t it?” said Dreyfus.

“Different considerations at play, yes,” replied Warnes. Dreyfus also pointed out that the Journalist Information Warrant process had additional criteria that had to be considered in granting warrants. They weren’t in the IPO scheme, were they?

“That’s correct,” Warnes said.

“So why should an Australian journalist whose telecoms data is held by a US carrier have fewer protections than an Australian journalist whose telecoms data is held in Australia?”

“I don’t have anything further to add,” Warnes said.

Dreyfus told him to come back to the committee with a better explanation for why the loophole was being pursued by the government.

Keane wrote: “The Journalist Information Warrant process can

be circumvented by agencies, but it involves obtaining the metadata of a large number of people who are suspected of sending information to a journalist. And the AFP have struggled with its requirements. In 2017, the AFP admitted that one of its officers had illegally accessed a journalist’s metadata without undertaking the approval process.”¹³⁷

JOURNALIST INFORMATION WARRANTS

The Department of Home Affairs, in its 2019-2020 annual report into the *Telecommunications (Interception and Access) Act 1979*, said that during the year there was only one Journalist Information Warrant issued under the Act.

The warrant was issued in response to an application from Queensland’s Crime and Corruption Commission seeking historical telecommunications data. Some observers believe the warrant may relate to the CCC’s action to force an unidentified journalist, Journalist F, to reveal the identity of a confidential source (the journalist, whose identity is suppressed, has refused to do so because of their obligation under the journalism profession’s ethics — more information on this case appears in the chapter on shield laws).

The one warrant issued during the 2019-2020 year compares with six journalist

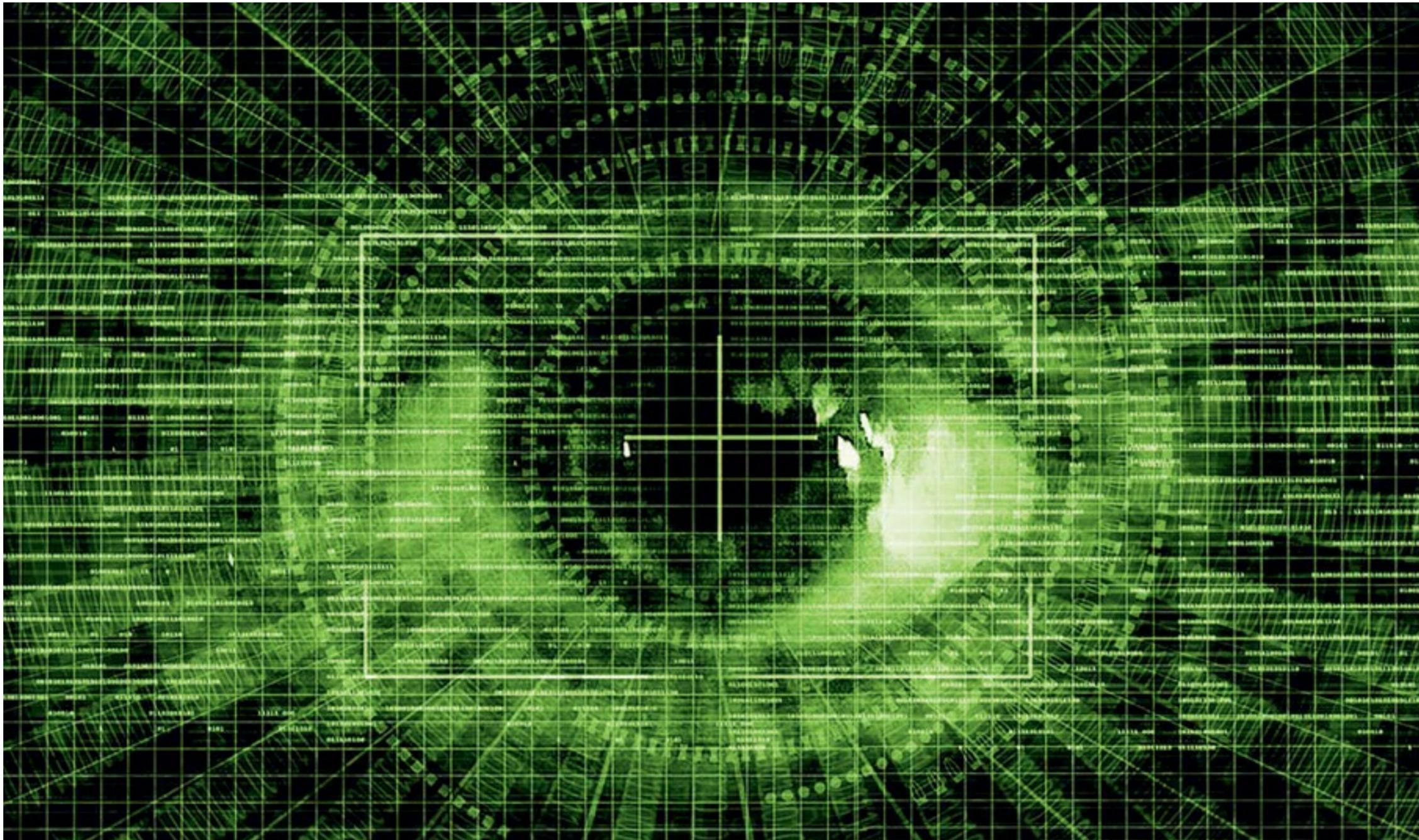
information warrants issued year before — all to the Australian Federal Police.

Journalist Information Warrants continue to be used to secretly access the metadata of journalists to identify their confidential sources.

The warrants are designed and were intended to secretly circumvent journalists’ ethical obligations to always protect the identity of their confidential sources. This obligation, journalist privilege, is recognised and protected in Commonwealth shield laws for journalists and in the shield laws of every state and territory (a draft Queensland shield law is expected to be tabled later in 2021).

The Journalist Information Warrants simply ignore public interest journalism, circumvent journalists’ ethical obligations and bypass the legal protection that a court would provide to journalists who cannot identify a confidential source. In short, they are a cynical secret exercise to ignore press freedom and, instead, use telecommunications data to hunt down, and punish confidential sources — often whistleblowers seeking to tell the truth about wrongdoing.

While it is currently impossible to identify which sources are being pursued through the use of Journalist Information Warrants, it is clear, from



the Australian Federal Police raids on a Canberra journalist's home and the offices of the ABC in 2019, that Journalist Information Warrants are just another weapon in the arsenal of governments that seek to punish those responsible for exposing and publishing embarrassing truths about what our governments do in our name.

The warrants were introduced with bipartisan support as a last-minute political concession to ensure the passage of amendments to the

Telecommunications (Interception and Access) Act 1979. There was no consultation with MEAA or media employers by any political party before they were introduced.

Under the Journalist Information Warrant system, the granting of a warrant allows at least 22 government agencies to access a journalist's telecommunications data or their employer's telecommunications data for the express purpose of identifying a journalist's confidential source.

The warrant will be granted where it is believed that the public interest in issuing the warrant outweighs the public interest in protecting the confidentiality of the source. If the warrant is granted, it remains secret so the journalist is unable to challenge it. Further, the warrant has a life span of six months before it needs to be renewed and grants access to data up to two years old.

The *Telecommunications (Interception and Access) Act 1979* requires a

telecommunications provider to store these datasets (which capture journalists' communications with sources):

- The subscriber of, and accounts, services, telecommunications devices and other relevant services relating to, the relevant service;
- The source of a communication;
- The destination of a communication;
- The date, time and duration of a communication, or of its connection to a relevant service;

- The type of a communication or of a relevant service used in connection with a communication; and
- The location of equipment, or a line, used in connection with a communication.

Under the Act, only 22 law enforcement and security agencies were meant to be able to access data defined in the Act. However, a review of the mandatory data retention regime conducted by the Parliamentary Joint Committee on

Intelligence and Security (see below) found that a loophole in the Act has allowed at least 87 other agencies to gain access including:

- local councils,
- state and Commonwealth government departments (e.g. the Commonwealth Department of Agriculture and the WA Department of Commerce),
- the Office of State Revenue NSW,
- the Victorian Institute for Education,
- South Australia Fisheries, and
- the RSPCA.

Of the government agencies, only ASIO doesn't have to make an application via a court or tribunal for approval of its application; it can apply for a Journalist Information Warrant directly to the attorney-general.

MANDATORY DATA RETENTION

In October 2020 the Parliamentary Joint Committee on Intelligence and Security released its report into its review of the mandatory data retention regime prescribed by Part 5-1A of the *Telecommunications (Interception and Access) Act 1979*. The regime requires telecommunications carriers, carriage service providers and internet service providers to retain a defined set of telecommunications data for two years, ensuring that such data remains available for law enforcement and national security investigations. Regarding Journalist Information Warrants, the PJCIS review noted the submission Australia's Right to Know media industry lobbying group which argued that access to the telecommunications data of a journalist should not be granted media organisation; or, at least, the request for access should be contestable and authorised only in the public interest. These requirements should be applied equally to ASIO and other agencies, and the Journalist Information warrant scheme must be transparent.

The inquiry did not make any recommendations for amending the JIW regime.

The PJCIS report made 22 recommendations relating to the mandatory data retention scheme.

Among these were:

- The number of “authorised officers” under the *Telecommunications (Interception and Access) Act 1979* be clarified and that these officers cannot authorise without meeting various stipulations (this includes raising the bar for ASIO’s access).
- Queensland Police has 11,962 officers – 735 can “authorise” the release of telecommunications data. In 2018-19 they made 23,527 authorisations.
- NSW Police has 17,111 officers 862 are “authorised”. In 2018-19 they made 106,547 authorisations.
- The AFP has 3180 officers – 174 are “authorised”. In 2018-19 they made 17,146 authorisations.
- A requirement for the Department of Home Affairs to create guidelines within 18 months: on the operation of the mandatory data retention scheme by enforcement agencies. In general terms, the purpose of the national guidelines would be to ensure greater clarity, consistency and security in respect of requests for – and the collection and management of – telecommunications data by enforcement agencies”.
- The Department will also have to, in consultation with government agency stakeholders, facilitate better oversight reporting – this

will require agencies to stipulate details about why access was required – and be available to the Inspector-General of Intelligence and Security and the Commonwealth Ombudsman.

- Providers will also have to keep records about disclosures.
- Data will still be retained for two years but data arising from the Internet of Things will not need to be stored by providers. Verbal authorisations for disclosure will only be applicable in “emergency situations”.
- The regime to be reviewed again by June 2025.¹³⁸

TOLA

On June 30, 2020 the Independent National Security Legislation Monitor (INSLM) Dr James Renwick SC presented his report into the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* (TOLA) to the then Attorney-General Christian Porter.¹³⁹

Under TOLA:

- Schedule 1 gives police and intelligence agencies new powers to agree or require significant industry assistance from communications providers.
- Schedules 2, 3 and 4 update existing powers and, in some cases, extended them
- to new agencies.

- Schedule 5 gives the Australian Security Intelligence Organisation (ASIO) significant new powers to seek and receive both voluntary and compulsory assistance.

On September 30, 2019, MEAA made a submission to the review, saying: “MEAA is gravely concerned that the enacted legislation is neither reasonable nor proportionate.

“The Act as it stands carries too few safeguards and exceeds the threats it seeks to manage. It typifies the sledgehammer to crack a walnut approach that is now commonplace in Government attempts to bolster national security and community safety at the expense of press freedom and the public’s right to know what our governments do in our name.

“MEAA Media’s journalist members are especially concerned that warrants and orders may be issued in cases where matters of public interest have been reported through the provision of information by confidential sources and which attract penalties under the Commonwealth Crimes Act.

“The breach of such a confidence by a journalist offends MEAA’s *Journalist Code of Ethics* and endangers coverage of issues deserving public scrutiny.”¹⁴⁰

MEAA went on to say: Together with the new laws that criminalise journalists and journalism, that allow for the surveillance of journalists through the Journalist Information Warrant scheme in the *Telecommunications (Interception and Access) Act 1979*, and the raft of amendments contained the 2018 *National Security Amendment (Espionage and Foreign Interference) Act*, law enforcement agencies’ powers have been increased to the point where they have a chilling effect on public interest journalism and threaten the public’s right to know.

“These extreme powers are often packaged as necessary in the name of ‘national security’. However, in their application, these laws attack press freedom, criminalise legitimate

journalism and hinder the free-flow of information to the community – the necessary hallmarks of open and transparent government.

“The explanatory information around the introduction of these laws has not demonstrated by example how the application of powers used against journalists and their journalism actually preserves national security or the safety of the community.

“Instead, we now have a situation where the homes and offices of journalists and their media employers are raided by government agencies. These raids represent an example of how powers granted to government can trample on press freedom and the public’s right to know. They provide a cautionary example of that can go wrong.

“For example, the recent raids demonstrate that the need for an urgent response to threats to ‘national security’ is clearly nonsense given a year or more has passed since the news stories in question were published and broadcast. Also, the news stories at the centre of the raids are demonstrably true; they are clearly in the national interest; and they do not pose a threat to national security or safety.

“Furthermore, why are journalists being threatened with, and may yet face, criminal charges for simply doing their job: producing legitimate and accurate journalism in the public interest?

The MEAA submission concluded by saying: “MEAA seeks, as a bare minimum, the incorporation of exemptions for persons engaged in journalism and the media industry to ensure that matters of public interest can continue to be reported without fear of government agencies seeking warrants and orders to pursue journalists that shine the light on matters in the public interest and the public’s right to know.”

Among the INSLM’s recommendations was the creation of a new statutory office called the Investigatory Powers Commissioner, (IPC).

“The Commissioner would be appointed as the head of the new Investigatory Powers Division and perform the approval function of that division as concluded above. In recognition of the importance of the position and its need to be, and be seen to be, filled by someone who is independent of Government, eminent in the law and its application, and enjoying bipartisan support, I conclude that the IPC should be a retired judge of the Federal Court or the Supreme Court of a State or Territory.

“The IPC would be appointed by the Governor-General, on the advice of the Attorney-General, following mandatory consultation on the appointment with the Leader of the Opposition. I would expect there would also be consultation with industry, but I would not mandate it.”¹⁴¹

ASIO

In 2020 the Parliamentary Joint Committee on Intelligence and Security (PJICIS) conducted a review into the effectiveness of the *Australian Security Intelligence Organisation Amendment Bill 2020*.

The Bill amends the compulsory questioning framework in the ASIO Act by:

- enabling ASIO’s continued use of questioning warrants, but removing its ability to use questioning and detention warrants;
- replacing the existing detention framework with a more limited apprehension framework;
- enabling the use of questioning warrants in relation to espionage, politically motivated violence (including terrorism) and acts of foreign interference;
- providing the power for a police officer to conduct a search of a person who is apprehended in connection with a questioning warrant;
- permitting ASIO to seek a questioning warrant in relation to minors aged 14 to 18 years old, but only where the minor is themselves the target of an ASIO investigation in relation to politically motivated violence.

ASIO said compulsory questioning powers would be “another tool in our toolbox”. But there were fears that these new “compulsory questioning powers” can be used against journalists as well as their sources.

The activist organisation GetUp! sought external legal advice which said: “So far, most of the attention of public debate on the bill has been focused on lowering the minimum age for compulsory questioning from 16 to 14 years, with minors only allowed to be questioned if they themselves were believed to be involved in politically motivated violence.

“A journalist would be obliged to provide information pursuant to the warrant, where the failure to do so would be a criminal offence punishable by five years’ imprisonment,” the advice, which was released on the eve of estimates committee hearings, explains.

“Despite well-recognised professional and ethical obligations of a journalist to maintain anonymity and confidentiality of a source, if so questioned under a warrant, a journalist would be required to disclose the identity of a confidential source.”

“The advice says there is no exception or exclusion provided for in the bill that would enable a journalist to refuse to answer a question on the basis it would reveal a confidential source.

“There may therefore be a chilling effect on the willingness of people to speak to journalists about issues of political significance, including security matters and foreign relations.”

“The advice does not take a position on whether aspects of the proposed law could be successfully challenged before the high court as unconstitutional, but says it is ‘conceivable’ that in a particular case “the scheme proposed by the bill may operate so as to exceed the implied constitutional guarantee” on freedom of political communication.”

The review’s report was released in December 2020.¹⁴²

“The Morrison government’s IPO bill would give ASIO and the AFP the right to order communications providers in “like-minded” countries to produce any electronic data they request and remove encryption.”

BRIAN TOOHEY, *THE SYDNEY MORNING HERALD*

THE LAW

CONTEMPT

A contempt case, arising out of the George Pell trial in 2018, has seen media outlets admit guilt.

When the contempt trial began, some 28 separate publications, six corporate groups and 19 individual journalists were charged with breaching a suppression order during the George Pell trial.

At the beginning of February, the media companies admitted to breaching a suppression order when reporting on the verdicts of the Pell 2018.

After lengthy court arguments, other contempt charges were dismissed. Importantly, all charges against individual reporters and editors were dropped. No one will face a prison term in relation to the reporting.

Twelve companies, including those responsible for the *Daily Telegraph*, the *Herald Sun*, the *Courier-Mail*, the *Adelaide Advertiser*, the *Sydney Morning Herald*, the *Age*, the *Australian Financial Review*, radio station 2GB, the Today show and Mamamia pleaded guilty to contempt.

Penalties are expected to be handed down shortly.

DEFAMATION LAW REFORM

On March 31, 2021, Australia's Attorneys General agreed to release the discussion paper for the second stage of the review of the Model Defamation Provisions.¹⁴⁵ They agreed that New South Wales, South Australia, Victoria and all other jurisdictions that are able to do so would commence the Model Defamation Amendment Provisions 2020 on July 1, 2021, and remaining jurisdictions would commence those provisions as soon as possible thereafter.

Stage one of the review - the Model Defamation Amendment Provisions

2020 – were approved by the attorneys-general on July 27, 2020. MEAA welcomed the reforms saying they represented important progress to bring the laws into the 21st century.

MEAA Media federal president Marcus Strom said: "MEAA, along with the Australia's Right to Know media industry group, has been pushing for an overhaul of Australia's defamation laws for many years. These changes take into account the rise of digital publishing and social media which the 2005 defamation regime did not foresee."

"Importantly, these amendments introduce a public interest defence based on the British model. This recognises that powerful plaintiffs have used Australia's defamation laws to muzzle public interest journalism and to threaten journalists in order to avoid legitimate scrutiny."

"Plaintiffs have used defamation trials to tie up journalists and media companies in expensive litigation. Litigants, including Ben Roberts-Smith and Gina Rinehart, have even used defamation actions to try to compel journalists to reveal their confidential sources. Hopefully this overhaul of the law will stop this abuse of the system."

"The reforms will also help reduce the number of frivolous cases, provide clarity about the cap on damages, introduce a serious harm threshold and, importantly, provide a single publication rule to end multiple complaints," Strom said.

"We also welcome the proposed second stage of reform that acknowledges the need for specific clarity around digital publishing," he said.

"We will continue to push for reform that supports the public's right to know. This includes enshrining

source protection in defamation law, preventing plaintiffs using defamation law to out confidential sources.

"We also hope that the proposed changes will end libel tourism. Non-residents must be able to prove a real connection to the jurisdiction where they are seeking to bring any claim."

"We are also seeking the removal of criminal defamation from the regime and presumption in favour of trial by jury in any civil defamation cases," Strom said.¹⁴⁴

MEAA has also noted that more reform is needed to end libel tourism, compel non-residents to demonstrate their connection to the jurisdiction where they make their claim; and end criminal defamation and presumption of trial by jury for civil trials.

The amendments introduce a public interest defence based on the British model. The reforms will also help reduce the number of frivolous cases, provide clarity about the cap on damages, introduce a serious harm threshold and provide a single publication rule to end multiple complaints.

Key changes to the Model Defamation Provisions include:

- introducing a serious harm threshold and requiring that if raised by a party, it is generally to be determined by the judicial officer as soon as practicable before the trial;
- clarifying which corporations may have a cause of action;
- making it mandatory to issue a concerns notice before proceedings can be commenced and clarifying the form, content and timing for concerns notices and offers to make amends;
- clarifying that a defendant may plead back imputations relied on



- by the plaintiff to establish the defence of contextual truth;
- introducing a new defence for the publication of defamatory matter concerning an issue of public interest;
- introducing a new defence for peer reviewed matters published in academic or scientific journals;
- clarifying the operation of the defence of honest opinion;
- clarifying that the cap on damages for non-economic loss sets the upper limit of a scale, and that aggravated damages are to be awarded separately;
- requiring plaintiffs to seek leave from the court to commence proceedings against associated defendants for claims relating to the same matter;
- providing that an election to trial by jury can be revoked only with the consent of all the parties or with the leave of the court on the application of a party;
- giving the court discretion to determine costs if a party dies after proceedings have commenced, if it is in the interests of justice to do so;

- introducing a single publication rule to provide that the applicable one-year limitation period runs from the date of first publication. For electronic publications, this is the date the material is first uploaded to the internet for access or sent electronically to a recipient;
- providing for the limitation period to be extended to enable pre-trial processes to be concluded and to provide courts with greater flexibility to extend it; and
- allowing for service by email where an email address is specified by the recipient for the giving or service of documents.

On March 31, 2021, Attorneys-General agreed that New South Wales, South Australia, Victoria and all other jurisdictions that are able to do so will commence the Model Defamation Amendment Provisions 2020 on July 1, 2021, and remaining jurisdictions will commence those provisions as soon as possible thereafter.

The Stage 2 Discussion Paper looks at the issue of internet intermediary liability in defamation for the

publication of third-party content, seeking submissions in response to 17 questions across a range of matters. Part B considers whether defamation law has an impact on reports of alleged criminal conduct to police and statutory investigative bodies and reports of misconduct to employers and professional disciplinary bodies. "It asks whether extending absolute privilege to such reports is appropriate. Part B seeks submissions in response to four questions across a range of issues."

During the year, MEAA noted the decision in a February 2, 2020 Federal Court action brought by a businessman against the ABC and the former Fairfax newspapers, saying the decision had highlighted the urgency for all jurisdictions across Australia to adopt uniform defamation law reforms. The action was one brought by Dr Chau Chak Wing.

MEAA Media section federal president Marcus Strom said: "Without commenting on the specifics of today's ruling, the matter highlights the difficulty journalists operate under negotiating Australia's restrictive

defamation laws. Reform has started but it needs to be quicker, deeper.

“Ultimately, Australia’s defamation regime concerns the public’s right to know and press freedom in Australia,” Strom said. “Lengthy court cases and massive damages payouts are crippling to media organisations. Amendments to the uniform national defamation law regime will hopefully go some way to ameliorating that threat,” Strom said.¹⁴⁵

SEXUAL ASSAULT SURVIVORS CAN TELL THEIR STORIES

On February 7, 2020 Victoria amended the *Judicial Proceedings Reports Act 1958* that would gag survivors of sexual assault from speaking to the media or self-publishing under their real names in any case where the offender has been found guilty.

The Victorian Government had made it an offence for survivors of sexual assault to publish their own identities (by telling their story via social media, for example) without first obtaining a court order.

The new law not only applied to cases where proceedings were underway but also to those in which there had been a conviction.

Media organisations, too, were banned from identifying survivors without the court’s permission, even if the survivor had consented.

That means that, even if their attacker was found guilty, a survivor wishing to publicly tell their story had to plunge themselves back into the court system – a costly and potentially re-traumatising process – or risk a penalty of \$3304 and/or up to four months in jail.”

On October 13, 2020, MEAA welcomed the Victorian Government’s amendments to the *Judicial Proceedings Reports Act* that will allow survivors of sexual assault to tell their stories. The amendments remove a requirement to seek court permission before publication.

Jaime’s Law: The new rules in Victoria

Sexual assault survivors will now be able to self-publish their own identity or speak to media under their real names if:

- ✓ they are over 18
- ✓ provide consent in writing
- ✓ have decision making capacity to give consent
- ✓ do not identify other survivors without permission

For the first time in Australia, adult survivors will also have the power to tailor their consent including limiting which details are shared, and by which media.

Those under 18:

- ✓ will be able to self-publish their own identity, provided they don’t identify any other victim
- ✓ will need to seek a letter from a registered medical practitioner or psychologist, if they wish to be named in mainstream media or other publications

#LetUsSpeak by Nina Funnell

MEAA Media’s director Adam Portelli said: “The amendments allow survivors of sexual assault to speak publicly if they wish to do so. They bring Victoria into line with changes taking place in other states and territories where amendments will allow survivors to self-publish or tell their stories to journalists.

“These amendments remove the silence around sexual assault and the penalties that cruelly punished survivors. They provide immunity from prosecution for those who bravely spoke out in the past. They also remove an impediment that prevented the media from reporting on significant issues in our community that are clearly in the public interest,” Portelli said.¹⁴⁶

At midnight on November 17, 2020, the amendments (Jaime’s Law – named for survivor Jamie Lee-Page) were passed allowing sexual assault survivors to speak to the media if they choose to do so.¹⁴⁷

In summary: Sexual assault survivors will be able to self-publish under their real names if: they are over 18; provide consent in writing; have decision-making capacity to give consent; do not identify other survivors without

permission. Adult survivors will also have power to tailor their consent including which details can be shared AND by which media. If under 18, survivors can self-publish under their own identity, provided they do not identify any other victim; and seek a letter from a registered medical practitioner or psychologist if they wish to be named in mainstream media or other publications.

The change followed a determined push by MEAA Media member Nina Funnell and colleagues in the #LetHerSpeak campaign. #LetHerSpeak has worked to change legislation across the country – most notably the Grace Tame case in Tasmania¹⁴⁸. Aside from Victoria¹⁴⁹ and Tasmania¹⁵⁰, Australia’s Right to Know and MEAA also engaged in campaigns to change the law in South Australia¹⁵¹, the Northern Territory¹⁵².

On January 29, 2021, the Australia’s Right to Know (ARTK) media industry lobbying group, of which MEAA is a member, has written to the Victorian Department of Justice regarding identification of deceased sexual offence victims. ARTK has proposed further reforms to the *Judicial Proceedings Act 1958* with this aim.



Queensland Attorney-General Shannon Fentiman

Shield laws

In MEAA’s first press freedom report, issued in 2005, MEAA called for urgent action to acknowledge journalists’ ethical obligation to never reveal the identity of a confidential source. “Protecting sources is proving difficult as courts increasingly use the threat of contempt of court to seek to compel disclosure of confidential sources.”¹⁵³

In the years since then, MEAA has continued to call for shield laws to protect journalists from prosecution for contempt when they uphold journalist privilege for confidential sources.

Very slowly, Australia’s legal jurisdictions have developed amendments to allow for protection, albeit with variations and gaps in the shield that could still leave journalists vulnerable in certain circumstances.

MEAA has repeatedly urged these gaps be filled by creating a uniform

national shield law regime, modelled on the uniform national defamation law regime that has been in existence since 2006. A uniform approach would provide a protective shield right across the country. In the era of borderless digital publishing, journalists would not be subjected to legal actions because of “jurisdiction shopping” where an action could be brought because gaps in the shield of some jurisdictions could be exploited.

While MEAA and others slowly won ground in having a shield law adopted in each jurisdiction, one state persistently failed to act: Queensland.

In early February 2017 MEAA wrote to the then Queensland Attorney-General Yvette D’Ath “to seek a meeting to discuss MEAA’s concerns about the lack of a shield law in those jurisdictions and to urge their support for the matter to be raised at the next meeting of Law,

Crime and Community Safety Council of the Council of Australian Governments. No response... was received.”¹⁵⁴

Finally, in 2020, Queensland had a change of heart about shield laws, but it was only prompted by a political misstep by the Palaszczuk Government in the lead-up to the October 31, 2020 state election.

On August 13, 2020, two-and-a-half months before the election, the government said it would introduce legislation to impose heavy penalties on journalists who reported on complaints or allegations made to the Queensland’s Crime and Corruption Commission during state elections. “Corruption complaints made about Queensland politicians and candidates will be kept under wraps in the lead-up to elections as part of new laws introduced to State Parliament, with fines of more than \$6000 or up to six months imprisonment...”

“Attorney-General Yvette D’Ath told Parliament the bill came at a ‘critical time’ as Queensland headed to the polls in October and would prevent media from publicising corruption complaints within the caretaker period. The laws will mean media such as print, digital, radio and television will be banned from publicising any corruption complaint during the caretaker period.”¹⁵⁵

MEAA responded to the announcement saying that it was “gravely concerned by the manoeuvre”. MEAA Queensland regional director Michelle Rae said: “It’s a process of what feels like battering down the hatches in a pre-election period. The change will undoubtedly restrain reporting on allegations of substance and MEAA members are simply trying to do their job.

“Journalism plays an important role in democracy – the journalist is responsible for holding the powerful to account and shining a light on the injustices. To further penalise journalists who are doing their job is an attack on the community’s right to be informed.

“Queensland... doesn’t afford protections to journalists doing their job, and now wants to attack them further for reporting on the government.”¹⁵⁶

A day later, the Palaszczuk Government backflipped, withdrawing the proposal. “Attorney-General Yvette D’Ath proposed changes to the *Crime and Corruption Commission (CCC) Act* in state parliament yesterday that would carry a six-month jail term for people who published CCC allegations about political candidates during an election period. But this morning, Ms D’Ath released a statement announcing the laws would be withdrawn.”¹⁵⁷

MEAA members in Queensland took the initiative to press home a campaign demanding shield laws. They were spurred on by a court case (see below) that targeted a journalist, known as

Journalist F, who is seeking to maintain their ethical obligation by refusing to reveal the identity of a confidential source.

The MEAA members delivered a petition addressed to D’Ath, and signed by 440 Queensland journalists, that said: “Queensland is the only state or territory left which doesn’t give legal protection to journalists for refusing to name their sources.

“A Queensland journalist faces further court action for protecting a confidential source right now. The protection of sources is a fundamental responsibility for ethical journalism.

“Without this protection, whistleblowers and other sources would be more reluctant to provide to journalists’ information, which is critical for the public’s right to know, to shine a light on injustices and to hold governments and powerful interests to account. Consequently, our democracy would be diminished.

“‘Shield laws’ allow a journalist to claim legal privilege in order to protect a confidential source. This privilege may be waived if a judicial officer is satisfied that it is in the public interest to do so.

“Every other state and territory, and the Commonwealth, has enacted shield laws, but successive Queensland governments from both sides of politics have refused to do so.

“The Queensland government has acted correctly by withdrawing proposed legislation that would have further restricted press freedom by jailing or fining journalists for reporting on complaints or allegations made to the corruption watchdog during election periods.

“But the Palaszczuk Government needs to show it is fully committed to the public’s right to know by protecting journalists who refuse to reveal sources.”¹⁵⁸



The petition had an immediate impact. On August 19, 2020, five days after it had abandoned its Crime and Corruption Commission gag plan, and after holding out for years against introducing a shield law, Queensland finally said it would legislate for a shield.

MEAA responded: “MEAA has welcomed the commitment of both the Queensland Government and Opposition to develop a shield law to protect journalists. However, MEAA will await to see the details of any legislation that will end Queensland’s position as the only Australian legal jurisdiction without a shield.”¹⁵⁹

MEAA Media Queensland president Peter McCutcheon said: “For years now, both major political parties have resisted calls to develop a Queensland shield law that acknowledges journalist

privilege. Without a shield, journalists are exposed to prosecution for contempt if they won’t reveal their sources.

“Because of borderless digital publishing, journalists right across Australia are vulnerable to legal actions being brought against them in Queensland. They face a criminal conviction, jail or fines for ensuring the public’s right to know,” McCutcheon said.

MEAA wrote to D’Ath saying: “MEAA requests that consultation on the reforms must occur now as a priority with a commitment from you to introduce changes into Parliament in the next sittings taking place after the 2020 Queensland election... As a member of the Council of Attorneys-General, you would be aware that MEAA has been interested in developing shield laws across Australia,

but we have noted that there are significant areas where the laws in various jurisdictions differ.

“MEAA cannot promote one model over another. Borderless digital publishing means that any differences between jurisdictions’ shield laws necessarily create vulnerabilities that can be exploited by plaintiffs seeking to go ‘jurisdiction shopping’.

“That is why MEAA has long sought to remove these vulnerabilities through a uniform national shield law modelled along the lines of the uniform national defamation law regime which is currently being updated by the Council of Attorneys-General. In order to advance the implementation of shield laws in Queensland, MEAA requests a meeting with you before the Queensland election to discuss the issue and possible ways forward.”

On November 11, 2020 following the Queensland state election, a cabinet reshuffle saw Yvette D’Ath replaced as Attorney-General by Shannon Fentiman.

On March 22, 2021, the Australia’s Right to Know media industry lobbying group, which includes MEAA, wrote to Fentiman with a list of Queensland laws that needed reform:

1. Enactment of a journalist shield law;
2. Amendments for better reporting of sexual offence matters;
 - i. Identification of survivors/victims of sexual offences;
 - ii. Removal of automatic identification restriction of defendants in sexual offence cases;
 - iii. Access to evidence of complainants in sexual offence matters; and

3. Amendment for better reporting of domestic and family violence matters;
 - i. Allow evidence in domestic violence order application proceedings to be published/broadcast; and
 - Amendment to allow one party to proceedings to consent to be identified rather than requiring authorisation from all parties; and
4. Amendment to Permit Reporting of Children’s Court Proceedings.

THE CASE OF JOURNALIST “F”

MEAA’s long held concerns over the disparate shield laws operating in Australia relate to ways jurisdictions treat journalists protecting the identity of their confidential sources. Some “shields” apply a public interest test, relying on a judge to determine what the public interest is which is highly problematic as it applies a legal definition rather than a definition that recognises and upholds the public’s right to know.

Some state’s shield laws allow for protections only up to a point; investigations by anti-corruption bodies can show disregard for journalism ethics by choosing to grill journalists about what they know and how they know it, offering no protection. Worse still, these anti-corruption bodies can wield “star chamber” powers: compelling journalists to appear, operating in secret and demanding that witnesses tell no one.

Queensland is now facing a press freedom crisis. On February 19, 2021, exactly five months after the Queensland Government had said it would develop a shield law, MEAA said in a statement: “The prosecution of a Queensland journalist for refusing to reveal a confidential source highlights the urgent need for the Palaszczuk government to follow through on an election promise to introduce a journalist ‘shield’ law.”¹⁶⁰

The prosecution of the journalist is cloaked in secrecy: the individual cannot be identified – only known as Journalist F. The individual’s employer cannot be identified – but it

is a television network. The particular details of the underlying matter cannot be identified.

What can be said is that Journalist F received a confidential tip from a source that led to a television crew going to an address and filming a murder arrest.

Queensland’s anti-corruption commission is seeking to discover if a police officer disclosed information without lawful authority. Journalist F was asked under oath to disclose the identity of the source. Journalist F, obligated to observe the profession’s ethics, refused to do so.

On August 12, 2020, the day before the Palaszczuk Government said it would introduce legislation to impose heavy penalties on journalists who reported on complaints or allegations made to the Commission during state elections, a judge ruled against providing immunity for refusing to identify a confidential source.

The decision, “F v Crime and Corruption Commission [2020] QSC 245”,¹⁶¹ was heard in the Supreme Court of Queensland where Justice David Jackson ruled “... it is difficult to understand why or how it is unfair to ask the applicant the sources of information... in a corruption investigation into those disclosures”. In dismissing Journalist F’s legal argument Justice Jackson said “... a journalist’s claim of so-called ‘privilege’ against revealing confidential sources of information is not protected by any general doctrine of ‘public interest immunity’.”¹⁶² Journalist F is appealing the ruling.

MEAA has urged Queensland to waste no time in developing a shield law. In a statement MEAA said: “The public’s right to know depends on whistleblowers and other sources having confidence that their identity will be kept anonymous when they deal with a journalist on a sensitive story.

“While the Queensland Government promised at last year’s election to introduce a shield law, until it does so other journalists also face prosecution if they maintain their ethical obligations

not to reveal the identity of a confidential source.”

The MEAA Media director Adam Portelli said: “The last conviction for refusing to name a source was 14 years ago. But now a case could see a journalist convicted and fined or imprisoned because the Queensland government has yet to deliver on an election promise. It’s critical that current Attorney-General Shannon Fentiman acts swiftly. Public interest journalism must not be criminalised. Queensland’s reputation is at stake here.

“The introduction of a shield law recognises that journalistic privilege is vital to ensuring the public’s right to know. It is a cornerstone principle of journalism recognised the world over and is an obligation enshrined in the MEAA *Journalist Code of Ethics*,” Portelli said. “This issue affects every journalist... Journalists across the country are vulnerable to actions that a plaintiff could opt to bring in Queensland using its lack of a shield law.”

Portelli added: “Queensland Attorney-General Shannon Fentiman has an opportunity to push ahead with reform by leading her attorney-general colleagues to introduce a uniform shield law regime that protects public interest journalism from prosecution throughout Australia.”

MEAA members in Queensland have since followed up with a direct approach to Fentiman and MEAA understands that a draft shield law legislation will be available for discussion in the second half of 2021.

While this will close one gaping hole in Australian law there are still dangerous disparities in the scope and breadth of the shield laws that exist. MEAA will continue to campaign for a uniform national shield law, modelled on the same approach that since 2006 has applied to defamation law.

Until then, an unidentified journalist is facing a judicial process conducted in secret without the protection of a shield law that has been too late in coming.

Fixing Australia’s ‘Swiss-cheese’ shield laws

BY JOSEPH M FERNANDEZ

Australia’s statutory protection framework for journalists’ confidential sources – *shield law* – began its arduous trek in 2011 through the Commonwealth *Evidence Act 1995*, under the heading “journalist privilege”. It was a promising start.

Today, a decade later, only one of the nine Australian jurisdictions – Queensland – remains without such statutory protection, which is found in the respective Evidence Acts.¹⁶³

However, as one law professor observed, the protections are of the “Swiss-cheese variety” and “what the left hand gives to the journalist, the right hand takes away”.¹⁶⁴

The shield law framework is full of holes and has not provided the panacea journalists hoped for. Australian shield law needs a shake-up that takes into account not merely the factors directly connected with the journalist privilege (the need for clarity and uniformity), but one that also fixes associated problems (inadequate free speech protections; freedom of information laws that actually deliver; stronger protections for whistleblowing and other public interest disclosures, and proper checks on laws and enforcement processes that interfere with the privilege).

A broad picture of the holes and inconsistencies in the statutes were

discussed in *Power, Protection and Principles, the MEAA report into the state of press freedom in Australia in 2013* when six jurisdictions had shield laws.¹⁶⁵

Some examples were: (a) not all statutes proclaimed the protection as a journalist’s “privilege”; (b) the range of legal proceedings where the protection could be claimed differed; and (c) “journalist” was defined broadly (e.g., to also cover citizen journalists and bloggers), or narrowly (to cover only those engaged in the “profession/occupation” of journalism); and (d) not all shields actually referred to “journalist”. Given the flux in descriptors for “journalist”, statutory protection should be directed at journalistic activity rather than at individuals or entities per se, regardless of the labels for those performing that activity.

Lawmakers and reformers have grappled with the labels for many decades – *professional journalists, reporters, investigative journalists, citizen journalists, bloggers* and so on. Journalistic activity embodies the hallmarks of rigour, verification, genuine public interest, and sound ethical principles.

What constitutes “journalism” for the purposes of entrenching source protection has not changed. Those practising journalism often rely on confidential sources to inform citizens on matters of legitimate public

interest. They are vital cogs in serving as agents of democratic ideals. They exact openness, transparency and accountability from those holding public office and those charged with serving citizens. Focussing on the *activity* rather than on the protection claimant’s employment status, credentials and organisational links bypasses the distractions arising from inquiring into the “professional” label of the person claiming protection.

Shield laws must also protect against encroachments by various laws and law enforcement actors that jeopardise source sanctity. The law should contain stronger safeguards against wanton overreach or outright illegality by State actors as seen in various examples.

These examples include the Australian Federal Police “raids” in 2019 on Annika Smethurst and the Australian Broadcasting Corporation, which the AFP later conceded could have been better handled.¹⁶⁶ As one commentator scathingly observed in relation to the Smethurst action after the High Court allowed the AFP to retain the information it seized during that unlawful raid: “Even common thieves, when sprung, are required to give back their ill-gotten gains. The AFP, it seems, are now to be treated as legally privileged burglars – free to pillage and keep the property of others...The police, not the reporter, were on the wrong side of the law throughout that raid.”¹⁶⁷

The media's concerns are worsened by the tendency of some judges to be dismissive of source protection.

One Supreme Court judge bluntly stated just months after Western Australia's shield law was assented to:¹⁶⁸ "No question of journalist's privilege (*if such a thing exists*) or protection of sources arises".¹⁶⁹

Courts have occasionally given priority to source protection over competing claims. For example, Western Australia's Supreme Court judge justice Janine Pritchard came down on journalist Steve Pennells' side in a disclosure pursuit by mining magnate Gina Rinehart.¹⁷⁰ Pritchard J ruled that a subpoena for the production of certain documents was "oppressive and constitutes an abuse of process, *having regard to the Shield Laws*".¹⁷¹

In another case that included a consideration of shield laws, journalist Nick McKenzie won his fight for source protection.¹⁷² In that case, the court also accepted that McKenzie, his family, and his sources would face adverse consequences if disclosure was ordered.¹⁷³ Source protection odds generally are, however, stacked against journalists because "many judges have long held a sniffy antipathy towards the media and journalists".¹⁷⁴

Against this backdrop, the attitude expressed by Canada's Supreme Court in *R v Vice Media* is instructive: "A vigorous, rigorous, and independent press holds people and institutions to account, uncovers the truth, and informs the public. It provides the public with the information it needs to engage in informed debate... The right to convey information to the public is fragile unless the press is free to pursue leads, communicate with sources, and assess the information acquired."¹⁷⁵

In contemplating shield law reform, an obvious question is whether there is such a thing as a "perfect" shield law and, if so, what does it look like?

About a dozen US shield statutes are similar to Alabama's, "which is considered to be 'absolute' because

it does not qualify the reporters' privilege".¹⁷⁶ It is "absolute" in the sense that it does not list exceptions to the privilege. It provides as follows:

*No person engaged in, connected with or employed on any newspaper, radio broadcasting station or television station, while engaged in a news-gathering capacity, shall be compelled to disclose in any legal proceeding or trial, before any court or before a grand jury of any court, before the presiding officer of any tribunal or his agent or agents or before any committee of the legislature or elsewhere the sources of any information procured or obtained by him and published in the newspaper, broadcast by any broadcasting station, or televised by any television station on which he is engaged, connected with or employed.*¹⁷⁷

This law "appears to be absolute";¹⁷⁸ but it "does not shield all journalists".¹⁷⁹ One court, however, granted a reporter's motion to quash a subpoena, holding that the Alabama shield statute "absolutely protects news reporters from disclosing any source of information".¹⁸⁰

Judicial empathy for protection in Alabama is also shown in a case where, although the federal court was not bound to apply the state's statute, the court noted that the Alabama statute "clearly privileges" journalists' sources of information and stated that "it would not be justified in ignoring such a clear and unequivocal pronouncement of the public policy of the state in which it sits".¹⁸¹ The notion of absolute protection for journalists' sources has been rejected in Australia because it would place such a high value on press freedom.¹⁸²

Queensland is finally moving on its own shield law.¹⁸³ There, a journalist is facing a disclosure threat in draconian circumstances. The journalist, referred to only as 'F', has been hauled before the corruption watchdog's "star chamber hearing" where witnesses must answer questions or face a fine of up to \$26,690 or up to five years in jail, but F's identity cannot be revealed; and secrecy shrouds the court proceedings involving an appeal against a ruling holding that he

was not entitled to source protection on the grounds of "public interest immunity".¹⁸⁴

The court in *F v Crime and Corruption Commission*, rejected the journalist's claim for the "public interest immunity" provided in the *Crime and Corruption Act 2001* (Qld).¹⁸⁵

The journalist was also the target of a telecommunications data access warrant obtained by the Queensland Crime and Corruption Commission at the same time the watchdog was trying to force the journalist to disclose a confidential source.¹⁸⁶

The last time a journalist was convicted in Australia was in the *Harvey and McManus* case¹⁸⁷ for refusing to disclose a source – that was fourteen years ago.¹⁸⁸ As Queensland finally moves on a shield law, it has the advantage of surveying the landscape thoroughly and introducing law that goes beyond throwing the media a pacifier. Queensland can blaze a new Australian shield law trail by leaving little statutory doubt about its commitment to source protection.

There ought to be no illusion, however, that shield laws are the complete answer.

Shield law may be seen as "doing real work in bolstering" source protection.¹⁸⁹ However, it has also been seen as "a dead letter";¹⁹⁰ it needs to be dragged "into the 21st century";¹⁹¹ there is "confusion surrounding which journalists are protected";¹⁹² and journalists must assume the law is "not the journalist's friend when it comes to confidential sources".¹⁹³

There is much work left to do to fix Australian shield laws.

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WHISTLEBLOWER PROTECTION

A grateful nation should raise whistleblowers on a pedestal. A whistleblower is "a person, usually an employee in a government agency or private enterprise... who reports waste, fraud, abuse, corruption, or dangers to public health and safety to someone who is in the position to rectify the wrongdoing. A whistleblower typically works inside of the organization where the wrongdoing is taking place... the individual discloses information about wrongdoing that otherwise would not be known."¹⁹⁴

Whistleblowers may turn to journalists to ensure the truth is told. This is usually where an organisation ignores the issue or refuses to take corrective action, where the organisation seeks to cover-up the wrongdoing or where the wrongdoing is so egregious that the public needs to be informed.

The relationship between the whistleblower and the journalist is a crucial one of trust. The whistleblower often faces retribution if they are discovered, hence many whistleblowers seek anonymity and journalists have an ethical obligation to never reveal the source's identity.

Despite doing "the right thing" whistleblowers may lose their job, face condemnation and even prosecution for revealing the truth. Despite legislative efforts to protect whistleblowers, particularly those in the private sector¹⁹⁵, there continue to be concerns that comprehensive mechanisms exist to protect whistleblowers and provide ways the concerns can be acted on without retribution.

In the public sector, governments are proving even more ruthless in pursuing, prosecuting and punishing. And because journalists have an ethical obligation

to never reveal the identity of a confidential source, the government has created Journalist Information Warrants that allow at least 21 government agencies secret access to journalists' telecommunications data for the sole explicit purpose of identifying those confidential sources.

The June 2019 Australian Federal Police raids on the Canberra home of a News Corporation journalist and the Sydney offices of the ABC were seeking evidence relating to news stories that relied on confidential sources. In those cases, the news stories were true. The raids took place more than a year after the stories were published/broadcast. The stories were clearly in the public interest. The stories clearly embarrassed the government.

The raids also led to a significant backdown by the Attorney-General and the Home Affairs minister following a global outcry over the assaults on press freedom.

However, the legislation that allowed the raids is still in place. And Journalist Information Warrants can still be used to hunt down whistleblowers.

BLOWING THE WHISTLE ON THE GOVERNMENT

Nicholas Cowdery, the NSW DPP from 1994 to 2011, said the CDPP was wrong to deem the prosecutions in the Witness K case were in the public interest. In fact, he said, the prosecutions served to undermine confidence in the justice system.¹⁹⁶

Legal action was initiated in June 2018 against former spy Witness K and his lawyer Bernard Collaery who are being prosecuted for their roles in revealing a 2004 covert Australian spy operation to bug the Timor-Leste government during sensitive oil and gas negotiations.

The case began only after prosecutors had sat on evidence for three years – the Australian Federal Police had begun its investigation in February 2014 and a year later had presented its brief of evidence to the Director of Public Prosecutions. Charges weren't filed until May 2018.¹⁹⁷ Since then the case has progressed in secrecy, and slowly – partly because the court needs to protect sensitive national security material while also preserving the defendants' right to a fair trial.¹⁹⁸

Witness K, a former Australian Secret Intelligence Service agent, became concerned about the bugging operation which diverted resources from investigation of the Bali bombings. In an affidavit he said the bugging was "immoral and wrong". He approached the inspector general of intelligence services. He was permitted to approach an approved lawyer, Collaery.

Collaery came to the belief that the operation was unlawful, and helped Timor-Leste mount a case to be heard in the Permanent Court of Arbitration in The Hague. Witness K had his passport seized before he could depart to give evidence.

On December 3 2013 Collaery's offices were raided by Asio on orders of then Attorney-General George Brandis. The following day, in response to the raid and the seizure of Witness K's passport, Collaery told the ABC: "The director-general of the Australian Secret Intelligence Service and his deputy instructed a team of ASIS technicians to travel to East Timor in an elaborate plan, using Australian aid programs relating to the renovation and construction of the cabinet offices in Dili, East Timor, to insert listening devices into the wall, of walls to be constructed under an Australian aid program."¹⁹⁹

The 2018 charges claim the pair illegally disclosed information in breach of section 39 of the *Intelligence Services Act*. Collaery is accused of unlawfully communicating intelligence secrets to journalists. Collaery and Witness K face the possibility of jail if convicted.

In August 2019, Witness K decided to plead guilty.

Collaery said later: “This is an attempt, to make no secret about it, this is a very, very determined push to hide dirty political linen. That’s what this is all about, dirty political linen under the guise of national security imperatives. It’s nonsense.”²⁰⁰

BLOWING THE WHISTLE ON THE TAX OFFICE

Australian Taxation Office whistleblower Richard Boyle faced a staggering 161 years in prison for exposing misconduct by the ATO. He was charged with 66 offences, including telephone tapping and recording of conversations without the consent of all parties and making a record of protected information and, in some cases, passing that information to a third party. He faced the prospect of six life sentences.

On March 23, 2021, the Commonwealth Director of Public Prosecutions, Sarah McNaughton, told Senate estimates that the CDPP was now considering whether it should drop the charges against Boyle.²⁰¹

Boyle had argued he had followed whistleblowing laws by initially raising his concerns internally in 2017 but, went public a year later after being unsatisfied with the ATO’s response.

His whistleblowing sparked a Senate inquiry that found the ATO’s response had been “superficial”. McNaughton told Senate estimates that “we can indicate that we have received materials and that includes a copy of the Senate report... We are considering whether or not [the case against Boyle] should continue....”²⁰²

Boyle’s revelations centred around ATO directives to automatically seize funds from small business and individual accounts. The story on alleged abuses by the tax office prompted a joint



Witness K’s lawyer
Bernard Collaery |
Jeffrey Chan Fairfax
Photos

investigation by *The Age*, *The Sydney Morning Herald* and the ABC. But it also triggered the legal action brought by Tax Commissioner Chris Jordan.

Boyle’s revelations also prompted the House Standing Committee on Tax and Revenue to make 37 recommendations including to “recommend a new Tax Office charter, an appeals group headed by a second independent commissioner, the transfer of debt-recovery functions into the ATO’s compliance operations and a restructure of compensation processes”.²⁰³

The ATO had rejected an investigation request from Boyle months before he went public over allegations the agency was ripping money out of individual and small business accounts under a directive to use more heavy-handed debt collection tactics. Boyle informed the Tax Office’s internal watchdog that staff had been instructed to start issuing garnishee notices to meet revenue targets — a tool used to scrape money from accounts, sometimes without the account holder’s knowledge.”

A letter from the Tax Office’s senior investigator in October 2017 dismissed Boyle’s concerns. “The information you disclosed does not, to any extent, concern serious and disclosable conduct. A disagreement with government policy is not disclosable conduct.”²⁰⁴

“Mr Boyle has previously said he made a 12,000-word disclosure to the Tax Office but claims this was rejected by tax authorities. The Australian Federal Police raided his home days before he went public and only a month after the ATO offered him a settlement to prevent him from speaking out.” The disclosure may offer Boyle some protection under the public sector’s *Public Interest Disclosure Act 2013*.²⁰⁵

Boyle’s home was raided in April 2018 by the Australian Federal Police accompanied by an ATO investigator. The ABC reported: “He attempted to film the raid, but the AFP officers seized his mobile phone, and the phone of his fiancée. The warrant specifically refers to Four Corners and Fairfax reporter Adele Ferguson and alleges that Richard Boyle had illegally taken

either originals or copies of taxpayer information, photos of ATO computer screens or emails. Boyle said there was some suggestion from the AFP and ATO officers at his home that he had committed a crime in speaking to the media. “It’s absolutely astonishing. I’m horrified that this organisation has these powers over the community, and I think things need to change,” he said.²⁰⁶

The *Australian’s* Robert Gottlieb wrote: “Arguably Australia’s most significant whistleblower, the man who forced both our major political parties to alter their small business taxation appeal policies, is now set to face a court battle. That’s the cost of being a whistleblower.”²⁰⁷

In October 2019, Boyle launched a campaign to raise funds for his legal defence. MEAA urged members and the journalism community to support his crowd-funding campaign.

Boyle’s situation was one of the case studies use by the Australia’s Right To Know lobbying group of media organisations in its campaign, Your Right To Know, launched in the wake of the Australian Federal Police raid on the home of a Canberra News Corporation journalist and the Sydney offices of the ABC.²⁰⁸

BLOWING THE WHISTLE ON DEFENCE

There are calls for charges against David McBride be dropped. “The legal team for whistleblower David McBride says it is “unfathomable” that the former military lawyer still faces jail, after an inquiry confirmed Australian soldiers were involved in the unlawful killing of dozens of Afghan civilians.

“[NSW Justice Paul Brereton] found 25 special forces soldiers killed 39 civilians in practices known as “throwdowns” where concealable weapons were placed on the bodies of those killed in order to photograph evidence to justify the killings.”²⁰⁹

A lawyer, retired Australian Army major David McBride, is charged with theft over war crimes investigation files that were allegedly handed to journalists. He was arrested and charged on September 5, 2018 by Australian Federal Police as

he was about to depart Sydney airport to return to his home in Spain.

McBride's Sydney home was raided in February 2018 — the search warrant was seeking any information relating to ABC journalists, various military files and other documents. It's alleged that classified Defence documents were provided to ABC journalists and then later publicly released on July 10 and 11 2017.²¹⁰

A report in *The Australian* said: "On July 11, 2017, the ABC's 7.30 program released a major investigation called The Afghan Files. The story was promoted as 'Defence leak exposes deadly secrets of Australia's special forces. It featured extraordinary detail about investigations, including 10 incidents between 2009 and 2013 where special forces had allegedly shot dead insurgents and unarmed civilians, including children. Among the investigations mentioned were controversial cases relating to the death of a man and his six-year-old child during a raid on his house, and the killing of a detainee who was alone with a soldier and was alleged to have tried to seize his weapon."²¹¹

In the ACT Magistrates Court on March 7, 2019 McBride was formally facing five charges for leaking classified material to three senior journalists at the ABC and the then Fairfax Media newspapers. The ABC reported: "Mr McBride has not entered pleas to any of the charges, but outside court said he was 'not making any bones about' his role in the events. 'There's no question in that I've told the Federal Police I did give the classified documents to the *Herald*, to the ABC, and to [journalist] Chris Masters,' he said. 'I'm seeking to have the case looking purely at whether the Government broke the law and whether it was my duty as a lawyer to report that fact.' Mr McBride said he had tried internal processes within the department to bring his allegations of wrongdoing to light but went to the press when that was not successful."²¹²

The Guardian reported: "I think it was swept under the carpet,' McBride told reporters on Thursday. 'I eventually saw the police; they didn't do anything about it. Finally, I saw the press, and it was published on the ABC. They've

threatened me all along with going to jail. If I was afraid of going to jail, why would I have been a soldier? Unfortunately, there are too many people in Canberra who are afraid. Plenty of people knew what I knew, but no one else stood up.'" He said he wanted the court to simply consider whether the government's actions were illegal.

On June 14, 2019, McBride appeared in the ACT Supreme Court after being committed to stand trial. Outside the court he told journalists: "The world will hear about what went on I have faith in the judiciary. I'm a true believer. I think the judiciary will give me a fair hearing. I think it's complicated and I don't ever want to be accused of breaching national security. I am a patriot; I believe in this country. I think what I did was the patriot duty to stand up for what's right about this country.

"I have no doubt once I'm acquitted that the media and the world will hear about what went on. Because the reality is none of it is truly national security, none of it is about our secret mind-reading powers. It's all about what happened 10 years ago on a mountain top in Afghanistan and what happened across the lake at Parliament. It's not national security, it's just nationally embarrassing."²¹³

A profile published in *The Sydney Morning Herald* on June 23, 2019 said: "Over several months in 2014, Major David McBride gathered top-secret files at night from the computers at the high-security joint operations headquarters near Bungendore, east of Canberra. He would then drive home and stay up until the small hours compiling the material into a lengthy dossier that charted his complaints about the military...

"The report he compiled centred around investigations into potential war crimes by Australian special forces soldiers in Afghanistan but widened out into some of his other flash-points of anger towards the military and political hierarchy, including the handling of sex abuse allegations in the army and a review into the treatment of women in Defence.

"McBride, a military lawyer for special forces, pushed his report internally

at first. At one point, he went to the Australian Federal Police. Eventually, he went to journalists. But the story he wanted told wasn't the one that ended up appearing in the ABC under the title The Afghan Files.

"The man at the heart of the leak that prompted the controversial police raid on the ABC's headquarters earlier this month is a complicated individual... The considerable task that now lies ahead of him as he defends himself against charges of theft of Commonwealth property, breaching the *Defence Act* and unauthorised disclosure of information is to persuade a court that what he did was actually his duty and therefore not a crime.

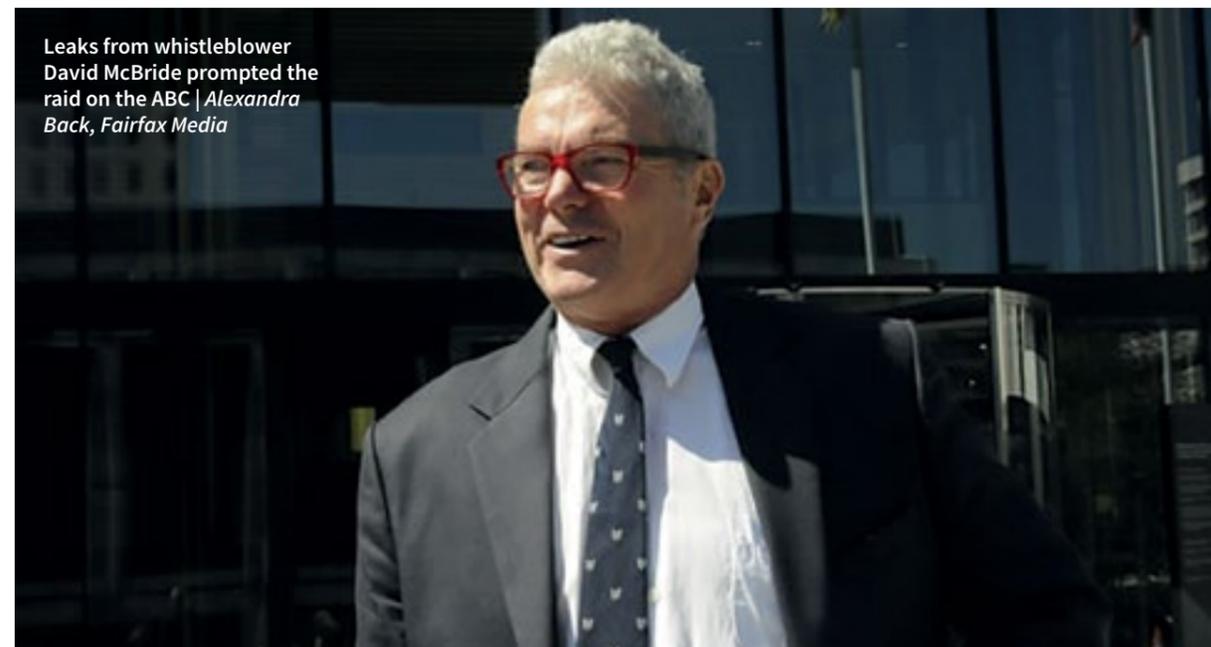
"He doesn't deny taking hundreds of pages of classified documents, nor leaking them. So he has to prove that the entire system is wrong, not him. If he fails, he faces many years in jail.

"What I've done makes sense to me,' he says. 'It's the kind of battle I've always wanted. Even though I would quite like to be able to let it go and get on with my life, I don't see how I can."²¹⁴

On July 11, 2019, McBride reached an agreement with the court about the closing of the court if sensitive documents are discussed during his trial. McBride will, however, continue to press the government on why the material remains secret. "I mean how secret can they be?" he said of the documents. "It's 10 years ago about what people shot someone in Afghanistan, what the minister may have said. I mean how are our enemies the Russians, the Chinese, how is that going to be used against us? The government should be made to say why [they] can't reclassify these things, what is truly secret about it?"²¹⁵

Former senator Nick Xenophon who has represented McBride, said: "The latest accusations of war crimes in Afghanistan on Four Corners reveal the very issues that McBride was trying desperately to advise military commanders and politicians of in 2013. His will be a test case for whistleblowers and the right for all of us to know what happens in the shadows of our government and military."²¹⁶

Leaks from whistleblower David McBride prompted the raid on the ABC | *Alexandra Back, Fairfax Media*



Whistleblowers must be protected, not prosecuted

BY KIERAN PENDER

Their stories are well known, but they deserve repeating because they are so instructive about the fate of truth-telling and transparency in Australia.

Our whistleblowers are being silenced, and their interactions with journalists restricted and prosecuted.

Openness and accountability are core Australian values; our whistleblowers need to be empowered to speak up, including in appropriate circumstances to the media, without fear of a jail sentence.

Despite decades of legislative progress on whistleblowing laws, these paper rights have failed to translate into reality. And now we are backsliding.

Take David McBride. An Army lawyer who had served in Afghanistan, McBride became aware of war crimes

being (allegedly) perpetrated by Australian defence personnel. He tried, unsuccessfully, to raise his concerns with superiors and the police. When his concerns went unmet, McBride spoke to ABC journalists, who ultimately published the significant "Afghan Files" reporting.

McBride and the ABC were vindicated by the release of the Brereton Report in November 2020, which outlined damning evidence about the murders of at least 39 Afghan civilians or prisoners. But not before the ABC's Sydney headquarters were raided by federal police. The Commonwealth Department of Public Prosecutions (CDPP) subsequently stated that it had reasonable prospects of securing a conviction against an ABC journalist, Dan Oakes, but that it was not in the public interest to prosecute.

McBride received no such reprieve. The

first part of the prosecution against him, where he has raised a whistleblowing defence, will be heard by the ACT Supreme Court in May. If he loses, the matter will go to a full trial. McBride has said that he does not fear jail and believes he has done the right thing. "Plenty of people knew what I knew, but no one else stood up," he said in 2019.

Or take the case of Richard Boyle — a different context, but eerily similar result. Boyle worked at the Australian Taxation Office, where he became concerned about aggressive debt recovery practices which were hurting small businesses. He raised these internally, and with the tax ombudsman. After neither adequately addressed the issue (a parliamentary report has described their investigations as "superficial"), Boyle went public by speaking with journalists from a joint ABC/Fairfax investigation. The resulting outcry ultimately led to policy reform.

Rather than be applauded for bringing attention to this unethical conduct by the tax office, Boyle was prosecuted. In 2019 he was hit with 66 charges amounting, on a maximum sentence, to 160 years in prison. Some charges were later dropped, and in early 2021 the CDPP announced that it was considering discontinuing the prosecution. At the time of writing, no decision had been made.

Despite Boyle having a strong case under whistleblowing laws, prosecutors have subjected him to a nightmarish two years. Boyle has lost his job, had a breakdown, suffered major health issues, and had to fund his legal defence. “I feel like I almost died from the stress. I feel like they [the ATO] almost killed me and were trying to kill me,” he told the *Sydney Morning Herald*.

The prosecutions of former intelligence officer Witness K and his lawyer Bernard Collaery – who, it has been alleged, exposed Australia’s espionage against impoverished neighbour Timor-Leste to gain a commercial advantage during resource negotiations – are perhaps the most Orwellian examples.

Collaery and K’s prosecutions have been shrouded in secrecy by the invocation of national security legislation – laws that were introduced to aid the effective prosecution of terrorists, not whistleblowers. While K has pleaded guilty, Collaery will be tried in a largely closed court, where the CDPP will be required to prove the underlying circumstances (that Australia spied on Timor) while the Morrison Government continues to insist otherwise.

In each of these cases, courageous individuals have spoken up about wrongdoing. Their whistleblowing was entirely true:

- subsequent reviews found that the ATO was not exercising its powers consistently and proportionately;
- the Brereton Report has left a dark stain on Australia’s national conscience; and
- it is widely accepted that Australia ripped off post-conflict Timor by bugging the offices of their cabinet leaders.

The selfless public service of these whistleblowers is acknowledged not by gratitude but prosecution.

This not only has a severe human impact on McBride, Boyle, Collaery and K, but it sends a chilling message to all Australians: “if you see wrongdoing, stay silent.” How else could prospective whistleblowers interpret these prosecutions? This chilling effect discourages whistleblowers from reaching out to journalists and adds another obstacle to the Australian media holding our Government to account. When whistleblowers and journalists are prosecuted rather than protected, our democracy suffers.

PROTECTING WHISTLEBLOWERS

Change is urgently needed. Fortunately, there is some cause for optimism. There are significant opportunities for reform in 2021 and beyond that could materially improve the position of public sector whistleblowers and their ability to speak with journalists about public interest issues.

That change must begin with the *Public Interest Disclosure Act*, which is intended to empower federal public servants (such as McBride, K and Boyle). The *PID Act*, like many whistleblowing schemes, preferences the disclosure of concerns about wrongdoing to an internal supervisor or the appropriate authorities.

Consistently with international best practice, the *PID Act* recognises that sometimes those avenues for reporting issues are not adequate, and the fourth estate has a significant role to play in ensuring accountability. Accordingly, the *PID Act* provides protections for whistleblowers who speak publicly, including to the press, in certain circumstances.

Unfortunately, the relevant provisions are so complex and opaque that a whistleblower going public under the current scheme will often have little certainty that the *PID Act* protections will apply to them.

The test for establishing protection for an external disclosure is more than 200 words long, with nine distinct subclauses. The test for an emergency disclosure (where a whistleblower can go straight to the press, without raising concerns internally) is equally byzantine. These provisions must be overhauled to provide accessibility and clarity for those who want to speak up.



Whistleblower Richard Boyle had his home raided | ABC

That reform is long overdue. The *PID Act* was enacted in 2013 and contained a mandatory review provision. That review, undertaken by Philip Moss AM, was provided to the government in 2016, and recommended, among other things, reconsideration of the external and emergency disclosure provisions. It took the Morrison Government four and a half years to formally respond to the Moss Review, which it finally did in December 2020. Months later, there is no evident progress.

The European Union’s landmark whistleblowing directive, which will become law in member states by the end of this year, offers guidance in the design of a better public reporting framework. The directive provides that its protections apply to any person who made a relevant disclosure in any of three circumstances: (1) they made the disclosure internally or to an appropriate authority and appropriate action was not taken within the specified timeframes; or they have reasonable grounds to believe that (2) the conduct disclosed constitutes an imminent or manifest danger to the public interest; or (3) there is a risk of retaliation or low prospect of the

conduct being effectively addressed (because, for example, the evidence may be concealed or there is collusion between relevant authorities). This simpler legislative design and emphasis on the whistleblowers’ reasonable belief is a stark improvement on the current Australian approach.

In addition to reforming the *PID Act* to make it easier for whistleblowers to speak up, the Morrison Government should take further steps to prevent the prosecution of whistleblowers and journalists doing their job.

Following outcry at the raids on the ABC and News Corp’s Annika Smethurst, then-Attorney General Christian Porter issued a direction under the *Commonwealth Director of Public Prosecutions Act 1983* requiring the Attorney-General’s consent to the prosecution of journalists for national security offences, “as a separate and additional safeguard” to the CDPP believing it is in the public interest to prosecute.

While this provides an added layer of scrutiny, it is extremely narrow in scope. The consent requirement leaves

a lot to be desired – and doesn’t have anything to say about the prosecution of whistleblowers. Standalone public interest defences in secrecy law (as seen in other jurisdictions) and more robust, entrenched and depoliticised protocols and limitations around the investigation and prosecution of journalists and whistleblowers would go much further to protecting transparency and accountability in Australia.

The inability of whistleblowers to safely and securely raise concerns with journalists is one significant dimension of Australia’s wider transparency crisis. Ineffective whistleblowing protections (and the chilling effect of the prosecutions) intersect with draconian secrecy laws, an under-resourced freedom of information regime, cuts to oversight agencies and the commercial challenges faced by investigative journalism to result in a more opaque state.

Individually and collectively, whistleblowers and journalists are vital contributors to a healthy democracy. The prosecutions of David McBride, Richard Boyle, Witness K and Bernard Collaery are instructive as to the

challenges facing transparency in Australia. Yet their stories – and those of the whistleblowers that came before them – also serve as vivid reminders of what societies lose when we silence those who speak up. What would we not know but for these brave individuals and the journalists that amplify their message? What wrongdoing might be happening right now, that we may never know because of the chilling effect of these prosecutions?

Democracy dies in the darkness. Whistleblowers and journalists must be protected and empowered, not prosecuted. The Morrison Government has committed to overhauling federal whistleblowing protections. Journalists, prospective whistleblowers and indeed all Australians have a shared democratic interest in making sure that commitment is met, swiftly and adequately. We must watch closely and continue to speak up until reform is delivered.

Kieran Pender is a senior lawyer at the Human Rights Law Centre. He leads the Centre’s work on whistleblower protections.

THE INDUSTRY

Redundancies

More journalism jobs have been lost in the past year than in any other 12-month period. MEAA estimated that over the course of 2020 at least 1000 jobs disappeared from the Australian media industry, with journalists at rural and regional media outlets the hardest hit.

By comparison, in 2017, when appearing before a public hearing of the Senate select committee inquiry into Future of Public Interest Journalism, MEAA said that the global financial crisis between late 2007 through 2008 had led to 700 editorial redundancies.²¹⁷

The loss of jobs has been dire for the industry. In March 2021, MEAA told the Senate inquiry into media diversity in Australia that, according to MEAA's analysis, there are now fewer than 10,000 recognised journalists serving Australian consumers. "We believe their number has fallen by around 5000 in the last decade."²¹⁸

Many of the job losses can be attributed to the COVID-19 pandemic and the associated fall in media outlet revenues from the decline in advertising and social and sporting activities that would normally encourage consumption of news. However, it is clear some media employers took advantage of the pandemic's restrictions on economic activity to cynically restructure their businesses, imposing mass layoffs among their employees and ruthlessly closing media outlets at the expense of the local communities they served.

*Layoffs, Inequity and COVID-19: A Longitudinal Study of the Journalism Jobs Crisis in Australia from 2012 to 2020*²¹⁹, a paper by Nik Dawson, Sacha Molitorisz, Marian-Andrei Rizoio, at the University of Technology Sydney (UTS) and former UTS journalism practice professor Peter Fray, found that while there was "a

marked upswing in news consumption in Australia" during the COVID-19 pandemic.

"In Australia in 2019, 56 per cent of Australians accessed news more than once a day; by April 2020, three months after the first local case of COVID-19 was confirmed, that figure had jumped to 70 per cent."

But while the demand and consumption of news was up, "news outlets found it even harder to make money, as advertising dried up even further... On March 25, 2020, *The Atlantic* ran a story under the headline, 'The coronavirus is killing local news'. The author urged people to subscribe: 'Among the important steps you should take during this crisis: Wash your hands. Don't touch your face. And buy a subscription to your local newspaper'."

"In Australia, there were widespread closures and job losses before the pandemic, but COVID-19 compounded the problem. In late March, Rupert Murdoch's publishing business News Corp warned of 'inevitable' job cuts and the closure of regional titles. Soon afterwards, News Corp – Australia's biggest publisher – suspended the print editions of 60 Australian newspapers, including the *Manly Daily* and *Wentworth Courier* in Sydney, the *Brisbane News* and the *Mornington Peninsula Leader* in Victoria. In May, News Corp confirmed that more than 100 of its local and regional mastheads would either switch to digital only or disappear completely. These cuts came in the wake of a dramatic drop in advertising from the entertainment, restaurant and real estate industries, the titles' main revenue sources.

"The global pandemic is ongoing, and its lasting impact on journalism remains to be seen."²²⁰

GOVERNMENT SUPPORT

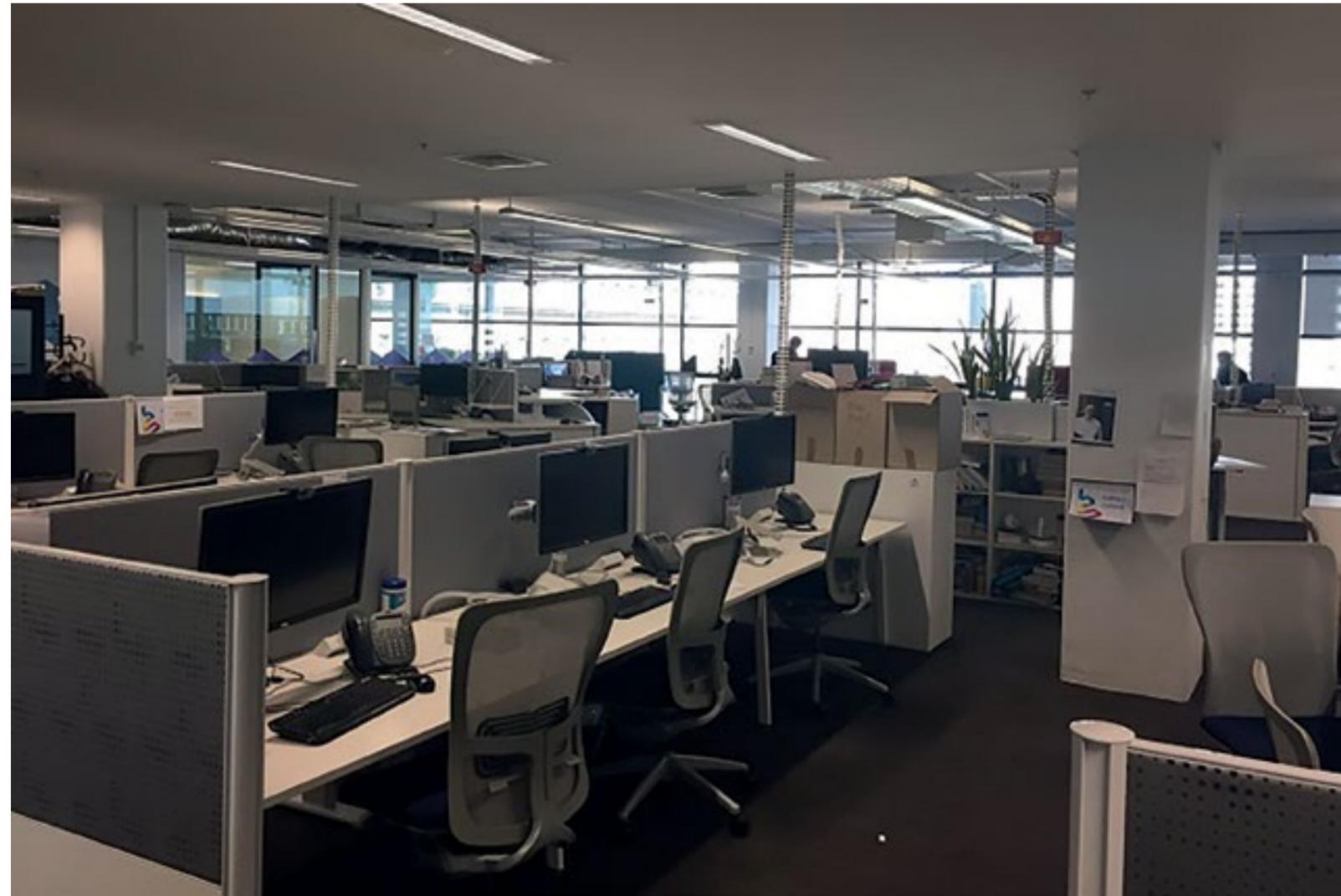
As the pandemic began to bite into the Australian economy, MEAA urged the Federal Government to "unlock \$40 million in funding to keep regional and rural newspapers alive during the coronavirus crisis".²²¹

On March 25, 2020, MEAA said it had written to Communications Minister Paul Fletcher urging him to release the money to regional publishers. "The money has already been allocated to a Regional and Small Publishers Jobs and Innovation Package but must be repurposed into a survival fund to prevent local publishers from closing their doors.

"The Federal Government should also provide additional funds as needed to support this essential service, which has suffered a devastating advertising downturn since the introduction of public health restrictions on activities such as eating out and entertainment. Federal and state governments can also help to make up for some of the lost revenue by placing public health advertising with regional and small publishers."

MEAA Media Federal President Marcus Strom said: "This is a time when the public needs accurate and information about what is happening, and people naturally turn to local, national and international media expecting this. Local publications are lifelines for their communities; they know them intimately. We are concerned about what will fill the void left by their closure. In such a vacuum, misinformation and 'fake news' can flourish.

"While most of the rest of us are locked in our homes, many journalists will still be out risking their health to inform the community."²²⁰



"This is an essential service, and governments should be doing all they can to ensure that it can continue... Newspaper proprietors must also do their part. They must explore alternative avenues to keep their communities informed rather than take the drastic and unacceptable step of shutting down publications, as has begun happening in regional Victoria.

Strom added: "We understand the financial pressures publishers are experiencing and offer our help to negotiate ways of easing this burden but closing the doors at this time would be a betrayal of their workforce and a betrayal of their communities."

AUSTRALIAN COMMUNITY MEDIA

On April 30, 2019, Nine Publishing sold the former Fairfax regional newspapers' group, Australian Community Media,

to investors Antony Catalano and Alex Waislitz's Thorney Investments. At the time, MEAA said the new owners must commit to investing in journalism at the ACM group so they continue to provide a genuine service to local communities.

MEAA expressed concern about what the change of ACM group ownership will mean for independent journalism and the group's 160 community, regional and rural publications around Australia, and for the jobs and conditions of Fairfax regional employees.²²²

On May 1, 2019, *The Australian* reported: "Antony Catalano has vowed to invest in regional newspapers including *The Canberra Times* and *The Newcastle Herald* and believes he could more than double his money after snapping up the former Fairfax's 160-plus regional mastheads for a bargain \$125 million."²²³

The reported quoted Catalano as saying: "You don't prune a rose bush right down to its roots and then hope you'll suddenly get all this growth. That just is not part of what I have done in my business history. There will be a focus on finding where we can grow the business. That is what we have done. I have a history of taking underperforming old media assets and turning them around. That is what will try to do here."

MEAA responded: "There are about 650 editorial staff employed across the country by the ACM group. It is essential that the individual audiences for each of the group's mastheads be respected. The business model that Antony Catalano introduced at the Fairfax Domain group was to combine the editorial of several mastheads into near-identical content. Editorial cutbacks meant that genuine local reporting was gradually whittled



away in favour of bland vanilla news stories shared across several mastheads, regardless of what individual audiences wanted.”²²⁴

“These titles... provide vital coverage of local courts, councils and politics to an audience of more than four million readers every month. Maintaining independent coverage of local issues is vital for our democracy.”²²⁵

However, by mid-April 2020 ACM had begun winding back on its print publications. MEAA said the change had been made without adequate consultation and was disrespectful to loyal editorial staff, adding that employees had been kept in the dark by management and only became aware of the decision at the same time as the public.²²⁶

MEAA responded by saying it is weighing up whether to take ACM to the Fair Work Commission for failure to consult about the changes, in breach of the company’s enterprise agreement. “ACM management is legally required to consult with staff representatives, including MEAA, before undertaking any major changes to operations.

“That hasn’t taken place and all management has done by this announcement today is create more uncertainty among employees about where cuts will be made. Management needs to detail as soon as possible where the cuts will be felt.

MEAA added that the Federal Government could no longer ignore the crisis in Australia’s regional media. “ACM is Australia’s largest owner of regional and rural publications, and for a company of this size to be closing down mastheads is more evidence, if any was needed, that the future of regional media in this country is under threat.

“Advertising revenues have been devastated by coronavirus, and we have seen close to a dozen mastheads close in the last fortnight while the Communications Minister Paul Fletcher has sat on his hands. More than ever, rural and regional communities need trusted sources of news and the government must provide emergency funding so media in country Australia can survive.”

A key issue would evolve over the ACM actions to be access to the

Government’s COVID-19 JobKeeper wage subsidy and information for employees on whether they would be suspended during to the pandemic downturn or whether their jobs had been made redundant. “MEAA also finds it difficult to reconcile how a company can take such drastic action and yet not be eligible for the JobKeeper income subsidy. Employers should be exploring all avenues to retain staff rather than making people redundant. We are urgently seeking more clarity from the company about the grounds on which it claims it is not eligible for JobKeeper.”

On August 24, 2020 MEAA called for greater oversight of the Federal Government’s regional media support fund as redundancies continued in companies that received the taxpayer support. MEAA said that the week before Southern Cross Austereo, a recipient of \$10 million under the government’s \$50 million regional media support package, announced 38 jobs would be lost due to a restructure of its radio operations. The company blamed the challenges of the COVID-19 environment. Australian Community Media, which owns more than 170 regional media mastheads, has shut

or closed multiple titles with the loss of an undetermined number of jobs. It too is a recipient of government support.”²²⁷

MEAA Media’s federal president Marcus Strom said: “How is it that big media companies can access millions of dollars in government funding while making staff redundant? It seems that the Government package is supporting shareholders and boardrooms rather than the working journalists who deliver news and information to the communities they serve. The Government needs to reset its priorities to better serve audiences and the taxpayer.

“While any support is welcome the government support to date is inadequate, misdirected and time-limited. There is no doubt that all regional media businesses are doing it tough but smaller media outlets are closing down and others may never recover.”

The government’s Public Interest News Gathering initiative (PING), much of it is money repurposed from other projects, was targeting only larger regional media businesses with a history of providing public interest journalism and that have been in operation for more than a year. The support is only available for 12 months.

Support was denied to regional media start-ups – the very outlets that are struggling to maintain an essential service to their community. “The loss of small media outlets is dire. The provision of news and information is an essential service during the pandemic. More must be done to provide an ongoing lifeline to keep local media operating,” Strom said.

MEAA’s Western Australia regional director, Tiffany Venning said greater diversity in media ownership is crucial, and regional media deserved better support from government. “That’s the issue here, the investment in journalists and journalism,” Venning told the ABC. “I do think they should be properly funding regional journalism, in particular. Not only is it important to the community, but it’s also where a lot of journalists get their training.”

MEAA’s Western Australia regional director, Tiffany Venning said MEAA had repeatedly asked for information regarding the masthead closures at ACM, which had “repeatedly been met with silence”, Venning said.²²⁸

ABC

On June 24, 2020 the ABC announced 250 jobs would be lost – the inevitable result of funding cuts imposed by the Coalition Government.

MEAA noted that by 2022, which will be the end of the third triennial funding period during which the Coalition Government has been in power, the total funding cut from the ABC will be more than \$783 million.

“The cumulative impact of these cuts, which began at the 2014 Budget, have been to strip the ABC of newsgathering capacity at a time when Australians’ reliance on the national broadcaster has been greater than ever before.

“The cuts announced today as part of the ABC’s five-year blueprint are a direct result of the indexation freeze on the ABC’s operating revenue imposed by then-Treasurer Scott Morrison in the 2018 Budget which was effectively an \$83.7 million funding cut over three years.

MEAA chief executive Paul Murphy said: “The Coalition Government’s war against the ABC since it was elected in 2013 amounts to nothing less than vandalism of one of Australia’s most trusted and valued public institutions.”

“These vindictive cuts have been ideologically motivated to undermine the ABC’s independence and its news gathering ability. In real terms, the ABC’s funding from government is now 30% below what it was in the mid-1980s. The result is that ABC staff are doing more with less.

“Over the past six months, the ABC has again demonstrated its value as an essential service providing comprehensive and vital news and information from across the breadth of Australia and around the world about bushfires and the coronavirus pandemic. Yet, once again, ABC staff

will be asked to continue producing high quality and trusted journalism with ever-diminishing resources.

“As more and more journalists are forced out the door, those left behind face increasing workloads, leading to concerns about quality, burnout and the wellbeing of news and current affairs staff.”

MEAA Media Federal President Marcus Strom said: “These cuts have a real human cost with 250 people facing unemployment in the middle of a recession and a constrained job market for media professionals.”

NEWS CORPORATION

On the morning of May 28, 2020 News Corp Australia announced the closure of mastheads and resulting job in a huge blow for communities in regional and suburban Australia.

MEAA chief executive Paul Murphy said: “We are still waiting for clarity from the company on how many editorial staff will be affected by these changes across the News Corp network. We are determined to see proper consultation and fair treatment for any affected staff.

“The closure of so many mastheads represent an immense blow to local communities and, coming off the back of hundreds of previous regional closures during this period, it underlines the seriousness of the crisis facing regional and local journalism,” Murphy said.²²⁹

There were more jobs lost at News Corp with an announcement on November 27, 2020 that News Corp would embark on a round of redundancies that would see photographers and editorial production staff lose their jobs. About 25 jobs were lost – 16 photographers, six in centralised production and three editorial roles in Hobart.

The decision to cut more jobs came just six months after News closed mastheads and restructured its local community and regional newspaper businesses.

MEAA Media director Adam Portelli said: “When so many redundancy

rounds follow hard one after the other, it creates a climate of uncertainty and fear for the staff who remain. It also piles on the pressure as they try to cope with the inevitable increased workload.

“Losing so many photographers whose images tell their own powerful stories, means many years of experience and particular skills will be lost. Also, production staff are the gatekeepers of quality in a newspaper – at a time when media credibility is vital to retaining valued readers, any loss of key production roles is deeply regrettable.”²³⁰

BORDER WATCH NEWSGROUP

The closure of South Australia’s Border Watch Newsgroup announced on August 19, 2020 was another example of a local community left without a key source of regional news and information. MEAA said: “The closure once again illustrates the dire state of regional media as COVID-19 bites hard, causing many country mastheads to suspend operations or close down entirely.

The company’s directors announced on Facebook that they had decided to shut operations. Their decision to close *The Border Watch* (Mount Gambier), *South Eastern Times* (Millicent) and *The Pennant* (Penola) cost the jobs of 38 staff.

The then MEAA South Australian regional director Angelique Ivanica said: “Enough is enough. This group has reported on 159 years of local history and now with the biggest health issue to hit our country in a hundred years, it’s having to close.

“It’s now or never for regional media. The Federal Government must step in with urgent additional funding to keep regional media outlets functioning during the pandemic. The loss of advertising is crippling these outlets. Without revenue they cannot fulfil their responsibility to provide an essential service to their local communities.

“What’s more, it’s extremely disappointing that there is no detail on the efforts that should have been made to keep the mastheads going. Giving staff and local communities just three

days’ notice is insulting to loyal workers and readers alike,” Ivanica said.²³¹

OUR COMMUNITIES, OUR STORIES

MEAA recognised the crisis that was unfolding in rural and regional Australia as local media outlets shut down or closed permanently. While COVID can be attributed to much of the damage, the actions of media companies at a time of great regional need following bushfires and amid the pandemic, also contributed to the crisis.

On June 5, 2020 MEAA launched a campaign to raise public awareness and support for rural and regional media. MEAA’s Our Communities, Our Stories campaign noted that more than 150 regional and community newspapers had ceased printing. “This is on top of the 106 local and regional papers that closed over the previous decade.

The campaign said: “Many of those papers are more than a century old. Many may never reopen.

“It shouldn’t be this way. The stories of regional and rural Australia are important: our stories matter... The local paper is the heartbeat of the community. It provides local news that the big cities can’t and/or won’t provide. While the Government has announced a \$50 million Public Interest News Gathering (PING) program to support regional journalism, more needs to be done.”

MEAA has called on regional community leaders and councils, as well as local and federal MPs to fight for greater funding.

“Regional media outlets are the lifeblood of local communities. They ensure voices are heard, vital news and information is shared; community events are promoted and celebrated. They scrutinise politicians and the powerful, and they play an essential role in our democracy,” Strom said.

In a statement on August 24, 2020 to highlight the urgency of support needed to keep regional media alive, MEAA Media director Adam Portelli said: “Big city-based media companies need to put

the interests of the communities they purport to represent front and centre. Closing their smaller mastheads and consolidating them in a regional hub or centralising news from a capital city does not fill the gap when local news outlets are shut down.”

MEAA called on new initiatives for regional media to include tax incentives and funding support for start-ups; greater transparency and accountability for how government support is distributed and spent; and government advertising to be directed to local media.

Strom said: “The need for greater support is now. Jobs are being lost, businesses are closing down, communities are losing their voice. Misdirected funding, poorly targeted support and a lack of accountability for how funds are spent will do irrevocable damage unless urgent action is taken to save regional media.”²³²

On April 14, 2021, a year on from when the Federal Government announced a \$50m Public Interest Newsgathering Fund, the ABC reported that Western Australia is now left with only 28 regional newspapers, 18 of which are owned by the one company, Seven West Media, with another four owned by ACM and six are independently run.²³³

AUSTRALIAN ASSOCIATED PRESS

On March 3, 2020, the major media organisations that were shareholders in the Australian Associated Press (AAP) news wire agency and photographic service announced that they intended to close the business they created, with the loss of up to 180 jobs.

The AAP operation provided “more than 500 stories, 750 images and 20 pieces of video each day across news, politics, finance and sport to about 200 subscribers who use it for newspapers, radio news and talkback programs, television news and websites.”²³⁴ AAP was established by Keith Murdoch, a founding member of MEAA’s Australian Journalists Association section, in 1935 to syndicate the cost of international newswires between Australian news publications.



The AAP MEAA house committee said in a statement on March 2, 2020: “MEAA members at Australian Associated Press thank media colleagues and those from outside the industry for their messages of support following an article written about the company’s future.

“It is heartening to know the levels of appreciation for AAP’s work, especially given so much of it comes without attribution.

“AAP management have relayed to employees that the story is speculative. As such, AAP’s staff are hard at work, as usual.

“For 85 years, AAP has provided important, reliable reporting of courts, politics, sport, general news and photography to a diverse range of subscribers including regional and metropolitan newspapers, websites and broadcasters.

“Now more than ever, an independent, non-partisan newswire is vital in an increasingly fractured media landscape.”²³⁵

The following day, on March 3, 2020, just weeks before the COVID-19 would

cause immense damage to media outlets, AAP announced it would close its AAP Newswire business in June and its Pagemasters sub-editing operation in August; the Medianet and Mediaverse divisions would be sold. The closure would represent the loss of 600 jobs, at least half of them editorial positions.

MEAA called the decision a gross abandonment of responsibility by AAP’s shareholders – major media outlets News Corporation Australia and Nine Entertainment. MEAA called on the investors to recognise that they cannot fulfil their duty to inform the community without delivering a solution to fill the enormous void left if AAP is not available to perform its function.

After months of uncertainty, on June 5, 2020 a consortium announced it would purchase AAP Newswire. MEAA said the decision was in crucial recognition of the vital role AAP plays in the Australian media ecosystem.

MEAA Media section federal president Marcus Strom said: “The proposed purchase will see the retention of editorial jobs that just a week ago looked to be lost. Unfortunately, this change of ownership as a result of the

decision of Nine Entertainment Co. and News Corp to no longer use AAP’s services will still lead to a loss of a number of jobs.

“AAP plays a very necessary role in news coverage for all Australians. Had we lost AAP, then we would all be the poorer. AAP Newswire provides journalism coverage in the areas that the other major news outlets either cannot or choose not to. Without it, our communities would be less informed and vital stories – from the courts to sports, images and breaking news plus many other areas – would not be told,” Strom said.

MEAA said that it was short-sighted for AAP’s major shareholders to not fully appreciate the importance and value of the business they had owned for decades. “It is fortunate that there were others who did recognise AAP’s worth which has led to today’s announcement,” he said.²³⁶

NETWORK 10

On August 11, 2020 Network 10 announced it was embarking on a round of redundancies that would strip newsrooms and deprive audiences of local news.

MEAA said the loss of jobs, particularly editorial positions, would limit the amount of essential news and information available to the communities the network is supposed to serve. The decision to cease weekday news bulletins from Brisbane, Perth and Adelaide and replace them with bulletins originating in Sydney and Melbourne showed enormous disrespect to viewers.

MEAA Media acting director Adam Portelli said: “The end result of these cuts is that viewers will simply seek their news and information somewhere else.

“When the network was taken over by ViacomCBS three years ago this month, it was hoped that Network 10 would finally enjoy stability and an injection of new ideas. Despite the best efforts of staff who have constantly struggled to do more with less, we are now seeing deep cuts that have cruelled the hard work done by so many loyal employees.

“Concerningly, under the restructuring being introduced by management, we now have the prospect of sports journalists having to film their own news stories. That’s a slippery slope that presents a real danger for news presentation in Australia,” Portelli said.²³⁷

THE ADELAIDE REVIEW

MEAA said the announcement that the *Adelaide Review* would close on October 2, 2020 indicated just how much local and community media outlets were hurting during the COVID-19 crisis. The *Review* had announced that its 488th edition will be its last.

MEAA’s South Australia and Northern Territory regional director Angelique Ivanica said: “The *Adelaide Review* has been a stalwart of South Australian publishing for almost 37 years. It has shown a fierce determination to be independent, attracting a strong and immensely loyal audience across South Australia. It is a long-loved publication that has buoyed the entire South Australian arts industry and promoted local writing talent. Its demise is representative of the depth of the devastation to our arts community and another blow to diverse media caused by the COVID pandemic.



Despite the best efforts of Network 10 staff who have constantly struggled to do more with less, we are now seeing deep cuts that have cruelled the hard work done by so many loyal employees

MEAA MEDIA DIRECTOR ADAM PORTELLI

“The closure of so many media outlets, with many never to reopen their doors, will leave local communities without important access to their own news. Right now, we should be encouraging more media voices, not allowing COVID to silence local media.”²³⁸

BAUER MEDIA

Up to 240 Bauer staff were laid off by the magazine group during the COVID pandemic. The German family-owned publishing group’s troubled years in the Australian market culminated in its Australian operations being sold to private equity firm Mercury Capital on June 17, 2020.

Days later, on July 21, 2020 the new owners announced they were closing eight mastheads *Harper’s Bazaar*, *Elle*, *InStyle*, *Men’s Health*, *Women’s Health*,

Good Health, *NW* and *OK!* citing the difficulties of the COVID pandemic.

Earlier, on May 5, 2020, MEAA described as callous the way that Bauer Media’ staff learned that up to 60 jobs would be lost and another 15 people would be stood down just three days after Bauer had completed a \$40 million acquisition of Pacific Magazines which had 160 employees. Bauer had closed its entire New Zealand business on April 2.

MEAA said: “It is a particularly cruel way to treat people. Yesterday was the first day on the job at Bauer for the former Pacific Magazines’ employees.”²³⁹

In September 2020 the Bauer publishing business was subsequently renamed Are Media.

DIVERSITY IN THE MEDIA

A report produced by Media Diversity Australia, *Who Gets to Tell Australian Stories*, showed there is still a long way to go before the people reporting and presenting news and television is representative of the broader Australian population. The report found that just 6% of television news and current affairs reporters have a non-European background.

MEAA provided funding for the project, which was conducted over 12 months by researchers from four universities.

The final report was released on August 17, 2020. It confirmed that Australian television news is still dominated by white, Anglo-Celtic faces. Key findings included:

- 75% of presenters, commentators and reporters have an Anglo-Celtic background while only 4.7% have a non-European background and 1.2% are Indigenous, as measured by frequency of appearance on screen in news and current affairs broadcasts.
- In a survey of 300 television journalists, more than 70% rated the representation of culturally diverse men and women in the media industry as either poor or very poor.
- 77% of respondents with culturally diverse backgrounds believe their backgrounds are a barrier to career progression.
- 100% of free-to-air television national news directors have an Anglo-Celtic background (and they are all male), and 35 out of 39 board members of Australian free-to-air television are Anglo-Celtic.

MEAA Media federal president Marcus Strom said: “This report tells us that opportunities in journalism for people from a non-European or Indigenous background are far less than for people from an Anglo-Celtic background.

“Twenty-four per cent of the Australian population are either from a non-European or Indigenous background, but the proportion of television news reporters or presenters is half that. If not for the existence of SBS/NITV, these figures would be even worse.

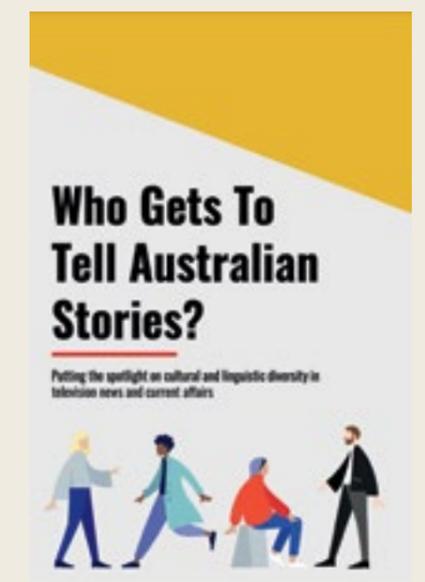
“In a modern, culturally and racially diverse Australia, those who interpret or report the news should reflect those they are reporting on and those who watch their bulletins. It is particularly appalling that according to this report there is not a single Indigenous presenter, commentator or reporter on television screens in the Northern Territory or Queensland, two states with large Indigenous populations,” Strom said.

“Australian television networks are seriously letting down their audiences by not having more diverse talent on screen. This results in reporting about sensitive issues involving race and religion being filtered through a single, white Anglo-Saxon perspective, consciously or unconsciously reinforcing misunderstandings, stereotypes and prejudices.

“In this respect, MEAA also has to accept that historically our Media section leadership has been from European background, and while that is changing, we have more work to do.”

MEAA’s Media section director Adam Portelli, said the MDA report contained several practical recommendations that would make inroads on the lack of diversity at little or no financial cost to television networks. “The bottom line is that not only will greater diversity in newsrooms produce better and more accurate reporting about contemporary Australia, but it will help build trust and gain audiences in non-Anglo-Celtic communities,” he said. “This can only be a good thing.

“More needs to be done to give people from diverse backgrounds opportunities to work in Australian television journalism, and to encourage them to apply for jobs in the industry. But paths for career progression must also be created so that people from diverse backgrounds can move into leadership positions within news organisations.”²⁴⁰



DIGITAL JOURNALISTS

Journalists employed by digital publications will be entitled to penalty rates, overtime and other key conditions after a Fair Work Commission ruling that they should have access to the same protections and rights as print journalists.

The change came into effect on March 1, 2021.

The commission found that digital media workers should have access to minimum standards for their wages, penalty rates, overtime and other conditions of employment such as hours of work and breaks as those standards enjoyed by print journalists.

The Commissions' full bench agreed with MEAA's argument that digital media workers should have full access to the Journalists Published Media Award, the benchmark award in the published media industry (covering news titles and magazines).

The decision removed an anomaly where digital journalists, doing the same job as print journalists, were denied access to the award.

The Fair Work decision is part of the four-yearly review of modern awards. MEAA first put its case to the Commission in 2015. MEAA's arguments for including digital journalists were

strongly opposed by some of Australia's biggest media outlets (including Nine Entertainment – incorporating the former Fairfax company, Rural Press and the Daily Mail).

MEAA said: "The Fair Work ruling means that if you work for a digital media start-up or a digital-only publication you are no longer treated as a second-class journalist.

"This decision removes the award's outdated focus solely on print journalists which placed digital workers at a disadvantage. The decision to modernise the award brings those journalists together under one standard, in recognition of their shared roles and responsibilities as media professionals, regardless of whether they work online or in print."

MEAA Media federal president Marcus Strom said: "Digital is the reality of all newsrooms today. It's about time the Award caught up with the working lives of our members.

"Congratulations to the MEAA Digital Media Committee, made up of working journalists at a range of online publications. Now, more than ever, journalists working in digital media need to join the union so we can collectively enforce these new entitlements."²⁴¹



SENATE INQUIRY

On November 11, 2020, the Senate referred an inquiry into the state of media diversity, independence and reliability in Australia to the Senate Environment and Communications References Committee for report by March 31, 2021 (the reporting date has since been extended to August 4, 2021).

The inquiry had been sparked by a strong community push to examine the issue of media diversity.

It should be noted that MEAA has a long-standing concern over the concentration of media ownership in Australia which has been exacerbated by mergers and acquisitions by the largest media organisations. In the first MEAA report into the state of press freedom issued in 2005, MEAA said: "When it comes to media ownership, government policy should have one goal: to protect and

promote diversity... The experience in both Australia and overseas suggests that diversity of opinion, comment and news sources only results from diversity of ownership."²⁴²

As a result of these business deals, plus the deleterious effects of digital transformation on the media industry generally, media businesses have made massive cutbacks. Redundancies have savaged newsrooms, seeing the most experienced journalists leave and forcing those that remain to have their workloads massively increased – a fact worsened by the constant demands of digital deadlines and a decline in available resources as media outlets constantly seek savings. The digital transformation has also seen a decline in revenues as the available news audience fragments; and as audiences drift elsewhere, leading to falls in circulation and subscription income. And because audiences have shifted, advertising revenue has had to follow.

Digital technology has also seen audiences abandon a regular consumption of news. This may have contributed to the aggression and abuse directed at news media and journalists from irregular followers of news and information who seek partisan information to mirror their own, sometimes fact less opinions. The contribution of social media, and the allied rise of misinformation is also an indication of this trend.

Digital also presented a dilemma when it first appeared. Print news outlets opted to offer their content for free on digital platforms (and often continue to do so with some content now) while still charging their print consumers. As the digital audience grew, often at the expense of print, it was clear that news media would have to move create a subscription model for their digital product. The move often came too late – digital consumers had come to expect digital news to be free always

and objected to having to pay. Educating consumers that news content came at a cost often fell on deaf ears.

Media outlets entered a difficult phase of offering some content for free – accessed through the push of social media postings – while locking the bulk of their content behind a pay wall. The reliance on digital's giant social media platforms to find consumers for news media, and the platforms enjoying news content and subsequent advertising revenue at no cost, would trigger the Australian Competition and Consumer Commission's inquiry into digital platforms and the fierce fight over the recommended Mandatory News Media Bargaining Code.

While there has been a welcome arrival of new players into the Australian market – albeit many foreign-owned – many have not been of a scale to present a sizeable impact on the overall issue of media concentration. Indeed,

as the digital transformation continues to shake the media industry, the decline in news media consumption has left all news outlets fiercely competing for the available audience. Not all new players have made it, with some shutting their doors.

With news media struggling and becoming increasingly concentrated, there are the inevitable closures of businesses, reductions in services, a slump in the resources available to cover various news “rounds”. Rural and regional communities have been particularly hard hit by the loss of their local media outlets. The impact of the COVID-19 pandemic on the media industry has been massive.

MEAA remains concerned that media concentration and a lack of genuine media diversity starves local communities on the news and information they rely on – news supplied from outside their community fails to fill the gap. Fewer media choices mean fewer local voices.

Finally, as the concentration of media ownership has quickened there is a perception that media organisations have become polarised in their news presentation. It is this issue that was a spark for the inquiry to be held: excessive market dominance coupled with the belief that commercial media businesses were becoming excessively partisan to the detriment of keeping the community informed through a “balance” in the news and information they present.

The inquiry’s terms of reference charged it with examining the state of media diversity, independence and reliability in Australia and the impact that this has on public interest journalism and democracy, including:

- a) the current state of public interest journalism in Australia and any barriers to Australian voters’ ability to access reliable, accurate and independent news.
- b) the effect of media concentration on democracy in Australia.
- c) the impact of Australia’s media ownership laws on media concentration in Australia.
- d) the impact of significant changes to media business models since the advent of online news and the barriers to viability and profitability of public interest news services.

- e) the impact of online global platforms such as Facebook, Google and Twitter on the media industry and sharing of news.
- f) the barriers faced by small, independent and community news outlets in Australia.
- g) the role that a newswire service plays in supporting diverse public interest journalism in Australia.
- h) the state of local, regional and rural media outlets in Australia.
- i) the role of government in supporting a viable and diverse public interest journalism sector in Australia; and
- j) any other related matters.²⁴⁵

In preparation for making its submission to the Senate inquiry, MEAA conducted a survey of MEAA Media members. The survey was completed by 349 participants and on December 15, 2020 MEAA announced the findings. “There is deep concern among working journalists about the high level of concentration of ownership of Australia’s media, and the impact that is having on diversity of voices, employment opportunities and the decline of trust in journalism. But the majority have not experienced pressure to edit or self-censor their work to comply with the interests of their employer.

“Along with the concerns about concentration of ownership, those surveyed identified the MEAA *Journalist Code of Ethics*²⁴⁴ as having an important role to play in restoring trust in journalism but had a low regard for the Australian Press Council and the Australian Communications and Media Authority.

“The level of concentration of Australian media ownership was clearly the issue of most concern for survey participants, with 26.9% ranking it as the most important issue, followed by funding for public broadcasting (19.8%), the state of local, regional and rural media (13.2%), and public trust in responsible journalism (12.9%). More than 92% of respondents agreed or strongly agreed with the statement that Australia’s media ownership is too highly concentrated, and a similar amount (94%) agreed or strongly agreed that this was bad for democracy.

MEAA commented: “Despite great hopes that the internet would see a

democratisation of the media and a diversity of media voices, the opposite has happened,” one survey respondent commented. “We are seeing mergers, partnerships and consolidations that all amount to fewer voices, not more. Small, independent players have no hope.”

Asked if there was a role for government in funding the sustainability of commercial media companies, 46.2% agreed/strongly agreed, while 29.2% disagreed/strongly disagreed. But there was stronger support for governments to provide financial support to small, independent, community and regional media outlets, with 80% agreeing/strongly agreeing, and for funding to the public broadcasters the ABC and SBS to be increased (89.7% agreed/strongly agreed).

Similarly, 78.5% agreed/strongly agreed that there should be ongoing government funding for a national newswire service, with 6.6% disagreeing/strongly disagreeing. And 83.7% agreed/strongly agreed that Google and Facebook should contribute to the costs of the journalism that is shared on their platforms.

When asked to dwell more on the impact of Australia’s highly concentrated media ownership, 88% agreed/strongly agreed that it meant there was a lack of diverse media voices for consumers, 83.7% agreed/strongly agreed that it limited the job options for media workers, and 59.6% agreed/strongly agreed that it limited competition for advertisers.

As one survey respondent commented: “Large corporate media organisations have little or no concern for smaller communities, their news and views and most importantly the relationship between the community and the local medias [sic] and its importance in day-to-day event reporting and the community’s history past present and future.”

Eighty-six per cent agreed/strongly agreed that the small number of media owners gave them too much influence over government decision-makers, and 85.7% agreed/strongly agreed that the highly concentrated media ownership was a factor in consumers and the public losing trust in journalism.

HERE'S FIVE WAYS TO IMPROVE MEDIA DIVERSITY IN AUSTRALIA

- 1 TIGHTEN COMPETITION RULES TO PREVENT MORE MERGERS.**
- 2 MAKE GOOGLE AND FACEBOOK PAY FOR CONTENT.**
- 3 EXTEND THE PUBLIC INTEREST NEWS GATHERING PROGRAM AND PROVIDE FUNDING TO HELP MEDIA START UPS.**
- 4 FUND PUBLIC BROADCASTING BETTER AND SUSTAIN AAP THROUGH ANNUAL GRANTS.**
- 5 CREATE A SINGLE ENTITY TO STRENGTHEN REGULATION OF MEDIA CONTENT.**

MEDIA AUTHORITY OF AUSTRALIA

One respondent commented: “I don’t think media diversity is the problem – we actually have more titles than ever before – the Guardian, Daily Mail, the Conversation, SMH, News Corp. The problem is no-one can make any money because the model is broken, and social media giants are stealing our content. More diversity isn’t going to stop the race to the bottom on costs and quality. The quality of journalism has deteriorated because the model says employ some graduate on \$50K to rip off other people’s stories rather than pay big bucks for a real journo. More diversity won’t change that.”

There was strong support from 84.5% of respondents for the MEAA *Journalist Code of Ethics* to play a greater role in building community trust in media, but 68% did not believe the two main regulators, the Australian Press Council and the Australian Communications and Media Authority were adequately fulfilling their role in this regard.

Almost 31% of respondents said they had sometimes felt the need to edit or self-censor an article because of the commercial or editorial expectations of their outlet’s publisher/owner. But 32.4% said they had never needed to edit or self-censor and 26.4% said this was rare.

As one respondent commented: “Editors and bureau chiefs need to play a greater part in creating a culture that enforces the media code [of ethics]. Too often journalists are asked to cover stories that contravene the code and are penalised or ridiculed if they refuse to do so. But editors are also under market pressure, aware of proprietors/ govt expectations or selected because of their preparedness to flout the code. There is also a disconnect between apparent public expectations – what the public thinks is fair and “decent” behaviour by journos - and what the public will buy/wants to read. However, there is no real enforcement of the

code – APC and ACMA need a stronger role and powers here, focusing on editors and proprietors as well as journos.”²⁴⁵

MEAA sought to address these concerns. In its written submission to the Senate inquiry, MEAA called for the government to:

- “Amend competition and other laws to prevent mergers that lead to more harmful levels of media concentration.
- The Australian Government must urgently progress the Mandatory News Media Bargaining Code and extend the operation of the Public Interest News Gathering program.
- The Australian Government should review and adapt critical measures recommended in the United Kingdom and Canada such as: directly funding local news; offering taxation rebates and incentives; and part-funding editorial positions.

- Government assistance should be reset to ensure funding is available for new media organisations, as well as traditional media companies.
- Public Broadcasters must be funded in a way that acknowledges the need to provide comprehensive, high-quality cross-platform media content in all parts of Australia.
- AAP's future should be sustained through regular, annual relief grants.
- Regulation of media content should be strengthened and overseen by a single entity.²⁴⁶

On March 12, 2021, MEAA made additional comments following on from the submission by appearing at a public hearing of the inquiry. MEAA told the committee: "The current state of Australia's media is unsustainable. There are too few voices and too much power is vested in these voices.

"New and credible ways of supporting the old media and the new media must be found in order to preserve the health and transparency of Australia's democracy.

"Concentration of ownership, market failures and the grinding down of public broadcasters have combined to put our media sector in an extremely perilous place at a time when quality, reliable content is needed more than ever."

MEAA noted that:

- media reforms over the past five years have worsened the state of media diversity
- journalism jobs have continued to be lost in great numbers despite a growing appetite for Australian news content
- coverage of critical areas of civic and commercial affairs continues to fall
- the effectiveness of the News Bargaining Code is unknown, and notwithstanding the success of otherwise of the Bargaining Code, there are no evident support measures for small to medium or new media providers.

MEAA said the economic foundations of the Australian news media sector have been under challenge for some time. The efforts to address these challenges have concentrated on the survival of existing media organisations.

Although MEAA strongly supported these measures, focusing on that alone will see diminishing returns over time. "We are concerned that unless there is a clear policy reset, journalist numbers will continue to slide."

MEAA's analysis over several years indicates that there are now fewer than 10,000 recognised journalists serving Australian consumers. "We believe their number has fallen by around 5,000 in the last decade."

The impact is being felt everywhere, but most recently and pointedly in the regions and in the bush.

"Along the way, we have seen critical areas of public interest – where journalism pricks and preserves public interest – like courts coverage, local council and corporate malfeasance – be taken out of play."

MEAA surveyed journalists across Australia about the state of media ownership and concentration in Australia in preparing its submission for this inquiry. Approximately 350 responses were received. Twenty-seven per cent of respondents rated concerns about Australian media concentration highest of all the issues canvassed, followed by funding for public broadcasting (20%), the state of local, regional and rural media and public trust in responsible journalism (both 13%).

More than 92% of respondents agreed or strongly agreed with the statement that Australia's media ownership is too highly concentrated; and 94% agreed or strongly also agreed that this was bad for democracy.

Support for increased funding for the ABC and SBS was at almost 90%.

There was also strong support (80%)

for government action to financially support small, independent, community and regional media outlets which may not have been the case even five years ago.

MEAA said: "This demonstrates a growing recognition of the need for Government action in a situation where the market is clearly failing to deliver in the public interest."

MEAA's submission calls for new and better ways to create real media diversity, calling for:

Changes to competition law

- Implementation of Mandatory News Media Bargaining Code (MEAA commented on the outstanding issue at the time the submission was made: "... now subject to Facebook's objections and deceptions").
- Extend the Public Interest News Gathering program in its duration and quantum

To ensure quality and reliability across our media, MEAA advocated for the establishment of a new and effective single regulator of media content, where community concerns are fairly adjudicated and where penalties are taken seriously.

"We have drawn the Committee's attention to media reforms of jurisdictions similar to our own – in Canada and the United Kingdom. They are on a path to sustaining journalism and creating opportunities for new players and for those now battling to stay afloat, like AAP in Australia."

Australia will continue to fail the media diversity test if new players – small and large – find the barriers to entry too great, MEAA said.

"MEAA's members also look to Government to credibly fund our public broadcasters. As we say in our submission, "Public Broadcasters must be funded in a way that acknowledges the need to provide comprehensive, high-quality cross-platform media content in all parts of Australia".²⁴⁷

Gender



In their landmark paper, *Layoffs, Inequity and COVID-19: A Longitudinal Study of the Journalism Jobs Crisis in Australia from 2012 to 2020*²⁴⁸, Nik Dawson, Sacha Molitorisz, Marian-Andrei Rizoiu, academics at the University of Technology Sydney (UTS) and former UTS journalism practice professor Peter Fray, made some crucial findings on the state of journalism.

They discovered that:

- "there are now more women than men journalists in Australia, but that gender inequity is worsening, with women journalists getting younger and worse-paid just as men journalists are, on average,

getting older and better-paid. despite the crisis besetting the industry, the demand for journalism skills has increased; and perhaps concerningly, the skills sought by journalism job ads increasingly include social media and generalist communications."

The Workplace Gender Equality Agency using Australian Bureau of Statistics data, reported a modest narrowing of the gender pay gap across Australia and in the media industry. The gap as of November 2020, saw women's average weekly ordinary full-time earnings across all industries and occupations at \$1562.00 compared to men's average

weekly ordinary full-time earnings of \$1804.20, a gap of 13.4%.

The Agency found that the ABS data suggests there is progress in closing the gender pay gap. "Australia's national gender pay gap has hovered between 13.4% and 19% for the past two decades.", the agency said. "There has been a decrease of 0.58 percentage points in the gender pay gap since November 2019 (14.0%). Between 1999 and 2020 the gender pay gap was:

- lowest in November 2020, at 13.4%
- highest in November 2014, at 18.5%."²⁴⁹

In the information media and telecommunications sector of the data,

From 2014 to 2018, average wage growth for male journalists was more than 10 times greater than for female journalists.

there was also a reduction in the gap, from 17.2% in November 2019 to 16.0% - however that is still far higher than the national average across all industries and occupations, with the sector ranked 13 out of out of the 18 industry groups.

The paper also noted: “There were also changing age demographics of employed journalists during the studied period... Male journalists were getting older, their average age increasing by two years from 2014 to 2018. Female journalists, however, were steadily getting younger.”

However, in its analysis – albeit using different data – the UTS paper came up with some different conclusions. Looking specifically at the gender pay gap in the industry, the paper said: “At first glance, the data seems to suggest that gender equity is finally arriving in Australia for journalism – an industry that has traditionally been male-dominated – as more women than men are employed.

“As the data shows, in 2014 there were 0.7 female journalists employed for every male journalist, but by 2018 the proportion of female-to-male employment more than doubled, with almost 1.8 female journalists employed for every male Journalist. It then declined in 2019 to 1.35, a proportion still almost double that of 2014.

“However, further detail reveals that equity remained elusive. Specifically, wage inequality worsened. “Since 2014, annual salaries for

female journalists increased by \$3,000, compared with an increase for male journalists of over \$30,000 over the same period. From 2014 to 2018, average wage growth for male journalists was more than 10 times greater than for female journalists.

“Meanwhile, the average male Journalist was getting older, while the average female journalist was getting younger. In 2014, the average age for a journalist, whether male or female, was roughly the same: late 30s. By 2018, the average age for a male journalist was 42, whereas for a female journalist it was 34. These results support previous findings on the changing demographic characteristics of journalists in Australia.

“A survey of female journalists in Australia, found gendered divisions of tasks associated with reporting, where [most] female reporters were assigned ‘soft news’ areas, such as arts, education, and health. These gender and age inequities for journalists were also present in other countries... the wage and age discrepancies between female and male journalists observed in the employment statistics are consistent with the surveyed experiences of female journalists in Australia.

“The potential impacts of this worsening disparity are concerning. It is possible that senior positions responsible for major editorial decisions were increasingly being dominated by men, whereas junior roles were being filled by women who are younger and worse-paid,” the UTS paper said.²⁵⁰

The final report of the Australian Competition & Consumer Commission’s digital platforms inquiry was released on July 26, 2019. It laid out in stark terms the threat posed to public interest journalism by rise of Google, Facebook and other similar businesses.

The ACCC recognised the dramatic decline in the number of journalists and the corresponding decline in coverage of areas of public interest from 2006 to the present: 26 per cent of print journalists between 2006 and 2016 and falls of 20 per cent between 2014 and 2018 alone.

In a statement, MEAA said this dramatic decline of local, regional and rural media outlets and the cuts in funding to the national public broadcasters should ring alarm bells for politicians.

The ACCC also pointed to the abandonment of critical areas of public interest journalism (courts, local government, and health and science coverage) and the escalating crisis in local news coverage, with its observation of the closure of 106 local and regional news titles throughout the country in the 10 years to 2018.

To counter this, the ACCC recommended stable and adequate funding for the public broadcasters, the development of sustainable and independent funding to secure the future of local news coverage through an annual \$50 million grant program, and tax reforms to enable the growth of not-for-profit journalism.

MEAA chief executive Paul Murphy said the ACCC had also correctly recognised that Google and Facebook should be regulated similarly to other media businesses.”In this review, the ACCC has acknowledged that the ubiquity of Google and Facebook has placed them in a ‘privileged position’ in Australia’s media landscape where they have substantial bargaining power with news media businesses. We also agree that these companies are both ‘rivals’ and ‘unavoidable’ business partners of Australian media content producers,” Murphy said.



Digital platforms

“Google and Facebook need to negotiate responsibly with media content organisations and start paying for the content they have thus far exploited for free. MEAA supports the urgent development of a regulated code of conduct governing digital platforms’ commercial relationships with news media businesses.

“We are pleased that the ACCC has picked up on recommendations first made by MEAA to support public interest journalism,” Murphy said.

As the coronavirus crisis ramped up in early February 2020, ACCC chairman Rod Sims again took up the issue of getting the big digital platforms to work better with media outlets. Sims described the impact of the digital platforms and the coronavirus as a “one-two blow” for the media industry.

The coronavirus pandemic and its dramatic assault on the revenues of

media outlets prompted the government to act forcefully. On April 20, 2020 it announced moves to make digital platforms begin to compensate media organisations for the content they have been using for free will go some way towards providing a sustainable future for public interest journalism in Australia. MEAA said the announcement of legislation to create a mandatory code on digital platforms was a welcome move.

Treasurer Josh Frydenberg said the mandatory code would force the digital aggregators like Google and Facebook to negotiate in good faith with media outlets for the use of the content they create and provide notice of changes to the platforms’ algorithms that may affect the news outlets’ rankings and search results.

MEAA Media federal president Marcus Strom said: “The government has realised that voluntary codes don’t

work when there is a bargaining power imbalance. Google and Facebook have in part grown off the back of news content. The creators of that content, the news media outlets, have suffered while still producing vital public interest journalism.

“Google and Facebook will now be required to negotiate responsibly with news media and start paying for the content they have exploited for free.

“MEAA supports the development of a mandatory code and we will scrutinise the draft legislation carefully. MEAA intends to monitor the distribution of the funds which we believe should support emerging and future journalism, not just existing media outlets,” Strom said.²⁵¹

In an initial submission regarding the prospect of a news bargaining code, MEAA said there was an urgent need for a code if media outlets were to be

saved. Noting that the government said it would legislate for the code to be mandatory to make digital platforms compensate for news content they have been using for free, MEAA said the compensation will go some way towards providing a sustainable future for public interest journalism in Australia.

In MEAA's submission to the Australian Competition and Consumer Commission's options paper regarding the development of the code, MEAA said on July 8, 2020 that the decade of job losses that imperilled Australia's news media industry meant only swift action could rescue media outlets that were struggling for survival.

MEAA called for a clear timetable for discussions about developing the mandatory code between the news media and the digital platforms.

MEAA noted that media outlets are struggling. "Revenues, particularly advertising income, have declined sharply as the digital disruption leads to audience fragmentation – readers and viewers are switching to the giant digital platforms. Google and Facebook, on the other hand, have enjoyed a massive surge in advertising income and market share. For every \$100 spent by online advertisers, \$47 goes to Google and \$24 to Facebook."

MEAA Media section federal president Marcus Strom said: "Since January 2019 more than 200 broadcast and print newsrooms have closed temporarily or for good. So far in 2020, COVID-19 has contributed to the suspension or permanent closure of more than 100 newspaper mastheads, many of them in regional Australia. We estimate that the Australian media is on track to lose a further 1000 editorial jobs this year alone.

"The impact of this sudden and massive decline in Australian media is profound. It means that communities have lost their local voice and there is less scrutiny of powerful interests," Strom said.

MEAA said the mandatory code needed to be narrowly defined. "It must settle

on a common value for news content; agree on mechanisms to measure the use of the content by Google and Facebook and then a defined payment system should be agreed upon... This could be done via a collection agency."

MEAA added that the code should apply to the creation of defined news content regardless of the size or scale of the content creator. This could range from a freelancer or blogger up to the biggest media houses.

MEAA hoped the parties to the code will negotiate in good faith to produce a code that is fair and equitable.

On January 18, 2021, MEAA made a subsequent submission on the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020*. MEAA noted that the Code reflected in the Bill contained several variations to the draft Code upon which MEAA made a submission in late August 2020.²⁵²

MEAA's major concern with the Code remained its failure to specify that funds generated through the bargaining arrangements must be directed to production of journalistic content. MEAA said this was a dangerous omission.

"As MEAA stated in its 28 August 2020 submission on the draft Code: 'Although it appears logical that funds raised under the Code will be devoted to the production of content, there is an evident risk that funds may not be directed to such purposes in the absence of an explicit requirement in the Code. It would be a perverse consequence of the years-long digital platforms inquiry and code development process if funds raised via the Code were directed to purposes other than sustaining and increasing news content that serves the public interest. MEAA therefore seeks the inclusion of text in the Code that articulates that the primary purpose for funds attained through the Code will be for the purposes of sustaining and increasing levels of covered news content.'

"As MEAA also stated in its December 2020 submission to the Parliament

on Australian media diversity, "these funds should not be permitted to wash through an organisation and used for non-journalistic purposes".

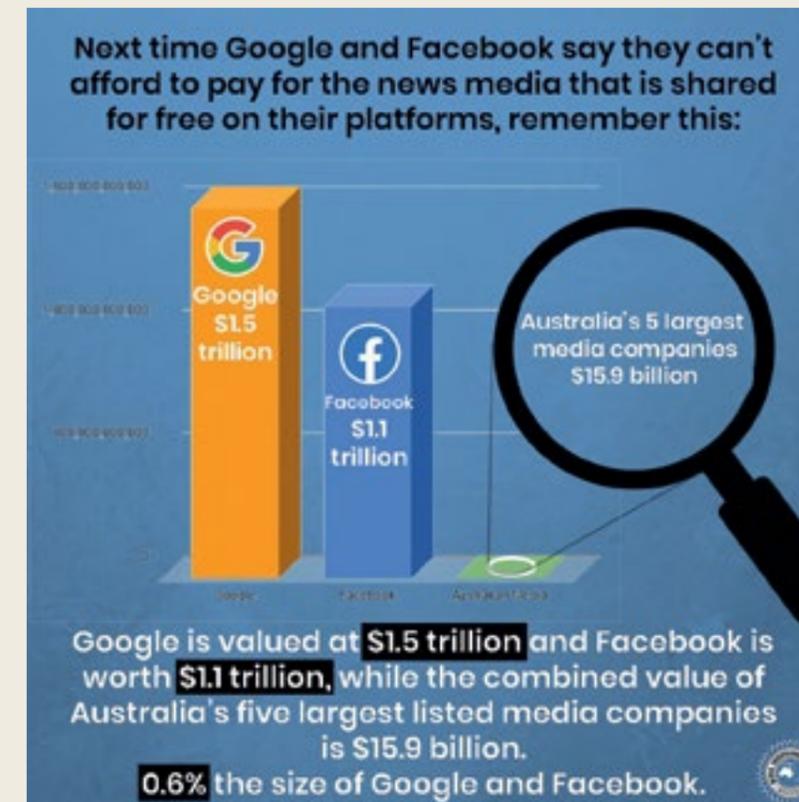
MEAA argued that the key benefit to be drawn from Code-related agreements (and those outside the Code) should be the reliable provision of journalistic content.

MEAA added that a further significant concern lay in how little the Code appeared to deal with the parlous economic and employment situation at regional media organisations. "Although the Code commonly regulates all news companies, it remains the case that the Code offers little to regional news organisations. As MEAA has repeatedly illustrated to media inquiries conducted in the past five years, it is regional news providers that face the most dismal futures with respect to monetising their content, keeping the lights on and keeping communities informed.

"MEAA is gravely concerned that the Code's standard offer and collective bargaining mechanisms will not adequately address the situation. If this matter cannot be satisfactorily addressed through the Code (by quarantining a set proportion of funds obtained through all Code agreements), the one-year government's Public Interest News Gathering Program must be enhanced and extended by at least a further two years, in line with the Australian Consumer and Competition Commission's (ACCC's) initial digital platforms inquiry recommendation."

MEAA argued that the draft legislation's the \$150,000 per annum revenue test for eligible media Organisations "too high and would prevent new and very small news businesses from participating in and being remunerated under the Code." MEAA proposed the amount should be halved to \$75,000.00.

Freelance journalists were also at risk. MEAA said that the revenue test in the Bill and the lack of mandated use of Code-generated funds to produce content would have a direct bearing on levels of content generated by freelance journalists.



MEAA also remained concerned by the exclusion from the definition of "covered news content" of "journals and publications intended primarily for academic, rather than general, audiences". "The policy basis for this is unclear. The maintenance of this provision may threaten the eligibility of content providers that regularly provide academic commentary on issues of public interest. It follows that if eligibility is frustrated, so too will the capacity of media providers to be remunerated for such content."²⁵³

The reaction to the Bill from Google and Facebook was as expected – they fiercely opposed the mandatory code and would not negotiate with media companies. "Google has threatened to remove its search engine from Australia and Facebook has threatened to remove news from its feed for all Australian users if a code forcing the companies to negotiate payments to news media companies goes ahead. The move would mean the 19 million Australians who use Google every month would no longer be able to use Google Search, and 17 million Australians who log into Facebook every month would not be able to see or post any news articles on the social media site..."

Facebook begged for time. "Facebook has called the code unworkable in its current form and has asked for digital platforms to be given six months' grace to negotiate deals with news companies directly before being hit with the "big stick" of the mandatory code."²⁵⁴ Facebook's pleas came despite the Government having directed the ACCC to conduct its inquiry as long ago as December 4, 2017; and Facebook and Google were largely silent when the draft report recommending a voluntary news bargaining code was recommended by the ACCC in 2019.

Prime Minister Scott Morrison reacted to the platforms' warnings: "Let me be clear. Australia makes our rules for things you can do in Australia. That's done in our parliament. It's done by our government. And that's how things work here in Australia and people who want to work with that, in Australia, you're very welcome. But we don't respond to threats."²⁵⁵

Eventually Google began negotiating with media companies. From February 15, 2021, it began striking multi-million dollar deals for media organisations' news content to be carried in its News Showcase – a product it had launched 10 days earlier.²⁵⁶

Facebook, on the other hand, committed a massive public relations disaster that reverberated around the world and caused significant damage to its brand. On February 18, 2020, after Google had already begun working with news media companies, Facebook shut down the web pages of organisations whose Facebook accounts were created to disseminate "news". While that included news media outlets, it also caught out many other organisations that might distribute "news" about themselves to their Facebook followers. There was no warning.

Facebook had tripped itself up by demonstrating how its enormous market power could do immediate harm. In effect, Facebook's action was proof of why the Mandatory News Bargaining Code was, as determined by the ACCC, very necessary to curtailing its market power. It was a spectacular own goal observed around the world.

Facebook was condemned for its actions which were seen as attacking freedom of speech and freedom of access to information. CNN reported: "The news ban has already been met with confusion and criticism in [Australia]. Fire and emergency services, domestic violence charities, state health agencies and other organizations said they were also affected by the restrictions, prompting outrage among those who said Facebook was restricting access to vital information. In response, the company has said it will reverse pages 'inadvertently impacted' by its move."

Prime Minister Scott Morrison wrote on his own Facebook page: "These actions will only confirm the concerns that an increasing number of countries are expressing about the behaviour of Big Tech companies who think they are bigger than governments and that the rules should not apply to them. They may be changing the world, but that doesn't mean they run it."

Treasurer Josh Frydenberg said: "Facebook was wrong. Facebook's actions were unnecessary, they were heavy-handed, and they will damage its reputation here in Australia," he added.²⁵⁷

MEAA responded to the foolish action, saying: “Facebook’s move to block sharing of content from Australian news media outlets will encourage the spread of misinformation at a time when factual and credible journalism is more important than ever.”

“The decision made overnight by Facebook is the desperate act of a company with too much power that thinks it is beyond the reach of any government and reinforces the need for regulation of global digital platforms through a News Media Bargaining Code.”

“Facebook’s removal of news media outlets from its platform denies its audience of essential information. That includes updates about the COVID-19 pandemic and streaming of emergency broadcasts during natural disasters such as bushfires, cyclones and floods.”

MEAA Media section Federal President Marcus Strom said: “Credible journalism is a check on the spread of misinformation. This irresponsible move by Facebook will encourage the dissemination of fake news, which is particularly dangerous during the COVID pandemic and is a betrayal of its Australian audiences.”

“By restricting independent, professionally produced news in Australia, Facebook is allowing the promotion of conspiracy theories, misinformation, fake news and QAnon crackpots on its platform.”

“This move by Facebook, which has refused to negotiate as recommended by the Australian Competition and Consumer Commission, will only lead to its audience being denied reliable, factual news and will inflict massive reputational damage for its brand.”

“Facebook makes hundreds of millions of dollars a year from advertising in Australia, while media companies are struggling to keep journalists employed and newsrooms open.”

“Unlike Google, which has sensibly begun negotiating content agreements



with publishers and broadcasters, Facebook has abused its dominant position and is holding Australian news agencies, advertisers and consumers to ransom with this cowardly response.”²⁵⁸

Facebook relented just days later, and like Google, it began to work with media organisations for its new product, called Facebook News. The moves have been watched with interest by governments and news media organisations around the world.

However, as Google and Facebook began to forge deals with the major media organisations, MEAA warned that the Federal Government must act urgently to support small Australian news outlets that could be shut out of commercial deals with Facebook and Google under the News Media Bargaining Code.

MEAA said Facebook and Google monies must go to newsrooms, not boardrooms. MEAA was also concerned about what this will mean for small media organisations and freelance journalists.

MEAA Media Federal President Marcus Strom said while the way had now been cleared for the big media companies to strike commercial deals with Facebook

and Google, it was unclear to what extent small outlets would benefit. “For small publishers that have become reliant on Facebook to distribute their news, it will be a huge relief that the news tap has been turned back on,” Strom said.

“But they will remain at the mercy of Facebook and Google, which are both seeking to avoid mandatory regulation and will instead choose which media companies they come to agreements with. This will particularly affect small publishers if the Treasurer deems that Google and Facebook have done enough not to be named as respondents to the News Media Mandatory Code.”

“For small publishers who fail to make side deals with the tech giants, they could be locked out, further entrenching the narrow ownership base of the Australian media market.”

“We now face the strange possibility that the News Media Mandatory Code could be passed by Parliament and it applies to precisely no one. It will just sit in the Treasurer’s drawer as a threat to misbehaving digital companies, which could later counter threat to turn the tap back off.”

“It shouldn’t be up to Facebook and Google to cherry pick and groom publishers it deems acceptable for side deals. Any code should be mandatory, uniform, predictable, and fair, not at the whim of technology executives”

Strom said there also remained no guarantees that any monies raised for news media from the tech companies will be spent on journalism.

“Where is the commitment to stable funding to the public broadcasters? Where are the tax incentives to support public interest journalism? And where is the ongoing commitment to support rural, suburban and regional media, along with freelancers?”

“While we support this Bill, MEAA has always maintained that the News Bargaining Code alone has never been a ‘silver bullet’ for small, regional, community and independent outlets.”

“Throughout the long process of developing the Code, going back to the original digital platforms inquiry by the ACCC, MEAA has called for a holistic suite of reforms to nurture a vibrant and diverse media ecosystem.”

“Beyond meaningfully addressing the need to ensure digital platforms pay for the news content they carry, there are a range of discrete measures that can be adopted in Australia to maintain the viability of media company operations and, critically, encourage new entrants.”

“Among these reforms are extending the operation of the Public Interest News Gathering program to become an annual round of funding; the adoption by the federal government of critical measures which have been used overseas, such as directly funding local news, offering taxation rebates and incentives; part-funding editorial positions; and resetting government assistance to ensure funding is available for new media organisations, as well as traditional media companies.”²⁵⁹

In its early stages there remains uncertainty about the deals struck

between the digital platforms and the news content makers. MEAA Media’s Strom said: “Media companies have a moral obligation to demonstrate that the millions they will receive from Google will be spent on news gathering and not on share dividends.”²⁶⁰

Many of the big media companies have promised that they will use the funds to invest in journalism. The ABC said it any revenue from Google would be reinvested in regional services.²⁶¹

Communications Minister Paul Fletcher had already promised that as the ABC had committed to spend the extra funds on regional journalism and the government would not reduce its funding as a result of the potential windfall.²⁶²

In subsequent days, as the rollout of deals between media organisations and the two digital platforms continued, MEAA said the Facebook and Google monies must go to newsrooms, not boardrooms. MEAA also expressed concerns about how the deal-making was being done and with whom.

On February 24, 2020 MEAA issued a statement saying: “Media companies negotiating commercial deals with Facebook and Google for the payment of news content must ensure that the monies generated are allocated to journalism. The deals under negotiation will provide a welcome new revenue stream for Australian media, but they will be pointless if the funds from the digital giants are not reinvested in the production of news content.”

MEAA also called for targeted assistance to any small, independent, regional, community or freelance media organisations that are unable to access funding either through negotiation or the News Media Bargaining Code. This should also be extended to AAP, MEAA said.

MEAA Media President Marcus Strom said: “We have seen no guarantees from the big media companies that money raised from the digital platforms

will be spent on journalism. If some of this the Facebook and Google’s massive Australian revenue is now to be returned to media companies, there must be a corresponding commitment that the money is spent on news content not dividends or corporate bonuses. The media companies must provide transparency about how they intend to allocate these funds.”

“The entire rationale for the News Media Bargaining Code which has led to the digital giants voluntarily agreeing to compensate media companies for content was the impact they have had on public interest journalism over the past decade.”

“Almost 5000 Australian journalism jobs have been lost in that time because revenue which once supported journalism has been sucked up by the digital giants.”

Strom said MEAA was also concerned that small and independent outlets, including websites run by freelancers, could miss out in the rush by the big companies to finalise deals with Facebook and Google to avoid arbitration under the Code. “The modified Code now being considered by Parliament has the potential of reinforcing the current narrow base of Australian media ownership if there are no other measures to support media diversity.”

“There must be a commitment to stable funding to the public broadcasters, tax incentives to support public interest journalism, and to supporting rural, suburban and regional media, along with freelancers. The News Media Bargaining Code alone will not be the salvation of Australian journalism. A range of other reforms are essential to foster a vibrant and diverse media ecosystem, and to encourage new entrants,” Strom said.

That evening, February 24, 2021, the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2021* passed both houses of Parliament.

GOVERNMENT Public broadcasting

ABC

The Australian Broadcasting Corporation has never been under greater attack in its long and storied history than it is now. The cuts to the ABC began in 2014 will, by 2022, total more than \$780 million.

The savagery of those cuts has led to programs being axed, a slide in locally produced drama, foreign bureaux have been closed and hundreds of years of journalistic experience has been lost due to redundancies.

ABC journalists simply doing their job are attacked on an almost daily basis by Coalition politicians, as Health Minister Greg Hunt displayed in an extraordinary live interview on ABC News Breakfast on February 10, 2021.²⁶⁵

In the past five years 1860 people have left the ABC. MEAA said the “Hunger Games” of cuts are affecting editorial processes as senior people depart, with the organisation losing experienced journalists that have crucial editorial judgement and corporate knowledge.

New staff in recent years have too often faced precarious employment on short-term contracts and in casual work. There is a lack of career progression and continuity of ABC culture and corporate knowledge. What the numbers do not tell is that editorial workloads are increasing, and staff are increasingly required to produce more output, filing multiple times a day across several platforms.

On November 11, 2020, MEAA issued a statement saying the independence of Australia’s national public broadcaster continues to be under threat and must be protected.

The statement followed reports of extraordinary pressure being applied

by government staffers and Senators in the hours before an ABC Four Corners investigation, “Inside the Canberra Bubble” into the behaviour and misconduct of federal parliamentarians, went to air on the evening of November 9 2020.

Coalition Ministers’ staff were reportedly calling and emailing senior ABC directors and management, questioning whether the episode was in the public interest. The pressure also included the questioning of senior ABC managers at Senate estimates – once again, in advance of the screening of the program.

MEAA Media director Adam Portelli said: “Attempts to harass or shut down the program before it had even gone to air is clearly intimidatory. It seeks to silence legitimate reporting. It was subsequently borne out that the Four Corners program was clearly in the national interest given the nationwide debate about issues raised in the program.

“Under the *Australian Broadcasting Corporation Act*, the ABC has legislated operational and editorial independence. However, the pressure exerted on senior ABC personnel aimed to avoid the prescribed channels for communicating with the ABC.

“This is not the only occasion in recent years when politicians have interfered in the ABC – on several occasions the government has chosen to override the legislated independent panel selection process for the appointment of ABC directors. Two years ago, ABC journalists took a stand against political interference and are prepared to do so again.

“Australia’s public broadcaster is consistently rated as one of the

country’s most trusted news sources. This trust is enshrined in the ABC Charter that requires the ABC to act only in the interests of the Australian public – its independence is paramount. That trust must not be eroded by political interference. Politicians must not seek to avoid legitimate scrutiny,” Portelli said.

On June 24, 2020, ABC management announced it would shed 250 jobs – the inevitable result of funding cuts imposed by the Coalition Government. MEAA said that by 2022, which will be the end of the third triennial funding period during which the Coalition Government has been in power, the total funding cut from the ABC will be more than \$785 million.²⁶⁴

The cumulative impact of these cuts, which began at the 2014 Budget, have been to strip the ABC of newsgathering capacity at a time when Australians’ reliance on the national broadcaster has been greater than ever before.

MEAA said: “The cuts announced today as part of the ABC’s five-year blueprint are a direct result of the indexation freeze on the ABC’s operating revenue imposed by then-Treasurer Scott Morrison in the 2018 Budget which was effectively an \$85.7 million funding cut over three years.

“The Coalition Government’s war against the ABC since it was elected in 2013 amounts to nothing less than vandalism of one of Australia’s most trusted and valued public institutions. “These vindictive cuts have been ideologically motivated to undermine the ABC’s independence and its news gathering ability. In real terms, the ABC’s funding from government is now 30% below what it was in the mid-1980s. The result is that ABC staff are doing more with less.

“Over the past six months, the ABC has again demonstrated its value as an essential service providing comprehensive and vital news and information from across the breadth of Australia and around the world about bushfires and the coronavirus pandemic.

“The Reuters Institute Digital News Report released this week found that the ABC was Australia’s most trusted news brand with a 72% trust rating.

“Yet, once again, ABC staff will be asked to continue producing high quality and trusted journalism with ever-diminishing resources.

“As more and more journalists are forced out the door, those left behind face increasing workloads, leading to concerns about quality, burnout and the wellbeing of news and current affairs staff,” MEAA said.

But MEAA Media Federal President Marcus Strom added that the corporation’s union members were dismayed that ABC management is again pursuing an unfair strategy of identifying staff for forced

redundancies. “These cuts have a real human cost with 250 people facing unemployment in the middle of a recession and a constrained job market for media professionals,” he said.

“Our members were prepared to give management some leeway given the impossible position they were put into by this ideologically obsessed government, but that has to work both ways. Members feel betrayed that ABC human resources and management seem intent to return to the shoulder tapping and ‘Hunger Games’-style pooled redundancies of the past. The union has in good faith negotiated a voluntary process, yet today HR is already calling people into meetings, which is causing much distress.”²⁶⁵

While attacks on the ABC are nothing new, the current hostility directed is “the worst we’ve seen”.

On top of funding cuts, “fair and balanced” legislation, a steady stream of politically motivated complaints and inquiries, we now have the Liberal Party’s federal council voting 4:1 in favour of selling off the ABC.

Hands Off Our ABC is a community and advocacy campaign co-ordinated by the two unions that represent the vast bulk of employees at the ABC: the MEAA and the Community and Public Sector Union.

The goal is an editorially independent ABC that is fully funded by the government and meets its charter as a comprehensive national broadcaster, that is resourced to tell Australian stories across multiple platforms and positioned to take advantage of new technology to retain its position as the most trusted and reliable source of news and entertainment in Australia. The campaign calls on the current Australian government and other political parties to commit to the following five principles:

1. Restore ABC funding to a sustainable level over the next two ABC triennial funding agreements. The ABC cannot continue to provide Australians with the level of innovative and comprehensive broadcasting services required under the ABC Charter without the significant restoration of the \$254 million in funding and 400 jobs which have been stripped from the organisation.
2. Respect the editorial and programming independence of the ABC as enshrined in the *ABC Act*. Governmental interference in the ABC undermines the integrity of its news coverage and it must always be independent of any political influence.
3. Keep the ABC 100% commercial-free. Most Australians do not want commercial advertising disrupting their ABC programs and services or on ABC websites. Further the ABC’s position as our most trusted source of News relies on the ABC being free of commercial influence.
4. Curtail outsourcing and do not seek to privatise or commercialise any parts of the ABC. Since its inception in 1932, the ABC has been one of Australia’s most loved public institutions. New technology and anticipated changes to media ownership mean that now more than ever, Australians are reliant on the ABC to tell their stories.

The Hands Off Our ABC campaign is seeking commitment on five key principles



“As more and more journalists are forced out the door, those left behind face increasing workloads, leading to concerns about quality, burnout and the wellbeing of news and current affairs staff.”

MEAA MEDIA FEDERAL PRESIDENT MARCUS STROM

The ABC must retain control of its functions including its internal production if the ABC is to fulfil its Charter obligation and represent and reflect regional diversity.

- Foster and retain a diverse, skilled workforce that can create and deliver exciting Australian content. Increased casualisation and centralisation of ABC jobs in Sydney and Melbourne are deskilling and demoralising the ABC workforce. As a publicly owned institution and as a model employer, the ABC has a responsibility to provide secure jobs, whole of industry training and model working conditions.

SBS

On July 30, 2020, the MEAA Anti-Discrimination Working Group at SBS & NITV wrote to the SBS board, saying they were dismayed by “the volume of public reports of discrimination faced by our Colleagues” and calling for further investigation.

The letter said: “We have conducted a questionnaire predominantly of our current staff to investigate the sentiments expressed by both former and current employees at SBS and NITV. The results of our survey are startling. We provide the following information in good faith and acknowledge that the

vast majority of respondents wish to remain anonymous and their individual responses confidential.

“There are, at time of writing, 67 respondents to our questionnaire asking if they have experienced any form of discrimination in the workplace; 18 respondents are former staff members. Forty per cent have reported racism; more than 25% sexism. Other forms of discrimination experienced and highlighted in our questionnaire included homophobia, ageism, ableism as well as various forms of bullying.

“Of the 50% who reported this to management, all did not find a satisfactory resolution.

“We asked staff to expand on why they did or did not report their experience to management and several themes emerged from this question.

- Respondents do not trust that management is ‘on their side’.
- They do not trust management to handle any complaint of discrimination.
- Respondents believe their complaint will achieve very little given the prevailing culture.
- Management and those responsible to handle these complaints are generally part of the problem.

“The impact of this sentiment in the newsroom is real and extremely concerning. The impact cannot be overstated. Some staff have been driven out of journalism, others have sought professional help. SBS has a duty of care to all employees for their mental and physical well-being in the workplace.

“We are aware and welcome recent announcements for organisational changes at SBS and NITV. However, it is clear from the responses to our questionnaire that there is a deep seated mistrust in the process and culture at SBS and NITV in handling these problems.

“We propose the following solutions to address these problems:

1. An independent review of workplace practices and policies by an academic, university or statutory body. We suggest that the Jumbunna Institute be invited to form part of this review.
2. That a board position be reserved for a staff-elected representative as is the practice
3. Wholesale and thorough training of all management and P&C managers to gain a comprehensive understanding and working knowledge of cultural sensitivity and workplace power dynamics.
4. As part of SBS’s commitment to “establish identified positions to enhance representation of Indigenous employees outside of NITV”, identified positions should be made within the P&C team.
5. The empowerment of the Diversity and Inclusion Team to exist full-time and to possess the ongoing remit to log and escalate complaints of discrimination in the workplace.”²⁶⁶

IMPUNITY

Getting away with murder

Of the nine Australian journalists who have been murdered with impunity since 1975, the lack of vigour in seeking those responsible and bringing them to account should be of enormous concern.

It is disappointing that in eight cases of Australian journalists murdered overseas, the Australian Federal Police have not pursued investigation of these crimes, to the extent of carrying out one five-year investigation into the murder of the Balibo Five but failing to have any contact with anyone in Indonesia. It’s particularly disturbing that, while the coronial inquest into the Balibo Five identified a person likely to have ordered the journalists’ murder but the Australian Federal Police chose not to investigate the individual, despite his high profile in the Indonesian military followed by a prominent political career.

It is also clear that AFP officers have been poorly trained in their legal obligations under the powers that have been granted to them – an issue observed by the Commonwealth Ombudsman on several occasions.

In a statement to mark UNESCO’s International Day to End Impunity for Crimes Against Journalists on November 2, 2020, Audrey Azoulay, the director-general said: “Truth and power do not always see eye to eye – between 2010 and 2019, close to 900 journalists were killed while doing their job, more than 150 in the last two years alone.

“Many have lost their lives while covering conflicts, but far more are being killed outside of conflict situations, for investigating issues such as corruption, trafficking, political

wrongdoing, human rights violations and environmental issues. Death is not the only risk journalists face. Attacks on the press can take the form of threats, kidnappings, arrests, imprisonments, or harassment – offline and online, and targeting women in particular.

“While we can take some solace in the fact that the 2019 death toll for journalists was the lowest in a decade, these wider attacks are continuing at an alarming rate, and the COVID-19 crisis has led to new risks for media workers around the world.

“We can and should do more.

“In seven out of eight killings, the perpetrators of these crimes go unpunished. Journalists are essential in preserving the fundamental right to freedom of expression, guaranteed by Article 19 of the *Universal Declaration of Human Rights*. When journalists are attacked with impunity, there is a breakdown in security and judicial systems for all.”²⁶⁷

Australia has nine cases of journalists who have been killed with impunity. All but one case involves a journalist working in a conflict zone overseas. The remaining eight cases are a sorry tale of ongoing government indifference and an apparent unwillingness to thoroughly investigate the murder of Australian journalists.

The impunity from justice enjoyed by the killers should be seen for what it is: a shameful apathy to bring the murderers of journalists to justice.

The impunity enjoyed by the killers of Australian journalists adds our country

to a long list of countries that allow killers to get away with murder. It sends a signal that the Australian Government and its agencies treat the lives of Australian journalists as counting for less than other Australians.

Azoulay said: “States... have an obligation to protect journalists and ensure that the perpetrators of crimes against them are held accountable. Judges and prosecutors in particular have an important role to play in promoting swift and effective criminal proceedings...”

“On this day, I call on everyone to join the campaign, and on all Member States and international and non-governmental organisations to join forces to guarantee the safety of journalists and root out impunity.

“Only by investigating and prosecuting crimes against media professionals can we guarantee access to information and freedom of expression. Only by speaking truth to power can we advance peace, justice and sustainable development in our societies.”²⁶⁸

THE BALIBO FIVE

Journalists Brian Peters, Malcolm Rennie, Tony Stewart, Gary Cunningham and Greg Shackleton were murdered by Indonesian armed forces in Balibo, East Timor, on October 16, 1975.

A coronial inquest found that they were killed on the orders of Captain Yunus Yosfiah who commanded the Kopassus (Indonesian Special Forces) Team “Susi” that attacked Balibo in a combined operation with regular troops of Rajawali Company B.



Top: The Balibo Five, from left to right - Gary Cunningham, died aged 27; Brian Peters, died aged 24; Malcolm Rennie, died aged 29; Greg Shackleton, died aged 29; Tony Stewart, died aged 21. | *Balibo House Trust*; **Above:** Journalist Greg Shackleton in Balibo, October 12 1975

The inquest was invoked in 2007 by Brian Peters' sister, Maureen. She utilised a provision of the *Coroners Act 1980 (NSW)* to ask for a coronial inquest based upon Brian's residence in New South Wales.²⁶⁹

On November 16, 2007, NSW Deputy Coroner Dorelle Pinch brought down her finding in the inquest into Brian's death. "Brian Raymond Peters, in the company of fellow journalists Gary James Cunningham, Malcolm Harvie Rennie, Gregory John Shackleton and Anthony John Stewart, collectively known as 'the Balibo Five', died at Balibo in Timor-Leste on 16 October 1975 from wounds sustained when he was shot and/or stabbed deliberately, and not in the heat of battle, by members of the Indonesian Special Forces, including Christoforus da Silva and Captain Yunus Yosfiah on the orders of Captain Yosfiah, to prevent [Peters] from revealing that Indonesian Special Forces had participated in the attack on Balibo."²⁷⁰

Pinch found the journalists were surrendering to the Indonesian forces by raising their arms in the air and protesting their status as "Australians" and "journalists" when the order came from Yosfiah that they be killed.

During the inquest an "eyewitness identified Yunus Yosfiah from a photograph projected on screen at the coronial inquest. The Coroner found that the journalists could not have been and were not mistaken for combatants. They clearly identified themselves as Australians and as journalists. They were unarmed and dressed in civilian clothes. They all had their hands raised in the universally recognised gesture of surrender. They were killed in a matter of minutes."²⁷¹

"... there is strong circumstantial evidence that those orders [to kill the journalists] emanated from the Head of the Indonesian Special Forces, Major-General Benny Moerdani [a key

planner of the invasion of East Timor – known as Operation Lotus/Seroja – who had also been involved in sending Indonesian soldiers into East Timor disguised as volunteers, died August 29, 2004²⁷²] to Colonel Dading Kalbuadi [died October 10, 1999], Special Forces Group Commander in Timor, and then to Captain Yosfiah."²⁷³

In her finding, Pinch stated that she "intended to refer the matter to the Commonwealth Attorney-General for consideration of potential breaches of division 268 of the *Commonwealth Criminal Code* [the section that outlines offences deemed as war crimes]".

Pinch recommended that the killings be investigated by the Australian Federal Police (AFP) as a war crime as the journalists "were killed deliberately on orders given by the [Indonesian] field commander, Captain Yunus Yosfiah."²⁷⁴

A statement in the British Parliament, (Brian Peters and Malcolm Rennie were British citizens) responded to the Coroner's findings: "The Australian Government admitted in 2002 that their officials were informed by the Indonesians on 13 and 15 October 1975 that Balibo would be seized covertly by Indonesian troops on 15 and 16 October, which is what happened. They also quickly found out about the deaths.

"As the coroner's report shows, key Australian officials and Ministers knew the main facts about the deaths within 48 hours. From the closed material, including an Australian intelligence review, we can see that they even knew who led the attack."²⁷⁵

AFP COMMENCES INVESTIGATION

It took a further two years after the inquest, on September 9, 2009, before the Australian Federal Police finally announced that it would conduct a war crimes investigation into the deaths of the five journalists. Never before has there been an Australian Commonwealth prosecution for war crimes under the *Geneva Conventions Act*.²⁷⁶

Over the course of what would turn out to be five long years, little was ever disclosed about how the AFP war crimes investigation was being conducted, what

lines of questioning were being pursued, what evidence had been gathered or whether the families were being kept informed of the AFP's progress.

The AFP appeared to be particularly slow in its activities around the war crime investigation. There were warning signs of what was to come.

On May 5, 2013, *The Sydney Morning Herald* reported: "For the past three years Australian Federal Police have been investigating the killings of newsmen Gary Cunningham, Brian Peters, Malcolm Rennie, Gregory Shackleton and Anthony Stewart at the tiny village of Balibo in East Timor's south-west in 1975. But correspondence sighted by Fairfax Media and from information provided by interview with Gary Cunningham's brother Greig, the investigation appeared to be facing serious problems. Last month the AFP wrote to the families of the late newsmen warning that officers were 'still seeking to access material from Timor Leste (East Timor) which may be relevant to the investigation'.

"The timeframe for receiving this information is unknown and outside the control of the AFP and other Australian agencies,' warned the correspondence from Mick Turner the AFP's national coordinator of special references.

"An AFP spokesman yesterday said as part of the Balibo investigation, the AFP had requested information from overseas agencies. 'The AFP has no control over the time taken to provide the information as this is determined by those overseas agencies,' he said.

"The correspondence gravely concerned Mr Cunningham who said he had recently heard a potential witness to the murders had recently died."²⁷⁷

AFP AVOIDS INDONESIA

On October 13, 2014, just three days before the 39th anniversary of the war crime and five years into the AFP's investigation, the AFP answered a question asked about the progress of the investigation in a Senate estimates committee. The question had been asked in an estimates hearing seven months earlier and it had taken that long for the Senate to receive the response from the AFP.

The AFP advised the Senate committee that the "active investigation" into the murder of the Balibo Five was ongoing. "The AFP says the investigation has 'multiple phases' and results are still forthcoming from inquiries overseas."

But in a remarkable revelation, the AFP stated that despite the passage of five years of "active investigation" with "multiple phases" it was still awaiting results from inquiries overseas. Just what those inquiries overseas were is unknown as the AFP admitted it had "not sought any co-operation from Indonesia and has not interacted with the Indonesian National Police."²⁷⁸

AFP INVESTIGATION ABANDONED

Just eight days later came the final blow. On October 21, 2014 the Australian Federal Police announced it was abandoning its five-year investigation due to "insufficient evidence".

"During the investigation the AFP identified challenges associated with establishing jurisdiction. The investigation continued in an effort to overcome those issues. As a result, the AFP has exhausted all inquiries in relation to this matter and will be taking no further action. The AFP has had ongoing consultation with the families throughout this complex and difficult investigation."

The Guardian reported: "Shackleton's widow, Shirley Shackleton, reacted angrily to the news, describing it as a "shocking" and "terrible" outcome. 'I will keep on this until I die,' she told AAP.

"Ben Saul, barrister and professor of international law at the University of Sydney, called for the AFP to fully explain their legal reasons for not going ahead with the investigation. 'Certainly, the NSW coroner felt there was a sufficient legal basis to commence a prosecution. So, it's really incumbent on the federal police to release their legal advice to explain why it is they think it's not possible and why they take a different view to senior lawyers in that coronial inquiry.

"Saul, who acted for [MEAA] at the NSW inquiry, said there are 'complexities' in the legal situation relating to prosecuting a war crime. 'It has to show that there was an international armed conflict between Indonesia and Portugal ... and that in the context of that the journalist were killed,' he said, adding 'I think the legal case for that conflict's existence is very strong on the facts'. He said that while the criminal standard of proof was much higher for the police than in a coronial inquest, the AFP have not 'satisfactorily' explained if they had exhausted all lines of inquiry," The Guardian reported.²⁷⁹

MEAA said in response to the abandonment: "Last week, the AFP admitted that over the course of its five-year investigation it had neither sought any co-operation from Indonesia, nor had it interacted with the Indonesian National Police. The NSW coroner named the alleged perpetrators involved in murdering the Balibo Five in 2007. Seven years later the AFP has achieved nothing.

Pinch found the journalists were surrendering to the Indonesian forces by raising their arms in the air and protesting their status as "Australians" and "journalists" when the order came from Yosfiah that they be killed.

“It makes a mockery of the coronial inquest for so little to have been done in all that time. This shameful failure means that the killers of the Balibo Five can sleep easy, comforted that they will never be pursued for their war crimes, never brought to justice and will never be punished for the murder of five civilians. Impunity has won out over justice.”²⁸⁰

On October 15, 2015 the son of Gary Cunningham, John Milkins, said he wanted more information about why the AFP had decided to close the investigation. “I would be pleased to see it reopened. I feel it was closed without an explanation to the Australian public.” Milkins added: “We [the families of the slain journalists] don’t think that story’s finished. I think perhaps the government would like the book to be completely closed but I think there are many chapters still to write, there are many unknowns.”²⁸¹

In a letter to MEAA on April 15, 2015, the AFP’s Deputy Commissioner Operations Leanne Close said: “As stated by the AFP Commissioner during the last Senate Estimates hearing on November 20, 2014 the AFP has now completed an extensive review of the investigation into the deaths of the ‘Balibo Five’. It has been determined there is insufficient evidence to support providing a brief of evidence to the office of the Commonwealth Director of Public Prosecutions for consideration for prosecution under Australian law.”

The Australian Federal Police (AFP) investigation into the murder of the Balibo Five ran for 1868 days, from September 9, 2009 to October 21 2014. Despite the incident being described as a war crime, the AFP said that during those five years it “had not interacted with the Indonesian National Police” and did not seek any co-operation from Indonesia.²⁸²

YUNUS YOSFIAH

Deputy Coroner Dorelle Pinch’s coronial finding had identified Yunus Yosfiah as the Kopassus officer who allegedly ordered the killings. The AFP’s investigation would not have had any difficulty finding Yosfiah, as he played a prominent role in Indonesian politics.

Yosfiah was born in Rappang on August 7, 1944.²⁸³ After Balibo, Yosfiah rose to



Top: Roger East, died aged 53; Above: The ‘Flag House’ at Balibo | Felix Dance

be one of Indonesia’s most decorated soldiers. He was commanding officer of the Indonesian Armed Forces Command and Staff College (with the rank of Major General) and Chief of Staff of the Armed Forces Social and Political. He was chairman of the Armed Forces Faction in the Indonesian National Assembly. He retired from the army in 1999 with the rank of Lieutenant General.

In 1998-99 Yosfiah served as minister of information in the government of President Bacharuddin Jusuf Habibie. In May 1998, in his inaugural speech as minister, he promised that he would support journalists in their profession.²⁸⁴

As late as March 2019, Yosfiah was supporting the ticket of Indonesian presidential candidate, Gerindra Party chairman Prabowo Subianto.²⁸⁵ Prabowo lost the election.

A war crime was committed at Balibo in 1975. The killers have been getting away with murder. It is never too late for justice.

ROGER EAST

On December 8 1975, less than two months after the murder of the Balibo Five, Roger East, a freelance journalist on assignment for Australian Associated Press, was also murdered by the Indonesian military on the Dili wharf on December 8 1975. East was aged 53.

East had opened a one-man news agency in East Timor, stringing for both ABC Radio in Darwin and the AAP news agency in Sydney. He filed reports on East Timor’s calls for international support and provided the first accounts of the killing of the five journalists at Balibo. As the sole remaining foreign reporter in East Timor his stories described the approaching Indonesian forces and the plight of the civilian population. Roger East’s final story for ABC Radio was heard on Correspondents Report on the afternoon of December 7 1975.

His plans to flee to the mountains with retreating Fretilin soldiers were thwarted when he was cornered in Dili by Indonesian paratroopers. He was

executed on Dili wharf with a single shot to the head on December 8, 1975. His body fell into the sea and was never recovered.

MEAA believes that in light of the evidence uncovered by the Balibo Five inquest that led to the AFP investigating a war crime, there are sufficient grounds for a probe into Roger East’s murder and that despite the passage of time, the individuals who ordered or took part in East’s murder may be found and finally brought to justice.

However, given the unwillingness to pursue the killers of the Balibo Five, MEAA does not hold out great hope that Australian authorities will put in the effort to investigate East’s death. Again, it is a case of impunity where, literally, Roger’s killers are getting away with murder.

THE BALIBO FIVE-ROGER EAST FELLOWSHIP

MEAA has honoured the memory of the Balibo Five and Roger East with a fellowship in their name, in conjunction with Union Aid Abroad-APHEDA. MEAA has provided the bulk of the funding and additional funds being received from the Fairfax Media More Than Words workplace giving program, and private donations. The fellowship sponsors travel, study expenses and living costs for East Timorese journalists to develop skills and training in Australia.

BALIBO’S LIVING MEMORIAL

In March 2019 a new school was opened in Balibo as a memorial to the five murdered journalists. Seven Network journalist Nick McCallum wrote: “The school was built in an area where there were no education facilities. This now means local children will no longer miss out on the start of a basic education...”

“East Timor’s Education Minister Dulce Soares grew up near Balibo and her family had direct contact with the Australian journalists several days before they were killed. She vows the local schoolchildren will now be taught about the young Australians who died trying to tell a story the world needed to know. ‘Honestly to say as a Timorese I feel ... I’m very emotional,’ she said. ‘All Timorese people, especially people in Balibo, they should know exactly what is the story about the Balibo Five.’



Tony Joyce second from right with the ABC’s This Day Tonight team

“The formal opening ceremony was attended by the widow of one of the journalists, Shirley Shackleton. [She] was swamped by the 56 students now attending the school and was overwhelmed by the gratitude. ‘I think it’s a wonderful legacy. True in every way,’ she said.

“At age 87, Shirley Shackleton says such events can still make her sad, bringing back such painful memories. But this school opening was just so uplifting. ‘It’s been such a hard fight but look at it!’ she said. ‘It’s marvellous these children have got a beautiful school’.”²⁸⁶

BALIBO HOUSE TRUST

The trust honours the memories of the Balibo Five by working with the Balibo Community to enrich their lives. Its work includes:

- Promoting early childhood education through the Balibó Five Kindergarten and the proposed Prep-Grade Two school at Belola.
- Developing skills through the Balibó Community Learning Centre.
- Creating employment and income through tourism at the historic Balibó Fort, Balibo Fort Hotel and Dental Clinic.
- Improving the oral health of the Balibo community by providing free dental treatment and community education and preventative programs.
- Fostering awareness of the significance of Balibó to relationships between Australia, Timor-Leste and Indonesia.
- Maintaining a permanent memorial

to the five journalists murdered at Balibó in 1975 and to the Balibó people murdered during the Indonesian occupation of Timor-Leste.

For more information on the work of the Balibo House Trust, go to: <http://balibohouse.com/>

TONY JOYCE

ABC foreign correspondent Tony Joyce was shot on November 21, 1979 while reporting on the escalating conflict between Zambia and Rhodesia (now Zimbabwe). He died from his injuries on February 3, 1980 in London’s St Bartholomew’s Hospital.

With cameraman Derek McKendry, Tony Joyce travelled to film Chongwe Bridge which had been destroyed by Rhodesian commandos. Zambian soldiers arrested the two of them and placed them in a police car.

A man, thought to be a political officer with the militia, raised his pistol and shot Tony Joyce in the head. Joyce was flown to London, but never regained consciousness.

Zambia’s President Kenneth Kaunda wrote to Australian Prime Minister Malcolm Fraser to claim that Zambian “security forces” had fired at Joyce and McKendry, “mistaking” them for white “Rhodesian commandos” who had crossed the border with Zambia, formerly Northern Rhodesia.

Tony Joyce was posthumously awarded a Media Peace Prize (1980) by the United

Juanita Nielsen



Nations Association of Australia.²⁸⁷ Tony's colleague at This Day Tonight, political journalist Paul Murphy, wrote this about Tony: "[He] was a talented and accomplished journalist, admired by his peers for his integrity and high professional standards, and loved for his considerable wit and humour. A thoughtful and compassionate observer of the human condition, including its misery, deprivation, cruelty and hopelessness, he was a humanist and a humanitarian. His experiences made him a realist and a fatalist. His death was an instance of a journalist whose luck ran out while he was engaged in work for which he cared passionately."²⁸⁸

JUANITA NIELSEN

Sydney journalist and editor Juanita Nielsen disappeared on July 4, 1975. Her body has never been found.

Nielsen was the owner and publisher of a local newspaper, *NOW*, which she published from her home., a terrace house in Victoria Street, Kings Cross.

Wearing distinctive clothes and a 'beehive' wig, Nielsen modelled fashions and hair styles for her newspaper's feature pages. She also conducted a vigorous editorial campaign in support of the green ban movement against the redevelopment of Victoria Street by businessman Frank Theeman, mobilising local residents against the demolition of the street's historic terraces and the eviction of their tenants.

There were numerous threats to her safety.

In the midst of the tension, Nielsen agreed to attend a meeting at the Carousel Club in Kings Cross on July 4, 1975, regarding advertisements being placed in an upcoming edition of *NOW*. The club's owner at the time was "King of the Cross", organised crime boss Abe Saffron.

The Daily Telegraph reported that a "club employee, Eddie Trigg, who set up the meeting, was jailed in 1977 after admitting that he and an accomplice had planned to kidnap Nielsen less than a week before she disappeared

“Two persons connected with the Carousel nightclub were convicted on charges of conspiracy to abduct Juanita Nielsen on an earlier occasion. The trials did not directly involve events on the day she vanished.”

but pulled out of the caper at the last minute. "Police believe the small-time crook was likely the last person to see Nielsen alive."²⁸⁹ Trigg died in 2013.

"Attempts to find her or her corpse proved fruitless. Despite public outcry, the mystery remained a major case in the annals of unsolved Australian

crimes. Over the years some information about the circumstances of her presumed abduction and murder came to light. Two persons connected with the Carousel nightclub were convicted (one in 1981, the other in 1983) on charges of conspiracy to abduct Juanita Nielsen on an earlier occasion. The trials did not directly involve events on

the day she vanished." It was not until 1 November 10 1983 that a coroner and jury of six declared that Nielsen had died "on or shortly after July 4 1975". They were unable to name "the place of death or the manner and cause of death" but found "evidence to show that the police inquiries were inhibited by an atmosphere of corruption, real or imagined, that existed at the time".²⁹⁰

In 1994 the Commonwealth Parliamentary Joint Committee on the National Crime Authority further castigated investigative ineptitude in the case and emphasised links between her presumed murder, property developers and the criminal milieu at Kings Cross.

As recently as August 2014, NSW Police forensics dug up the basement of a former Kings Cross nightclub in an attempt to locate her remains, but the search was unsuccessful. While there have been convictions over her abduction, no formal homicide charges have been brought and Nielsen's remains have never been found.²⁹¹

PAUL MORAN

On March 22, 2003 Moran, a freelance cameraman on assignment with the Australian Broadcasting Corporation to cover the Iraq war, was killed while working near the town of Sayed Sadiq in northern Iraq. While filming, a suicide bomber in a taxi pulled up beside him and exploded the device, killing him instantly. Moran, aged 39, was the first international media person killed in the 2003 Iraq war.

Seventeen years later, in March 2020, the individual who is believed ordered the terrorist attack that killed Moran, began serving a 12-year prison sentence in Italy.

The attack was carried out by the now defunct terrorist group Ansar al-Islam which was listed by the United Nations and the United States as a terrorist arm of Al-Qaeda. According to US and UN investigations, the man most likely responsible for training and perhaps even directly ordering the attack was Oslo resident Najmuddin Faraj Ahmad, also known as Mullah Krekar.



Paul Moran | Paul Moran Foundation

Krekar, a 63-year-old Iraqi Kurdish preacher who has been residing in Norway as a refugee since 1991, admits to being the founder Ansar al-Islam.²⁹² He has since distanced himself from that group, claiming not to have led the terrorist organisation since 2002.²⁹⁵

While Norway has been seeking to have him extradited since 2003 on the grounds that he is considered a threat to national security, Krekar escaped extradition to Iraq or to the US because Norway resists deporting anyone to countries that have the death penalty. On February 10, 2015 MEAA wrote to then Justice Minister Michael Keenan and then AFP Commissioner Andrew Colvin, stating: "We are deeply concerned that if those responsible for killing Paul are not brought to justice then they are getting away with murder.

"You would be aware that the United Nations General Assembly has adopted Resolution A/RES/68/163 which urges member states to: 'do their utmost to prevent violence against journalists and media workers, to ensure accountability through the conduct of impartial, speedy and effective investigations into all alleged violence against journalists and media workers falling within their jurisdiction and to bring the perpetrators of such crimes to justice and ensure that victims have access to appropriate remedies'."

On April 15, 2015, the AFP's Deputy Commissioner Operations Leanne Close replied to MEAA's letter saying that there was insufficient information available to justify an investigation under section 115 of the *Criminal Code Act 1995 (Harming Australians)* and that

despite the new information on Krekar's movements, the AFP would not be taking any further action.

On November 11, 2015, while in prison, Krekar was served with an arrest warrant as part of Europe-wide and Italy-coordinated police "swoop on Islamist militants planning attacks." The raids targeted Krekar and 14 other Iraqi Kurds and one non-Kurd.

The Italian prosecutors alleged the men were involved in a Kurdish Sunni group called Rawti Shax – meaning "the New Course" (also known as Didi Nwe meaning "Towards the Mountain") that sought to train fighters for a future conflict in Iraq's Kurdistan. The prosecutors alleged the organisation was a jihadist network led by Krekar, adding that Krekar had pledged allegiance to ISIL in 2014.

In mid-March 2016 Norwegian media said Krekar had been released from his Norwegian jail but on November 23, 2016 the Norwegian Police Security Service arrested Krekar to secure his extradition to Italy. In July 2019 Krekar was convicted, *in absentia*, by an Italian court in Bolzano of leading a jihadist group. He was sentenced to 12 years in prison for leading the Rawti Shax network, a now-disbanded Kurdish movement that allegedly has links with Islamic State and which is thought to have planned attacks in Western countries. Krekar has described the charges as "fake".

On March 26, 2020 the Norwegian Justice Minister Monica Maeland announced that Krekar had been extradited to Italy to serve his sentence.²⁹⁴ Krekar was flown to Italy that evening and held in Rebibbia Prison in Rome.²⁹⁵ His lawyers condemned the extradition citing concerns over Krekar's health in an Italian prison during the COVID-19 pandemic.

PAUL MORAN FOUNDATION

After Moran's death his wife Ivana Rapajic-Moran has established the charitable Paul Moran Foundation.²⁹⁶ Its first project was to fund a children's library, part of a learning centre for 829 boys and girls in Erbil, in the northern Kurdish region of Iraq.

Foreign Minister
Marise Payne |
Mick Tsikas-AAP

Australians abroad

Three Australian citizens are currently detained overseas on espionage charges Julian Assange, the editor/publisher of WikiLeaks; Dr Yang Hengjun, a writer, author, and columnist; and Cheng Lei a television news anchor.

Recent events show that the use of “espionage and “national security” laws by governments, including Australia’s, to silence dissent, punish or intimidate are on the rise and Australians abroad are not immune to these assaults on freedom of expression.

CHINA TARGETS WRITERS AND JOURNALISTS

On July 7, 2020, the Australian Government issued an updated travel advice warning Australians they may face “arbitrary detention” if they go to mainland China. There are concerns that China is engaging in “hostage diplomacy” – deliberately arresting

foreign citizens on the mainland to give it a new point of leverage. It’s believed Australian citizens are vulnerable because their arrest would give China leverage over its ongoing dispute with the Morrison Government – and alleging the foreigners are “endangering national security”.²⁹⁷

There are similar concerns for the safety of foreign citizens in Hong Kong.²⁹⁸ MEAA was contacted by a member based there who, feared the threat of arbitrary detention and extradition to China because of the introduction of Hong Kong’s version of the *National Security Law*.

Journalists are also having to leave China. By March 2020, China had expelled 19 foreign journalists in just 12 months.²⁹⁹

In September the count had included 14 American journalists working at the

New York Times, *The Wall Street Journal* and the *Washington Post*. They were expelled in retaliation for the Trump Administration’s decision to restrict staff at Chinese state media outlets in the United States.³⁰⁰

The New York-based Committee to Protect Journalists said in statement: “At least five journalists from those outlets were handed a letter allowing them to report in the country for two months instead of a press card that is normally valid for one year, in a decision described by the Chinese Foreign Ministry as retaliation against measures by the U.S. government to restrict the visas of Chinese journalists in the United States...”

“China’s... crackdown on press cards granted to foreign reporters, marks a new low for the steadily intensifying mistreatment of foreign correspondents. Authorities needs to step back and

let journalists do their jobs and put a halt to measures that are decimating international coverage of China.”³⁰¹

YANG HENGJUN

On April 9, 2019, MEAA wrote to the Chinese Ambassador to Australia about Dr Yang Hengjun, a MEAA journalist member in good standing. Yang, an Australian citizen and a respected author and online journalist and blogger was detained while on a visit to China as he was boarding an internal domestic flight from Guanzhou to Shanghai on January 19, 2019.

He was reportedly interrogated for 12 hours before disappearing into state custody at an, as yet undisclosed “residential” location. His wife was also detained; she has since been released but is unable to return home to Australia.

“We are concerned that he is being deprived of his human rights. For almost three months now, he has been denied access to his family. He is being detained without trial or access to legal counsel and is being denied access to Australian consular officials.

“We believe this assault on an Australian citizen’s human rights, his interrogation and secret detention, casts a shadow over the working relationship of Australian journalists in China and calls into question their being able to perform their journalistic duties in safety and without harassment or intimidation from authorities.

“MEAA protests the continued detention of our journalist colleague and we urge you to release Mr Yang so that he may return with his wife to Australia.”³⁰²

On July 19, 2019 MEAA again wrote to the Chinese Ambassador to protest that Yang could soon face up to three years’ imprisonment on national security charges that may relate to his work.

Until July 18, Yang had been held under “residential” surveillance at a prison facility in southern Beijing. That



Dr Yang Hengjun

afternoon – the day before the deadline for determining whether he would be released, charged or have his detention extended – his wife was advised that he had been relocated to a different “criminal” detention centre in Beijing with the expectation that he will be formally charged with “endangering state security”. On two occasions his wife, Australian resident Yuan Xiaoliang, has been briefly detained and questioned.

At no time during the previous six months have Yang’s family or Australian consular officials been told what Yang is alleged to have done.

MEAA also wrote to the Australian Foreign Minister Marise Payne who had said she was “deeply disappointed” Yang had been transferred to criminal detention. “If he is being detained for his political views, then he should be released.”³⁰³

MEAA warned that Yang’s detention casts a long shadow over the working relationship of Australian journalists in China and calls into question their being able to perform their journalistic duties in safety and without harassment or intimidation from Chinese authorities.

The International Federation of Journalists, the global body representing 660,000 journalists from 187 trade unions in more than 140,000 countries, has said: “... Yang Hengjun’s ongoing detention without charge is a serious violation of human rights and the longer it continues will create pressure for the Chinese authorities and China’s image abroad.”

MEAA has urged the Chinese Government to release Yang so that he and his wife may return to Australia.

On July 20 China’s Foreign Ministry responded to MEAA: “The Australian national Yang Jun is suspected of criminal activities endangering China’s national security. The Beijing State Security Bureau has taken compulsory measures on him and investigated him according to law. The Chinese national security authority will handle the case in strict accordance with the law and fully protect his legal rights.

“China deplores the statement by the Australian foreign minister, urges the Australian side to stop interfering in the handling of the case by the Chinese side, and [to] stop making irresponsible remarks.”³⁰⁴

On March 25, 2020 it reported that the Chinese Government was preparing to formally charge Yang over the still unclear espionage allegation. Up to that point, Yang has been detained without charge for more than 400 days, with little access, if any, to lawyers, consular assistance or his family.

On October 20, 2020 Foreign Minister Marise Payne made an official statement on Dr Yang Hengjun, saying: “The Government is disappointed and deeply concerned that Chinese authorities have decided to prosecute Australian citizen and academic Dr Yang Hengjun. We regret that after a lengthy investigation period, Chinese authorities have stated that he has been charged with espionage.

“We have seen no evidence to support this charge.

“We have made clear to the Chinese authorities our expectations that Dr Yang’s case will be resolved fairly and transparently, and in keeping with China’s international legal obligations. We have repeatedly and consistently raised our concerns with Chinese authorities and representatives since Dr Yang was detained in January 2019.”³⁰⁵

On September 3, 2020, a message from Yang was reported in Australian media. “I want to go to court, I will never confess to something I haven’t done. I did not confess to anything criminal. Being held for 19 months is unfair. I am innocent. They can abuse me. This is political persecution.”³⁰⁶

CHENG LEI

The circumstances surrounding the detention of Australian journalist Cheng Lei are still obscure. For eight years Cheng has been an on-air anchor and reporter for China’s state-run English language television news service, CGTN. Cheng, who was born in China, was brought up in Brisbane where she was a student at the University of Queensland. She has two children who live with family in Melbourne.

Cheng was arrested on August 13, 2020 – her friends noticed that she was not replying to their messages. Her profile page detailing her eight-year career with CGTN was also removed from the broadcaster’s website, as were videos featuring her previous stories.³⁰⁷

On August 14, 2020, the Australian Government was informed that Cheng had been detained with Australian consular officials first allowed to speak to her via video link on August 27.

MEAA has stated that “The treatment of Cheng, an Australian citizen working for the Chinese state broadcaster, is particularly worrying as she has been detained in secret and little detail of why she was arrested has emerged.”³⁰⁸

As with Yang’s initial detention, Cheng was being held under “residential surveillance at a designated location”



Top: Cheng Lei; Above: Mike Smith (left) and Bill Birtles | ABC

during which investigators can imprison and question a suspect for up to six months “while cutting them off from lawyers and the outside world – all before they have even been formally arrested”³⁰⁹

In February 2021, it was announced that Cheng had been formally arrested and that an official investigation would now begin.³¹⁰ Foreign Minister Payne said in a statement: “The Australian Government has been advised that Australian citizen Ms Cheng Lei was formally arrested in China on 5 February, after 6 months of detention. Chinese authorities have advised that Ms Cheng was arrested on suspicion of illegally supplying state secrets overseas. Ms Cheng has been detained since 13 August 2020.

“The Australian Government has raised its serious concerns about Ms Cheng’s detention regularly at senior levels, including about her welfare and conditions of detention. Australian Embassy officials have visited Ms

Cheng six times since her detention, most recently on 27 January 2021, in accordance with our bilateral consular agreement with China. We expect basic standards of justice, procedural fairness and humane treatment to be met, in accordance with international norms.”³¹¹

JOURNALISTS FORCED TO LEAVE CHINA

Two weeks after the Australian Government was informed that Cheng Lei had been detained, another serious incident began involving two more Australian journalists.

In the week beginning August 31, 2020 Australian diplomats in Beijing cautioned Bill Birtles, the ABC’s correspondent based in Beijing, that he should leave China, with officials from the Department of Foreign Affairs and Trade giving the same advice to ABC’s managing director David Anderson in Sydney.

Subsequent advice prompted the ABC to organise flights back to Australia

for Birtles - he was due to depart on September 3, 2020.³¹²

Before he could leave, the situation escalated dramatically. At midnight on Wednesday September 2, 2020, seven police officers arrived at Birtles’ apartment as he was holding farewell drinks with friends and colleagues. They told him that he was now banned from leaving the country, and that he would be contacted the next day to organise a time to be questioned over a “national security case.”³¹³

Birtles described the late-night visit as “extraordinary and unprecedented”. “On one hand, this is urgent enough for them to rock up to my front door at midnight, with a total of seven people to tell me I’m involved in a state security case, on the other hand they say, ‘Hey, we’ll ring you tomorrow afternoon to organise a chat,’” Birtles told the ABC after his return to Australia.

Birtles called with the Australian embassy and arranged to be collected from his apartment. He stayed in Australia’s Beijing diplomatic compound for the next few days, where he was contacted by Chinese officials once more, who again demanded they interview him.

Birtles initially refused to speak with them, citing fears for his personal safety but he was interviewed by Chinese authorities on Sunday [September 6, 2020] after an agreement was reached between Australian and Chinese officials that his travel ban would be lifted if he spoke to them. “I felt like I suddenly, unintentionally had become a pawn in some sort of diplomatic tussle,” he said.

The ABC reported that during the meeting, no questions were asked about Birtles reporting or his conduct in China. Instead, he was interviewed about Cheng Lei [see above]. “I know Cheng Lei, but not especially well and Mike Smith, the *Australian Financial Review’s* China correspondent in Shanghai had only met her once in his life. We didn’t seem like the two most logical people you would talk to if you really wanted to talk about her

situation. It felt very, very political. It felt like a diplomatic tussle in a broader Australian-China relationship more than anything specific related to that case.”

Birtles told the ABC: “I believe the episode was more one of harassment of the remaining Australian journalists, rather than a genuine effort to try and get anything useful for that case.”

Birtles was told by Australian embassy officials after the interview that his travel ban had been rescinded. He was joined by consular staff on a flight from Beijing to Shanghai early on Monday, where he waited for his flight to Sydney.

Mike Smith, the *Australian Financial Review’s* correspondent based in Shanghai, was subjected to questioning on the evening of Monday September 7; he had taken shelter in Australia’s consulate in Shanghai. The *Financial Review* also made arrangements to get him out of the country.

The pair returned to Sydney on Thursday September 8.³¹⁴

AFR editor-in-chief Michael Stutchbury and editor Paul Bailey issued a statement welcoming the duo’s safe return. “We are glad Mike Smith, our correspondent who has been based in Shanghai for two and a half years, and Bill Birtles from the ABC, have made a safe return to Australia this morning. This incident targeting two journalists, who were going about their normal reporting duties, is both regrettable and disturbing and is not in the interests of a cooperative relationship between Australia and China.”³¹⁵

MEAA Media federal president Marcus Strom said: “The treatment of these Australian journalists, including a midnight police raid on the home of one journalist, is appalling. China’s continued intimidation and harassment of foreign journalists, including Australians, represents a dramatic low point for the foreign media’s relations with China in almost 50 years.

“The threats made by Chinese authorities, their interrogations,

and the ban on leaving the country, forced the two journalists to seek refuge in diplomatic compounds until an agreement could be reached that allowed the pair to urgently return to Australia. The treatment of Cheng Lei, an Australian citizen working for the Chinese state broadcaster, is particularly worrying as she has been detained in secret and little detail of why she was arrested has emerged.

“It is clear that China, and by extension Hong Kong through the recent *National Security Law*, is unsafe for foreign journalists. These outrageous attacks on press freedom place any foreign correspondents reporting from China at risk. China is isolating itself from the world’s gaze and demonstrating it will not brook any scrutiny of its activities. It threatens and intimidates journalists using ‘national security’ as a catch-all excuse. This is an extremely disappointing development. It has come swiftly, it is extremely aggressive, and it will do great harm to China’s reputation around the world,” Strom said.³¹⁶

The Chinese Government subsequently accused Australian officials of obstructing their law enforcement agencies when they sheltered two Australian journalists in diplomatic compounds. Foreign Ministry spokesman Zhao Lijian said Australia’s decision to shelter both men on diplomatic premises while the talks progressed was “an interference in China’s internal affairs and judicial sovereignty”.

“Australia’s actions in organising the two journos to hide in the embassy completely exceeds the scope of consular protection and in fact is interference in a Chinese legal case. This practice is inconsistent with the status and identity of the Australian embassy in China.”³¹⁷

More recently, on February 12, 2021, BBC World News was banned from airing in China, a week after Beijing threatened to retaliate for the revocation of the British broadcasting licence for China’s state-owned CGTN. On March 31, 2021, BBC journalist John Sudworth had to leave China over safety concerns “following pressure and

threats from the Chinese authorities”. Sudworth had been reporting on China’s treatment of Uyghur people.³¹⁸

JULIAN ASSANGE

On January 4, 2021, MEAA welcomed decision of a British judge to prevent the extradition to the United States of MEAA member Julian Assange. The court ruled against extradition on health grounds, accepting medical evidence that Assange would be at risk in US custody. On February 12 2021, the US Justice Department appealed the British judge’s ruling, signalling that the new Biden Administration will continue to pursue Assange.

MEAA called on the US government to drop further prosecution of Assange and for the Australian government to expedite his safe passage to Australia if that is his wish. But MEAA warned that journalists everywhere should be concerned at the hostile way the court dismissed all defence arguments related to press freedom. MEAA Media Federal President Marcus Strom said: “Today’s court ruling is a huge relief for Julian, his partner and family, his legal team and his supporters around the world. Julian has suffered a 10-year ordeal for trying to bring information of public interest to the light of day, and it has had an immense impact on his mental and physical health.

“But we are dismayed that the judge showed no concern for press freedom in any of her comments today, and effectively accepted the US arguments that journalists can be prosecuted for exposing war crimes and other government secrets, and for protecting their sources.

“The stories for which he was being prosecuted were published by WikiLeaks a decade ago and revealed war crimes and other shameful actions by the United States government. They were clearly in the public interest.

“The case against Assange has always been politically motivated with the intent of curtailing free speech, criminalising journalism and sending a clear message to future whistleblowers and publishers that they too will be punished if they step out of line.”

The Australian Foreign Minister Marise Payne made a statement on the day of the court decision, her third in four months relating to Australian citizens facing espionage charges in foreign countries. “We note the UK Court’s decision in relation to the application to extradite Mr Julian Assange to the United States, which the Court has made on the grounds of his mental health and consequent suicide risk. Australia is not a party to the case and will continue to respect the ongoing legal process, including the UK justice system’s consideration of applications for release, or any appeals. We have made 19 offers of consular assistance to Mr Assange since 2019 that have gone unanswered. We will continue to offer consular support.”³¹⁹

On October 27, 2020, ahead of final summaries in the Julian Assange’s extradition hearing, MEAA hosted an exclusive briefing on his fight against extradition. The speakers were Wikileaks editor-in-chief Kristinn Hrafnsson, lawyer Jennifer Robinson and journalist-activist Mary Kostakidis. They discussed the evidence presented against Assange, the defence case and the prospects of him avoiding extradition to the United States.

Assange is facing a 175-year sentence for publishing US government documents revealing evidence of war crimes and human rights abuses. The publication of these public interest releases were the result of collaboration between WikiLeaks and multiple news organisations including *The New York Times*, *The Guardian*, *Der Spiegel*, *Le Monde* and others. The decision to prosecute is unprecedented and would set a chilling precedent for every journalist and publisher in the world.

The WikiLeaks founder and publisher was arrested by police in London on Thursday April 11 2019.

From the outset, MEAA has strongly opposed his extradition to the United States, wrote to the British and Australian governments. MEAA restated that WikiLeaks has played a crucial role in enabling whistleblowers to expose wrongdoing and many media outlets have collaborated in that work.

MEAA’s letter, addressed to the UK High Commissioner Vicki Treadell, and copied to Australian Foreign Minister Marise Payne and the Opposition Spokesperson on Foreign Affairs Penny Wong, said: “We write to convey concerns about the possible extradition to the United States of Julian Assange, the publisher of WikiLeaks, and urge the UK and Australian governments to oppose extradition to that country.

“Mr Assange is an Australian citizen and has been a member of MEAA’s Media Section — the trade union and professional association of Australian media workers — since 2007.

“MEAA is concerned that Mr Assange is facing possible extradition to the United States regarding WikiLeaks’ publication of US government files nine years ago. We believe a prosecution of WikiLeaks’ personnel will have a chilling effect on the public’s right to know what governments do in the name of their citizens.

“It is a principle of a free press that the media have a duty to scrutinise the powerful and to hold them to account. The media report legitimate news stories that are in the public interest.

“WikiLeaks was established in a way to allow whistleblowers seeking to publicly expose wrongdoing to upload material anonymously and with no possibility of being traced. This is common practice among media organisations around the world — using technology that allows whistleblowers to submit material to a media outlet anonymously and confidentially.

“On April 5 2010 WikiLeaks revealed US military gunsight video showing US military helicopters killing two Reuters war correspondents, Saeed Chmagh and Namir Noor-Eldeen, in Iraq on July 12, 2007.

“The publication of US diplomatic cables in November–December 2010 was done with the full collaboration of numerous media outlets in several countries including *The Sydney Morning Herald* and *The Age* in Australia, *The Guardian* in the United Kingdom, *The New York Times* in the US, *El Pais* in



Above: Julian Assange; **Left:** Jennifer Robinson, legal advisor to WikiLeaks founder Julian Assange

States to face trial on the 18 espionage charges. MEAA said: The charges “contain a real threat to press freedom for journalists and media outlets around the world”.

The new charges, under the US *Espionage Act*, went far beyond the initial single charge made against Assange in April 2019 that accused him of conspiring with former Army intelligence analyst Chelsea Manning in a conspiracy to crack a Defence Department computer password.

“The US Department of Justice charges against Assange relating to the alleged violation of the *Espionage Act* contain a real threat to press freedom for journalists and media outlets around the world... The extradition of Assange and prosecution by the United States for what are widely considered to be acts of journalism would set a disturbing global precedent for the suppression of press freedom.”³²¹

MEAA then pushed for support from the International Federation of Journalists. At the IFJ’s 30th World Congress in Tunis, its affiliated unions unanimously supported MEAA’s

Spain, *Le Monde* in France and *Der Spiegel* in Germany. None of these media outlets have been cited in any US government legal actions as a result of the publishing they have done in collaboration with WikiLeaks.

“In 2011 the WikiLeaks organisation was awarded the Walkley Award for Most Outstanding Contribution to Journalism — in recognition of the impact WikiLeaks’ actions had on public interest journalism by assisting whistleblowers to tell their stories. The judges said WikiLeaks applied new technology to “penetrate the inner workings of government to reveal an avalanche of inconvenient truths in a global publishing coup”.

“Extradition of Mr Assange and prosecution by the United States would set a disturbing global precedent for the suppression of press freedom.”³²⁰

On May 23, 2019, Assange was indicted by the US Justice Department with 17 additional charges for his role in receiving and publishing classified defence documents both on the WikiLeaks website and in collaboration with major publishers.

On June 4, 2019, MEAA once again wrote to Foreign Minister Payne and UK High Commissioner, renewing its calls for the Australian and United Kingdom governments to oppose moves to extradite Assange to the United

WikiLeaks editor in chief and spokesman Kristinn Hrafnsson



resolution urging the British and Australian governments to resist the extradition of Assange to the US. “Regarding the indictments filed by the US Government against Julian Assange, the resolution said the charges ‘pose a threat to journalists and journalism around the world.’”

The resolution went on to say: “The indictments clearly seek to prosecute Assange for the receipt and the publication of vital information in the public interest, clearly at odds with previous decisions of the US Supreme Court to protect First Amendment rights. The [IFJ] congress supports the call of our affiliates for the governments of the United Kingdom and Australia to resist the application to extradite Assange to the United States. The congress asks the IFJ Executive Committee: to take the case to the UN Human Rights Council [and] to call on the European Parliament and the Council of Europe to respect freedom of opinion.”³²²

In September 2019, during a visit to Australia, London-based Australian human rights lawyer Jennifer Robinson, legal adviser to Assange, sat down with MEAA to explain the implications for all journalists of the US government indictment against him, and why it is important for MEAA members to campaign against his extradition on press freedom grounds.

Robinson said the indictment of Assange “sets a terrifying precedent” by “criminalising common journalistic practices which have been used towards the public interest for decades in the United States”.

“Julian is an Australian citizen, a member of MEAA, who faces prosecution and extradition to the United States for publishing... truthful information about the United States,” she said. “That is a terrifying precedent and will impact on not just the US media but on journalists and news

organisations around the world.” Robinson says the extradition hearing may be drawn out for several years and Assange was grateful for any support for his case from MEAA and its members in the Australian media community.³²³

Speaking to MEAA in December 2019, the editor in chief and spokesman for WikiLeaks, Kristinn Hrafnsson said: “Of the 18 indictments he is facing, 17 are based on the [US] *Espionage Act*. They are equating journalistic practices with espionage. This has not happened in the 101 years since this law was passed in the United States and it’s now being used with extraterritorial reach. [The indictments] give out the signal that no journalist anywhere in the world is safe if he or she is publishing information that is of displeasure to the ‘empire’...

“If Julian Assange is extradited to face death in a US prison, he is not going to be the last journalist to face that fate.”³²⁴

Press freedom in the Asia-Pacific

BY HARRY WALL, INTERNATIONAL FEDERATION OF JOURNALISTS ASIA-PACIFIC

“The year 2020 will go down in history as the year of an unprecedented global pandemic crisis, but also as the year of the resurgence of murders of journalists and media staff around the world. With 66 murders in 2020, the macabre statistics are on the rise again compared to 2019 (49). IFJ records show that the current number of killings of media professionals is at the same levels as in 1990 when the IFJ started publishing annual reports on journalists and media staff killed... As of 31 December 2020, the IFJ lists Asia Pacific as the most dangerous region with 32 killings...”

International Federation of Journalists February 4, 2021 ³²⁵

It is no exaggeration to say that 2020 will go down as a year of transition and rupture. The COVID-19 pandemic has claimed hundreds of thousands of lives and halted and destroyed whole sectors of the world economy. The media sector was no exception. Thousands of jobs disappeared, just like hundreds of media organisations which were put out of business. As the world and its media comes to grips with and responds to the immediate global health crisis consuming it in every sense, the flow-on impacts socially, politically, and economically keep resonating in the newsrooms of the region.

Despite widespread government-imposed movement lockdowns, journalists and media workers in the Asia-Pacific region found themselves more vulnerable and more targeted at a time good journalism was needed most. The onset of the COVID-19 pandemic in 2020 brought with it a contagion of information controls, overt and aggressive use of legislation and a dramatic shrinking of media freedoms and the imposition of physical controls across the region. But what no-one was quite prepared for was the simultaneous



In Kabul a municipal worker (back) sprays disinfectant solution on AFP photographer Wakil Kohsar during the COVID-19 pandemic | *Rahmat Gul-AFP*

delivery of the sharp spike in murders and targeted killings of media workers.

Like the waves of pandemic, so too came the waves of killings – first in May 2020 and then a second deadlier wave in November 2020. By year’s end, the region’s death toll for media workers in the Asia-Pacific had catapulted to 32 – marking the region as the world’s

deadliest workplace for journalists. But during this time, we’ve also seen media do what they do best: inform, hold governments to account, educate, and shine a light for broader society to defend democracy. And all this in the face of states grabbing every opportunity to expand authoritarian controls and increase state and corporate surveillance.



THE TOLL

April 1, 2020 to April 1, 2021

29 Journalists and media workers were murdered from April 1 2020 to 31 December 2020.

- 1 man from Bangladesh
- 4 men from the Philippines
- 1 woman and 6 men from Afghanistan
- 8 men from India
- 1 woman and 8 men from Pakistan

6 Journalists and media workers were murdered from 1 January to March 30, 2021.

- 1 man from Afghanistan
- 1 man from Bangladesh
- 1 woman from the Philippines
- 3 women from Afghanistan

As China has increasingly attempted to strengthen its global influence and crack down on internal dissent, governments from Fiji to the Philippines have tried to confine freedom of expression in ways never seen before. Journalists have become essential workers for truth as they report on a crisis with impacts and unfolding dimensions unseen in our collective lifetime.

IFJ CAMPAIGNS

The International Federation of Journalists (IFJ) has been running several campaigns and projects across the Asia-Pacific.

In Hong Kong, Taipei and Macau, the IFJ fought China's highly sophisticated media strategy through creating links between journalists across the region.

Despite governmental setbacks in Malaysia, the IFJ and its journalist union affiliate continued to advocate for sustainable change within the media.

Strengthening women's representation in unions amidst the backdrop of an evolving digital media landscape was a focus for the IFJ in Pakistan, India, Sri Lanka and Nepal.

Across the Pacific, affiliates in Vanuatu, Fiji, Samoa and the Solomon Islands held consultations to discuss the state of the media and create strategies to build the capacity of local journalists.

Throughout 2020 and 2021, the IFJ worked with every journalist union affiliate in the Asia-Pacific to stand up for the media and shine a light on oppression, censorship and murder in a precarious region.

AFGHANISTAN

The 2019 presidential election in Afghanistan ended in a fractured outcome was marked by deep divisions and questions about the legitimacy of the Afghan government. Tensions also ran high given the imminent withdrawal of foreign troops from Afghanistan and the anticipated return of the Taliban. The space for women in media remains extremely challenged to the point that social customs and ongoing threats by anti-government elements have ensured that no women journalists now work in at least 12 provinces.

On the morning of December 10, 2020, 25-year-old Malala Maiwand was killed by gunmen in a targeted attack in Nangarhar province in eastern Afghanistan. Assaultants opened fire on Malala's car as she left to travel to work in Jalalabad from her home in eastern Nangarhar province. Both Malala and her driver Mohammad Tahir were killed in the attack. The Islamic State (IS) later claimed responsibility, accusing her of being a "pro-regime" journalist. The female anchor for Enkaas TV and Radio, she was also an advocate for women's rights. Malala, whose own activist

mother had been killed in a targeted attack five years earlier, often spoke on importance of peace for the future of her country. She told Radio Free Afghanistan in early 2020: "All of our needs can only be met in peace."

Malala's death was one of 10 recorded in Afghanistan in the year, five of which were in Kabul and two in Nangarhar province – most of them were deliberately targeted murders. The culture of fear delivered by the rash of killing in Afghanistan continues to drive women from the industry and has dramatically contracted the media space.

A United Nations report published in the year points out the sharp increase in targeted killings of human rights defenders and journalists since peace talks started between the Taliban and Afghan government in September 2020. Where previously journalists or activists mostly became victims of general attacks on the population, the recent wave had seen a rise in "intentional, premeditated, and deliberate targeting of individuals".

Lack of access to information was also particularly pronounced. Media outlets united to urge the government to ensure free flow of information as the Taliban too attempted to control the narrative, sometimes using violence. In defiance and frustration at the false promises of real access to information, Afghanistan's media held a protest on February 8 2021 criticising the obstruction of information and demanding the government direct its officials to cooperate in information sharing with the media.

CHINA

Since the global spread of COVID-19 and China's comparative containment of the disease, the People's Republic of China has moved to extend its influence on global journalism and individual journalists across the world. Beijing's decade-long campaign to boost its global media presence seems to be escalating, the nature and scale of China's sophisticated and systematic strategy to embed itself in the global media landscape and build its discourse power was the core finding of the IFJ's report from June 2020, *The China Story: Reshaping the World's Media*.³²⁶

With data gathered from 58 journalist unions in 58 countries, the report found that China was extending its global influence through journalism exchange programs, union cooperation, content sharing agreements, training programs, media acquisitions and promulgation of China's grand infrastructure scheme, the "Belt and Road Initiative". It also found one third of unions had been approached by, or were in discussion with, Chinese journalist unions or entities.

China's attempt to influence world media and international opinion also came from within China. Within China, the government has tightened control over media workers with a January 2021 ruling from the Cyberspace Administration of China that bans journalists from self-publishing news via social media accounts.³²⁷ Those who do not abide by the rules risk being punished or having their credentials suspended.

In February 2021, the Chinese cyberspace watchdog announced that social media companies and individual public account owners will be held accountable for online comments deemed to fabricate information and mislead the public, among other acts. In the last three years Chinese authorities have sentenced more than 50 people for the alleged disruption of public order on foreign social media platforms, including Twitter and Facebook.³²⁸ In signs of a broader crackdown, China's National Press and Publication Administration reviewed journalists' accreditation from January 20 to March 19, 2021. The authorities claimed to be looking into whether journalists operate "we-media" on public social media accounts and publish information they acquire in the course of their work. Despite these challenges "self-media" has gained huge popularity in China, with more journalists using social media platforms to publish work which was not published by their organisations.

A key component of China's influence strategy was the removal foreign journalists from covering China from within, including Australian China correspondents for the Australian Broadcasting Corporation and the *Australian Financial Review*, Bill Birtles and Michael Smith. Both journalists returned to Sydney on September 8 after

being named as "persons of interest" in a widening investigation by Chinese authorities into foreign journalists.³²⁹ It follows the August 2021 arrest and secret detention of Australian journalist and the China Global Television Network (CGTN) news anchor Cheng Lei for allegedly supplying state secrets to an overseas organisation or individual. Cheng Lei remains in detention to this day.

China also banned BCC World News from broadcasting in its country in February 2021, after it criticised BBC's coverage of the coronavirus pandemic and treatment of their Uighur population.³³⁰ The decision is a clear retaliation by the Chinese government, coming a week after British media regulator, Ofcom, announced it had revoked the UK broadcast licence of the CGTN. The IFJ and its UK affiliate, the National Union of Journalists (NUJ), condemned the move as a "serious infringement of global media freedom".³³¹

China continues to jail journalists as a way of suppressing and intimidating internal dissent. Journalist Zhang Jialong was sentenced to 18 months in prison on the charge of "picking quarrels and provoking trouble" on January 8, 2021.³³² Zhang made headlines in 2014 after he asked the then-U.S. Secretary of State, John Kerry, to help "tear down" China's "great firewall" of internet censorship. Monitoring of journalists' safety in Asia in January 2021 revealed that China sentenced two journalists, Zhang Jialong and Li Xinde, to long prison terms. Haze Fan, a Chinese citizen who has worked for the Bloomberg News Beijing bureau since 2017, has been in detention since December 7, 2020 on suspicion of "endangering national security".³³³ Foreign news organisations operating in China can, by law, hire Chinese citizens as assistants only through personnel service companies designated by the Chinese Foreign Ministry or its affiliated agencies.

China's strategy to influence world media has been increasingly sophisticated since the onset of the COVID-19 coronavirus pandemic. In Nepal, for example, the media faced a new type of attack, with the Chinese embassy issuing a statement against Anup Kaphle, the then editor-in-chief



Taliban representatives arrive at the signing of a US-Taliban agreement in Doha | Karim Jaafar-AFP

of *The Kathmandu Post*, for alleged persistent bias. The statement issued unspecified threats against the paper for a column reprinted from *The Korea Herald* by former a former US diplomat that was critical of China's response to the COVID-19 epidemic.

More than half of the Chinese-language media organisations operating in Australia are connected to China's overseas influence arm, the United Front Work Department, according to a study by the Australian Strategic Policy Institute (ASPI).³³⁴ The think tank says representatives of the Chinese-language media arms of Australia's public broadcasters, the ABC and SBS, have attended forums run by the propaganda body.

More than 20 IFJ journalist union affiliates have reported that content sharing agreements with Chinese outlets were in place in their countries. In some cases, Chinese state media content, such as Xinhua news agency stories or CGTN footage, is offered for free, while in other cases companies are paid to carry advertising supplements. Such content is sometimes badged as generated by Chinese state-run media, but the sourcing is often less obvious on radio and television with many national news

agencies and broadcasters using China Central Television (CCTV) or CGTN footage without disclosure or attribution.

Journalist unions also described a recent emphasis on organising Chinese tours for Muslim journalists, even from non-Muslim countries, with some being taken to the north western province of Xinjiang, where at least one million Uighurs are reported to be in political indoctrination camps, in an attempt to sway the global narrative.

China's increased media presence takes on different forms in different countries. IFJ affiliates report that Chinese companies are increasingly buying and creating foreign media outlets by taking stakes in existing legacy companies or setting up digital joint ventures overseas.

China is also moving to control the nodes of transmission, such as in Africa, where its StarTimes satellite television has become a key player dominating the transition from analogue to digital television.

China's increasing influence in every stage of media from the means of production to the means of transmission allows greater possibilities

to exert control or influence over editorial content and revenues, whether through outright censorship or more indirect methods such as pushing cheap satellite packages that include free Chinese state-run channels.

HONG KONG

Press freedom and democracy itself have faced existential attacks in Hong Kong after more than a year of police violence amid ongoing pro-democracy protests. Freedom of speech and political rights have deteriorated since the imposition by Beijing authorities of the controversial *National Security Law* on June 30, 2020.

Under a new policy, Hong Kong's police will cease to recognise press accreditation issued by local media or journalist associations unless they are also registered with the Hong Kong's Information Services Department. Police justify the restrictions, which came into effect on September 23, 2020, as a method to control activities and "fake reporters".³³⁵

Media tycoon and staunch democracy advocate Jimmy Lai has been detained since August 10. On the same day, the office of *Apple Daily*, a pro-democracy newspaper he founded, was raided



Hong Kong riot police detain protesters | Dale De La Rey AFP

by law enforcement officials. His application for bail was rejected in early December, and he is expected to continue in detention until a court hearing in April 2021.³³⁶ The series of actions by the authorities targeting one of the most prominent media organisations in Hong Kong has cast a shadow over the future of the city, which formerly cherished a proud tradition of press freedom and judicial independence.

Against the background of the imposition of the *National Security Law*, internet users in the territory faced new obstacles. From early January 2021, internet users in Hong Kong were unable to access the website, HKChronicles, which documented the city's pro-democracy protest movement in 2019.³³⁷ Naomi Chan, chief editor and operator of the website, said in January: "We found that some ISPs (Internet service providers) of Hong Kong deliberately dropped any connection to our servers, so that the user could not receive replies from our servers, resulting in an inability to access our content." The Hong Kong Broadband Network later acknowledged that it had "blocked an anti-government website" to comply with the *National Security Law*.³³⁸

This marked the first time the city's authorities have blocked a politically sensitive site on national security grounds.

Media outlets were also attacked in the dawn of the new year as the Hong Kong police served four media organisations with court orders on January 6, 2021, hours after the mass arrests of more than 50 pro-democracy leaders. The media group Next Digital and its subsidiary newspaper *Apple Daily*, as well as online news outlets Stand News and InMedia, were told to surrender information linked to the primary elections held by the pro-democracy camp to choose candidates for the now-postponed Legislative Council elections.³³⁹ The votes were depicted by the authorities as part of a scheme to overthrow the government.

In social media news, there has been a mass exodus of WhatsApp and Facebook users to Telegram, Signal and MeWe within Hong Kong. WhatsApp lost millions of users in just a few days after it announced a planned update to its terms of service in January 2021.³⁴⁰ It appeared many users feared the messaging app would share user data with its parent company, Facebook. A growing number of internet users

in Hong Kong have opted out of Facebook altogether and created new accounts on MeWe over concerns about Facebook's history of sharing data on government requests

INDIA

Already in the grip of an economic slowdown, India's media is passing through one of the most pressing times in its history, with financial instability being borne by those at the lowest rung. The mass retrenchments come at a time when labour laws have been systematically weakened through successive amendments, and no safety net exists for laid-off media workers. A petition filed by India's journalists' unions was admitted to the Supreme Court.

Intolerance to dissent marked the year in India, with the vicious murders of four journalists: Sunil Tiwari, Shubham Mani Tripathi, Vikram Joshi and K Satyanarayana.

On the legal front, two draconian laws were made even more repressive. Amendments to the *Unlawful Activities (Prevention) Amendment Act, 2019* (UAPA) and the *National Investigation Agency Act (NIA)* have direct implications for the media and can impinge upon freedom of speech and



In Siliguri, West Bengal, AFP photographer Diptendu Dutta works during a government-imposed COVID-19 lockdown | AFP

expression. Applied indiscriminately across the country and most recently against two Kashmiri journalists, these amended laws strengthened counter-terror legislation in addition to existing public security laws with sweeping powers and contributed to self-censorship and control. Besides these, other criminal laws, including defamation suits were slapped on journalists whose stories displeased those in power.

India is now a leader in digital control. There was a dramatic surge in “takedown” requests of content on TikTok and Facebook. Control took the form of heightened regulation of intermediaries and digital media portals; increased surveillance and access to citizens’ data; seeking traceability of end-to-end encryption to ostensibly crack down on what authorities chose to deem “fake news”; frequent and prolonged internet shutdowns and a proposed legislation supposedly to protect personal data. Using these tools, the government has systematically encroached on citizens’ digital rights. Despite several attempts and petitions to India’s Supreme Court, internet restrictions continued in Kashmir, with a renewed ban on high-speed mobile internet.

India’s previously strong *Right to Information* law witnessed a dilution which will have repercussions on access to information for years to come. Courts in India pushed back, coming out in support of the right to know, albeit with riders, when the Supreme Court denied the government’s call for prior censorship of news related to the pandemic, but it did direct the media to refer and publish the “official version of developments”.

Across the country there were protests about the controversial *Citizenship Amendment Act* which is seen to be violating the secular constitution and polarising religious communities in unprecedented ways. In the run up to the assembly elections in Delhi, the capital witnessed violence along communal lines, with some sections of the media fanning the flames while others attempted to douse often violent Islamophobia with journalists from minority communities themselves facing intimidation and attacks.

MALAYSIA

In late February 2020, an unprecedented political “switch” saw Malaysia’s ruling government under the 94-year-old statesman Dr Mahathir Mohamad crumble and collapse; to

be swiftly replaced with a concoction of party defectors and nationalist, conservative opposition politicians led by Muhyiddin Yassin.

For journalists and media workers, it dashed the media reform promises made under the previous government and signalled an expected return to political “business as usual” for the country.

However, what in fact unexpectedly followed could not have come at a more perilous time for human rights and media defenders in Malaysia.

By March 2020, the sudden onset of the fatal COVID-19 pandemic globally saw Malaysia placed under severe lockdown, through the enforcement of the rigorous and oppressive *Movement Control Order (MCO)*. With it, the dire situation against an already heavily challenged Malaysian media industry in terms of persecution by authorities was compounded, with an increasing number of violations and attacks against anyone seen to be critical of sensitive topics and the new political order.

Malaysia’s newest government has been in power for just over a year, yet there is a disturbing decline in civil liberties and press freedoms under its command.

The early failure of the previous government to follow through on commitments to reform the media has had a dire effect. Soon after moving into office on May 22, 2018, the government had asserted a commitment to promoting a free and independent media that could report without fear of reprisal. Proposed reforms included revocation of the punitive colonial-era *Sedition Act 1948* and the *Printing Presses and Publications Act 1984*, as well as several other laws.

These promised reforms were delivered too slowly and were frequently stymied which gave the new Malaysian government the tools it needed to use old style authoritarian methods to again silence dissent and criticism.

In a demonstration of the increasing attacks on press freedom, the prominent Malaysian online news portal Malaysiakini was found guilty of contempt of court and fined RM500,000 (USD 120,000) on February 19, 2021 under the heavily criticised Section 114A of the *Evidence Act 2012*. The case relates to third-party comments by Malaysiakini readers on a story published in June 2020.

The final judgement found Malaysiakini liable for the comments and therefore presumes Malaysiakini is the publisher of the comments in question. Malaysiakini’s editor-in-chief, Steven Gan, described the verdict as having “a tremendous chilling impact on discussions of issues of public interest... What crime has Malaysiakini committed that we are forced to pay RM500,000 when there are individuals charged with abuse of power for millions and billions who are walking free?”

MYANMAR

With a sharp increase in COVID-19 cases, the Myanmar government announced a strict stay-at-home order that hinders the ability of journalists to gather information and serve the public’s right to know.

The government’s order came into effect in the lead up to the 2020 general election held on November 8, and restricted journalists’ right to report.

The elections returned Aung San Suu Kyi’s National League for Democracy (NLD) party to government with a massive 85% of parliament seats. Myanmar’s military political proxy



A protest against the internet shutdown in Myanmar’s Rakhine and Chin state | Sai Aung Main/AFP

party, the Union Solidarity and Development (USDP), won just 33 seats meaning the NLD now held 396 seats out of a possible 476. Critically, the election win would have given Suu Kyi’s NLD an advantage in parliament to potentially introduce changes that would curb the military’s wealth and weaken its control of the country.

This did not mean that journalists were exempt from oppression. Reporters in Myanmar have been frequently jailed on false charges and, under the excessively harsh Article 66(d) of the 2013 *Telecommunications Law*, many have been sued for or threatened with criminal defamation.

Threatened by talk of economic reforms and amendments to the 2008 Constitution, Myanmar’s military junta took over the country on February 1, 2021 through a coup d’état. The crackdown on journalists and reporting came swiftly after.

IFJ’s Myanmar affiliate, the Myanmar Journalist Association (MJA), is continuing its calls for “the release of leader Daw Aung San Suu Kyi and others who have been arrested immediately” and for its members “to stand together with people for the truth”.

On February 12, 2021 the Ministry of Information issued a statement to the Myanmar Press Council saying that the usage of “incorrect” words (“coup”, “regime” and “junta”) would contravene

publishing laws³⁴¹ and could be “acts of instigation that may arouse “civil unrest”.³⁴² IFJ expert Phil Thornton said, “journalists are scared”. Journalists inside Myanmar have said “wearing ‘PRESS’ signage did not guarantee their safety”.³⁴³

The military coup in Myanmar continues to cast a pall over the country and press freedom. Since the overthrow of democracy on February 1, IFJ continues to record cases of journalists being attacked, beaten, intimidated, and arrested. On February 28, at least 10 media workers were detained including Associated Press journalist, Thein Zaw. The same day at least 19 demonstrators were killed; the highest amount on any one day since the country’s nationwide protests began against the military junta and its forced removal of the country’s democracy.³⁴⁴ Since then, the deaths from military assaults on the population have leapt dramatically.

In response to these events, the IFJ launched the “Defend Democracy in Myanmar” campaign, which calls for the restoration of democracy to the country, while also delivering up-to-date information about the unfolding military takeover.³⁴⁵ The campaign collates the latest resources and statements regarding the military junta’s impact on journalism and press freedom.

NEPAL

In Nepal, where journalists faced arrest and detention on flimsy pretexts,



Fiji prepares for the impact of Cyclone Yasa | *Lice Movano AFP*

the legal environment was in threat of further deterioration with the drafting of two controversial bills: the *Information Technology Management Bill* which could curb free expression online and the *Media Council Bill* which proposes “licensing” for journalists and heavy fines for “breach” of a code of conduct. Both these provisions were dropped after prolonged protests by the Federation of Nepali Journalists (FNJ), Nepal Press Union and other civil society organisations.

Nepal, which boasts of 60 per cent internet penetration and 100 per cent mobile penetration, adds at least 250 new internet users every hour and government reports say that it comes second only to Bhutan in social media penetration in South Asia. However, *Nepal’s Electronic Transactions Act* (2006), has been used to censor online content and many of its provisions, including Section 47, prohibit publication of a range of material “which may be contrary to the public morality or decent behaviour”.

Journalists and their union fought back against the COVID-19 pandemic in Nepal, where the FNJ issued guidelines on the “Dos and don’ts” of reporting the pandemic, based on World Health Organisation guidelines.

A coordination committee headed by the FNJ President monitored the situation in media houses and a Situation Report found that precautionary measures taken by the media houses for the journalist were unsatisfactory: even in the office, the required distance was not maintained and journalists in some of the media houses did not have the necessary personal protective equipment.

In tandem with Nepal’s Ministry of Health and Population and the Red Cross, the FNJ distributed more than 5000 masks, sanitizers, hand gloves and hundreds of press jackets to the journalists through its provincial committees, district chapters and also through media houses in Kathmandu.

The FNJ also created a safe space for women journalists who were travelling for work in Kathmandu under a new initiative.

THE PACIFIC COVID-19

Some governments in the Pacific have used COVID-19 as a cover for limiting press access and curbing freedom of expression. Several Pacific states have laws allowing the government to restrict reporting during a State of Emergency.

Solomon Islands declared a State of Public Emergency (SOE) in March 2020 in response to the COVID-19 pandemic. Under this SOE, only certain members of the Government are permitted to speak to the media, making it harder for journalists to get accurate information.

Vanuatu declared a State of Emergency in March 2020, restricting publication of any item that included the term COVID-19 unless the report had been endorsed by the relevant authority. The government justified this on the ground that fake news stories were creating panic in rural and urban communities. In June 2020, there was an incident in which airport security and local police intercepted a journalist taking photos of a flight delivering COVID-19 supplies and repatriating 19 citizens from New Zealand. The officers told her to delete the photos and to leave the airport.

Fiji declared a State of Natural Disaster twice in 2020, in response first to Cyclone Yasa and then to the rise COVID-19 cases. Under this declaration, any person, body or entity who contravenes any order made by a police or military officer who is performing their duty under the disaster regulation is considered to have committed an offence.



Filipino protesters against the country’s anti-terror Bill | *AC Dimatac-AFP*

Traditional forms of suppression have been attempted in Fiji, where journalists are concerned about the *Draft Police Bill 2020*. The proposed law would allow a police officer to seize, without a warrant, any electronic storage device found at a crime scene or in the possession of anyone detained or arrested. The law would also give access to cloud storage. A person who refused to provide the password to their device could be liable to life imprisonment or a Fiji \$1 million fine.

Freelancing

The continuing challenges of the global pandemic has had a range of impacts on freelance journalists in the Pacific, with many projects cancelled and commissioning budgets reduced.

Fijian multimedia content producer, Lice Movono, said she introduced a financial system that forces clients to pay for any work produced immediately upon commission. This was the only way to ensure consistent cash flow and put food on the table, she said. Freelancers in the Pacific are increasingly relying on their adaptability and resilience, diversifying skills and conceiving creative economic solutions amid the global pandemic. A Journalism.co.uk survey found that more than

60 per cent of respondents had been negatively affected, with many suffering from late payments and increasing financial pressure.

Right to Information

In more positive developments, the right to information (RTI) is gradually being legislated in Pacific nations.

Tonga launched an *Information Disclosure Policy* in 2012, **Vanuatu** passed the *Right to Information Act* in 2016, and **Fiji** passed its *Information Act in 2018*. **Papua New Guinea** committed to adopting a right to information law in 2016, **Solomon Islands** has developed a draft law, and **Samoa** has begun preliminary discussions.

PAKISTAN

Pakistan recorded a harrowing nine journalist killings in 2020, starting with the grisly murder of Sindhi-language Daily Kawish and KTN News journalist Aziz Memon. Memon’s body was found floating in a canal in Naushero Feroze on February 16 with a wire tied around his neck. His death came after the journalist had earlier released a video in which he said officials of the opposition Pakistan People’s Party and local police had threatened him over his reporting. After an initial mishandling of the case which saw the murder ruled as suicide by investigators, a breakthrough

followed when one of the suspected murderers Nazeer Sehto pled guilty before a local court in Naushero Feroze district in May 2020. According to the Karachi Police chief additional inspector general Nazeer’s DNA matched the sample taken from underneath Aziz Memon’s nails.

Historical battles were refought in Pakistan’s courts, where the death sentence of British-born Ahmed Omar Saeed Sheikh, who had been convicted by an anti-terrorism court for kidnapping and murdering US journalist Daniel Pearl in 2002, was reversed. The Sindh provincial government promptly filed an appeal in the Supreme Court of Pakistan against the downgrade of Sheikh’s punishment from death to life term and from life-terms to acquittal of Sheikh’s co-accused Salman Saqib and Fahad Nasim. Two days later, the High Court re-arrested the accused pending filing of the appeal against the acquittal.

In a welcome development, nearly a decade after the murder of Geo News journalist Wali Khan Babar, Pakistan police finally arrested one of his murderers “at large” in an operation on June 15, 2020. He was finally captured after a tip off from a federal intelligence agency. With his arrest, all six perpetrators involved in killing of

the journalist have now been brought to justice.

Plummeting media revenues saw the mass shedding of more than 3000 journalist jobs in Pakistan, while harsh online controls saw Kashmir take the mantle for the world's longest communication shutdown in a democracy.

The media in Pakistan operates in a difficult environment as a matter of routine: the national economy was tanking, media revenues plummeting, and various media laid off journalists only for the COVID-19 situation to make matters worse.

The government, the largest revenue source for the media, stopped the release of advertisements to newspapers and TV channels, including the daily *Dawn* and Geo TV and Jang Group, the largest media company that gave space to voices of dissent and opposition.

Internet shutdowns and surveillance are constant across Pakistan. Telecom operators use a Web Monitoring System (WMS) to monitor social media, while more than 800,000 websites and web pages have been blocked for a range of reasons, including for hosting content that was allegedly pornographic, blasphemous or expressing sentiments against the Pakistan state and its military.

Despite these headwinds, digital journalists led the way in converting a traditional media production and operation crisis into digital opportunities in the context of COVID-19. Mainstream print establishments (facing distribution problems) and even current affairs TV channels which could not generate pre-outbreak levels of field-based content rapidly beefed up their digital operations and reworked their websites and social media accounts to focus on COVID-19 coverage.

PHILIPPINES

It was a devastating year for press freedom in the Philippines with court challenges, attacks, harassment and more slated repressive legislation by the Duterte administration. On June 15 2020, the court's guilty finding of

cyber-libel³⁴⁶ against news website *Rappler's* chief executive officer Maria Ressa and former *Rappler* writer Rey Santos Jr was, according to Ressa, a "cautionary tale", highlighting the dire urgency for journalists' to protect their rights in the country.³⁴⁷

President Rodrigo Duterte enacted a new counterterrorism law that will eliminate critical legal protections and permit government overreach against groups and individuals labelled as "terrorists". Critics said the draft *Anti-Terrorism Act* (2020) defines terrorism so broadly that even critical journalism could be labelled as "terrorism" and journalists and bloggers could be easily detained without charge. The Duterte government and its supporters continued to use this tactic, so-called "red tagging", whereby individuals are labelled as communists or terrorists, to attack the legitimacy of journalists and their union. The government's own anti-insurgency task force did this by accusing the National Union of Journalists of the Philippines of being a rebel "front organization".

The danger of "red-tagging" is that it can effectively invite vigilante action, which can include assaults or murder, against those who have been tagged.

In a vicious attack on journalism and the public's right to know, the Philippines largest TV network ABS-CBN, was forced off air after Congress rejected its franchise renewal on July 10, 2020 after a protracted public battle. This meant the loss of approximately 10,000 media jobs and the closure of metropolitan and regional stations after more than 30 years in operation. The rejection of the network's franchise application attracted regional outcry as the franchise is central to ensuring people have access to information and a public campaign, PIRMA Kapamilya, has been launched to bring ABS-CBN back on air.³⁴⁸

The Philippines continues to be one of the deadliest countries for journalists, with four journalists, Cornelio Pepino, Jobert Bercasio, Virgilio Maganes and Ronnie Villamor murdered in 2020 for doing their jobs.

On November 10 2020, 62-year-old Maganes died after being shot six

several times in front of his home by gunmen on a motorcycle. The journalist and member of the National Union of Journalists of the Philippines (NUJP), who worked as a commentator on dwPR and columnist for the weekly *Northern Watch* newspaper, survived a prior assassination attempt in 2016 by playing dead when motorcycle-riding gunmen shot and wounded him on his way to work. His was the 18th murder since Rodrigo Duterte became president in 2016.

In a sign that 2021 is no safer than 2020, Riazlino "Inday Rufing" Torralba, a popular disc jockey of Kiss FM and an event host, was shot dead on March 27, 2021 in Mansana, Tagbilaran City, Bohol.

TAIWAN

In a demonstration of Taiwan's comparatively high levels of press freedom to China, the number of foreign correspondents in Taiwan grew by 34 in 2020, with an increase of one-third compared to the previous year. More than half of the correspondents are with American media organisations.

Many relocated to Taiwan after the tit-for-tat exchange between Beijing and the US administration of then-President Donald Trump. This altercation began in March 2020³⁴⁹ and led to the expulsion from China of journalists from such outlets as the *The New York Times*, *The Washington Post*, and *The Wall Street Journal*. The sweeping *National Security Law* imposed by Beijing on Hong Kong last June was another potential factor in the decisions of news organisations to deploy their staff to Taiwan.

Nonetheless, more than 200 journalists were let go in Taiwan in the course of 2020 following the closures or transformation of media outlets.³⁵⁰ Some media companies cited the economic impact of the global pandemic as one of the reasons for the layoffs, but the Association of Taiwan Journalists (ATJ) observed that some media companies had long planned to cut personnel costs due to their continued struggles to gain readership and generate profits.

Television channel CTi News was shut down on December 11, after Taiwan's Supreme Administrative Court rejected its appeal against the decision by the



Pakistani women activist hold placards during a rally ahead of the International Women's Day in Karachi on March 6, 2020 | Asif Hassan/AFP

National Communications Commission (NCC) not to renew its broadcast licence.³⁵¹ The channel was widely regarded as taking a pro-Beijing editorial line. In refusing to renew the licence, the NCC cited interference with editorial independence, repeated penalties on CTi News' daily news programs and political talk shows, as well as the failure of internal reforms. Some opposition party leaders, including former President Ma Ying-jeou, criticised the government for suppression of press freedom. Other groups, including some civil organisations, welcomed the decision.

THAILAND

Press freedom in Thailand remains in a volatile state as an authoritarian government and COVID-19 combine to threaten journalists and their institutions. On October 20, 2020 Thailand's Ministry of Digital Economy and Society announced it had obtained a court order to suspend all broadcasts and publications from online liberal media outlet Voice TV. It claimed the organisation had breached the now-withdrawn Emergency Decree and Computer Crime Act by uploading and disseminating "false information". Four outlets, including Voice TV, Prachatai, The Reporters and The Standard, were investigated.

Following the government's move to censure media outlets, the Thai Criminal Court turned down the court order on October 20, stating the request to block the broadcasting of media channels would breach Article 35 of the Thai Constitution that guarantees press freedom.³⁵² The decision came hours after a government document, ordering internet providers to block access to Telegram, a heavily encrypted cloud-based messaging service used by pro-democracy protestors, was leaked. The IFJ and its affiliate the National Union of Journalists Thailand (NUJT) condemned the Thai authorities' attempt to censor Thailand's media and welcomed the response by the courts to defend press freedom.

The military backed government in Thailand imposed a one-month state of emergency on March 26, 2021 to control COVID-19, allowing authorities to impose restrictions on the media. The IFJ condemned all forms of pressure for press freedom taken by the government amid the global health crisis.

The decree gives Thailand's prime minister powers to take down articles and shut down media houses if authorities believe that news item will cause unrest or frighten people.³⁵³

Further, the prime minister called on media outlets to verify and check their facts with a special communications team, consisting of medical experts who will hold daily press briefings.³⁵⁴

TIMOR-LESTE

Press freedom was under attack in Timor-Leste in June 2020, when the Minister of Justice introduced a proposal to include criminal defamation in the country's penal code. The proposed law stipulated that any person who publicly states and publishes through social media "facts" or "opinions" that may offend the honour, good name and reputation of a current or previous member of government, church official or any public official can be prosecuted and punished with up to three years in prison.

The International Federation of Journalists (IFJ) and its affiliate the Timor-Leste Press Union (TLPU) campaigned against the law on the ground that it would undermine press freedom and public interest journalism and the law was shelved in January 2021.

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The way forward

BY MIKE DOBBIE

The intimidation of journalists is nothing new. People in power have always sought to avoid scrutiny by intimidating journalists. As recent reports on the decline of press freedom around the world demonstrate, there is a disturbing rise in actions that go far beyond intimidation. Arrests, jailing, violent assaults and murder are becoming more numerous as the incidents catalogued in this report show. Disturbingly, some of these attacks are happening in countries that declare themselves champions of freedom of expression; countries that chide others for their poor record on press freedom.

In a letter to Minnesota Governor Tim Walz on April 17, 2021, 17 US media organisations cited examples of police assaults on journalists that had occurred the previous week. On April 12, 2021 a photojournalist on assignment for *The New York Times* was recognised by a Minneapolis State Patrol captain who rushed out of a police line and grabbed him. “The officer then pulled the journalist behind the police line where another officer held his hands behind his back and took his phone. When the journalist asked “why,” the officer said: “Because that’s our strategy right now.” The following day a police trooper tried to break a *New York Times* photographer’s camera.

Carolyn Sung, an Asian-American CNN producer, was thrown to the ground and arrested by a Minnesota state trooper the following day, while trying to comply with a dispersal order. “While trying to leave, police grabbed her by her backpack, threw her to the ground, zip-tied her hands behind her back. Sung did not resist and repeatedly identified herself as a journalist working for CNN and showed her credentials.

“While trying to tell the troopers that the zip ties were too tight, one trooper

yelled, ‘Do you speak English?’” Sung, whose primary language is English, was placed in a prisoner-transport bus and sent to the Hennepin County Jail, where she was: “patted down and searched by a female officer who put her hands down Sung’s pants and in her bra; fingerprinted; electronically body-scanned and ordered to strip and put on an orange uniform before attorneys working on her behalf were able to locate her and secure her release, a process that took more than two hours.”⁵⁵⁶

Those are examples of events overseas. But there is an emerging tendency among police in Australia to ignore the identification journalists carry to prove they are the working media. In 2019 there was an incident involving a French television crew who were arrested in

Queensland despite showing their press cards. Their cards were ignored, with one of the police saying to them about their legitimate reporting of a protest: “Journalists should know better.”⁵⁵⁷

In Victoria in February 2021, police arrested a *Sunday Herald Sun* journalist and photographer while they were reporting on an anti-vaccination protest. The pair were wearing facemasks, carrying their *Herald Sun* accreditation cards in open view, and they identified themselves as journalists. They were handcuffed and escorted away by police and given notice that they may be issued with a \$1652 fine for failing to comply with the Chief Health Officer’s directions regarding social distancing and gatherings in public. They were detained for 10 minutes while their identities were being verified.

Victoria Police began issuing their own media accreditation without consultation after detaining two journalists | *Julian Meehan, licensed under Creative Commons 2.0*



Weeks later, the Victoria Police appeared to respond to this incident by issuing its own media accreditation to some journalists at some media outlets. At no stage was MEAA consulted about the move which ignored hundreds of journalists at smaller media outlets, as well as freelancers and student journalists.

This is an overreach that allows Victoria Police to select the journalists and the media outlets it will allow to cover news events. MEAA cannot accept that a government agency should be able to regulate the media by granting itself the ability to determine who can report stories of public interest. It’s a dangerous example of how police ignore journalists, ignore their reporting role and seek to impose a method of choosing journalists that suit the police while ignoring the media’s responsibilities to the communities they serve.

There are also increasingly dangerous concerns confronting journalists. The open abuse and threats directed at journalists are commonplace due, in large part, to unmoderated social media posts. Online harassment, particularly gendered cyberhate directed at women journalists, represents a frightening threat to the safety of journalists. There must be an acceptance of the legitimate work of journalists, and training for police and others who encounter journalists as they carry out their reporting duties.

The COVID-19 pandemic has elevated safety issues for journalists who seek to tell truths to keep the community fully informed. Abuse is directed at journalists by people who embrace misinformation and who are antagonistic to anyone who does not believe fact-less opinions.

The polarisation of politics has been encouraged by the concentration of media ownership; audiences seek information from media outlets that align with their views and that can confirm their prejudices – any report that does not conform, no matter how valid, is decried as biased, often leading to abuse being heaped on the journalist.

The media industry must do a better job at restoring the public’s trust in journalists and the function of public interest journalism as a foundation in a healthy, functioning democracy. Misinformation and unfounded theories, especially those that spread rapidly, unverified and not moderated on social media, must be challenged and debunked by facts.

Government authorities and particularly politicians, must cease the relentless attacks on press freedom. Politicians must also cease the Trump-like baiting of journalists, of avoiding questions and refusing to be interviewed.

The politicised and very deliberate underfunding of public broadcasting is damaging the most trusted news outlet in the country.⁵⁵⁸ The ABC, as required by its charter, has responsibilities across many areas, but endless budget cuts for base political reasons are a disservice to all Australians, particularly communities in rural and regional Australia who have lost their local media outlets because of the pandemic.

The Government must step in to provide immediate and ongoing support for ailing media outlets in regional Australia who will continue to struggle in the wake of the COVID pandemic. The Mandatory News Code applied to digital platforms must ensure that funds from Google and Facebook go beyond media organisation’s boardrooms and are, instead, invested in public interest journalism. The funds should also go to small media outlets, to innovative start-ups, and to ensure a fair livelihood for freelance journalists.

Then use of immense power to have a chilling effect on public interest journalism must cease. The Parliament must stop legislating to intimidate, silence and punish whistleblowers who tell the truth – often using laws drafted in the name of “national security”. Public sector whistle-blowers must be adequately protected to ensure their truth-telling can promote responsible change.

A new regime that limits which documents can be classified as “secret”

is needed – open and transparent government and responsive access under freedom of information laws, not government in secret, should be the standards not the exception.

Police raids on the homes and offices of journalists must cease – there must be the right to contest the application for warrants for journalists and media organisations. There must be exemptions for journalists from laws, including security laws enacted during the last eight years, that would put them in jail for fulfilling their duty to report stories that are in the public interest.

The use of Journalist Information Warrants to explicitly access journalists’ and media outlets’ telecommunications data in secret for the sole purpose of identifying confidential sources must stop – journalists are unable escape their ethical obligation to confidential sources and laws that exploit the obligation erodes the sources’ trust in journalists and the public’s right to know what our governments do in our name.

While defamation law is being reformed and updated, it is now necessary for attorneys-general to work on creating a national uniform journalist “shield” law regime that protects journalists from contempt of court actions when they are ethically obligated to never disclose the identity of a confidential sources.

Australia’s press freedom standing in the world has been badly damaged. Australia is no longer seen as a champion of press freedom.

But those issues are now accompanied by a new and very dangerous threat that makes journalism unsafe. More must be done to improve the safety of those who report in the public interest to our communities. Doing nothing is not an option.

The danger is present, and much must be done to prevent threats, to make safe the work that journalists undertake and to stop abuse before it becomes tragedy.

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