CONTRIBUTORIA

Community funded, collaborative journalism

The Press Freedom Issue

Crowdfunding critical thought: How alternative finance builds alternative journalism

line publications towards shallower stories with limited shelf-lives. I call this FMCJ, for 'fast moving consumer journalism'. Like fast moving consumer goods, the aim is to create a high volume of low cost media product to be quickly consumed and discarded.

I'M ON THE CASE.

By BrettScott

Greg Palast's approach to investigative journalism can be summed up in one phrase: *Stand up for the underdogs, and take on the fatcats*. His hard-hitting reports on corporations like ExxonMobil, politicians like Bush, and shadowy institutions like vulture funds stem from an impulse to challenge those players with the power to bend the rules to their private advantage. That's why functioning democracies need people like Palast.

Such a role faces two unique challenges though. Firstly, powerful institutions and individuals tend to hide behind walls of secrecy that extend over vast geographical space. Investigating a corporation, or a government spy programme, requires a lot of time, a lot of travel, and a lot of prying into hard-to-access information sources.

Secondly, it entails a lot of risk. People like Palast by necessity must make corporations, governments, and powerful individuals very angry, but those are also the parties that have the most ability to hire expensive legal teams to intimidate challengers. They also frequently own the media outlets, or have the most ability to buy the advertising space that media outlets rely on for income.

Therefore, not only is investigative journalism the most expensive style of journalism, but it is also the most likely to incur further liabilities once a story gets published. Providing finance to underdog investigative journalists - fronting them money to go off in search of stories - has always been a risky undertaking.

In an era when media groups are under increasing financial stress then, the position of the investigative journalist is under threat. Pressure to deliver advertising click-throughs, for example, drives on-

Rather than prioritising investigation and analysis, FMCJ journalism rewards content that draws short-term attention whilst inspiring minimal reflection. It thus has much in common with the field of marketing, with the same use of catchy taglines and graphics to churn social-media sharing. Most journalists don't want to be marketers though. They want to do meaningful reporting that makes a lasting impact. To do this, they need new outlets for publishing, and new ways to finance themselves.

Alternative model 1: Project-based crowdfunding

So where does Palast get his financing from? He draws at least part of it from the *Palast Investigative Fund*, a non-profit fund that individuals donate to in order to support his ongoing muckraking. In essence it's a personal crowdfunding site, enabling him to remain independent.

Drawing on one's readers for direct financial support has grown much easier in an age of digital communication, and established crowdfunding sites like Indiegogo have been used to this end already. For example, Peter Jukes recently raised £14 552 on Indiegogo to live tweet the UK Phone Hacking trial. Likewise, journalism startup Matter raised $140 201 on Kickstarter, allowing them to fund long-form pieces to be published on the Medium platform. Indiegogo and Kickstarter are generalist platforms for raising money, but even more interesting are those sites that offer niche services and support for journalism in particular.

Take, for example, *Indie Voices*, which aims to match up independent journalists in the developing world with readers - or 'social investors' - who wish to fund them. The Indie Voices team curates the process, only allowing media projects (including documentaries and articles) that seek to improve the media landscape in developing countries. Pro-

jects can then seek contributions in the form of donations, and, in the future, in the form of no-interest loans, low interest loans and equity investments (where funders buy 'shares' of ownership in a media project such as a film).

A second example is *Inkshares*. Unlike Indie Voices, which is explicitly political in nature, Inkshares is open to anything from science writing to children's stories. Initially set up with the aim of creating an equity crowdfunding platform for books, Inkshares now also provides a donation-based crowdfunding platform for thoughtful long-form articles. And unlike normal publishing, the author retains the rights to the work that gets funded, which means they can also publish the material elsewhere.

Alternative model 2: Subscription-based crowdfunding

The shortcoming of sites like Indie Voices though, is that they're really geared towards once-off projects. What if you wish to run a year-long investigation of tax havens, during which time you plan to run a series of 12 articles? Do you try raise the whole lot in one go, or run 12 separate crowdfundings?

One startup with an interesting solution for this is *Beacon Reader*. Rather than funding a once-off project by a particular writer, Beacon Reader is a platform for writers to collect paid subscribers who will offer an ongoing stream of support. While a normal crowfunding project only succeeds if a minimum amount of money is raised, a Beacon Reader crowdfunding campaign succeeds if a certain amount of people (normally 25-100) pledge to pay you $5 a month on an ongoing basis, in exchange for ongoing access to your stories, but also access to all the other stories on the site.

Backing a particular writer on Beacon is thus a gateway into a broader subscription to the work of the whole Beacon writer collective. It feels loosely like a kind of writers co-operative, but a competitive one in which writers have to earn their place (and a share of the resultant income stream) by securing a certain number of new subscribers (and to continue building more subscribers over time). Writers get 70% of their subscribers' cash, and the surplus goes into a collective bonus pot to reward those whose stories receive the most recommendations, thereby incentivising consistent high quality writing.

Crucially though, the writer still owns the rights to the pieces produced, and they can published elsewhere or sold on to media outlets to further monetise their work. This might be a great option for a writer looking to work through a big issue in small chunks, and who needs stable baseline support to cover their basic costs whilst waiting to get

the pieces accepted by bigger publications.

A second attempt at a subscription model is ***Uncoverage***, which is being set up by Israel Mirsky. Mirsky, recognising both the increasing marginalisation of investigative journalism, and professional journalists' need for ongoing financing ('serial funding'), is explicitly targeting the site at professional investigative journalists. Like Beacon, the goal is to establish a subscriber base for individual journalists, but unlike Beacon the ambition is also to create an 'open, lean newsroom' that provides a suite of key services like fact-checking, editing, legal support and technology solutions.

Alternative model 3: The 'credit union' approach

In the examples discussed above, the 'crowd' is mostly conceived of as readers who wish to financially support the quality journalism they enjoy. What if the crowd was given a closer role in the actual article production process though? That's what ***Contributoria*** attempts to add in. When one becomes a member, you get the right to pitch articles to be funded, but also to financially support other's articles, and to offer editorial advice to those who you've backed.

It thus has the feeling of a true writers' co-operative, or perhaps a credit union for journalism in which members support each other. This very article, for example, was originally pitched on Contributoria, but in joining I got to vote for other articles I want to see, including Joel Benjamin's guide to Freedom of Information requests, and Dom Aversano's exploration of city soundscapes. This also gave me the right to provide input into those articles. As a user of the platform I am thus a hybrid between a receiver of funding, and giver of funding, a receiver of editorial services and giver of editorial services.

Right now though, Contributoria is in beta phase, and is free to join, which means it still hasn't started asking members to pay dues. It will be fascinating to see how the process is managed going forward. Could it become a vibrant self-sustaining community of writers, readers and editors, or will members' dues need to be supplemented with money from external sponsors? Another key question is how to incentivise members to devote time to checking each other's articles. Could editors and writers team up to be funded together?

Democratic commons in commercial context

The diverse crowfunding platforms discussed above have a number of common themes. Firstly, *they set themselves against both corporate-backed media (in developed countries) and state-backed media (in developing countries) by offering a technological means to decentralise funding*, and thereby to 'democratise journalism'.

Their claim to democratisation rests on the assertion that they both maintain independence of journalists, but also give voice to journalists that might otherwise be ignored. This message is complemented by the claim that this can be a sustainable way of financing high quality journalism (after all, a platform might be democratic, but that's no guarantee of quality or long-term viability).

Secondly, the platforms are converging on a model of *prepayment by some, for the common benefit of all*. In contrast to the buyer of a magazine, who purchases content once it is produced (and thereby pays back the original financiers and publisher), the crowdfunding backer in essence *prepays* for material that will be developed in the future, and thereby brings production of the material into being.

That said, although the core body of funders bring an article to life, they frequently *do not have exclusive access to the material*, but rather subsidise the broader public who will get access to the stories too (via, for example, the articles being published elsewhere on a Creative Commons license). In essence, private individuals are holding the commons open for others to use, in much the same way as Wikipedia gets supported by donations from a small percentage of its users.

Interesting, and potentially conflicting, commercial dynamics emerge from this. We could argue that what the crowd is actually doing is shielding a writer from normal media commissioning processes – whether those are corporate or state led - maintaining the independence of the journalist to the point where an article is ready to be released into the public. In the cases where the journalist retains the rights to the article though, and the resultant piece is then sold on, we could also argue that the crowd is subsidising media companies who would otherwise have to take on the risk of commissioning work.

If this was to become widespread practice, we could begin to see a separation of journalism production from distribution. Platforms like Uncoverage might begin to serve a role analogous to a literary agent, providing a platform to develop quality journalism which is then cherrypicked by publishing outlets. We could conceivably even see the emergence of journalism 'offtake agreements', media companies offering advance guarantees to publish content if it gets initially funded by the crowd.

The reader as creative producer

But what kind of reader is prepared to fund articles which may then be used by the broader public or potentially even commercial media outlets? Perhaps it is a new sort of reader, seeking a more active, creative role.

The irony of our information-saturated era is that

in the face of overwhelming amounts of content, people feel a sense of 'opportunity cost' to engaging with it, the perception that committing to reading anything must entail not reading something else which is also available. Thus, many people find themselves skimming a lot shallowly but reading very little deeply. It's questionable whether a person browsing websites every day absorbs any more information than a person in 1897 with a single weekly newspaper.

The real question then, is how to create a society with wide access to diverse media, but one in which people actually engage with such media meaningfully. One might imagine, as a thought experiment, a giant benevolent foundation that funds all manner of amazing content, only to dump it into people's already saturated Facebook newfeeds. True democratisation is not just about what content gets created. It's about how people use and act on that content. Is an article about corporate fraud just another dramatic item in a stream of flickering entertainment passing by you each day, or is it actually something that might make you get out onto the streets to protest?

Creating a decentralised crowdfunding infrastructure perhaps offers one means of combining the creation of diverse content with a new means of connecting with it. People who have prepayed for content in the knowledge that they are helping to bring forth unique critical voices, are also people who wish to move past being mere passive consumers of media. Instead, they are hybrid producer-consumers with an interest in critically engaging with the content they helped bring to life. And perhaps it is in the development of this new type of participatory reader that the true democratic potential of crowdfunding lies.

Pirate journalism

By Pau Llop

Nearly eight years ago I asked Dan Gillmor about the P2P journalism feasibility. Gillmor, known for coining the 'citizen journalism' concept in the middle of the last decade, said: "We need to protect P2P from being taken over or destroyed by big media and copyright interests". Throughout this story we will be surprised when hearing - loud, clear and today - the echo of these words of Gillmor.

Peer to Peer or P2P in its broadest sense has not only survived, but his influence has not stopped growing. We are facing a human dynamic that goes beyond a media file sharing, despite which, even today, many media associate these "P2P" experiences to piracy, a crime. Have been a year since The Economist wrote that "it is time to worry about the sharing economy" and that music or books are no more the only markets involved. The P2P economy is already impacting significantly in important markets such as transport, education, tourism and even finance. When and how will reach this to journalism? Why not yet? What is the economy of the new journalism?

Journoeconomics

The solution to the viability of journalism cannot be easily finger-pointing. It seems more sensible to delegate this to the experimentation of hypotheses with projects like Contributoria. But we can pinpoint the location of the fracture, the point of no return. It is as simple as knowing the difference between 'use value' and 'exchange value', and apply it to journalism.

Traditional media produce a kind of journalism designed to compete in a market, where in addition to a use value, the media are producing an exchange value, selling a product in order to generate a profit. This scheme, which is lawful, and in fact has enabled until today that there was a better or worse journalism more or less free, no longer works. It does not work because the exchange value has collapsed due to the difficulty to fit the business model of the media, based on the lack of information and the control of broadcast channel, in today's digital socioeconomics, of which, moreover, they are highly dependent since they produce an intellectual good.

Despite the collapse of the exchange value of the traditional media product, the use value of journalism is still intact. Or maybe it has increased, mainly due to the social necessity of journalism at a time of enormous changes of all kinds that need to be related, explained, analyzed thoroughly, rebuilt and discussed. So is there a place to meet the use value of journalism? Let's see if the conditions are right.

P2P conditions

Michael Bauwens, well known network theorist and co-founder of the P2P Foundation, explains that the first condition in order to talk about P2P is the existence of a technological infrastructure operating in peer processes and enabling distributed access to 'fixed' equity. That infrastructure is the Internet, the peers are journalists and ordinary citizens, and fixed capital is knowledge: which has been compiled on the net (wikipedia, articles, theses, direct sources, etc.) and which "real", the facts that are captured in situ by the intellect and / or devices (smartphone today) of any person, and then shared on the network. Imagine what will happen when, instead of carrying smartphones, we wear a Google Glass.

Another condition, always according Bauwens, is the existence of a software infrastructure for autonomous global cooperation. In his text, also written in 2006, Bauwens speaks about a "web 2.0 yet to be established". Twitter did not even exist. Although we have witnessed in recent years the full deployment of Web 2.0, it is certain that we are not yet at the final evolution of the global software for autonomous cooperation that enables doing P2P journalism, although it is highly sought. For example, from the various initiatives of the Knight Foundation, such as their contest NewsChallenge or its collaboration with the Mozilla Foundation in its Open News, where innovative 'technologists' are selected for being embedded in newsrooms of traditional media to see if they can help from within. Or from its other mainstay, Source, a distributed community of coders collaboratively seeking solutions for that journalism with use value but no exchange value.

A final requirement quoted by Mr. Bawens is the need for minimum legal infrastructure. We talk about licenses that protect the use value for the commons against misappropriation or privatization carried out by a third party, and at the same time enabling features for viral replication and spread. This has already been granted by licenses like the GPL, or Creative Commons, more suited to journalistic content.

Privatizing reality

But just that, the misappropriation and privatization of the use value of journalism, once fleeced their exchange value, is which a sector of the media industry begins to propose in different European countries. Instead of adapting their business models to a focus on use value, they have undertaken a headlong rush. They have decided to give battle under the banner of copyright, battle waged before by other industries such as music and film. The difference with these is that the media is an industry that still cherishes much influence on traditional politics, which goes through a similar process. Both 'industries' protect each other, feeling threatened by a common 'enemy' as harmless as simply people connected.

This, that we have seen it happen greater or lesser extent in recent years and months in some countries like France, Belgium or Germany, stands today in Spain in its finest. Recently the Spanish government has submitted a draft law on Intellectual Property that empowers publishers to raise a mandatory press canon to be paid by all those that aggregates minimal editorial content in any Internet corner. The measure, long sought by the association of the main traditional spanish media, would force sites like Google News to pay these publishers to show their results, although being listed in is voluntary, and Google does not make money directly, since it does not display advertising on this service.

But not only that. As this draft law is presented, the right to this "compensation" is "inalienable." Thus, the entity responsible for collecting the fee may even collect it on behalf of those media or blogs that do not wish to receive such "compensation". Thus, if you write a blog whose posts list Google News or any other aggregator, this entity will charge the aggregator for listing your posts. And then, as you will claim no part, it will be allocated among the industry that it will.

And how will set the collecting entity what amounts will charge? In a very simple way: the editors say they will calculate the "fair compensation" based on the losses of their businesses. Yes, at least unorthodox. That is, if their managers are unable to improve their business models or directly they are boors and generate losses, these losses will be charged to the free and innovative startups, if they can withstand such charges. Most likely, experts say, is that many of these startups will close or will
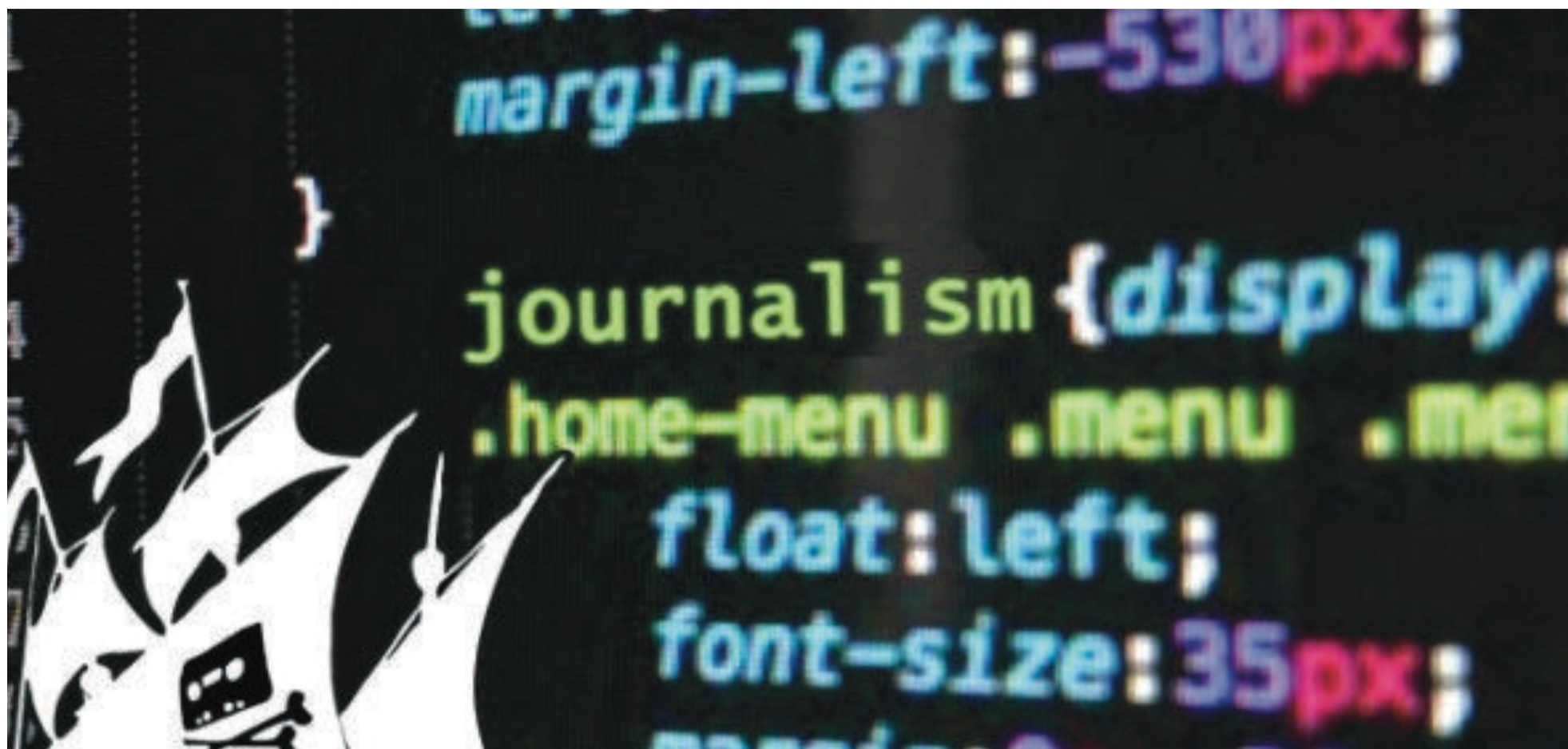
leave Spain, and this will slash innovation in the digital content market. A market that, years ago, the previous government tried to stand out as one of the pillars of the Spanish productive change, that should move from construction to knowledge, leveraging the strength of the Spanish language. No way.

This bill has raised much controversy in Spain, and many voices are calling for will not come to pass in these terms, Also a part of the less traditional media industry. Opponents believe that this draft law eliminates the right to quote, something that is not only in Internet DNA and its linked tissue, but in the DNA of the press itself. It is threatening short quotation, the headline and the lead, gathered in services algorithm-driven like Google News, but also in user-powered services such as Menéame. That is the 'spanish Digg', where we can -in addition of ranking stories- discuss those news whose media deny us the possibility of comment on their own sites or are applying censorship to comments.

Menéame is precisely one of the sites that have already announced that, if this law is finally approved, will have to close or leave Spain. And that at the end of the day, the headline and lead of a news story often condense the famous five 'Ws': who, what, where, when and why. These are the facts themselves. It is the bare minimum for, from there, together we can rebuild the most proven and accurate as possible what happened. By appropriating something so basic, this bill seeks to privatize an indisputable common good: reality. Life. What goes. The facts themselves, that fixed capital that we talked about before.

The Spanish prime minister justified this bill this way: "Every day new media appear, audiences are increasingly fragmented, consumption habits are changed and by extension, business models too. (...) [This draft law] is a proposal for an agreement between newspapers and major news aggregators in order to find a balanced and fair solution for all actors". Blame it on the Internet.

All this happens on the eve of European elections and the law, if passed, would take effect just before the next national election, expected for November 2015. In parallel, in recent months the traditional Spanish press has seen fall the editors of the three major newspapers: El Mundo, El País y La Vanguardia. Most of these media also are in the hands of banks due to high debts that they carry or they depend heavily on subsidies or government advertising campaigns.

Seeking disruption

While traditional industry and governments agree to subsidize with a fee for the iceman to the detriment of refrigerator makers, the world keeps turning. The Internet promotes a continuous social globalization that generates opportunities beyond elites; federating competencies through crowdsourcing continues to grow huge projects for the commons such as Wikipedia; collection via crowdfunding of grassroots projects increases every minute; Lean new models of iterative testing for business models are revolutionizing the start-ups and facilitating entrepreneurship and experimentation of thousands of hypotheses for hundreds of markets. As if that were not enough, the MOOCs are training hundreds of thousands of people in new skills which in turn will enable them to innovate in all kinds of products and services.

For now, those involved in entrepreneurship and innovations related to journalism looks like they will have to spend every one of his ideas through the shielded sieve of the media industry and government interspersed interests. Or go to a kind of clandestinity 2.0. At least in some countries like Spain. The system throws them to the seas; if they don't serve the system, then they are pirates. There are a legion of citizens of all kinds --journalists, but also entrepreneurs, anthropologists, teachers, researchers, scientists and many more already working in the embryo, perhaps unknowingly, of a new journalism, peer to peer one. And with each passing day, despite attempts like spaniards are suffering, it is closer. After all, was through seas where peoples of the world sought and found themselves.

Going global: the rise of coding and hacking

By Rich McEachran

For Thabani Mhlongo, who lives in a township on the outskirts of Johannesburg, building websites and playing with code would be his dream job: "It'd be nice to work for Google one day. Or maybe I could be a developer for Mxit [a South African social networking site]," he laughs.

Young people across the world are embracing technology and entrepreneurship. They are becoming increasingly disaffected by the current economic climate and lack of jobs. This has yoked change and a shift in the digital landscape. Coding and hacking are rising in popularity. From Botswana to Costa Rica to Kenya, events and projects are popping up everywhere; some are sponsored by big tech companies, like Blackberry and Google, and others are organised by the likes of UNICEF. Each young person getting involved has a story to tell, motivated to inspire change.

I first met Thabani at a youth group in Boksburg, in the province of Gauteng, while on a reporting trip in 2012. Then he was a shy and unassuming young man, with ambitions to study engineering at university. When I catch up with him via a Skype call, he tells me that he had to put his studies on hold due to family circumstances, but that his passion for computer programming has grown.

"I got a secondhand laptop from a local dealer and I get a friend to borrow books, from the [university's] library, so I can learn more about Javascript and how to build websites," explains Thabani. "Sometimes I practise writing code in a [Mircosoft Word] document. Then I experiment: I run it through software to see if it works and use resources like YouTube tutorials."

Thabani has watched on, slightly jealous, as South Africa has hosted various hackathons in the last couple of years. As of yet he hasn't had the opportunity to take part in one and wishes that his local youth centre could run coding workshops - (a lack of funding means it's not possible). He tells me that's it's not the money on offer that motivates him to be a participant; it's the chance to showcase his skills and be around like-minded people.

"In my township, not many boys like to code. Other boys tell me to support a football team or find a girlfriend. I tell them you can do both and still enjoy computers," explains Thabani. "Coding is hard at first, but it gets easier. Anyone can learn it with a bit of practice. They should because it can be really [empowering]. I see myself as an activist. Technolo-gy can help make things happen and inspire social change."

Thabani's passion resonates with how the status quo and masochistic nature of coding and hacking is being disrupted. The growing argument is that they are universally accessible - anyone can learn how to code and hack, regardless of their background.

Coding workshops and hackathons are therefore no longer just about guys with fashionable hair styles and well-groomed beards, drinking coffee, eating pizza and telling unfunny, geeky jokes. While trendy meetups continue to run across London and New York, start-ups and humanitarian organisations are giving a platform to people - mainly living in developing countries - who are not as fortunate to have access to such opportunities.

One organisation is Digital Democracy [1], who last year organised Haiti's first hackathon. Held at Ecole Supérieure d'Infotronique d'Haïti (ESIH) [2], a school which focuses on IT education, the hackathon brought together students, young, seasoned programmers and a project that supports female survivors of sexual violence, the Commission of Women Victims for Victims (KOFAVIV) [3]. Over the weekend it was held, the participants designed a new mapping resource for KOFAVIV and the victims it supports. It was a huge success, and soon after, Digital Democracy's founders realised that "Haitians wanted more opportunities to learn new skills and to contribute to their country's development"[4].

ESIH has since held a couple more hackathons, including one to benefit blind people. Forty young people were brought together, with the aim of developing a software platform that makes data more accessible by relaying graphics and visuals into text and voice data

For some, after years of hackathons being arranged to help Haiti [5] in its post-earthquake recovery - including in London, Los Angeles and Washington - the fact that the country has now had its own hackathons is an encouraging sign. There's a nascent feeling that the country could be making progress in the digital age.

Not everyone is convinced that hackathons can always have a long-term impact though. "They're great for collaboration and raising awareness, but they're not suddenly going to find the unemployed youth jobs," says an acerbic, Ghanaian technology businessman, who requested anonymity. "Not everyone has what it takes to become an entrepreneur. Digital skills are wasted if there are no opportunities where they can be applied or sustained."

Despite the scepticism, organisations are starting to realise the need to encourage children to learn code from an early age. This won't guarantee employment, but it would give them a head start and could make them more employable once they leave school.

Colombian-based Coderise [6] run courses that focus on computer programming, software development and creating web application. Lasting several weeks, the courses also offer opportunities to meet engineers and entrepreneurs from both Colombia and the US. Their mission, they write on their website, is to empower students and give them "the tools and inspiration to dive into tech innovation and tap into their entrepreneurial spirit". They aim to lay the foundations for students to participate in local accelerators, technology firms and "building their own products and bringing their ideas to life".

By running workshops in school, organisations like Coderise are not only realising the value of coding and hacking in empowering young people; they're fixing the gender imbalance that exists in the technology industry.

"Girls can code too. I've found it to be a fun and friendly environment that's open to anyone," exclaims Johanne Laferriere, a past hackathon participant, who has a love for number crunching and aspires to be an investigative journalist. "It's more than being competitive. You get the chance to gain new skills, like teamwork. This is so valuable to any young girl who dreams of having a job and being successful."

Coding and hacking are on the rise. Their ability to connect people from all walks of life, and potential to transform lives, is driving entrepreneurial spirit and creating a sense of bonhomie - a sense of a brighter future, perhaps. The global tech scene is well and truly alive.

Some names have been changed

[1] www.digital-democracy.org/
[2] http://www.esih.edu/
[3] http://kofaviv.blogspot.co.uk/
[4] www.scribd.com/doc/145631590/Dd-s-Haiti-Hackathon-FAQ
[5] http://sunlightfoundation.com/blog/2010/01/15/civic-hackers-for-haiti/
[6] http://coderise.org/

In the absence of media plurality in China, can social media fill the gap?

By Stephen Angus Peter Junor

There is a lack of media plurality in China. Many news agencies are operated by the state and the largest agency, Xinhua, is the only distribution channel for government news. The majority of the smaller media outlets therefore rely on Xinhua for news and information. In addition to this, state-run media outlets rarely report on stories that could be considered damaging to the government's reputation, complimenting the one-party state with little representation for critical views. It is clear that the government recognises that their power is reliant on having an information advantage. (1)

Social media is attempting to challenge this information hegemony, as shown at the Shifang copper plant protest in July 2012. The protests focused on environmental concerns, but heavy handed tactics from riot police allowed social media to dictate the chain of events. The Chinese Media Project (2) based in the University of Hong Kong showed there were 5.25 million posts containing the word 'Shifang' between July the 1st-4th, of which 400,000 included images. State media attempted to portray the protests negatively and when the copper plant development was scrapped, they were suspiciously quiet and many previous reports were deleted, effectively deleting any suggestion that the incident took place.

The use of social media was also evident in January 2012, when factory workers in Chengdu (3) went on strike over their wages. Many similar strikes have taken place all over China, but police and factory owners usually suppress the strikes before any information spreads. In this instance, social media spread news of the protests rapidly, along with pictures showing the use of tear gas by officials. In the end, workers received a raise and officials backed down, again showing the power that social media can have.

The rise of social media in China has been as rapid as its economic development. Last year it was reported that Weibo (4) had over 60 million daily users, in addition to a strong base of 600 million registered users. WeChat (5) has also been expanding, with around 300 million users, of which 200 million are based in China. However, government censorship does not stop when it comes to social media. An incident in Wukan (6) where locals drove away officials due to their attempts to claim local agricultural land in 2011 showed that the govern-

ment has the ability to censor individual words at will. An online block on the village name and location could not prevent the news from spreading, but highlighted the extent that the authorities would go to prevent dissenting views being aired online.

Recently, the government has stepped up the suppression of online users, as a law (7) passed last year allows detention for up to three years if an online post gets over 500 'retweets' (equivalent) or 5,000 views and is also deemed 'inaccurate'. The Chinese government's definition of 'inaccurate' is different to that of most people. Furthermore, a relentless crackdown (8) on Weibo users has seemingly caused some users to leave the platform. It started with users needing to supply their real name, followed by a five strike rule, where users could be suspended for 48 hours for posting 'sensitive material'. Following this, some verified Weibo users were detained along with hundreds of activists in August 2013, coinciding with a sharp drop in the number of posts from highly active users.

The government is also pre-emptively stopping protests from taking place, as some journalists (9) planning to mark the anniversary of last year's censorship strike at the Southern Weekly newspaper were detained, along with others that were put under house-arrest or told to go on holiday.

Government censorship is relentless and far-reaching but it gets even worse. President Xi Jinping has been using rhetoric very similar to Mao Zedong, as new training materials (10) for the press demand that they "must be loyal to the party, adhere to the party's leadership and make the principle of loyalty to the party the principle of journalistic profession." In addition to the institutionalised widespread suppression of citizens, independent critical journalism is being heavily restricted at a time when journalists across the world are also feeling government pressure.

The UK government's detention (11)of David Miranda under the terrorism act due to his links to the Guardian's Glenn Greenwald, as well as the destruction of Guardian hardware shows that press censorship is not restricted to China. Al-Jazeera journalists have been detained (12) in Egypt over the alleged spreading of false news, in addition to the US government's well-known attack on whistleblowers. The reasons cited for each of these incidents are similar to those in China, national security. However, this strangles the democratic principles that these governments are designed to represent,

and shows how the state is beginning to become unaccountable and less representative of the people.

It is possible that this an underlying reason (in addition to other cultural reasons) for the social unrest that has been evident across the world. The dangers of what happens after would be best suited to another article, but the warnings have been displayed in Egypt. Political systems across the world need to be fundamentally reworked, but this is difficult to achieve. The next few years will test citizens and governments as the relationship comes under further strain.

Information control has always been one of the characteristics of power; the democratisation of knowledge via the Internet has challenged this. The digital revolution has been rapid and has altered how citizens hold their government to account. Social media is an important aspect of this and offers a critical viewpoint that is lacking from traditional media outlets and government sources, particularly in China. However, there are still challenges within China and around the world as government censorship continues at an alarming rate.

(1) - https://www.privateinternetaccess.com/blog/2014/03/the-quest-for-power-has-always-been-a-quest-for-information-advantage/

(2) - http://cmp.hku.hk/2012/07/11/25293/

(3) - http://www.economist.com/node/21543477

(4) - http://www.techinasia.com/sina-weibo-60m-daily-active-users-q3-2013/

(5) - http://www.malaysianwireless.com/2013/08/more-100-million-wechat-users-outside-china/

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The printing press created journalism. The Internet will destroy it.

By J.M. Porup

"Journalism is publishing something someone does not want published." -- George Orwell

Without journalism, democracy could not exist. The Fourth Estate's ability to check abuses by those in power is the last line of defense between us and tyranny. But this ability is under threat, and may soon -- barring some innovative breakthrough in secure computing -- disappear entirely.

The printing press created journalism. We take the press for granted today, but 500 years ago, Gutenberg's invention was as novel as the Internet, and equally disruptive. For the first time, mass communication across great distances was possible. Revolutionaries like Martin Luther seized on this new power to report on -- yes, report on -- the extreme abuse of power by the imperial power of his day, the Catholic Church.

It is no coincidence that America's Founding Fathers -- themselves revolutionaries against an imperial power -- enshrined this technology in the First Amendment to their Constitution. Without the printing press (and the rifle; but that's another article) the American Revolution could never have happened.

Without the printing press, we would still be living in the Dark Ages.

Like all disruptive new technologies, the printing press redistributed power. By automating the work previously done by scribes, the press drastically lowered the cost of copying -- and thus spreading -- information. A small number of people with modest wealth (needed for the purchase and maintenance of a printing press) could trumpet a new idea far and wide. The press took the power concentrated in the hands of the few (clergy, nobility) and gave it to the people.

That power gave the people a voice -- and what's more, a voice resilient to censorship. A printing press is a physical, decentralized machine that can easily be hidden in a basement or a barn. If a tyrant wishes to prevent the spread of an idea, he must send soldiers to confiscate or destroy the printing presses. And then what about all the printed copies?

He must also find a way to destroy all those books as well. This might involve, as it did under Hitler in 1930s Germany, whipping the public into a frenzy so that they throw their books onto bonfires in the street. But even then, a few printing presses will survive, and many readers will still keep their books.

It is not impossible to censor the press in a dictatorship. It can and has been done -- but at great expense and with much difficulty.

George Orwell once noted [1] (H/T to Jay Stanley at the ACLU [2]) that:

"ages in which the dominant weapon is expensive or difficult to make will tend to be ages of despotism, whereas when the dominant weapon is cheap and simple, the common people have a chance. Thus, for example, tanks, battleships and bombing planes are inherently tyrannical weapons, while rifles, muskets, long-bows and hand-grenades are inherently democratic weapons."

(One need only consider the Tiananmen Square massacre: What would have happened in the absence of tanks?)

Technology determines political and social organization. It has been frequently observed, for instance, that the invention of the stirrup made medieval feudalism posible. By giving cavalry the ability to stand up in the saddle, this startling, disruptive new technology created an entirely new class of warrior who required a great deal of expense to maintain. The reorganization of European society into a feudal system occurred, in part, because of the invention of the stirrup.

The printing press, we may conclude, is a democratic technology. But the printing press is now obsolete, replaced by the Internet.

At first glance, the Internet would appear to be the ultimate democractic technology -- even more so than the printing press. Indeed, when the Internet was first invented, journalists and activists hailed it as the greatest tool for freedom and democracy in the history of mankind. It has lowered the cost of copying and transmitting ideas to practically zero. One voice can trumpet a new idea far and wide. Marginalized voices dispersed around the world can come together in common cause. How can this possibly be a bad thing?

Because the cost of seeking out and destroying ideas has also sunk to practically zero.

Let's go back to our Orwell test. Is the Internet cheap and simple? Or complex and expensive?

Cheap and simple to use, yes. To publish. To copy. But from the Internet rises two columns of power out of reach of everyday man: The power of Big Data, and the power of the zero-day exploit.

The ACLU's Jay Stanley delves deep [3] into the Big Data issue, so I won't dwell on this point too much. Suffice it to say, Big Data -- and mass surveillance in general -- is not about protecting the people from outside threats ("terrorists," "Communists," "hackers"), but about protecting the state from the people. It's about identifying and suppressing dissent. It's about social control.

But even if, by some political method, we were able to destroy the data silos and end mass surveillance (an unlikely prospect), there remains no solution to the zero-day problem.

People who have never written code or dug into how the Internet works are often baffled by this. My computer got hacked because of buggy code. So fix your code! Programmers and computer scientists know better.

Forty years of computing have proven that imperfect humans create imperfect computers. Code without bugs does not exist. Programmers make mistakes. And those mistakes -- in the form of zero-day exploits -- scale at a global level. A nice little zero-day in Windows or Android gives you control over most of the world's computer users. Security experts today counsel "assume breach." You must assume your computer network or system has been breached by an attacker who means you harm: An enemy who wants to spy on you, sabotage your data, or even destroy your data completely.

Security is the Internet's Achilles hell.

One need only understand how email works -- unencrypted text copied dozens of times from point A to point B -- to see the potential for abuse. People like Richard Stallman have been complaining about NSA spying since the 1970s. Edward Snowden's revelations have finally brought to the public consciousness what programmers and sysadmins have

known since the Carter administration.

If the Internet, and computers in general, were secure, unhackable, encrypted in a manner impossible to crack -- a perfect world, that is -- then the Internet would be that utopia of freedom and democracy.

But this is not the case, nor will it ever be the case.

Worse, the market for zero-days is brisk, as governments and corporations scramble to bid ever higher the cost of the latest expoit. This power remains out of reach of the common man, and centralizes power in the hands of those who mean us harm. And that power will be used to silence dissent, shut down leaks, harass journalists, and even prevent/disrupt the publication of unwanted information.

It has been a commonplace observation, in the wake of the Snowden revelations, that when journalists can no longer securely communicate with their sources, journalism suffers. So far as it goes, they are right. But the truth is far worse.

What the Internet gives us in ease of copying and sharing information takes away from us in the impermanence of that information. Information on the Internet can too easily be found, monitored, and destroyed. The ability to censor -- and, indeed, to rewrite history -- has never been more real and immediate.

Journalism isn't over just because we can no longer communicate with sources in a secure manner. Journalism is over because spies can -- in real-time and retroactively -- destroy our work and literally re-write history. The impermanence of information on the Internet makes this trivial -- and as writing and consumption of writing moves increasingly into the digital realm, the ability to expunge an idea becomes more and more complete.

Some will argue, at this point, that journalism is not dead. Look at the great work Glenn Greenwald is doing...with great difficulty and at high cost. The Internet may have lowered the cost of publication but has dramatically increased the cost of doing quality, Fourth Estate, national security journalism.

The Internet, like the printing press before it, has

redistributed power. In this case, from the people to the security apparatus, who have the power to spy on and disrupt our communications. As a result, we now live in totalitarian dictatorships run by spies, with a thin veneer of vestigial democracy to keep society ticking along, worker bees humming to the hive every day. The only check on the power of the spies is the need to operate on the principle of plausible deniability -- they cannot act openly against their enemies.

Yet.

The time is coming when this pretense will no longer be required. A manufactured crisis, a false flag attack -- most likely a cyber-attack that damages the financial system; the people will rise up in alarm and demand to be "protected" from this threat -- and the spies will be able to impose martial law on the Internet. The Great Star-Spangled Firewall of America will protect us from both Chinese hackers and uncomfortable truths.

Remember, on the Internet, journalism is no different from spam or child pornography or cyberwar. It's all zeroes and ones. It's all data. And it can be filtered, blocked, and destroyed with ease.

Once this happens, once martial law on the Internet is complete, once no email, no blog post, no tweet traverses the Internet without the permission of the government, then the power of the security apparatus will be total, and they will be free to kidnap, interrogate, torture, imprison and murder at will. To think that such awesome power will not be misused -- that any human being can be trusted with such power -- is naive.

You could argue, this hasn't happened yet, why should we expect it to happen? What about our democratic principles? What about our long tradition of democracy?

In times of great technological disruption, predicting the future is hard. However, certain timeless rules of human nature remain constant.

Power corrupts. Always, eventually, power corrupts.

One need only ask, how can this power be misused? And then you will know the future. Could be next year, could be ten years from now, could be

fifty. But possibility is necessity. In the absence of a real check on power, you should always assume that power will be misused.

Remember the stirrup. Technology redistributes power and alters the social and political fabric. And the Internet is a technology that has tyranny baked in from day one.

The unthinkable can and will happen, and in our lifetimes. Power always corrupts eventually, and the power the Internet affords is so awesome, so unbelievable, that it is naive in the extreme to think that it will not be used for evil.

The Internet is hurtling us into a new Dark Age, such as mankind has never before seen, and far worse than the one the printing press helped us escape. History, as Oswald Spengler reminds us, is a form of tragedy, and we, the last free generation, can do little more than gaze in horror as our fate approaches, powerless to stop it.

Footnotes
- [1] http://georgeorwellnovels.com/essays/you-and-the-atom-bomb/
- [2] https://www.aclu.org/blog/technology-and-liberty/big-data-george-orwell-and-tanks
- [3] https://www.aclu.org/blog/technology-and-liberty/big-data-george-orwell-and-tanks

Media repression in Turkey: A tangled tapestry

Prime Minster Erdoğan is not the first Turkish

By Judy-Jo

On March 21st 2014, Turkey's communications regulator (TIB) attempted to block the social media site Twitter.com. It marked the latest in a series of draconian strikes by Prime Minister Recep Tayyip Erdoğan against social and public media and brought fresh condemnation from international monitors.

No discussion of media freedom is complete without looking at the situation in Turkey. A quick sift of the facts confirms the worst: 50 journalists currently jailed; ranked 154th out of 180 countries in the world press freedom index; 21 journalists killed over the last 20 years and over 59 media professionals sacked or forced to retire following the protests of 2013.

Media outlets and journalists in Turkey have grown used to lawsuits, threats of imprisonment, fines and direct pressure from government ministers over the years . The most recent clamp downs on press and social media freedoms are not a departure from the norm, but form part of a history of hostility and mistrust towards journalists, news gathers and political commentators which as been going on for decades. A well-documented victim of extreme media censorship in the 19th Century was Ali Kemal, the great-grandfather of London Mayor Boris Johnson, and a journalist and newspaper editor who was lynched for his views in the closing months of the Turkish War of Independence in 1922. It's tempting to view this as a one-off aberration – a horror of its time -except that 80-years later, a similar fate befell newspaper editor Hrant Dink who was gunned down on the pavement outside his office.

A less-well known figure was Metin Göktepe a young photo-journalist who was covering a demonstration in Istanbul in 1996 when he was arrested by police and not seen alive again until his body was found dumped outside a sports hall. Göktepe was a junior reporter on a leftward-leaning newspaper with a fairly low circulation in contrast to the other two journalists, but collectively the three deaths demonstrate a deep-rooted a lack of respect and understanding of how journalists should be allowed to go about the business of newsgathering without political or state interference.

leader to take up cudgels against the media, but he seems more determined than most to forge ahead with his agenda regardless of public feeling and mounting evidence of corruption at the highest levels. He continues to take personal swipes at journalists and the public and social media despite their gleeful ability to circumvent his internet bans and their spirited humour in the face of yet more restrictions.

Pressure and self-censorship are the name of the game for Turkish journalists

For Turkey's remaining journalists the point of no return was passed long before the Twitter ban and many have given up wondering what restriction the next day will bring.

"The whole system needs shaking up," says daily newspaper journalist and columnist Mehveş Evin. "Journalism in Turkey now depends entirely on the policy of the newspaper or the broadcaster and not the news value of the story. Either it's a pro-government or not pro-government agenda, but it's never a journalistic agenda- so it's very, very difficult.

"When I started working in 1993 there were a number of taboo subjects such as the Kurdish issue, then towards the end of the 1990s this became more relaxed, but lately, especially in the last 3 or 4 years, the Prime Minister is personally putting pressure on media owners about what they can and can't say. After the recent leaks about corruption in the AKP (Erdoğan's party) many journalists and veteran columnists have been forced to retire or quit . People can only write until they get spotted by someone from the government, and for television journalists it's more difficult because they are higher profile."

Evin suggests the big media groups in Turkey need to be broken-up. "I think ownership of media groups should be examined. The majority of owners have close ties with the government or close ties with the opposition parties, so they always have a political agenda. The law regarding media ownership should be enforced. We need to build a different media model, starting with small independent groups and publications that can employ good-quality journalists and promote ethics and a sense of objectivity, because at the moment readers and view-

ers don't believe what they are seeing and reading. They know that this is not really journalism. We have to re-start the whole thing."

Erdoğan currently has his back to the wall, pinned down by looming national and local elections, an EU bid that has been placed on the back burner, endless international pressure and a constant stream of allegations against him, his family or members of his party. But the all-pervasive nature of the internet and social media now means that he or his successor must tackle the issue of censorship along with press freedom without delay.

While no other Turkish leader has had to contend with the social media phenomenon and all that it entails in the form of twitter trolls, armchair warriors, sock puppets and the odd truth seeker, Erdoğan's combative approach to dealing with the media on all levels by shooting the messenger is not likely to help. The news and information famine created by jailing or silencing professional media critics will be filled with a noisy, disparate and damaging hodgepodge of allegations, hearsay vulgar abuse and rumour churned out by keyboards and smart phones from around the country and abroad. Allowing the raucous digital babble of the internet to fill the space left by unbiased, objective news reporting is a very dangerous thing to do.

Read the EJN report: Censorship in the Park for an incisive view of events

The Ethical Journalism Network (EJN) - a group working at an international level to further media freedom and ethical practice - produced a report based on talks with leading figures in the Turkish media in February 2014. It outlines how Turkish media, following the Gezi Park protests is hemmed in by corruption and political interference. It is a report that the Prime Minister is unlikely to want to read.

Aidan White, Director of the EJN, rejects the notion that the situation in Turkey is no different to the UK with it's powerful media moguls and communication groups. It is, he suggests, unique and more harmful.

"Murdoch has been able to call the shots in the UK about what political party his papers supported or not, but in Turkey the situation is quite different.

The political powers themselves and in particular the AK Party and Erdoğan himself have been able to manipulate things by creating a nexus of politicians and media in which the politicians have been able to exercise influence over how media have operated. The major difference is that in Turkey media groups are not stand-alone major players in the national economy, all the major media organisations are owned by industrial conglomerates who use them as trophy possessions to curry favour with the government in order to obtain lucrative public contracts for themselves in areas such as civil engineering or in banking. This is quite different from the situation that actually exists in Britain where media companies stand alone and don't have other major interests."

While there was never a golden age of press freedom in Turkey, one media group director Nuri Çolakoğlu points to the 5 years before Erdoğan came to power in 2002 as a period of relative freedom and independence. He also suggests the power that journalists wielded at that time was not well managed or regulated. When Erdoğan gained power he sought to rein in the notion that certain media groups seemed to have of themselves as kingmakers.

In this dog-eat-dog environment and with the added complication of economic pressures White suggests that journalists and the media have not done themselves any favours. "The notion of defeating the opposition has always been seen as terribly important in Turkey and the media has never been able to show the sort of common self-respect and power to protect editorial independence from threats, including internal threats, or act in a way to build public confidence.

"It's not just about changing the current administration or trying to go back to where they were, but it's about trying to build a new culture of journalism in which there is respect for good journalism, editorial independence and transparency and good governance to build public confidence. What needs to be demonstrated for the outside world and the EU is that Turkey is capable of having a free and independent media as part of the process of building democracy."

White takes the view that the lack of media freedom in Turkey is not only a result of the political upheavals and interference of the last few years, but a more drawn-out part of Turkey's recovery process from it's post-imperial period of decline. "The problem is that it has adopted a very defensive nature and found itself taking steps to protect its national interests, vision and identity in a way which has been hostile to simple concepts of human rights such as free expression and minority representation."

How can Turkey's media move forward?

The killing of Hrant Dink is identified by many commentators as a watershed in mobilising demands for the accountability of statutory bodies and government. The public demanded answers and that standards of ordinary civil decency should be enforced by the rulers of the country. Last year the Gezi Park protests brought out new kinds of young, urban, media-savvy political activists able to subvert the aggression of the authorities with wit and humour. White believes that a new generation of outward-looking, demanding individuals is emerging to question old sectarian attitudes and extremism.

The debate amongst people in the media that has already started needs to continue. "Journalists want to rebuild their ineffective institutions and set out a manifesto for change which could see the creation of a media system which is much more in tune with the needs of a democratic pluralist society. There is a whole new generation in Turkey with the knowledge and talent to do this now and it just needs to move forward."

Ultimately, a free press which lays out the facts and lets people decide for themselves without restriction or bias benefits everyone. Biased media reporting distorts and blurs the political and social landscape in such a way that it creates a sense of dislocation. Cyberspace is deep, vindictive, untrustworthy and virtually impossible to police-as Erdoğan is well aware. The antidote to the viral nightmare of social media is not to ban it as a news source, but to foster unbiased news reporting.

Footnote

http://ethicaljournalismnetwork.org/en/contents/ejn-report-turkey-journalism-crisis-politics-media-corruption

The surveillance state in Russia

By Keph Senett

"Give me your phone. Mine's blocked." Elvina Yuvakaeva holds up her cell, shrugging. I hand her the ancient Nokia loaner I'm carrying and she punches in a number, then begins speaking in rapid-fire Russian.

On the street side of the metal gates there are a dozen police and a few cruisers, and about the same number of us inside milling around in the cold parking lot, stamping our feet to keep warm. Although there's only an hour to go until the opening ceremonies, most people have dispersed to await further instructions while the authorities carry out a bomb sweep. Yuvakaeva hangs up and lights a cigarette. "Let's go take some food," she says, striding out of the parking lot.

Elvina Yuvakaeva is the co-President of the Russian LGBT Sports Federation, the organizing body of the Russian Open Games, an LGBT-friendly sporting and culture event scheduled to take place in Moscow during the week between the Sochi Olympic and Paralympic Games. "Homophobes have found a new way to cancel LGBT events," she says, mashing her cigarette into the ashtray. "An anonymous call to police about a bomb, and the police must react."

"How do they know where we are?" I ask. Along with everyone else, I'd been vetted for security purposes before registration. "A leak," Yuvakaeva replies. "Welcome to Russia."

As a freelancer on my first trip to the region and without the support of a mother organization, I'd found it almost impossible to know where precaution gave way to paranoia. Before Sochi, and during its first few weeks, the Canadian press was filled with increasingly alarming stories. For example, just weeks before the opening ceremonies CBC Radio's *Metro Morning* news show ran a spot called "The

Surveillance Games." Their guest expert was Ron Deibert, Director of the Citizen Lab at the Munk School of Global Affairs at the University of Toronto. He told the host, "At least two classes of people should be really concerned [about going to Russia]. One would be anyone who is gay. The other would be journalists."

I'm a gay journalist with a very public history of LGBT activism and I was concerned, not just for myself but also for my sources. According to Deibert, under SORM (translated literally, it means System for Operative Investigative Activities), all telecommunication companies are required to collect and submit data to the FSB (the Federal Security Service of the Russian Federation, a successor organization to the KGB). Additionally, Deibert reported, former Russian President Dmitry Medvedev had put into place special measures for the Olympics mandating that all communications by foreign athletes, spectators, and press be collected and archived for three years. Journalists, Deibert warned, should worry about the collection and compromise of contacts in their laptops, even after they'd left the country. "Surveillance in Russia is almost total," Deibert said.

I hear the same phrase weeks later when speaking to Russian American journalist and gay-rights advocate Masha Gessen, but she scoffs when I mention SORM. "SORM is a surveillance mechanism," she says. "Most people don't feel the effects from it. But this is different from press freedom." She urges me to do my research.

Russia's history of media suppression is well-documented, and particularly well-known since the 2006 murder in Moscow of journalist Anna Politkovskaya. Although differences in reporting rates, proper investigation, and establishment of motive create some variations in the data, Russia shows up as a danger spot on every index.

The Committee to Protect Journalists documents 11

murders between 2006 and 2013. *Reporters Without Borders* compiles data on journalists' deaths where there is a clearly-established link between the victim's work as a journalist and his or her murder. That organization reports 15 murders in Russia in the same period. *Journalists in Russia*, a database that collects information on "violent, premature or unexplained deaths of journalists in Russia" from the Glasnost Defense Foundation and the Centre for Journalism in Extreme Situations, includes other media personnel such as editors and camera operators. However, even when looking at journalists alone and excluding cases where the victim is missing or the death is an accident or unconfirmed, there are 22 journalist homicides documented in the same eight years.

Those numbers are alarming enough, but they tell only part of the story. "The number of cases of criminal prosecutions against journalists for libel in Russia is on the increase," International Federation of Journalists (IFJ) president Jim Boumelha wrote in early 2014. The comment appeared in a press release on the IFJ site stating the organization – along with the European Federation of Journalists (EFJ), and the Russian Federation of Journalists (RFJ) – was calling on the Russian authorities to stop media suppression and persecution. The move came after Ruslan Ovchinnikov, the editor-in-chief of the website *SakhalinMedia*, was named as an official suspect in a libel claim.

At the end of February, 2014, a Moscow court placed opposition leader, activist, and blogger Aleksey A. Navalny under house arrest and added a prohibition on telephone and Internet use for two months. Navalny had used his media reach to draw attention to political corruption and to publicize protests against the Kremlin. Navalny was quoted in the *New York Times* as saying, "Their only goal is to stop my political activities".

It's easy to see how Deibert and others came to their conclusions, particularly in the frenzied days leading up the Sochi Olympics, but there appears to be a big difference in how the national and foreign press are handled.

Evgeny Belyakov works in Russia as a fixer for foreign journalists and identifies as part of the LGBT community. "The risks [to journalists] are diverse. If a journalist covers political issues, he or she can face administrative charges, threats, or beatings by the thugs." However, he says, profile matters. "I think that in Russia the special services spy only on the most prominent activists."

Gessen, one of the country's highest-profile journalists, says she's been threatened but never attacked. "But that's more for being gay than for being a reporter."

The passage of the so-called "anti-gay propaganda law" last June has had many consequences. One of them is that it legislated against homosexuality (ergo, homosexuals). Framed under the pretense of protecting minors, the law makes it illegal to promote a positive view of homosexuality and conflates expressions of pride—rainbow flags, pink triangles, and similar symbols—with propaganda, with political dissent. This situation forced organizers of the Russian Open Games like Viktor Romanov of the Russian LGBT Sport Federation to deliver a very specific message about the event. "The law does not cover us because we are not doing propaganda of homosexuality, but propaganda of sport and a healthy lifestyle," he told Agence France-Presse. "We aren't breaking the law."

However, that distinction wasn't enough to protect the event. Just days before the opening ceremonies, the venues cancelled their agreements and left the organizers scrambling to find alternate locations. Working on the assumption that their phones were being tapped, the team operated in secret, sharing new information only at the last minute.

"FSB is very powerful," a correspondent living and working in Moscow who wishes to remain anonymous said in an interview. "But in terms of the [Russian Open] Games, I think there were people who leaked the locations. I doubt it was something as sophisticated [as SORM]."

Perhaps not, but the effect on human rights campaigns is the same. With legislation that fosters homophobic violence and relentless pressure on journalists to ignore dissent, the organization and communications of rights-based activities are under siege from all sides—and this is at the best of times, when the Olympic Games are attracting the attention of international communities.

The website *Media Conflicts in Russia* documents rights violations—censorship, detention, prosecution, attacks, and murder—against journalists in the Russian Federation. In the past 12 months, there have been an average of 22 incidents per month, with the least violations (only 13) taking place in January 2014, directly before the Sochi Olympics.

"What will happen after the Olympics? We'll see. People are very frightened," Russian LGBT Sports Federation co-President Konstantin Yablotskiy told a *Washington Post* reporter. "Don't stop paying attention to us after the Olympics. What happens depends on you."

For Russian journalists, things appear to be going back to normal—mid-way through March, the number of rights violations had already hit pre-Sochi levels. When asked how foreign journalists could best support human rights campaigns in Russia, Gessen said simply: "Just get the word out. Do your job."

Blasphemy and freedom of speech in Pakistan

By Sadaf Ahmed

On Jan. 4, 2011, Salman Taseer, the outspoken governor of Pakistan's Punjab province was shot 27 times at close range by his own security guard.

Two months later, Minister for Religious Affairs Shahbaz Bhatti, a Roman Catholic, was also shot dead. Although the Pakistani Taliban have claimed responsibility for the act, no-one has been arrested for the crime.

Both men were casualties in the ongoing debate around Pakistan's Blasphemy laws -recently in the spotlight after two separate cases of British nationals charged with blasphemy drew media attention.

Mohammed Asghar, 69 and Masood Ahmed, 71 - were both arrested last year and charged under the blasphemy law's provisions.

Ahmed, 71, a member of the Ahmadiyya - a heterodox sect which has been declared non-Muslim under the Pakistani constitution - was arrested for reading the Koran. International pressure resulted in his release last February.

Schizophrenic Mohammed Asghar, 69, was sentenced to death for allegedly desecrating the Koran. Despite international outrage, his sentence still stands. Many countries, including the UK, have blasphemy laws. Indeed, Pakistan's originate in those created by the British in colonial India. But in the Islamic state of Pakistan, the laws have acquired a reverence which makes questioning them an act of treason.

The Blasphemy Laws – origin and evolution

Both Pakistan and India's Blasphemy laws are based on the laws put in place by the British in colonial India. Post-independence though, Pakistan has progressively amended these laws to privilege Islam over other faiths.

Introduced in 1927, Section 295-A reads: "Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Pakistan, by words, either spoken or written, or by visible representations insults the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both."

Both in India and Pakistan, this law applies equally to all faiths. The only significant difference in Pakistan's law is the punishment, which in India is only three years. In 1982, Zia-ul-Haq introduced ordinance 295-B, which reads: "Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life."

Under prime minister Muhammad Khan Junejo, Section 295-C was added in 1986:

"Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine."

This next amendment clearly relates to Islam alone. The wording: 'imputation, innuendo, or insinuation, directly or indirectly', leaves the law open to abuse in it's subjectivity. Ultimately, it's down to the word of one person against another and it seems that when a Muslim is the accuser and the accused is not, the latter is rarely believed.

Statistics bear testament to this. Between 1927 and 1986, prior to the start of the Islamisation drive, there were only seven reported cases of blasphemy. From 1986 onwards however, as many as 4,000 cases have been reported. Between 1988 and 2005, Pakistani authorities charged 647 people with offences under the Blasphemy Laws. Fifty percent of the people charged were minorities, who make up just 4% of the population.

Crucially, the revised laws create an esteemed place for the majority faith. All amendments apply to Islam alone. This privileging of Islam over other faiths leaves the blasphemy law open to abuse when minorities form such a small percentage of the population.

Section 298-B, introduced by Zia-ul-Haq in 1984 specifically pertains to the Ahmadiyyas (members are known as Ahmadis) prohibiting the: "Misuse of epithet, descriptions and titles, etc. Reserved for certain holy personages or places." This means that if Ahmadis use titles of reverence for their founder or other personages they are in breach of the ordinance. It also bans them from referring to their mosques as 'mosques' or reciting the 'Azan' (the Muslim call to prayer).

298-C states: "Persons of Qadiani group, etc, calling himself a Muslim or preaching or propagating his faith. Any person of the Qadiani group or the Lahori group (who call themselves Ahmadis or any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representation or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment."

This explicit targeting of Ahmadis warrants further examination.

Where it all began - the Ahmadiyya connection

Mohammed Ali Jinnah, Pakistan's pork-eating, whiskey-drinking founder, has often been credited with single-handedly driving the creation of Pakistan. That he believed in a homeland for Muslims, who he felt would suffer at the hands of the Hindu majority in a free India, is not in question. But the debate that has divided since has been whether he wanted his 'land of the pure' to be a land for Muslims, or a Muslim land.

Secularists and liberals in Pakistan argue the former, while religious leaders have mythologised Jinnah into a saintly figure and continue to push for an increasingly Islamic state.

Many commentators argue that the path to Islamisation began to be laid straight after Jinnah's death in 1948. Successive governments began cowtowing to Islamist elements early on. Repeated riots orchestrated by Jamaat-I-Islaami against the Ahmadiyya sect finally led to Prime Minister Zulfikar Ali Bhutto declaring them non-Muslim in 1974.

A number of Ahmadis had figured in Jinnah's initial cabinet and held prominent positions in the army too but Abul A'la Mawdudi, the founder of Jamaat-I-Islaami, considered the sect to be 'the enemy within'. Mawdudi was a staunchly anti-British Islamist dedicated to a Sharia state whereas Mirza Ghulam Ahmad, the founder of the Ahmadiyya sect, had been on good terms with the British and espoused a non-violent, anti-Jihad philosophy which was at odds with Mawdudi's revolutionary movement. Crucially perhaps, Ahmadis called for Pakistan to be a secularist state, believing in religion as personal belief rather than a political system, putting them head-to-head with the Islamists.

The sect being constitutionally declared non-Muslim in 1974 set the tone for what was to follow. General Zia-ul-Haq, the staunchly Islamist military dictator introduced a range of measures in the 1980's to further disempower minorities, though it was clear his main target was Ahmadis, who had for many years been subject to a propaganda campaign portraying them as 'agents of the Jews and the West'. Legislative measures including the introduction of a refutal of Ahmadiyya philosophy on Pakistani ID cards, restrictions on Ahmadi access to senior government and military posts and limits on higher education access for Ahmadi youth creating an atmosphere of hostility to the minority and provided a backdrop to the amended blasphemy laws.

Over the next few years, anti-Ahmadiyya sentiment grew and with it, accusations of blasphemy and apostasy towards members of the sect. It seemed though, that Ahmadis were very much the pit canaries in Pakistan's road to Islamisation. Having campaigned for and pushed through anti-Ahmadiyya laws, the Islamists grew bolder, now demanding further erosion of minority rights. Offshoots were set up demanding the banishment of other Muslim sects - most notably the Shia, who while a minority still make up around 25% of Pakistani Muslims.

Riazat Butt, who currently works for Al Jazeera and is the Guardian's ex-religious correspondent, recently conducted some research on sectarianism and the role of the media in propagating it in Pakistan. She believes that Pakistan's identity is inseparable from Islam.

"If Pakistan is not a refuge for Muslims and Islam from India and Hinduisim, then what is its purpose? Therefore, anything deemed to be anti-Islamic is also inimical to Pakistan. Unfortunately the understanding or perception of what is anti-Islamic has broadened over the years."

In her research, Butt found that a number of the oldest print media titles were set up prior to the creation of Pakistan in 1947. These had a specific agenda – to promote the creation of the separate state for Muslims that Pakistan became. Having achieved their aim, they continue to forward the same agenda, with the continual threat of the Other in the form of India and the 'enemies within' in the form of minorities. Butt believes that some of these papers continue to see themselves as guardians of Pakistan's Islamic identity.

"It is a common feature of Urdu papers that there is an overwhelming emphasis on Islam and the country's Islamic identity at the expense of other identities as these are considered harmful to the country.

One of the oldest Urdu titles, Nawa-i-Waqt, endorsed a 500,000 rupee reward to kill Aasia Bibi - a Christian woman accused of blasphemy - and praised the announcement of the award, offered by a local cleric, saying it was a just way to punish the woman for her sins.

Journalism in Pakistan today

But what does this mean for practicing journalists in Pakistan today? What got me thinking was the bizarre spectacle of a journalist from the liberal Ex-

press News TV (part of Express Media group) negotiating with the TTP - the Pakistani Taliban - on air.

After a news team were killed by the TTP, a spokesman called in to the channel to take responsibility for the shooting: "Express TV, like a lot of other Pakistani media outlets, is acting as propagandists against the Pakistani Taliban," he claimed. What followed was astonishing.

The show's anchor, Javed Chaudhary, began to negotiate with the TTP, offering coverage on demand in exchange for security.

"I will guarantee to you that in the future, if there are any instances of terrorism, or instances that the state considers to be 'terrorism' or an attack, and the Taliban accepts responsibility for it, we'll give you proper space to give your point of view that will be broadcast on TV or detailed in newspapers without any slant," Chaudhary said on air. "But for this, I'd like a guarantee from you that you won't attack anyone in the media."

The TTP seemed amenable to this, but the conditions were so comprehensive they left the Express effectively paralysed in it's coverage of their activities.

Coercion or Collusion?

The event sparked condemnation and outrage, both among Express journalists and others.

Kunwar Khuldune Shahid, web editor for The Nation, a liberal English-language daily, believes the incident was symptomatic of the atmosphere of forced reverence towards faith in which Pakistani journalists are made to operate. He believes a history of appeasing religious elements which goes back to the very founding of Pakistan. While acknowledging that many journalists feel a very real danger in reporting these issues, he also argues that in many cases, years of indoctrination through the educational system, the media and other societal apparatus has bred a generation of journalists who are often sympathetic to Islamist causes themselves.

"Javed Chaudhary was virtually begging for mercy on air while talking to TTP's spokesman," he told me. "He had earlier hosted an entire show dedicated to reiterating how the TTP were actually like the revolutionaries of the French Revolution. Freedom fighters became terrorists as soon as Chaudhary himself came under the gun. There are many similar examples from the Pakistani media. "

"This is not to suggest that journalists would queue up in condemnation of religious fanaticism if their lives weren't at stake. The only reason terrorists like the TTP are being negotiated with, instead of being attacked wholeheartedly, is because sympathisers of religious fanaticism and Taliban apologists have for long hogged Prime Time TV shows. They only woke up and smelled the coffee when the radicalism put their own lives in jeopardy."

Butt too feels that complicity is as much a problem as fear in reporting on Islam in Pakistan. She argues that there is a generation of journalists for whom blasphemy laws and self-censorship are the norm.

"Whether at school, at home in front of the TV or in the workplace, Pakistanis are given a particular view of Islam and Muslims."

Malik D (not his real name), has chosen to remain anonymous. He is a city editor for another English language national. For him, one of the issues is the easy access terrorists have to journalists via their

sympathisers. This creates a panoptical situation where journalists are forever watching their backs.

"There is a genuine fear of the unknown: of how things might be twisted by any number of faith-based organisations. When it comes to blowback, news organisations and journalists are generally on their own. All major organisations have private security these days, but judging and balancing what can be printed is generally a decision that rests with the editor and sometimes, the owner. Sometimes organisations will take a risk, and sometimes not. It really isn't about fear then, more about security. What is scary, however, is the reality that many of our colleagues (pagemakers, security guards etc) might be influenced by the same ideas. What we don't know is who they're politically affiliated with (if they are), and what the blowback would be from their side."

He notes that political criticism is far less risky, and is taken on with much more gusto.

"The fear of retribution at the hands of political actors is far less than it is for faith-based actors - in part, because the latter arrive as a mob that destroys property and threatens life at the most insignificant of things."

He told me that at his offices, the focus of discussion at Taseer's time was on the mechanics of the blasphemy law.

"Most of us speaking out were talking about how the law is problematic because of its colonial legacy, how it's framed, and with no punishments for the accuser if his charges are proven to be false. Many stopped speaking out after what happened with Sherry Rehman - the implication was that if the government and President couldn't speak up to protect Sherry, then it won't for common citizens."

"At the time, we had run a centre spread on our pages one Sunday with very detailed analysis on the issue. The next day, we were given express instructions to stop reporting on anything that had to do with blasphemy. This was, of course, against the very first editorial written by our editor in chief which said our paper would be a liberal, progressive voice -- I don't know if they were scared or if they were asked by someone to stop. Then came the Shahbaz Bhatti murder -- we still printed some things at personal risk, and while it was checked, there wasn't much blowback at the three or four people who were doing this (myself and the other city editors)."

Malik gave me the example of a blasphemy allegation against a Christian girl with Down's syndrome which was eventually quashed after a cleric spoke out saying the allegations were false. He believes that the solution therefore may well lie with arguing from within an Islamic framework. In his words: "...arguing from a secular perspective is an uphill battle, simply because the subject creation of the Pakistani state involves a deep hate and mistrust of anything secular."

Although understandable, the danger with Malik's approach is that ultimately this deferral to religion means there has to be a religious justification for basic human rights - the rights to freedom of expression and freedom of conscience.

It is this need to frame debate within a religious framework with which Khuldune takes issue. He argues that the majority of journalists, brought up in a system that has brainwashed them ideologically, re-

flect the prejudices of wider society.

"Yes there are exceptions - limited to the occasional column in an English publication - but even these isolated voices seem to be victims of cognitive dissonance, where they have to manifest a liberal brand of religiosity while condemning religious extremism."

"While some publications might agree to publish articles in defence of homosexuality or the rights of religious minorities, it's not like there are hordes willing to defend the LGBT or the right of Ahmadis to call themselves Muslims. The constitution of Pakistan has "sanctioned" the status of Ahmadis by excommunicating them; and when a country's constitution is bigoted, religious extremism obviously isn't limited to the radicals or fundamentalists."

For Khuldune and others I spoke to, the fact is that in an Islamic state, blasphemy is the ultimate treason.

"For all practical purposes, yes, condemning the blasphemy law is now considered blasphemous as well. The reason why Salmaan Taseer is considered to be a blasphemer by the religious folk - [the] lion's share of Pakistan's population - is because he condemned the law and called it the 'black law'. Even his constant disclaimers that he wasn't condoning blasphemy weren't enough to bail him out. Taseer's murderer meanwhile is a hero in the eyes of the majority."

He refers to a long history, going right back to Jinnah, of celebrating or at best not condemning those who attack blasphemers.

"As long as religion continues to be etched in the constitution, condemning [the] blasphemy law would continue to be equated with condoning blasphemy and the highest status for a Pakistani Muslim would continue to be reserved for the killer of a "blasphemer".

Under these Orwellian circumstances, the situation seems bleak. In a theocracy where criticism of a man-made law is equated with challenging the word of God, debate is crushed. For journalists who raise these concerns, there is no safe place. A neighbour, a colleague or relative could be the vessel through which vengeance is wreaked on the blasphemer. It is therefore up to the international community to campaign for these issues from the safety of our borders. As Khuldune puts it:

"When the security guard of the governor of Pakistan's largest province murders a man who merely questioned the merit of the blasphemy law - obviously challenging the law is akin to putting your neck on the chopping block. Especially since the man chopping the proverbial neck off would be revered as a saint."

Court and council reporting - still a bedrock of local news?

By Sarah Hartley

The daily court round up and in-depth reports from the council chamber have been the bedrock of local news reporting for as many years as the human need to disseminate information has been with us. You could even trace it to a tradition as far back as messengers riding horses from village to village in medieval times to read out the important news of justice and governance. It's certainly been a part of our lives far longer than the industrialization of the printing process.

But now that everyone is a reporter, and we all have the individual means of transmitting and distributing the news, has the need to receive those judgements and decisions that make up the fabric of our democratic society simply faded out of our day-to-day communal experience?

Former newspaper editor Steve Dyson doesn't think so. He reviews scores of local papers every month for his column at the website HoldTheFront-Page and, while he notes there's less reporters on the ground from the mainstream media outlets, he finds his local city of Birmingham bustling with more journalistic activity than ever before around local politics.

He said that, 20 years ago, there were two full-time council reporters on the evening Birmingham Mail and a further one at the sister paper The Post where as now there's just one - and he has a regular news beat to contend with as well.

But it's not all bad news. New services have also spring up including the hyperlocal twitter stream Politics in Brum, doggedly covering everyday issues at the town hall, and website The Chamberlaine Files, providing in-depth coverage, in addition to there being live webcasts and tweets down to sub-committee level from the council's own press office.

> There's nothing that I need to know about that I can't easily find. I'd say there's very good coverage of Birmingham Council.

That trend of new voices moving in to compliment a retracted mainstream media can be seen in other parts of the country too. In Cambridgeshire, scientist turned local independent blogger Richard Taylor provides a regular livestream of city council meetings and other local public bodies using youTube, Twitter and a Wordpress blog.

And in Leeds, a long campaign to win the right to film and otherwise record council meetings has fi-

nally produced results with local website Leeds Citizen and the three journalism schools in the city succeeding in their fight to get the necessary permissions in place - something that the mainstream media will benefit from as well if they choose to allocate their efforts that way in the future.

Where it happens, this more diverse and vibrant ecosystem of the reporting on local decision-making must be a welcome development for the always-on wired generation tuning in to be updated - but how is it playing out in the mainstream newsrooms?

Many journalists are reluctant to speak out for fear of their jobs in these times of regular redundancy rounds. I spoke to this former regional reporter from a large news group on the understanding that their identity and location wouldn't be revealed. The story looks rather more bleak from their vantage point.

"In my last months at a regional weekly newspaper - an utterly miserable place, where you were forever working with an axe over your head and any kind of initiative was firmly stamped on - I found that I was called upon more and more to regurgitate press releases.

"The editor I worked for was forever in fear of the (council) press officer going to our rival with stories or holding back on a quote when we were on deadline. The press officer had an awful lot of power.

> There was definitely a sense with all of the publications locally that they were losing their teeth - they were becoming lapdogs rather than attack dogs.

And this feeling of retraction was also something which extended into the activity of court reporting. The reporter outlined a mixture of pressures, from an overloaded newsroom as well the rather antiquated way that the courts worked, as reasons for little attention to the everyday workings of justice.

"The magistrates court started producing lists of cases that had been dealt with. Nobody wanted to deal with them and they ended up being left in piles around the newsroom. I took on the task, combing through the paperwork and getting advance warning of good cases that hadn't been dealt with on the first appearance as a result. Sometimes the editor would let me do the stories, other times he would give the case to someone else, depending on their workload and how much he liked them on that particular day.

"We were informed of big cases where the council had prosecuted (serial asbos, large scale benefit

fraud) and also by the police when a significant case was due to come to court. The smaller ones - the ones that were dealt with in magistrates - tended to be ignored. I doubt anyone is doing that paperwork now.

"Civil and County courts, we didn't touch, even though during my time as a reporter the law was changed to allow reporting of family cases. We never went."

Unlike council reporting, where there are many statutory requirements for local authorities to make documents such as agendas and minutes public, gaining the access to the necessary information to carry out court reporting is proving to be more difficult for the hyperlocal publishers and bloggers.

Recent work carried out by my own company, talk about local, has involved consultation with the Ministry of Justice (MoJ) to explore opening up more data to help this.

Sadly, just last month, the MoJ effectively kicked that work into the long grass due to the technical limitations of the existing infrastructure which will lead to a delay in releasing data, as my colleague William Perrin reported.

"So much activity at MoJ around courts only supports the 'gentlemens club atmosphere' (a leading barristers words not mine) that surrounds any given court. And this episode [delaying data release] is hardly illustrative of a flat out drive for openness.

> A regular member of the public still can't find out what is happening in their local magistrates court and when.

"In an age of declining local papers, justice is not seen to be done. It still beggars belief that this is the same British court system that has prided itself on openness since the C17th when a judge ordered the doors of the court to be flung open."

Access to justice is an area which journalist and research associate Judith Townend is focussing on and she believes the courts could already do more to help bloggers, hyperlocal sites and other interested parties access the courts and fill the gap being left from the mainstream media.

"I don't have hard numbers, but there's a general sense there's been a decline in regular court reporting in terms of regional titles, and at the nationals as well, you anecdotally hear that from people saying there are fewer journalists are in court on a daily basis which is worrying because it means less information about the day-to-day of courts is reaching the public."

She points to the public inquiry system as an example of activity where more transparency has been forthcoming with the publication of transcripts and documents online.

"It's a fundamental part of democracy to have a principle of open justice where courts are open and the public is able to attend. There's a famous quote about it It's from Lord Denning, in his book The Road to Justice (1955, p 64)

Every member of the public must be entitled to report in the public press all that he has seen and heard

But alongside that she cautions that greater education or training could also be required to equip those without professional training to be able to effectively navigate what can be confusing and antiquated systems of justice.

Dyson also notes that his local courts are still covered by reporters who have been doing the job for 20, 30 or more years, mostly as freelancers and in some cases now to supplement their pensions.

"The fact that it will take an experienced reporter some time to get into that system and find out what's going on in a court is not in itself a bad thing, it's not actually against open justice.

"The thing that is against open justice is the big publishing centres not being willing to to resource that work because it won't produce enough copy for them to make the money that it used to.

"It's not the system that is broken on open justice, it's the funding of it by the want-to-be-in-profit companies largely owning the Press."

Which leaves all of us - mainstream and independents alike - with a big challenge for the future. If the systems and processes of justice are too important to remain reliant on cosy individual relationships and shuffled notes from friendly clerks, then change to ensure a next generation of court reporters even exists are needed.

Finding a new, modern way to access justice that doesn't rely on those for-profit news group's fickle editorial tastes is something that needs to find its way onto the legal and political agenda now else we risk our repository of collective experience joining that horseback messenger in the history books.

Footnotes, links and sources
- Steve Dyson's Htfp column - http://www.holdthefrontpage.co.uk/author/stevedyson/

Council
- Birmingham website The Chamberlain Files http://www.thechamberlainfiles.com
- Politics in Brum http://politicsinbrum.co.uk
- Richard Taylor http://www.rtaylor.co.uk
- The Leeds Citizen http://theleedscitizen.wordpress.com
- My report on the Leeds council reporting issue http://www.prolificnorth.co.uk/2014/03/leeds-press-public-film-council-meetings Courts
- Judith Townend's media law website http://meejalaw.com talkaboutlocal on courts data: http://talkaboutlocal.org.uk/courts-listing-data-one-step-back
- Paul Clarke on court reporting http://paulclarke.com/honestlyreal/2011/11/just-because-you-can/
- The Law Commission has been running a consultation on contempt - its next report will cover "practical problems with the current arrangements relating to reporting restrictions", "and the third will deal with contempt in the face of the court and the remainder of the project on contempt by publication".
- http://lawcommission.justice.gov.uk/areas/contempt.htm
- MoJ Digital Services blog https://mojdigital.blog.gov.uk
- The full extract from Denning describes the importance of this entitlement for judicial accountability and was referred to in Regina v Felixstowe Justices ex parte Leigh [1987] 1 QB 582
- http://swarb.co.uk/lisc/Magis19851989.php Mike Dodd, editor of PA Media Lawyer, quotes it here: http://www.scribd.com/doc/97591726/Justice-Wide-Open-Mike-Dodd-Open-and-Shut-Justice

Freedom of Information Requests: A citizen journalists' guide to unlocking Private Finance Initiative (PFI) contracts

By Joel Benjamin

Tony Blair, whose Government introduced Freedom of Information Act (FOI) legislation in 2005, would later remark in his 2010 autobiography: 'A Journey'

"Freedom of Information. Three harmless words.

"I look at those words as I write them, and feel like shaking my head till it drops off my shoulders. You idiot. You naive, foolish, irresponsible nincompoop. There is really no description of stupidity, no matter how vivid, that is adequate. I quake at the imbecility of it.

"Once I appreciated the full enormity of the blunder, I used to say - more than a little unfairly - to any civil servant who would listen:

"How could you, knowing what you know have allowed us to do such a thing so utterly undermining of sensible government?"

Blair's soul-searching relates specifically to his introduction of FOI and the new found scrutiny applied unto his new Labour Government (MP's expenses!). Blair's sentiments mirror the public disdain for Private Finance Initiative (PFI), expanded under his own Government. PFI effectively reduces democratic control over public finance and service delivery, preventing scrutiny of private sector providers.

PFI involves a consortium of banks and construction firms financing, building, and owning [via offshore tax havens] public infrastructure assets including schools, hospitals and universities, then leasing the assets back to the taxpayer at grossly inflated prices. Costing the public 3-7x more over a 30-year lifetime than if Government directly funded the works itself.

Whilst FOIA, has driven transparency gains from a Government tended towards secrecy, PFI has achieved the complete opposite, handing control of outsourced public services to opaque financial and construction firms - conveniently outside the scope of existing FOI legislation.

Since 1992 when the Private Finance Initiative in its current guise was introduced in Australia and the UK under the John Major/Norman Lamont Government, the practice has proved highly controversial.

Politicians of all political colour have been quick to rubbish the schemes whilst in opposition, yet often embraced PFI whilst in power.

Labour MP Harriet Harman referred to PFI as a: "backdoor form of privatisation."

Liberal Democrat Vince Cable is on record stating:

"The whole thing has become terribly opaque and dishonest and it's a way of hiding obligations. PFI has now largely broken down and we are in the ludicrous situation where the government is having to provide the funds for the private finance initiative."

Conservative Chancellor George Osborne remarked in 2009 whilst in opposition:

"The government's use of PFI has become totally discredited, so we need new ways to leverage private-sector investment . . . Labour's PFI model is flawed and must be replaced. We need a new system that doesn't pretend that risks have been transferred to the private sector when they can't be"

The campaign group 'We Own It' launched Early Day Motion (EDM) 613 in Parliament, sponsored by Graeme Morris MP with the aim of bringing outsourced public service contracts within the scope of FOI regulation.

Should We Own It's FOI campaign be successful, it would help ensure private firms engaged in £300 billion worth of PFI contract provision fall consistently within the scope of public scrutiny and political accountability.

In the meantime, citizen journalists seeking to challenge, renegotiate or annul PFI contracts to protect public services require a working knowledge of both FOIA legislation and PFI contracts, in order to obtain the documentation required to mount effective legal challenge.

Procedure for FOI request and subsequent challenge

1. Searching PFI database and submitting an FOI request

2. Asking for an internal review
3. Complaining to the information commissioner

Step 1 – Searching PFI contract info and submitting an FOI request

The HM Treasury PFI contract database reveals 719 PFI contracts on UK Government books as at March 2012, with a capital value of £54.7bn and total repayment cost to the UK taxpayer of £301,343,154,097. A further 15 PFI projects were approved during 2012/13. A link to this resource is available via the 2012 Guardian article "PFI Data Blog"

Accessing the HM Treasury website 'PFI Signed Project List' database, users are able to search by Department (i.e. Health, MoD, DCLG), date range, and region, while identifying funders and contractors participating within the PFI consortium, typically referred to as an 'SPV' or 'special purpose vehicle.'

Start by interrogating the HM Treasury database to confirm which FOI project and public authority you want to FOI, then using the publicly searchable FOI tool www.whatdotheyknow.com, search the relevant authority to establish if they have received a similar FOI request, for the PFI information you seek. The information you require may already exist within the public realm.

As an example, using the WhatDoTheyKnow? platform, if I select the authority "NHS England" and search existing requests using the search term "PFI" I receive 1 hit, a request made on 18 May 2013 for:

"Buildings now owned by private sector after being built with PFI/PPPs"

This request was declined by NHS England on 11 June 2013 because the information is held locally by individual NHS Trusts (which sit below the NHS England umbrella organisation), or is aggregated by the NHS Property Services team.

A full list of public authorities covered by FOIA legislation is available via www.legislation.gov.uk or www.whatdotheyknow.com

Once you have confirmed the project and respon-

sible authority, and checked the information is not already publicly available, it's always worth calling the FOIA officer to discuss and shape your FOI request, prior to submission.

This ensures you are making the right request to the right authority, confirming the request does not fall within common exemptions, and avoiding unnecessary delays.

In the excellent handbook 'FOIA Without The Lawyer' FOI practitioners Lucas Amin and Brendan Montague from Request Initiative describe two distinct methods for obtaining information via FOI:

'Grazing' involves targeting information that does not fall within specified exemptions – perhaps asking for entire spreadsheets.

'Mining' involves identifying specific information you want and stopping at nothing to get it, irrespective of the exemption status. Some exemptions are 'qualified' meaning information will be released when the 'public interest' is served by disclosure.

Some other exemptions are 'prejudice' based meaning exemptions may only apply where the public authority can demonstrate there would be harm or damage caused by disclosing the information publicly.

Refining the FOI request

With FOI requests, it pays to be specific. For example, if you only require individual items such as a PFI 'business case', 'value for money (vfm) calculations', or property 'maintenance schedule', then there is little value in requesting the entire contents of the PFI contract, which may trigger exemptions, resulting in refusal.

If you don't know which items of the PFI contract you require, start by requesting the "PFI bible" (a PFI contents page) to assist you narrow down your search query.

Points to consider prior to making the request:

1. Contact the public authority and discuss your request
2. Consider the FOI officer an ally, not an enemy gatekeeper
3. Cost limit(s) per request are $600 for central government and $400 for local government. Consider breaking up larger request into several smaller chunks to ensure timely disclosure.
4. The 20 day response rule, with a further 20 days for 'public interest' cases
5. Timing of release. Work out when you need the information to break the story, allowing yourself at least 40 working days
6. Be specific, ask for documents or files by name (for help see 1. above). Section 11(1) of the FOIA act allows you to specify output format and/or discuss available options with the authority. Arranging a meeting to inspect their records may assist
7. Consider applicable FOI exemptions when making your request - see Information Commissioners Office for full list

Common Exemptions: Section 43 - Commercial confidentiality

The most common exemption you are likely to have thrown at you when requesting PFI contract information is "commercial sensitivity."

The authority will often argue disclosure could threaten "competition" jeopardising their ability to deliver value for money to the UK taxpayer.

Commercial sensitivity is a relatively simple exemption, but can prove difficult to negotiate.

It's a 'qualified' exemption, meaning the public interest test can be applied, but for the public authority, they're likely to view protecting their commercial interests and keeping their private sector partners happy as more important than giving you the information you want.

FOIA: s43 Commercial interests

The first arm of this exemption is extremely robust. Consider the chaos that would ensue if FOIA could be used to disclose the source code for every bit of software government uses, or the cutting edge engineering designs for military hardware.

There is obviously a significant public interest in ensuring trade secrets get protected, and its highly unlikely you'll ever crack this exemption with public interest arguments. (Perhaps for disclosure of fracking chemicals vs water catchment pollution..?)

In order to force disclosure, from the outset you're going to argue against any information contained within the PFI documentation being a trade secret.

The Information Commissioners Office (ICO) provides guidance on what is a trade secret and talks about things that are new or innovative, hard for competitors to reproduce or aren't known to anyone outside a small circle of people. These are your main lines of attack.

The second arm of s43 is easier, often if only because the public authorities tend to mess it up. If commercial interests are raised, they'll typically break out their letter template talking about how disclosure would 'discourage providers from dealing with the public authority' or how 'it would negatively impact future tenders' or 'drive up costs'.

No-one higher up the legal appeals chain buys into this form of corporate-speak however.

The case Hogan & Anor v Information Commissioner [2006] UKIT EA20050030 states that:

With regards to the basis on which to apply Section 43 the Trust should consider the views of the SPV, but it is for the Trust to decide on whether the exemptions apply not a third party.

Furthermore, complaints of prejudice to commercial interests should be "based on evidence" supplied by the parties affected, according to the Information Commissioner's Office guidance on commercially confidential information. Representations should focus on the two limbs of the test, and demonstrate that prejudice to commercial interests is both likely and substantial.

The case Derry City Council v Information Commissioner (EA/2006/0014) said similar. Unless the public authority can provide a serious causal link between disclosure and damage to commercial interests, they can't use the exemption.

Step 2 - Asking for an internal review - Understanding the review process

Part of the FOI game is making sure you have enough of a response from the public authority to fight back against.

If your request is simply: 'denied because it would cost too much to process' you're limited in terms of your grounds of appeal:

How much did it cost to handle? What made it so expensive to deal with? How much information did my request actually cover? Is there a way to refine my request?

If there's information you really really need, you'll have to be thinking ahead.

If you decide that what you're after is too explosive for the authority to ever willingly disclose, in practice you're just out to squeeze them for a bit more information at each stage of the appeals process.

Where exemptions apply to the information you require, your initial request should set out the tests that the public authority needs to pass in order to apply the main exemptions you're up against, encouraging them to not apply exemptions to entire documents, but to specific bits of information within them.

Where they do exempt information, ensure they at least provide you a list of what they're holding back.

With internal review, you should be making sure that they've done everything you asked them in the first request. If they've not analysed the informa-

tion in detail, misapplied an exemption or failed to tell you about information they're withholding, call them out on it and argue against how they've responded.

At this point you should also go into detail about the public interest. Don't attempt general transparency arguments as the public authority has heard it all before.

Outline why the specific information you seek is going to save lives, save money, save jobs and public services, or right past wrongs.

If you're lucky, after a robust internal review they'll crumble and give you what you want. At least, they might disclose a redacted version of what you want, which is often enough.

If not, you've got to appeal to the ICO.

Step 3 - The Information Commissioners Office (ICO)

For information on when and how to complaint to the ICO see http://ico.org.uk/complaints/getting/15

By this stage, you should have a good idea of the information yet to be disclosed, and have already pointed out the logical inconsistencies in how they've applied the exemptions and given a robust case for why disclosure is going to make a difference.

The ICO is your best shot at disclosure. Once there's an independent pair of eyes looking over your request, all the nice arguments that you've made that have so far fallen on deaf ears will get reappraised.

The public authority will also get told off for all the frustrating delays where they haven't responded on time and haven't followed due process.

Getting your PFI story into the media

With so much private money being made via PFI, mainstream media outlets have typically failed to tell the PFI story, with responsibility falling to citizen bloggers and local 'Save our NHS' groups, which lack BBC news coverage, even during major public demonstrations.

Snow balling PFI debt repayments have contributed to the number of NHS Trusts in financial difficulty nearly doubling from 21 to 39 within the past 12 months.

Through increasing the accessibility and use of FOIA search tools by citizen journalists, It is hoped this guide will assist campaigners to push the realities of the PFI derived NHS crisis up the local and national news agenda and facilitate legal challenge against the continuation of the PFI.

It is worth discussing the details of your FOI disclosure with lawyers to explore possible scope to have the PFI contract renegotiated or annulled.

Knowledge is power, and as Private Eye's tax and PFI expert - Richard Brooks says: 'never underestimate the power of a number'

Consider FOIA as your gateway to access PFI data, and the numbers and media stories it generates.

These are stories which desperately need to be told. Good luck.

About

Contributoria is a member-supported writing platform for journalists.

Initially funded as a winner of the News Innovation Contest from the International Press Institute and sponsored by Google, Contributoria is designed to operate like a cooperative and inspire writers and journalists to support each other through all aspects of the publishing process, including commissioning, editing and distribution.

Contributoria launched in January 2014, and the first member-supported issue was published online in March 2014.

The issue you are holding in your hands right now is the second issue created by the community. It was first published in April 2014.

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