

An Independent and Free Media

Power in America today is control of the means of communication.

Theodore White

Without information there is no accountability. Information is power, and the more people who possess it, the more power is distributed. Access to information on the part of the people is fundamental to a nation's integrity system. Without it, democratic structures cannot operate as they should, and individuals are left unable to enforce their rights – perhaps not even knowing that their rights have been infringed. The principal vehicle for taking information to the public is an independent and free media.¹

Freedom of the Media

The more a society develops open and transparent practices, the more information becomes available within the public domain. However, a deluge of information makes it almost impossible, even for the most diligent citizen, to keep abreast of everything that is going on. The proceedings of the Legislature or Parliament, of public and local authorities, of court rooms, and of public companies may all be open to the public, but no one member of the public can ever hope to attend them all. The most we can hope for is that there is a diligent, professional media which is devoted to sifting through this mass of information on a daily basis, selecting with wisdom and with at least one eye on the public interest, precisely what it is that should concern us – and then conveying this information to us fairly and responsibly. Of course, there will be the inevitable conflict of interest between the media exercising its constitutional function of informing the public, and its desire to attract a wide readership, ample advertising, and a healthy profit margin.

A free media ranks alongside an independent Judiciary, as one of the twin powers that should not be held accountable to politicians. Both serve as powerful counterforces to corruption in public life. Unlike judges, public prosecutors and Attorneys-General, the privately-owned media is not appointed or confirmed in office by politicians. Outside the channels of government-owned media, the media is self-appointed and sustained by a public that sees the privately-owned media's output as valuable. The media should be, and can be, free of the political patronage entrenched even in the most democratic of societies.

Private media ownership carries with it another danger; that of the mass media conglomerate, a concentration of media ownership in too few hands. This can constitute a threat to democracy itself, where major political parties are almost held to ransom by media proprietors, who wield enormous power through their ability to manipulate the opinion of the electorate, should they choose to do so. This is a menace that calls for strong and principled regulation to restrict

¹ The traditional expression is a "free press". However, with the rise in importance of the electronic media, and with progressively more people around the world depending on radio and

television for their news, the broader expression, "free media", is now more commonly used.

mergers and take-overs, and countries should ensure that there is always competition in the media market-place. This is increasingly difficult to manage in a globalised world, and particularly in an age of satellite television. However, with the growth of the Internet, the ability to convey news is to some extent being democratised. This can carry another set of problems, but it does mean that global communication is no longer the exclusive preserve of powerful interests.²

The degree to which the media is independent is the degree to which it can perform an effective public watchdog function over the conduct of public officials. Just as the Legislature should keep the Executive under day-to-day scrutiny, so should the media keep both the Legislature and the Executive (along with all others whose posts impinge on the public domain), carefully monitored. As the former editor-in-chief of Time Inc., Henry Grunwald, noted, “even a democratically-elected and benign government can easily be corrupted when its power is not held in check by an independent press.”³

The media has a special role to play “and a particular vulnerability” when it comes to countering corruption.⁴ Politicians and civil servants may be all the more tempted to abuse their positions for private gain when they are confident that they run no risk of public exposure and humiliation through the media. Politicians, in the pursuit of such comfort, have sought to muzzle the media. Even today, there are many countries that censor the media, have an abundance of restrictive laws, and frequently jail journalists.

Today, as never before, journalism is a dangerous profession, with kidnappings and beatings becoming more common. The instinct to “shoot the messenger” who carries bad news (sometimes literally) is as compelling as ever. Too often, those in power seek to confine the watchdog roles of the media and, in some cases, they clearly do so to exploit their positions of power without fear of exposure. Even in societies that pride themselves on their openness, there are powerful authorities who, on the premise that the media might act “irresponsibly”, support

Official Secrets legislation that greatly restricts the right to know and the right to publish. These authorities also sustain punitive libel laws that can be used to intimidate individuals and newspapers from publishing.

It must be recognised, of course, that corruption exists within the journalism profession as well. In Mexico and India, many reporters, for example, earn a stipend from the institutions they cover to supplement their meagre salaries. Journalists in various other countries, such as Indonesia, are also known to accept such pay-offs. This creates a powerful disincentive to explore misdeeds in high places.

Journalists in shares scandal

In the UK, tabloid journalists were sacked when it emerged that they had abused their positions as financial journalists by buying shares and then writing stories that drove the values of the shares up spectacularly. They were found to have breached their contracts by breaking the Press Complaints Commission Code by failing to disclose that they held shares in the companies they were recommending to readers.

*“Mirror duo sacked after share scandal”
Guardian, 19 February 2000.*⁵

2 A sample of the problems the Internet can give rise to in the context of elections alone is found in Canada. Under Canadian law it is illegal to publish political advertisements anonymously. That is, all advertisements must indicate the author or sponsor and his political affiliations. Under Canadian law, “Every person who sponsors or conducts advertising without identifying the name of the sponsor and indicating that it was authorised by that sponsor is guilty of an offence.” Furthermore, any “third party” political advertising (whether anonymous or not) brought to the attention of a political party’s “official agent” must be counted towards their campaign spending limit, even if they played no official role in the creation of the advertisement. These regulations would include web pages on the Internet, as long as they qualify as advertisements by “directly endorsing or criticising a particular candidate or political party”. Canada also covers a spread of time zones. Although early election results will be broadcast locally in Halifax (in the east), it is illegal to publish them in a way that people in Vancouver (in

the west) could get access to them before their polls close. The ban on the last-minute publication of surveys reads: “No person shall broadcast, publish, or disseminate the results of an opinion survey respecting how electors will vote at an election or respecting an election issue that would permit the identification of a political party or candidate from midnight the Friday before polling day until the close of all polling stations.” All of these provisions are challenged by Internet users, especially when web sites can be established outside Canada (e.g. in the USA), and beyond the reach of Canadian law enforcement.

3 In a speech delivered in Moscow, Russia in May 1993.

4 This has been recognised in Uganda and Tanzania, where both governments have been actively supporting the holding of investigative journalism courses organised by Transparency International and the World Bank Institute.

5 The PCC Code may be seen on the TI website, www.transparency.org.

Independence of the media

Independence of the media is a very complex concept. In general terms, it focuses on the notion that journalists should be free from any form of interference in the pursuit and practice of their profession. In reality, the owners of the media intervene daily in the operations of the journalists in their employment. In many countries, the government itself is the largest media owner (often of the leading television and radio stations) – a situation which undermines the very concept of ensuring the genuine independence of the media from the influences of the state.

The rights of journalists in state-owned media enterprises and the degree of freedom they enjoy is sometimes, but not always, stipulated and guaranteed in law. The lack of legislation and regulation in this context is a direct threat to the independence of the media. In the UK, for example, where the BBC is widely seen as operating at arms-length from the government and enjoying more independence than many state-owned media outlets in other countries, the Thatcher government explicitly banned the BBC, along with the private media, from broadcasting direct interviews with leaders of the Irish Republican Army. There is obviously validity to the argument that “a financially dependent media cannot be truly free”.

Efforts should be undertaken to strengthen the independence of the media through the privatisation of existing state-owned or controlled media. At the same time, as noted above, systems must be developed which ensure a diversity of media ownership, so that competition within the media stimulates a wide range of perspectives on public policy issues and acts as a check on the political power of media magnates.

A free, privately-owned media is only possible when there is meaningful competition in the media marketplace. Rivalry in the market makes the corrupt newspaper owner fearful of exposure, just as it serves as a deterrent to the corrupt public office holder. In late 1994, for example, a book publishing company owned by News Corporation (a global enterprise headed by Rupert Murdoch) offered US\$4.5 million in advance payments to Congressman Newt Gingrich, then Speaker of the U.S. House of Representatives, for two books. Very swiftly, many media outlets reported the offer and some suggested the possibility that Mr. Murdoch, who had major issues before Washington governmental bodies regarding his television interests, had offered a bribe to the new Republican Party leader. Reporting by the media forced the cancellation of the book deal. However, many countries do not have the same abundance of media owners; rivalry is far less intense and, at times, media “cartels” can be formed to suit the political interests of the day. In some cases, one family “rules” the media in a country. Such an overwhelmingly dominant position means that media magnates need not fear exposure by rivals, and in an age of electronic media, their political power can enable them greatly to influence the outcomes of elections.

Furthermore, many developing countries have very little advertising money available to support the media. As a consequence, the media in these countries is desperately underfunded and, at times, dependent. On the one hand, large advertisers (of which the government is usually among the most prominent) exert enormous control, and on the other, political and business entities have a wide scope to bribe reporters (who tend to be very poorly paid) to write stories that serve their political and business interests.⁶ In these types of situations, the media frequently fails to perform its watchdog role. The media privatisation process, just like the

⁶ Investigative journalism workshops run over past several years by Transparency International and the World Bank Institute commonly heard of journalists effectively blackmailing the sub-

jects of their stories. They would extract bribes from individuals named, not to file their stories. In cases where stories were prepared and filed, editors would be bribed to drop them.

broader issues of media ownership, must therefore be carefully considered within its social and economic context. Monopolies in the media area are potentially even more dangerous than are monopolies in other areas of economic life.

In numerous instances, governments assert that their democratic institutions are still fragile and their free media inexperienced, and argue that there is merit in continued governmental ownership. This is often the case, but in such circumstances, the state-owned media should not enjoy a monopoly. In countries where governments insist on retaining some measure of control, safeguards or an independent regulator should be in place to stand between the Government and the rights of a free media.

Who should be the guarantor of a free media?

Censorship of the media takes many forms and raises its head in almost all countries. Few have legal systems which guarantee absolute freedom of the media. Amendment 1 to the Constitution of the United States, as tested before the U.S. Supreme Court, comes as close to guaranteeing a society free of censorship as any particular legislative act. The Constitution of Malawi is unique in this regard as it enshrines the concept of the freedom of the media not once, but twice, and in the following terms:

“Every person shall have the right to freedom of expression” and,

“The press shall have the right to report and publish freely, within Malawi and abroad, and to be accorded the fullest possible facilities for access to public information”.

Laws declaring “freedom of expression” require support and enforcement from the courts. An independent judiciary is the handmaiden of a free media. Without an independent judiciary, media freedom is likely to be illusory. A prerequisite for building a free media, therefore, is a legal system that is independent of political influence and has a firm constitutional jurisprudence supporting the concept of a free media. Such jurisprudence can draw strength from Article 19 of the International Covenant on Civil and Political Rights⁷, which states:

“Everyone shall have the right to freedom of opinion and expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁸

Restrictions on these widely-accepted rights relate to the rights or reputations of private individuals and to matters of national security. Although many journalists would accept that such restrictions are reasonable, they would almost all agree that they must be narrowly interpreted. Thus, the legal and regulatory frameworks should not, for example, provide restrictions on the media that may prevent them from publishing matters simply because these could damage the public reputation of public office holders. To do so would, in fact, undermine freedom of expression. A decision by the European Court on Human Rights held that the politician “inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must display a greater degree of tolerance”.

However, in many young and fragile democracies the media’s experience is limited and the temptation to be less responsible is significant. Laws which, in essence, provide full scope for

7 The Covenant entered into force on 23 March 1976.

8 This right was claimed to have been breached in an Australian city in 1999, where a single media magnate owned all the news outlets. He was personally opposed to Australia being a monarchy, and during a referendum on the constitutional status of

the monarchy in Australia, all his publications argued the case for becoming a republic. Those campaigning for retention of the monarchy complained to the Competition Authority that the right of people to receive a diversity of opinion had been infringed.

the media to be irresponsible, may actually damage the growth of these emerging democracies. In this regard, there may be merit in the establishment of Press Councils. Although Press Councils have not generally been very successful, they can be constructed so as to provide an open forum for complaints against the media by the public, to chastise the media when it is irresponsible, and through these means, influence (to a degree) its behaviour.

Press Councils need to be independent and directed by people widely respected for their non-partisan standing and their integrity. These bodies should not have powers of legal sanction, which could enable them to become powerful censors. Rather, they should have the prestige and integrity that give their reports strong moral force. A useful requirement is for the subject of a complaint to be required to publish, in full and unedited, the findings of the Press Council where a complaint against it has been upheld.

A very fine line exists between responsible and irresponsible journalism. As such, time and place are important factors that should influence judgements. Indeed, the moral force of a Press Council is a better way to secure a responsible media, than to provide governments and courts with wide-ranging powers to curb it. Assertions of media irresponsibility often lead to calls for laws and systems that guarantee only a “reasonably” free media. Experience shows that the term “reasonably” is highly subjective, and that acceptance of it in this context can be the first step down a slippery slope towards diverse forms of censorship.

The “reasonably” approach often comes to the fore in matters relating to national security. The Official Secrets Act in the U.K., and similar legislation in other countries, can provide an umbrella for all manner of secret activity by a government. For example, President Nixon attempted, in the early 1970s, to withhold tapes of conversations in the White House from the courts and the Congress on the grounds of national security. Following the eventual publication of the tapes, however, few argued that their publication had been damaging to the nation’s security.

Government officials, conditioned over many decades to label items “confidential,” or “secret,” or “top secret,” build a strong prejudice against public disclosure of information, and frequently seek to prevent disclosure through claims of national security. It is important, when establishing best practices, that the independent judiciary be objective in assessing these claims. It should take the view that all government documentation should be in the public domain and open to public scrutiny, unless there is a forceful and compelling argument, presented by the government, for maintaining secrecy. Secrecy is more often justifiable on the grounds of the legitimate protection of personal privacy or the maintenance of commercial confidentiality, than it is on the (relatively rare) grounds of protecting national security.

The most effective system for guaranteeing freedom of the media is one where the media itself is empowered to make careful judgements on its own. To provide publishers and journalists with freedom is also to burden them with difficult decisions regarding public responsibility. In the 1960s, The *New York Times* received several thousand pages of documents from a source within the U.S. Department of Defence. These documents, which dealt with the war in Vietnam, became known as the “Pentagon Papers”. The editors of the *New York Times*, after assuring themselves of the authenticity of the documents, agonised for days over whether or not it was responsible to publish them. They weighed considerations of national security against the public’s right to know. They decided to publish. Their decision was not taken lightly and it emerged that many individuals of experience, in public affairs, the law and the media had different perspectives on the issue. None could claim a monopoly of wisdom, and none claimed that the judgements of journalists were necessarily inferior to those of experts from other professions.

The decision to publish the “Pentagon Papers” was carefully reviewed by the courts, which concluded that the freedom of the media, as expressed in the First Amendment to the U.S. Constitution, was of greater significance in this instance than national security claims made by the U.S. Government. Consistent judgments of this kind by an independent court system can serve, over time, to build a tradition of media freedom. Such a tradition can be fortified by “sunshine laws”, such as the U.S. Freedom of Information Act 1966, which enable every citizen to obtain access to almost all documents of the government.

Through the responsible judgements of editors and journalists, combined with consistent judicial support, a tradition and culture of media freedom develops. This culture is, above all, the most important guarantor of media freedom and of the ability of the media to fully operate as a watchdog over public office holders. The tradition must provide for the media to be tough in its scrutiny of the work of those who enjoy the public trust. The media culture, as is evident in many democracies today, must involve a sense that it is the duty of the media to afflict the comfortable (those holding public office), in order to comfort the afflicted (the public at large).

There is no question that such a culture can, at times, lead to media irresponsibility. This is an inevitable price to pay. An independent, wise judiciary and an effective Press Council, may be able to assist in curbing excesses in such times. Nevertheless, societies should be willing to pay some price for the greater good of securing media freedom.. There is merit in accepting the basic spirit, if not the total and literal statement, of the view of Lord McGregor of Durriss (Chair of the U.K. Press Complaints Commission) that, “a free society which expects responsible conduct from a free press must go on tolerating some “often shocking” irresponsibility as the price of liberty, because a press which is free to be responsible must also be free to be irresponsible.”

The critical factor on all issues concerned with restricting freedom of the media is that the limits be publicly debated and that they be interpreted by a fully independent judiciary, composed of individuals of the highest integrity.

“Self-censorship”

Perhaps even more ominous is self-censorship, where journalists and editors do not follow up stories that might upset business interests, the proprietors of the newspaper or those close to them. This can cause stories to be ignored or written in ways which are at best unethical. Self-censorship can range from the mundane (stories that are considered important but “dull” and are therefore not reported) to the heights of conflicts of interest with the news organisation (stories are unreported because they impact on advertisers or friends of these in influential positions in the paper).⁹

Fortunate, indeed, is the editor who has his Board sign off on a statement such as this:

“Time-Warner’s board, its chief executive, and the chief executive of Time Inc. recognise that the financial success of Time Inc.’s magazines is inextricably linked to their credibility. The board and the chief executives hold the Editor-in-Chief of Time Inc. accountable for the editorial quality and integrity of the company’s magazines. To this end, they are committed to upholding the Editor-in-Chief’s unique level of independence.

9 A survey conducted on journalists across the USA by the Pew Research Center for the People. The conclusions of the year 2000 poll were that about 20 percent of the journalists reported criticism or pressure from their bosses after producing or writing a piece that was seen as damaging to their company’s financial interests. Most of those who admitted self-

censorship said that they received signals from superiors. The San Jose Mercury News reportedly lost over \$1 million in advertising from car dealers after an investigative journalist ran a story on how readers could get better deals for themselves. Colombia Journalism Review, May/June 2000, pp 41 et seq.

The publications under the Editor-in-Chief's control are expected to provide readers with synthesis, analysis, review, and commentary. They are also expected to provide unbiased coverage of the myriad interests of advertisers and of Time Warner itself. Editorial independence is essential so that the Editor-in-Chief can produce publications that advance the public interest while delivering a superior return on investment..."¹⁰

Principles of a free media

Governments should embrace a basic set of principles to govern approaches to the media. An example of such principles was set out in the Charter for a Free Press approved by journalists from 34 countries at the Voices of Freedom World Conference on Censorship Problems.¹² United Nations Secretary General, Boutros Boutros-Ghali, declared that "They (the Charter's principles) deserve the support of everyone pledged to advance and protect democratic institutions". He added that the provisions, while non-binding, express goals "to which all free nations aspire".

The Charter reads:

- Censorship, direct or indirect, is unacceptable; thus laws and practices restricting the right of the news media freely to gather and distribute information must be abolished, and government authorities, national and local, must not interfere with the content of print or broadcast news, or restrict access to any news source.
- Independent news media, both print and broadcast, must be allowed to emerge and operate freely in all countries.
- There must be no discrimination by governments in their treatment, economic or otherwise, of the news media within a country. In those countries where government media also exist, the independent media must have the same free access as the official media have to all material and facilities necessary to their publishing or broadcasting operations.
- States must not restrict access to newsprint, printing facilities and distribution systems, operation of news agencies, and availability of broadcast frequencies and facilities.
- Legal, technical and tariff practices by communications authorities which inhibit the distribution of news and restrict the flow of information are condemned.
- Government media must enjoy editorial independence and be open to a diversity of viewpoints. This should be affirmed in both law and practice.
- There should be unrestricted access by the print and broadcast media within a country to outside news and information services, and the public should enjoy similar freedom to receive foreign publications and foreign broadcasts without interference.
- National frontiers must be open to foreign journalists. Quotas must not apply, and applications for visas, press credentials and other documentation requisite for their

An editor comes clean

It was a remarkable story that reverberated throughout the country for months. The San Jose Mercury News published a series in August called "Dark Alliance" that linked the Central Intelligence Agency to the initial spread of crack cocaine in America's black neighbourhoods. The series sparked federal investigations, outrage from African-Americans and efforts by three national newspapers to duplicate the findings. They couldn't. And now we know why.

In an unusual Sunday column, the newspaper's executive editor, Jerry Ceppos, wrote that the series' most eye-catching conclusions were oversimplifications or unsupported by the facts. Ceppos concluded that in some instances the series was one-sided, failed to include conflicting information, implied that estimates were facts and "created impressions that were open to misinterpretation."

Despite the impression created by the series, Ceppos wrote, the newspaper had no proof that high-level CIA officials knew about efforts by Nicaraguan dealers to sell crack cocaine in Los Angeles to raise money for the CIA-backed Contra army.

The Mercury News series offers lessons for readers and journalists. It underscores the danger of stretching facts to support sweeping claims in complicated situations where the truth comes in shades of grey. It provides an inside look at how newspapers, like many other institutions, make mistakes when internal decision-making breaks down. In this instance, a series that took months to produce and reached explosive conclusions did not receive the proper scrutiny. Ceppos did not read the entire series before it was published, the managing editor had left a month earlier and other top editors were not involved.

This unfortunate episode should not have a chilling effect on investigative journalism that tackles controversial subjects or uncovers government shortcomings and corruption. Newspapers that shy away from ambitious reporting and difficult stories are not serving their communities. This is a painful reminder of the importance of fairness and accuracy, not an excuse to play it safe with fluff.

Newspapers lose everything when they lose the trust of their readers by failing to meet high standards or admit shortcomings. By acknowledging the problems with the Mercury News series, Ceppos courageously set about winning back the trust of readers and set an example for other editors.¹¹

¹⁰ Ibid, at page 46.

¹¹ Editorial, St. Petersburg Times (US), May 15, 1997.

¹² The Conference was held in London, January 16-18, 1987, under the auspices of the World Press Freedom Publishers

(FIEJ), International Press Institute, Inter-American Press Association, North American National Broadcasters' Association and the International Federation of the Periodical Press.

work should be approved promptly. Foreign journalists should be allowed to travel freely within a country and have access to both official and unofficial news sources, and be allowed to import and export freely all necessary professional materials and equipment.

- Restrictions on the free entry to the field of journalism or over its practice, through licensing or other certification procedures, must be eliminated.
- Journalists, like all citizens, must be secure in their persons and be given full protection of law. Journalists working in war zones are recognised as civilians enjoying all rights and immunities accorded to other civilians.

Media intimidation

Violence against journalists has taken place in scores of countries, and public authorities have time and again indicated their unwillingness to do anything about it. The only meaningful antidote to such behaviour is the existence of laws and systems that guarantee a free media.

In Algeria and Colombia, for example, a considerable number of journalists have been murdered in recent years. The murderers have not been found and often the authorities have not demonstrated great zeal in finding those who were responsible. In 1994, the Inter-American Press Association General Assembly noted that a high proportion of the political prisoners in Cuba were serving sentences for “divulging enemy propaganda; in the previous year ten journalists were murdered in Colombia, four in Mexico, three in Guatemala and one in Brazil”. The declaration from the conference, held in Toronto, stated in part:

“The withholding of government advertising, spurious lawsuits against the media, and intimidation by narcotraffickers all have the effect of putting a damper on the free exercise of journalism.”¹³

Discrimination by governments among different media - providing some journalists with greater access to governmental information and greater effective independence of action - is commonplace. It may take the overt form of governments providing preference in the access to information for journalists working solely for state-owned media or it may take the slightly more subtle form of exclusively providing advertising to government-owned media, or to media that adhere to governmental views.

The legal and regulatory powers enjoyed by government authorities are also often used to intimidate or censor the media. For example, the government can place constraints on media involving quotas on the import of newsprint and the imposition of special taxes and postal rates, as well as restricting the broadcast frequencies available to independent electronic media. This is likely to become an issue of mounting importance as electronic mail and new information-communications technologies provide new opportunities for people to freely express their views to wide audiences.

Protection of sources is a core requirement for journalists to freely practise their profession. Journalists must know that they can print stories without risking fines or imprisonment for failing to reveal their sources of information. Individuals who provide journalists with information on an “off-the-record” basis need to have assurances that the journalists they confide in will not be intimidated by public authorities into revealing their identities. These assurances are essential if the media is to be an effective counterforce to the abuse of power by public officials.

13 At its October 16-20, 1994, 50th General Assembly

The licensing of journalists can take many forms and frequently represents a type of intimidation. In some countries, governments seek to regulate the licensing of media enterprises and their employees directly, while elsewhere there may be media trade unions that seek to force restrictive practices on their members. Licensing practices do not serve the public interest. The elimination of media licensing should embrace foreign correspondents; they should always have as much access to information and as much opportunity to practice their profession as do all other local journalists.

Although civil libel actions can be consistent with the notion of a free media, this is patently not the case with regard to criminal libel actions. Within this framework it is important to consider anti-insult laws, which exist in numerous countries unreasonably and oppressively to protect public office holders, even where libel laws (correctly) set lower levels of protection for these officials relative to private citizens.

For example, in recent times numerous governments in Central Europe have introduced legislation which stipulates severe penalties for journalists who publish articles that may be viewed as insulting holders of high governmental office. In some cases the laws make no distinction as to whether media reports are truthful or not. In other words, the fact that a journalist wrote the truth about improper acts by leaders of the government would not be viewed by the courts as a defence in cases where anti-insult laws are applied. These laws amount to forms of intimidation and censorship which can be particularly advantageous to corrupt officials. In this regard, anti-insult laws should be subsumed within libel law.

The courts need to recognise media intimidation for what it really is: a central facet of a culture of corruption and an effort by strong vested interests to perpetuate their corrupt practices. All regulation of the media, in terms of permits, licences and ownership, should be conducted with total transparency, and by regulators who are independent and non-partisan.

Securing Best Practice

The burden of ensuring a responsible, independent media must be shouldered primarily by the media itself. Journalists must work hard to build public regard. They must demonstrate their independence, objectivity and professionalism each and every day in order to earn public trust and confidence. At the same time, it is imperative that the owners of the media ensure that journalists are paid wages which encourage independence, rather than dependence.

Numerous national and multi-national media organisations focus on the preservation of the freedom of the media. The Press Foundation of Asia Committee, the Canadian Committee to Protect Journalists, the International Federation of Journalists and the World Press Freedom Committee are but a few of the organisations which should be supported for their efforts to help governments put in place laws and arrangements that correspond with the dictates of the principles of a free media.

Major foundations - the Freedom Forum, the Reuters Foundation, the Knight-Ridder Foundation and numerous others - seek to secure appropriate journalistic training to raise the quality of media output in those countries where journalistic training is limited. In the fight against

Council of Europe Declaration on the Protection of Journalists in Situations of Conflict and Tension

1. The Committee of Ministers of the Council of Europe condemns the growing number of killings, disappearances and other attacks on journalists and considers these to be also attacks on the free and unhindered exercise of journalism.
2. The Committee of Ministers appeals to all states, in particular to all member states of the Council of Europe, to recognise that the right of individuals and the general public to be informed about all matters of public interest and to be able to evaluate the actions of public authorities and other parties involved is especially important in situations of conflict and tension.
3. The Committee of Ministers solemnly reaffirms that all journalists working in situations of conflict and tension are, without qualification, entitled to the full protection offered by applicable international humanitarian law, the European Convention on Human Rights and other international human rights instruments.
4. The Committee of Ministers reaffirms the commitments of governments of member states to respect these existing guarantees for the protection of journalists.
5. The Committee of Ministers, on the occasion of World Press Freedom Day, draws attention to Recommendation No. R (96) 4 on the protection of journalists in situations of conflict and tension and the appended basic principles.
6. The Committee of Ministers shall consider, together with the Secretary General, ways of strengthening, in general, existing arrangements within the Council of Europe for receiving information, and taking action on, infringements of rights and freedoms of journalists in situations of conflict and tension.
7. The Committee of Ministers considers in this context that, in urgent cases, the Secretary General could take speedily all appropriate action on receipt of reports on infringements of rights and freedoms of journalists in member states in situations of conflict and tension and calls on the member states to co-operate with the Secretary General in this regard.

Adopted by the Committee of Ministers of the Council of Europe on 3 May 1996, at its 98th Session

corruption, journalists must hone their skills with regard to investigative reporting, understand public accountability systems, the operations of modern business, and, in particular, the recognition of corrupt practices.

Some indicators as to the effectiveness of the media as an integrity pillar

- Are there freedom of information laws and/or do procedures exist to ensure that members of the public can obtain information/documents from public authorities?
- Does the country have an “Official Secrets Act” or something similar - if so, is it used as a tool to effectively secure censorship of the media by government?
- Are libel laws used, in effect, to censor the media and curb the dissemination of information about persons who influence the community?
- Do journalists have to be licensed? If so, is this a device to effectively curb journalistic freedom?
- Is the publicly-owned media independent of government control as to editorial content? If not, is the publicly-owned media in practice relied upon, by the public at large, as a credible news source?
- Does the publicly-owned media routinely carry stories critical of the administration (e.g. quoting opposition politicians etc.)?

Ownership

- Is there competition within the (a) print media, (b) television, (c) radio - and do anti-monopoly laws exist to secure competition and, if so, are they enforced?
- Is there a growing independent media sector - including Internet media, informal journals and newsletters, and is this growing?
- Do media entities (print, audio-visual, and other) have to obtain special licences/permits from public authorities? If so, is this a device that is used to censor the media?
- Does the foreign media have the same rights as the domestic media to cover and report stories?
- Are the non-media business interests of media owners (and business that such owners may have with government) public knowledge?

Investigative Journalism

- Are journalists paid a living wage?
- Are individual journalists physically safe if they expose corruption and/or investigate the interests of powerful private and public sector leaders?
- Are criminal libel actions against journalists rare or common?
- Does the (a) print media; and (b) television/radio media; regularly carry articles by investigative journalists?
- Is there a school for the training of journalists, including training in investigative journalism?