

World Press Freedom Committee
Washington, DC, USA www.wpfc.org

17 July 2012

Lord Justice Leveson
The Royal Courts of Justice
The Strand, London

My Lord,

I write on behalf of the World Press Freedom Committee, of which I am the acting director and its longstanding European Representative. We have been watching your inquiry from a distance with keen interest. That interest is heightened by our perception, which I believe to be widely shared, that what happens in the United Kingdom serves as by far one of the most important examples in the rest of the world. This is especially so in the Commonwealth. The weight of the British constitutional example elsewhere cannot be overstated, given your country's history and tradition of free speech.

It is quite understandable that excesses by part of the press in Britain have elicited calls for a new dispensation. While I have no doubt that whatever recommendations emerge from your inquiry would be put into practice in Britain with the necessary prudence and restraint in the light of its history and tradition, the same cannot be necessarily be expected in much of the rest of the world. One shudders to think how any recommendations for a statutory or quasi-statutory regulatory regime which your inquiry might recommend could be exploited in any number of countries with far weaker press freedom records, including in the Commonwealth.

Whatever recommendations come from your inquiry, it seems important that a worst case analysis be made of the language in which they are couched. I say this because one can be certain that worst-case use of their language is likely to be applied elsewhere. There will undoubtedly be a temptation to reply that recommendations for Britain should not be constrained by possible misuse in other contexts. Yet, the British example does indeed count in the rest of the world.

I refrain from pointing fingers at any particular repressive countries as examples of worst practices, but I recall an experience in Kazakhstan in 1992, during a UNESCO conference there on promoting a free and independent press. A Kazakh historian who was a frequent contributor to the local press was serving a long prison term for having allegedly insulted the President of the Republic in print. Participants in the UNESCO conference made a point of raising the historian's case.

The criticisms grew so intense that a group of conference participants was taken to see the chief public prosecutor and later the President himself. The prosecutor noted that the offense was particularly grave since the historian had called the President a "goat." We noted that such an insult would not be grounds for imprisonment in our countries. The prosecutor replied by saying that both France and Germany had laws criminalizing the insult of the President of the Republic and that he therefore saw no reason such a law was not legitimate in Kazakhstan.

Our protestations that such laws in Western democracies were currently unenforced historical anachronisms were to no avail (though the historian was freed after a face-saving interval of several months following our passage).

Such use of laws on the books in Western democracies to justify repressive legislation elsewhere is not at all unusual. I recall the Kazakh anecdote to stress that when enacting legal arrangements in democratic contexts, especially those involving fundamental and universal human rights, one should ask oneself how such a law could be misused in an authoritarian setting.

Worst case usage by repressive governments seems inevitable. We now live in a globalized information society. What happens in one country is immediately known and scrutinized worldwide for its local relevance. It is no longer possible to abdicate moral responsibility for the international ripple effects of domestic actions.

Worldwide, the monitoring of abuses against press freedom that are noted almost daily by such groups as the Committee to Protect Journalists, Reporters Sans Frontieres, Index on Censorship or IFEX, the International Freedom of Expression Exchange, show that the press is generally more sinned against than sinning. In my experience, concern for good practice within the press is generally quite high, and the first line of defense against departures from ethical standards is usually reporting and comment by competing press outlets.

Regardless of the weaknesses of the Press Complaints Commission, it should be noted that it took the initiative under Lord Wakeham and when Lord Black was its Director to create the Alliance of Independent Press Councils of Europe (AIPCE), now grouping such bodies in 30 European countries, with the goal of spreading press self-regulation in the new post-Communist democracies of Eastern Europe. At AIPCE meetings, I stressed that such bodies should be independent of governments and that their memberships should be truly voluntary. There have been misleading attempts to describe as "self-regulatory" bodies established by statute, administering legal requirements and/or with legally prescribed memberships including legislators. Another such misnomer is so-called "co-regulation" – joint regulation by government and the press industry (a notion for which we can thank Australia). Attempts to privatize official regulation have not been lacking.

To be credible and legitimate not only for the public but also for the journalism community, a truly independent self-regulatory body should include not only public members but also journalistic representatives who understand the needs of the press and how it actually works. Its guidelines should include flexibility in interpreting standards so that allowance is possible for public interest exceptions (for example, misrepresenting oneself when reporting, if that is the only means to expose abuses).

I recall an earlier PCC Chairman, Lord McGregor, telling me that when he started out he was very upset by tabloid reporting about the royal family, until he realized that each title was being used as a cat's paw by one or another family member against other members and that the faults originated with the sources, not the journalists.

Having served as a correspondent at the International Herald Tribune, The Washington Post, and the Boston Globe, and as Foreign Editor of the Washington Post, I can attest that the overwhelming majority of journalists I have worked with view journalism as a calling devoted to the public interest. Nor do most journalists wish to risk harm to their societies. Nobody wants to be seen to be irresponsible. At The Washington Post, it was established routine to consult security authorities to insure that legitimate sensitive operations or personnel would not be endangered by our reporting.

I subsequently spent a great deal of time in WPFC working with journalists in the emerging democracies and found that the public service ethos dominated there, too.

Subjecting such journalists to regulatory regimes suggesting mistrust could only serve to undermine the spirit of dedication that has permeated journalism.

With the advent of new information technologies that has enabled creation of a whole new class of "citizen journalists" – amateur volunteers amongst the public – it is more important than ever for the standards of professionalism that are extant amongst working journalists to be recognized and held up as examples. It would be a disservice to democracy to lead the public to a mistaken belief that ethical standards are low in the journalism community.

While recent developments have shown that journalists as a group are indeed not entirely immune from indefensible lawbreaking, the laws that apply generally can be brought to bear against illegal actions. There is no need for special laws or legal regimes to be enacted against the press.

The World Press Freedom Committee groups 45 journalistic organizations on five continents, including groups representing labor and management and print and broadcast press. They include the London-based Commonwealth Press Union Media Trust and FIPP, the International Federation of the Periodical Press, as well as our other partners in the Coordinating Committee of Press Freedom Organizations -- the Committee to Protect Journalists, the Inter American Press Association, the International Association of Broadcasting, the International Press Institute, and the World Association of Newspapers and News Publishers.

Sincerely,
Ronald Koven
European Representative
World Press Freedom Committee

I believe the facts stated in this witness statement are true.

Signed

Date ... 19 July 2012.....