20 YEARS SPECIAL EDITION

POLITICAL JOURNALISM IN THE ASIA-PACIFIC

Edited by David Robie, Barry King, Philip Cass and Wendy Bacon

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Pacific Journalism Review

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EDITORIAL: Two decades of critical inquiry

PACIFIC JOURNALISM REVIEW is far more than a research journal. As an independent publication, it has given strong support to investigative journalism, socio-political journalism, political economy of the media, photojournalism and political cartooning in its two decades of publishing, which have all been strongly reflected in the character of the journal.

It has also been a champion of journalism practice-as-research methodologies and strategies, as reflected especially in its *Frontline* section, initiated by one of the co-editors of this volume, Wendy Bacon. Barry King and Philip Cass are also co-editors and have been key contributors at various stages. Many people have contributed to developing *PJR* along the way.

First of all, I must acknowledge *Australian Journalism Review* which is almost double the age of *PJR,* because this is where I first got the inspiration in establishing the journal. While I was head of journalism at the University of Papua New Guinea in 1993 I was really frustrated at the lack of good Pacific-specific media and journalism literature and research to draw on as resources for both critical studies and practice-led education.

So I looked longingly at *AJR*, and also contributed to it. I also looked longingly at the London-based *Index on Censorship* as another publication to emulate. And I thought, Why not? We can do that in the Pacific and so I persuaded the University of Papua New Guinea Press to come on board and published the first edition at the derelict campus printer in Waigani in November 1994.

The actual birthday edition was last November with the '"Failed states" and the environment' cover theme launched at the 20th anniversary conference 'Political journalism in the Asia-Pacific', hence the collection of papers in this edition largely drawn from that stimulating and inspirational event. A follow-up collection of *PJR*2014 conference papers devoted to independent documentary-making, including Jim Marbrook's compelling film *Cap Bocage* about nickel mining in New Caledonia, and unthemed articles will be published in the October edition this year.

AJR's founder John Henningham, Mark Pearson, Ian Richards and Martin Hadlow have all been journal mentors for me and my team and it is appropriate that Professor Ian Richards, editor of the *AJR*, spoke at the birthday celebration function and also paid tribute to the journal in a recent *AJR* editorial:

> Today, *Pacific Journalism Review* plays a vital role publishing research from and about this part of the world. This is important for a number of reasons, not least because most academics ground their work in situations with which they are most familiar, and this frequently produces articles which are extremely local. If 'local'

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means London or Paris or New York, then it's much easier to present your work as 'international' than if you live in Port Vila or Pago Pago, Auckland or Adelaide.

Over the two decades of its existence, *PJR* has published papers relating not only to New Zealand, but also to Australia, as well as the huge area of the globe known as Oceania. In doing so, it has helped address the gross imbalance in academic publishing between the Global North and the Global South, and demonstrated the validity of journalism practice as a research methodology (Richards, 2015).

This has been a major factor in my 'dogged perseverance' over the years, as Ian Richards put it. I have had a strong desire to thrust aside the Antipodean academic cringe factor and sense of inferiority, which leads to some journalism programme leaders in New Zealand insisting on their colleagues publishing 'only in international journals', i.e. Global North publications. Since returning to New Zealand in 2002 to join AUT University, which has the largest (and arguably the most dynamic) School of Communication Studies in the country, I became committed to expanding the journal to cover New Zealand, Māori and Indigenous studies research as well as the Asia-Pacific region.

The *New Zealand Journalism Review*, published at the University of Canterbury, lasted just nine years (1988-97). There was a need for a journal to continue reflecting New Zealand journalism research. The success of *PJR* has also been founded on the quality of its Journalism Education and Research of Australia Association (JERAA) contributors and international board of advisers and researchers, and the wide range of international media and development research that has included, for example, a paper on 'Audiovisual cultural artifacts of protest in the Basque Country' in the last edition (Letamendia et al, 2014).

Two testaments to the contribution of *PJR* to scholarly journalism studies are published in this edition with **Walter Fraser**, head of AUT's Office of Pacific Advancement, saying the journal has 'positioned itself as a quality publication … where those committed to the development and advancement of the Pacific island region can find a platform to debate Pacific media issues' and **Lee Duffield** who has prepared a comprehensive and rigorous analysis of two decades of research and publication (Duffield, 2015). As Fraser notes:

> The political events in Fiji [since the first coup on 14 May 1987] … have had a profound effect on political journalism in the Pacific. Many of my contemporaries who worked as journalists in Fiji at the time, paid dearly for defending the Fourth Estate. They were unified in their views and they vehemently defended the right to call things as they saw it—a spade was a spade, black was black and white was white. (Fraser, 2015)

The biggest inspiration I have had over many years is Professor Wendy Bacon, who has been a co-editor and been involved with many issues right back to the early days in Papua New Guinea. She has also been the driving force for the *Frontline* investigative

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journalism section, and arguing for wider academic recognition of journalism-as-practice-as a research methodology. She argues:

> Our aim with *Pacific Journalism Review* is to demonstrate a developing relationship which includes the collaborative production of journalism itself, the provision of spaces for open and honest discussion which cut across organisational boundaries, the development of links between the production of journalism and the scholarly study of it, and mutual support in providing access to innovative thinkers and producers outside our region. (Bacon, 2012)

Monash University professor of journalism Chris Nash has also been a major contributor and co-editor. So too, have professor Mark Pearson of Griffith University and associate professor Trevor Cullen of Edith Cowan University.

After five years in Papua New Guinea (1994-8) and five years in Fiji (1998-2002), the journal relocated to AUT University where it has enjoyed a completely new lease of life with greater academic support resources over the past dozen years. However, *PJR* has retained University of the South Pacific links, with both Pat Craddock and Shailendra Singh being major contributors. At AUT, Professor Barry King was the critical supporter who got us reestablished with the first New Zealand-based edition themed on 'Iraq and the media war' in 2003 (*PJR*, *9*, 2003). Alan Samson, Allison Oosterman, Susan O'Rourke and Evangelia Papoutsaki (and more recently Philip Cass from Unitec) have also contributed in editorial roles, such as reviews editor. King wrote in the 'rebirth' edition editorial:

> If the fates recognise an obligation to attend a rebirth as much as a birth, then the publication of this issue is auspicious. Coming on the heels of the recent Pacific Islands Forum in Auckland, *PJR* can draw on a context in which issues of neo-colonialism, Trans-Tasman hegemony, racism and ethnicity, most often agonised over in the confines of academia, have become the stuff of popular journalism and demagoguery …
>
> The journal's contribution to an emerging debate on the geopolitical future of the region will be to maintain an analytic momentum that surpasses what is fashionable, critically engaging with the political agendas that strive for the accolade of the leading idea, the transparent truth and the received wisdom. (King, 2003)

Behind the scenes at *PJR*, several people who are not on the editorial board or with editorial roles are acknowledged here. They include Tui O'Sullivan; school manager Kevin Upton, who keeps us afloat; faculty dean Professor Desna Jury and associate dean research Associate Professor Tony Clear; and the Pacific Media Centre advisory board team, especially Isabella Rasch and Dr Camille Nakhid.

However, the person I would like to acknowledge most is Del Abcede, who has worked tirelessly on the journal for much of the past decade as the designer, also organising the mail-outs, acting as chief photographer and unpaid organiser—and keeping me sane.

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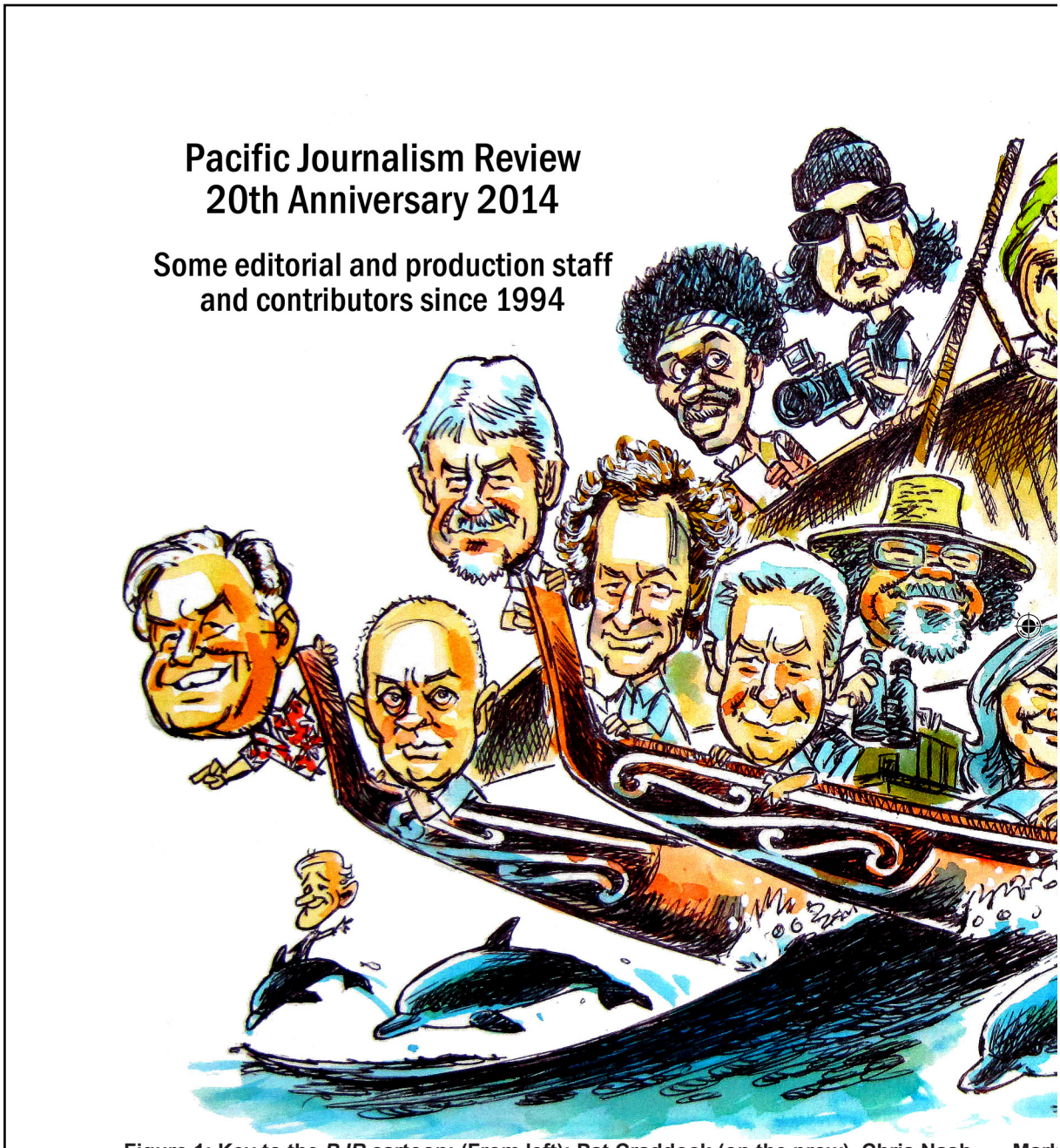

Figure 1: Key to the *PJR* cartoon: (From left): Pat Craddock (on the prow), Chris Nash, top of the sail); Lee Duffield, Trevor Cullen, Philip Cass, Wendy Bacon, Tui O'Sullivan, Kevin Upton (pointing 'wrong way'). Barry King is on the water skis and cartoonist Mark Shai Malc

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Nash, Mark Pearson, Campion Ohasio, Ben Bohane, Allison Oosterman, John Miller (at the
ivan, Shailendra Singh, Del Abcede (with the birthday cake), David Robie (steering), and
st Malcolm Evans is riding a dolphin.

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In the very first edition of *PJR* in 1994, I wrote in the editorial:

> There is surprisingly little reflective journalism or analysis of the state of the media today in the Pacific, or of issues such as freedom of information, freedom of expression, ethics, ownership ….
>
> *Pacific Journalism Review* will combine the characteristics of an academic journal and a professional industry publication. It will include both research and articles of general interest by journalists and media people—anything that will enhance the quality of journalism and the study of it in the South Pacific will be considered for publication by the editorial board. (Robie, 1994)

Our first issue dealt with threats of secession from the state of Papua New Guinea by the Islands Region provinces—and censorship. Over the years, *PJR* authors and researchers have tackled the Sandline mercenary crisis and the Bougainville war in Papua New Guinea, four coups in Fiji, West Papuan repression, mining and resource extraction, environmental degradation, media history and now climate change.

Some of this story has been told in a Pacific Media Centre video available on YouTube, produced by Sasya Wreksono. I believe that in 20 years we have achieved precisely what we set out to do, being a critical conscience of Asia-Pacific socio-political and development dilemmas and look forward to the future challenges.

POLITICAL journalism is a fitting theme for this special celebration edition with asylum-seeker Pacific 'anti-solutions' and Australian secrecy, climate change, military coups, martial law in the Philippines, political ecology in New Caledonia, gender politics, and human rights violations in Pakistan and West Papua all part of the mix. Five articles about Fiji reflect the dominance of eight years of post-coup politics leading to the restoration of a democracy of sorts in the September 2014 General Election. The first of these, by *Repúblika* founder and editor **Ricardo Morris**, sets the tone: 'If the media were subdued after the 2006 takeover and especially after the abrogation of the 1997 Constitution in 2009, it was truly intimidated when the Media Decree came into effect in 2010.' But Morris remains optimistic. Borrowing a Dickensian line, he says while Fiji Islanders may have been living through 'the worst of times', 'the best of times' are now on the horizon.

Two articles about Australia's worrying slide in the media freedom rankings, with collaborative examinations by **Mark Pearson** and **Joseph Fernandez** on censorship in Australia and the growing intrusions into free expression and 'shield' laws and the legal and ethical implications for journalists and their confidential sources, make up the next section in this book.

In 'Atolls in the ocean—canaries in the mine?', **Chris Nash** explores the state of climate change reporting on the Pacific in the Australian media with a case study contrasting the perspectives of two high profile journalists, while **Arjun Rajkhowa** offers

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an essay contrasting the 'Team Australia' rhetoric of Prime Minister Tony Abbott with a multicultural vision.

The large Fiji section includes chapters on both macro political censorship and repression at a national level and micro papers revealing the depth of administration expediency and self-censorship at a journalism educational level. **Mosmi Bhim**, an early graduate of the USP regional journalism programme, writes about 'stifled aspirations' with the 2014 elections being held under restrictive laws, while **Shailendra Singh** studies the evolution of harsh media laws in Fiji and how they have impacted on journalism and society. Former acting University of the South Pacific journalism head **Pat Craddock** details a conflict between the journalism staff and the university administration over a media release criticising the new military chief, Brigadier-General Mosese Tikoitoga, for justifying torture he had admitted to carrying out in the 2006 coup (Marks, 2014). Many USP graduates over the years, including founding *Wansolwara* editor Stanley Simpson, have made important contributions to Fijian and Pacific journalism, and indeed to *PJR* itself, as with contributions by Mosmi Bhim, Reggie Dutt and Christine Gounder, for example. It is timely that **Eliki Drugunalevu** and **Irene Manueli** should plot the history of the award-winning student newspaper and the political challenges and gags faced in campus journalism.

In New Caledonia, **Nicole Gooch** argues for a 'multi-dimensional and nuanced journalism' investigation into the US$6 billion nickel mine and smelter owned by the Brazilian transnational Vale at Goro. She suggests political ecology as the framework for this inquiry.

Giving examples of three Pakistani journalists who lost their lives after their investigations during America's so called 'War on Terror', **Rukhsana Aslam** offers an account of the nature of the dangers and threats that are faced by the journalists in Pakistan who report on armed political conflicts.

In the Philippines, **Amy Forbes** interviews and profiles courageous women journalists and their survival strategies during the Marcos Martial Law years, while **Del Abcede** and **David Robie** document the digital era 'e-Martial Law' and 'Magna Carta' developments: 'By entrenching criminal libel, and with the highest court arguing constitutional justification with higher penalties for online breaches, the Philippines has signalled it wants to impose a "chilling effect" on the nation's media.' Journalists are being killed with impunity in the Philippines with the world's worst massacre of news workers at Ampatuan, Mindanao, in 2009. Thirty-four media people were among the 58 gunned down in an ambush of a political motorcade and five years on there is still no justice.

Peace and West Papua affairs activist **Maire Leadbeater** traces the duplicity and betrayal by New Zealand diplomats during the transitional period when the Dutch colonial administration effectively surrendered power to the Indonesians under United Nations manipulation.

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Finally, this edition of *PJR* concludes with the *Frontline* section. *Journalism Research* editor **Kayt Davies** documents and analyses the process of creating investigative journalism about an Indigenous-run legal bid in the Solomon Islands to challenge potentially corrupt logging approvals on the volcanic island of Kolombangara. The article is a revelation on the flawed and stereotypical reasoning used by some editors in making editorial decisions over complex Pacific stories. She concludes: 'This stereotyping is reinforced by the mainstream media's habit of giving preference to stories about uprisings and natural disasters that portray Pacific people as being in disarray, rather than empowered and competent.'

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PUBLISHING

1. A tribute to a commitment to the Pacific region

Commentary: In more ways than one, the political events in Fiji since that fateful day have had a profound effect on political journalism in the Pacific. Many contemporaries, who worked as journalists in Fiji at the time, paid dearly for defending the Fourth Estate. They were unified in their views and they vehemently defended the right to call things as they saw them—a spade was a spade, black was black and white was white.

Keywords: censorship, coups, Fiji, ethics, Fourth Estate, political journalism

WALTER FRASER
AUT Office of Pacific Advancement

EARLIER in 2014, I was listening to a local radio station as I was stuck in traffic, as one normally is in Auckland, when the radio announcer said that the 40th Anniversary special edition of John Lennon's *Imagine* had just been released, and began to play it. As the song played, it triggered clear memories for me of a distinct moment in history, as though it was only yesterday.

I am sure that we all have such moments. For some, it might have been when John F. Kennedy was assassinated on 22 November 1963; for others it might have been when people landed on the moon, or when the Berlin Wall came down.

Most of us will remember where we were when the World Trade Centre was attacked in September 2011. For Professor Robie and some others here, it might have been the moment they held the very first issue of the *Pacific Journalism Review* in their hands.

For me, John Lennon's *Imagine* always takes me back to 14 May 1987—I was driving my white Suzuki Vitara up Moto'otua Road in Samoa and it was a little after 12 noon. An old friend of mine, 'Ulafala Aiavao, who was a journalist at the time for Radio 2AP in Samoa, had just interrupted the airwaves with news that there had been a military coup in Suva.

I distinctly remember pulling off to the side of the road next to Apia's Anglican Church in utter shock. I still clearly remember Fala's tone—he sounded like he was reading a funeral notice. When he finished, he played Lennon's *Imagine* and dedicated it to the people of Fiji.

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I had heard and hummed that song hundreds of times before, but never really paid attention to the lyrics as I did that hot sunny afternoon in Apia.

In more ways than one, the political events in Fiji since that fateful day have had a profound effect on political journalism in the Pacific. Many of my contemporaries who worked as journalists in Fiji at the time, paid dearly for defending the Fourth Estate. They were unified in their views and they vehemently defended the right to call things as they saw them: a spade was a spade, black was black, and white was white.

Similarly, the political upheaval of 2000 with George Speight found a new generation of journalists, many of whom were Professor Robie's journalism students at the University of the South Pacific, again risking their lives to ensure that we all received news.

Again, unified in reporting the events as they saw them—striving to be impartial, as it were. By this time, I was working here in Auckland and I remember logging in keenly to read the regular internet updates from these students on their *Pacific Journalism Online* website at USP. Unlike in 1987, this time we were not limited to print or broadcasts. We also had the internet.

Digital platforms

Not long after, I returned to Fiji to work as Registrar for the University of the South Pacific. I was there in 2006, when the Voreqe Bainimarama coup occurred. Unlike previous upheavals, this time the medium for the disbursement of information was vastly different. We now had a much wider range of digital platforms—blog sites, Facebook, Twitter and the like—through which a myriad of views could be expressed easily and speedily and with a relative lack of censorship and ethical or professional standards.

In his address, delivered as the Andrew Olle 2010 Lecture, British journalist and editor of *The Guardian*, Alan Rusbridger, said:

> Virtually every adult over the age of 30 grew up with the idea that the Fourth Estate consisted of just two parts—press and broadcasting. Each was owned, financed and regulated in different ways and each gave rise to different ideas of what journalism was.
>
> There was much to cherish in the balances and tensions inherent in this duopoly. A reader or viewer could measure the message of one medium against the other. There was the tent peg of attempted impartiality by which to measure the Wild West of the printed word.
>
> But now there's a new kid on the block. You could even argue there are two new kids on the block—the original world wide web (essentially another form of transmission) and web 2.0, the advent and rapid maturing of so-called social, or open media. No one owns the digital space and it is barely regulated. It brings with it an entirely new idea of what journalism is—indeed, for some, it calls into question whether there is any such distinct thing as 'journalism'.
>
> This double revolution within just over 20 years is having a dramatic effect on the accepted norms and categorisations of information. We are seeing the splintering of the Fourth Estate. (Rusbridger, 2010)

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In terms of the Pacific, in my view, this 'splintering' has also been manifested in the numerous rival regional media groupings that have emerged in the recent past and the tensions that frequently call into question their own ability to remain impartial and ethical.

Successful positioning

This backdrop, despite the bias of my Fijian lens, resonates well with any tribute that one might pay to the *Pacific Journalism Review*. Over the last 20 years, the journal has successfully positioned itself as a quality publication, where those committed to the development and advancement of the Pacific Islands region can find a platform to debate Pacific media issues.

I first met Professor Robie when I went to USP at the beginning of 2001 and attended an event to celebrate the success at the Ossie Awards of those very students who reported on the 2000 Fiji coup. Now I find myself at an event, where we were not only paying tribute to 20 years of publishing *Pacific Journalism Review,* but we are also celebrating yet more of his students winning Ossie Awards—this time for their coverage of Fiji's democratic elections.

There is fortuitous and poetic serendipity and synergy in the timing of all of this, and the threads of issues and topics that have been interwoven throughout the programme of this conference certainly reflect the rich and colourful tapestry that is *PJR*. I warmly congratulate those involved with *PJR* on your 20th anniversary.

Walter Fraser is Head of Pacific Advancement at Auckland University of Technology. This commentary was drawn from an opening speech he delivered at the PJR2014 'Political journalism conference in the Asia-Pacific' on 27-29 November 2014.

Reference

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PUBLISHING

2. Pacific Journalism Review

Twenty years on the front line of regional identity and freedom

Abstract: *Pacific Journalism Review* has consistently, at a good standard, honoured its 1994 founding goal: to be a credible peer-reviewed journal in the Asia-Pacific region, probing developments in journalism and media, and supporting journalism education. Global, it considers new media and social movements; 'regional', it promotes vernacular media, human freedoms and sustainable development. Asking how it developed, the method for this article was to research the archive, noting authors, subject matter, themes. The article concludes that one answer is the journal's collegiate approach; hundreds of academics, journalists and others, have been invited to contribute. Second has been the dedication of its one principal editor, Professor David Robie, always, somehow providing resources—at Port Moresby, Suva, and now Auckland—with a consistent editorial stance. Eclectic, not partisan, it has nevertheless been vigilant over rights, such as. monitoring the Fiji *coups d'etat*. Watching through a media lens, it follows a 'Pacific way', handling hard information through understanding and consensus. It has 237 subscriptions indexed to seven databases. Open source, it receives more than 1000 site visits weekly. With 'clientele' mostly in Australia, New Zealand and 'Oceania', it extends much further afield. From 1994 to 2014, 701 articles and reviews were published, now more than 24 scholarly articles each year.

Keywords: academic publishing, environment, journalism education, political journalism, Fiji, human rights, media freedom, New Zealand, Pacific way, Papua New Guinea, sustainable development, vernacular media

LEE DUFFIELD
Queensland University of Technology

PACIFIC JOURNALISM REVIEW since its inception has always emphasised its regional identity, adopting its own 'Pacific' style of discourse and inquiry. For 20 years it has been focused on Pacific issues, for and by people and institutions of the region—while always open to linkages and inputs from major global centres. It commenced publication at the University of Papua New Guinea in 1994, was later published from the University of the South Pacific in Fiji in 1998, and then from the

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Auckland University of Technology, since 2002. For its inspiration, the first editorial, by founder David Robie noted an expansion of media services in the South Pacific region, but 'surprisingly little reflective journalism or analysis of the state of the media today in the Pacific, or of issues such as freedom of information, freedom of expression, ethics, ownership, gender in media, development, and the public relations industry …' (*PJR*, 1(1), 1994).

The journal promised redress, and the key elements of the 32 editions up to the end of 2014, studied for this review, show how the effort was made to bring on a change. It would sponsor free circulation of information and protection of media rights, while also supporting reflective analysis of media, media probity and accountability. *Pacific Journalism Review* took up three roles in its South Pacific context: (1) It is an academic journal; (2) it is a professional forum for journalists about journalism, and (3) it is concerned with journalism education. As it states, it is the only specialist media, journalism and political studies research journal based in New Zealand; and the only one globally that specialises in the Asia-Pacific with emphasis on the Pacific (*PJR Notes*, 2014).

Political problems in the Pacific

Creating an outlet for thought and change in this distinctive part of the world would be an inviting task, but things would go wrong with circumstances on the ground. Dysfunctional politics in the region have meant that for most of its existence *Pacific Journalism Review* has found itself taking a lead, dealing with an ongoing challenge to journalism and scholarship. Alan Robson from the University of the South Pacific in Fiji described the situation in the second edition of the *PJR*:

> Events in recent years in the South Pacific have dispelled hitherto widely held perceptions of the region as a peacefully modernising backwater of traditional societies. In particular the 1987 coups in Fiji galvanised the attention of politicians and academics. But in truth, this was just one of a series of crises besetting the South Pacific island states ... a range of events (dealt with) under the rubric of responses to colonialism and the emergence of Pacific nationalism. (*PJR*, 2(1), 1995)

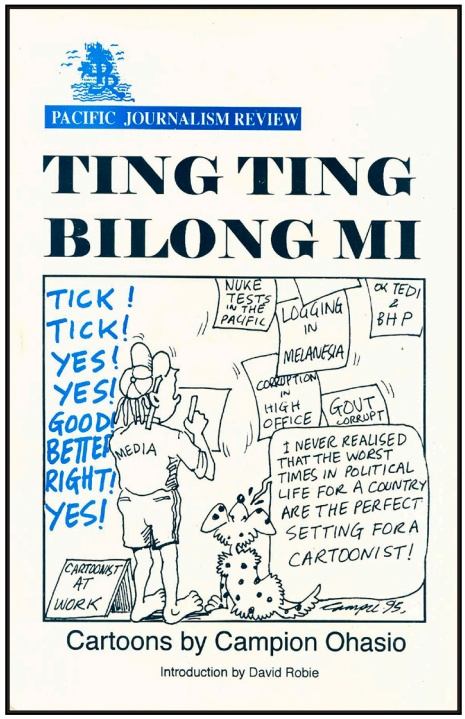

Figure 1: The first book edition of *Pacific Journalism Review* at the University of Papua New Guinea in 1996.

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Similarly Martin Hadlow, from the University of Queensland (later Secretary-General of the AMIC research centre in Singapore) identified dilemmas for media, writing after the UNESCO World Press Freedom Day celebrations in Brisbane (an occasion like many others seized on by the *PJR* as a ready source for quality material):

> Geographical remoteness, small populations and vast sea distances between nations are all factors which go to ensuring that the islands of the Pacific remain relatively unfamiliar territory to many in the international community. That a region so wealthy in languages, cultures and social traditions could also be a place of coups and tensions and where media freedoms are often trampled upon, is also little known to many casual observers. (*PJR*, 16(2), 2010)

He said there was a need for 'independent Pacific media voices to be heard and for press freedom activists to express concerns on the international stage'. The interests of 'outside powers', in the post-colonial era would also go into the mix of problems: demands of foreign corporations, the usually benign if pervasive influence of Australia, New Zealand and the European Union; continuing French involvement in government of territories; the geo-political jostling of the United States, Taiwan, and the 'new' participant China, rapidly extending its economic and 'soft power' interests.

Following a 'Pacific Way'

Many absorbing issues for media and journalists have been explored through the *PJR* despite having to attend to conflicts and break-down in the countries of the region; issues like journalism for development, conservation of the environment, preserving custom, and the question of evolving indigenous ways of problem solving and communication. After the first nine years of publication, with the *PJR* moving to Auckland, it could claim to have been 'at the forefront of critical reflections on the role of the media and journalism practices in the Pacific region' (King, 9(1), 2003).

It has continued appealing to its imagined and actual community, with a large overlap among contributors and readers, being people in the region from the mass media, business, government and semi-government agencies, and political leaders. Often enough it was a direct and personal appeal, under the proactive, not to say entrepreneurial editorship of Robie, who would continue in the role for the full 20 years, and beyond. Distinguished people within and outside of the academic field would be invited to contribute, with some stimulating results, as with an article from the sometimes embattled Chief Ombudsman of Papua New Guinea, or the publication of a key speech by a New Zealand Prime Minister. The journal also collaborates closely with partner institutions; especially with USP, the Asian Media Information and Communication Centre (AMIC) in Singapore, and the Australian Centre for Independent Journalism, University of Technology of Sydney, Sydney. (*PJR Notes*, 2014).

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More than just a matter of ingenuity, the gathering together of resources and talent, had its cultural dimension. It was a recognition that in this region, everybody might be involved. It means openness with little formality. Different perspectives are brought in and tolerated. It might draw on custom; on surviving aspects of colonial cultures, e.g. promoting education for development, or the plain fact of the region being a small world. It might be called a Pacific way. Something like this was invoked by Sandra Kailahi, of TV New Zealand and the Pacific Islands Media Association, from the viewpoint of Pasifika people, which she called 'Pacificness'—'telling our side of the story':

> Pasifika people face increased marginalisation if they do not become active participants in any media discourse. Newer, portable technologies open opportunities for smaller societies to become part of the media landscape. There are now more opportunities for smaller voices to express their Pacificness and be heard over the din of the mainstream. (*PJR*, 15(1), 2009).

An important challenge for South Pacific media, said Robie, was to be 'developing forms of journalism that contribute to the national ethos by mobilising change from passive communities to those seeking change ...' (*PJR*, 19(1), 2013). To that end, the *PJR* would be collaborative, mobilising the talents of a spread of writers, as in his 1995 book *Nius Bilong Pasifik*:

> The idea was to provide materials to help teaching and for students to reference – and also for the media industry to use. The contributors were both academics and Pacific industry journalists. I was an admirer of the *Australian Journalism Review* under John Henningham, and also *Index on Censorship*, and drew ideas from both publications. (Robie, D., Personal communication, 11 November 2014; *see also* www.amazon.com/Nius-Bilong-Pasifik-Media-Pacific/dp/9980840528).

Academic standards

Over time the *Pacific Journalism Review* can be seen shifting towards more recognition and renown as an academic journal; while maintaining its eclectic policy on subjects and writers, and persisting often less formally, with its pictures, commentaries and cartoons, as a forum for Pacific media. That shift, a process of over a decade, has been marked by more regular and consistent publication, resulting in the unfailing production of biannual editions. The change has been on the back of a stronger support base at the larger university, in Auckland. Success in this field has been marked by the journal's acceptance by international research databases.

While developing, *PJR* has nevertheless always met the standard of a substantial academic publication. What ensured the quality of the journal, in particular, was its reviewing policy; every article double-blind peer reviewed. It took great trouble for a small operation to guarantee this, by enrolling a pool of associates to review articles. That

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was part of the resourcefulness of the journal, always looking out for and assembling resources. Even in its commentaries on issues, where guest writers or VIP contributors are invited, the *PJR* policy is to apply uniform quality assurance. All commentaries are normally refereed the same as research articles, except for certain ones such as keynote speeches, which will still be edited and referenced (Robie, D., Personal communication, 11 November 2014).

In 2010, *PJR* was graded at level B by the Australian Research Council, a category that included leading regional journals and those accommodating early career researchers. The Australian Journalism Professors Council recommended to the ARC that it be rated level A (Knight, 2011; Robie, 2011), and a case made to the ARC averred that 'almost all papers are by well-established researchers with reputations ... While the leading global source in a strategic field, South Pacific media and civilisation, *PJR* engages with the international research community also as a main outlet for general writing about media. This attracts submissions and restricts acceptances' (Duffield, 2011). In the event, the ARC journal ratings system was abandoned before cases for regrading were heard.

Defending journalism

The academic Discipline of Journalism being a professional discipline, the question of quality is not only one of academic probity, but of how this journal would support journalists, especially in a time of trouble. It is the defence of journalism, journalists and journalistic standards. This raises the matter of how things 'went wrong' politically for the peaceable project of *Pacific Journalism Review*. It has had to devote much of its resources—much space, time and energy—to monitoring conflict and large scale crime, not least military forces seizing political power. Under whatever government regime, attacks on the news media have been part of a dysfunctional political and economic environment across the region. The media community has had a strongly felt obligation to step up, to contest the issue. A special report on the history of such troubles, and on the state of media freedom, by Alex Perrottet and David Robie would conclude:

> Pacific media freedom has been under siege for more than a decade, particularly since an attempted coup in Fiji in May 2000, when a television station was attacked and ransacked, a foreign journalist was shot and wounded and a local journalist ended up being imprisoned for treason. Since then various Pacific countries, notably Fiji, Papua New Guinea, Tonga and Vanuatu, have faced various periods of media repression. Since the military coup in December 2006, Fiji has faced arguably its worst sustained pressure on the media since the original two Rabuka coups of 1987. (*PJR, 17*(2), 2011)

A survey by Som Prakash and Shailendra Singh, had drawn the same conclusions, identifying 'landmark changes' in three island states:

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> Fiji, beset by racial and political problems culminating in three coups … Tonga, a Polynesian monarchy, has recently seen an unprecedented number of protest marches against the ruling elite … In the Solomons, a strong desire for a fairer political system was manifested in the 2006 riots in Honiara... The media has been a key player in these events. Regularly accused of adding fuel to fire in its coverage of crises, the media faces constant government pressure in all three countries … (*PJR*, *12*(2), 2006).

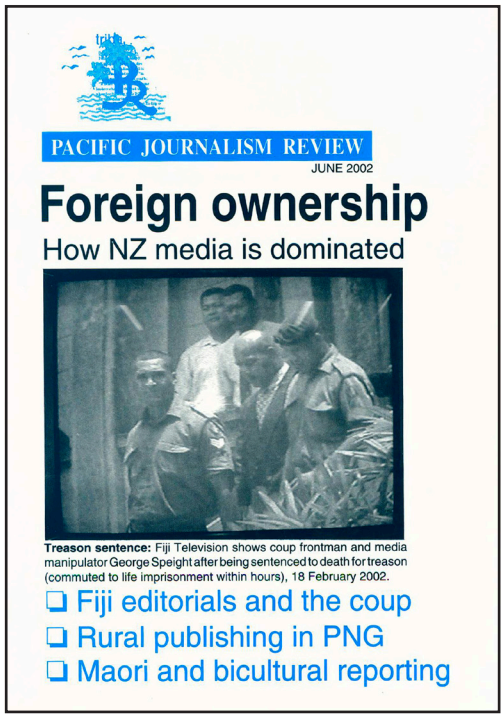

Figure 2: The foreign ownership and Fiji coups edition at USP, Fiji, in June 2002.

Anatomy of *Pacific Journalism Review*

What is this product that has sustained innovation and respect for 'vernacular' cultures, ensured academic best practice in assessing contributions, and supported journalists standing up to the imprecations of an insecure dictatorship? For this research into the *PJR*, the writer reviewed every edition to date; (1) seeking to anatomise the journal by its structure and a categorisation of contents; (2) finding material that broadens these observations, e.g. on management and resourcing of the operation, and (3) drawing inferences as to the meanings of contents of the articles, in the context of the journal's history and stated mission.

Structure and contents

Key elements of *Pacific Journalism Review* have already been mentioned, as an academic journal, a professional forum for journalists about journalism, and a publication concerned with journalism education. This developed over time, so that by the present decade it had taken up a standard template, though not with predictable contents, providing an editorial article at the start; a themed section occupying usually half the edition; some articles on other topics set together; most likely a special report or feature, such as the photo essay in November 2014 (20(2), 2014); and an extensive set of book reviews. The sections are:

Media profiles. An early series of media profiles where interviewers, mostly Journalism students, would recount the work of leading practitioners, (in 1994, Sophie Kuasi and Nino Kami, on work by Wendy Bacon, Neville Togarewa and Abby Yadi).

A forum section for guest writers, starting in the first edition (1(1), November 1994)

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with the University of Papua New Guinea library studies academic Margaret Obi's welcome to *PJR*: 'This first issue of *PJR* offers a smorgasbord of journalistic skills from James Pinder to Jessie Waibauru—from the experienced to the potential…' She acclaimed the promised focus on professional ethics, journalistic responsibility and accountability, and publishing 'without fear or favour'.

Support for investigative journalism, defining it and providing defence of the journalists concerned if in trouble (a policy initiated with special coverage of the 1996 Pacific Investigative Journalism awards, in Vol 3(2), that year). As early as 2005 a section called 'Frontline' first appeared, publishing investigative reports, with two articles on Aboriginal land rights in Australia. 'Frontline' is now a regular feature, e.g. with reports in Vol 18(1), 2012, based on investigations into West Papua's Freeport mine at Grasberg and the Vale nickel refinery at Goro in New Caledonia. In one of the journal's reviewing or republishing exercises, to expose quality material, editor Marni Cordell of *New Matilda* in Vol 15(2), 2009, on investigative work by ABC *Four Corners*, provided a definition: 'The purpose of investigative journalism is to hold powerful interests to account and highlight systemic corruption and breakdown ... to bring attention to injury and injustice, expose information that is in the public interest, and encourage legislative reform.' The work on investigative journalism was associated with the arguments for *journalism as a form of research*, led by Wendy Bacon from UTS, and Chris Nash from Monash University, a concept publicised in *PJR* and achieving recognition from the ARC (Bacon, 2012). It is a substantial polemic bringing together academic and journalistic conceptions of thought where this journal is playing an important facilitating role.

Pacific Journalism Review has always stood out in academic publishing with its *extensive use of illustration,* seen as part of the information flow and truth telling. This has included three photo essays by the photojournalist Ben Bohane, and many cartoonists from the region, or nearby, (the first, Campion Ohasio, featured in Vol 3(2), 1996, with his series 'Ting Ting Bilong Mi', commenting during the Bougainville and Sandline mercenary crisis: 'I never realised that the worst times in political life for a country are the perfect setting for a cartoonist'). Increasingly investigation has taken the form of video documentaries, often enough connected with *PJR*'s institutional base, the Pacific Media Centre, accompanied by articles and reviews in the journal and online, (e.g. Jim Marbrook's *Cap Bocage* on New Caledonia mining; Max Stahl, documentary making on Timor-Leste; *see also* Sasya Wreksono's 2014 student video on *PJR* itself).

Themed editions were published from the earliest years, initially as articles accepted and grouped, in the last seven years becoming more systematic, with advertising for contributions, and commissioning, so that on average ten articles will appear in the themed section, half the edition's total including editorials and reviews. An average 2.*75 general articles*, on other subjects, will appear in each edition. The themes include: East Timor and West Papua; Coverage of Crises, and the *Uni Tavur* testimony (eyewitness

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treatments of the deaths of four students in a protest against World Bank interventions, at Port Moresby, 2001).

Commentaries have been Fiji Media Bill (Richard Naidu); Synthesising Industry and Academic Ambitions (Kerry Green), and Politics of Media (Steven Ratuva), in *9*(1), 2003; the Indigenous Public Sphere, six articles, *11*(1), 2005; HIV Aids Campaigns in PNG (Trevor Cullen), *12*(1), 2006; the Changing Mediascape in New Caledonia, (Nick Maclellan), *15*(2), 2009; Journalism training in New Zealand—for the 'real world'? (Lyn Barnes), *19*(1), 2013.

Editorials. Each of the 32 editions has led with an editorial; the first nine and most of the others by Robie as the editor-in-chief. However, from the ninth edition onward, 18 of the 23 numbers have been jointly edited with other contributors, and in four cases entirely by guests. The concerns of the editorials closely follow the themes in each edition. The practice of *PJR* in drawing on intellectual and professional or industry events—conventions, conferences, forums—sees convenors or editors from a recent event working on the edition.

This publishing from intellectual congresses, together with the recruitment of individual academics or journalists as associates of the journal or the PMC, provides quality material, augments the editorial workforce and injects diversity of approach. That is especially so in the case of the affiliation with UTS over virtually the whole 20-year period. As an example of co-editing, and drawing from a body of prepared papers, Vol 16(2), 2010, was co-edited with Robie by Marsali Mackinnon and Martin Hadlow from the UN Press Freedom Day conference at Brisbane. Editions by guests have been: Wayne Hope, Media Ownership and Democracy, *10*(2), 2004; Barry King and Ian Goodwin, Media and the Indigenous Public Sphere, *11*(1), 2005; Allison Oosterman and Janet Bedggood, Contemporary Gender Issues, *12*(1), 2006; Wendy Bacon, Investigative Journalism Trends, *20*(1), 2014. Co-editors of other editions: Wendy Bacon (five additional issues), Jean-Claude Bertrand, Catriona Bonfiglioli, Patrick Craddock, Lee Duffield, Rosser Johnson, Johan Lidberg, Fran Molloy, Tom Morton, Chris Nash (four editions), Ian Richards, Alan Samson, Shailendra Singh (two editions) and Charu Upal.

Reviews. *Pacific Journalism Review* has consistently reviewed scholarly and journalistic books, mostly published in the region or focused on regional issues to do with freedom or media. The reviews have also provided a way for the journal to open its coverage to much wider issues; for example, the treatment of Philip Knightley's *The Latest Casualty*, on 'media failure' in handling international crises, (Louise Matthews, *9*(1), 2003); and Robert Fisk's polemical *Great War for Civilisation* (Jon Stephenson, *12*(2), 2006). There have been 202 full analytical reviews, running to 1500 words, and 15 shorter notes on books.

Table 1 (following pages) summarises the output of *Pacific Journalism Review*, in the classifications explained above, in its first 20 years.

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Table 1: *Pacific Journalism Review*: Contents by category, 1994-2014.

Year		Theme	Themed Articles	Other Articles	Commentary	Book Review/ Noted	Total
1994	v1	NBC radio gag	2	6	6	3	17
1995	v2	PNG 'under the spell': Investigative journalism	4	15	7	7	33
1996	3(1)	Ting Ting Bilong Mi: Cartooning	5	0	0	0	5
	3(2)	News media under fire	20	5	4	3	32
1997	v4	Media and the mercenaries	4	23	0	4	31
1998		No edition	-	-	-	-	-
1999	v5	Daily Post buyout deal	17	6	1	2	26
2000	v6	Blood on the Cross: East Timor and West Papua	20	3	1	4	28
2001	v7	Crises and coverage: Fiji coup, Solomon Islands & PNG	22	4	0	4	30
2002	v8	Foreign ownership: NZ media	2	13	3	4	22
2003	v9	Iraq and the media war	7	7	6	5	25
2004	10(1)	Public right to know: 3rd PR2K Conference	14	3	3	5	25
	10(2)	Media ownership and democracy	9	2	0	6	17
2005	11(1)	The Indigenous public sphere	10	3	0	6	19
	11(2)	Media ethics and accountability	7	6	0	4	17
2006	12(1)	Contemporary gender issues	9	1	2	6 (3)	18
	12(2)	Eco-journalism and security	7	2	2	8(3)	19

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Year		Theme	Themed Articles	Other Articles	Commentary	Book Review/ Noted	Total
2007	13(1)	Journalism Down Under	9	4	0	7	20
	13(2)	Media and digital democracy	7	5	0	5	17
2008	14(1)	The future of the mainstream media	8	4	1	7	20
	14(2)	Public right to know: Reporting Futures	9	3	1	6	19
2009	15(1)	Diversity, identity and the media	10	3	0	9	22
	15(2)	Giving them what they want: Global warming	8	3	1	8	20
2010	16(1)	Reporting on wars: The ongoing challenges	12	3	1	8	24
	16(2)	Media freedom in Oceania	13	3	0	10	26
2011	17(1)	New investigative journalism challenges	10	4	0	8	22
	17(2)	Media, cultural diversity and the community	7	3	0	9	19
2012	18(1)	Back to the source	7	5	1	10 (3)	23
	18(2)	Rebuilding public trust in journalism	11	3	0	13 (3)	27
2013	19(1)	Media and democracy in the Pacific	10	5	1	6 (1)	22
	19(2)	Celebrity and scandal	6	7	0	8 (2)	21
2014	20(1)	1. Investigative journalism trends	6	5	1	10(2)	22
	20(2)	2. Failed states and the environment	8	6	1	7(2)	22
Total			300	165	43	202	710

Notes: Where there may be more than one themed section in the edition, the name of the principal theme is listed under "theme"; articles from all themed sections are counted together in the "themed articles" column. Additional to conventional scholarly articles, close to 30 profiles, interview transcripts,obituaries, and contributions based on images are included as "other articles". In the "reviews" column, short notes on books whether published singly or grouped in a portfolio article are shown in brackets. There was no edition in 1998, the time of transition to USP in Suva.
Source: INFORMIT database for *Pacific Journalism Review*.

Management and resources of the publication

It can be seen from the above that *Pacific Journalism Review* has operated on a very rich base, except for funding, where it has nevertheless achieved stability on the platform provided by AUT since the move there in 2002. As a print publication, it had 237 subscriptions in 2013, mostly with libraries and media organisations, in several countries of the region, plus Europe and North America. Of the subscriptions, 101 were in New Zealand, with 36 members of the Journalism Education Association of New Zealand (JEANZ) receiving copies. With service to NZ journalism included in the mission of the journal, there is reciprocity; both leading journalists from that country, *viz* Michael Field, and several media academics, *viz* Philip Cass, publish in it, assist with editing, provide a main-stay. (See PMC Annual Report, 2014).

Given the drive to provide an eclectic mix of materials—whether predominantly academic, predominantly journalistic or pedagogical in approach—the management task has been to find the means to publish a big edition each time. *PJR* numbers, bar one, have always had at least 16 articles; the largest by article numbers, at 33, was the second edition, in 1995—although only 163 pages. Until 2002 editions were usually up to 200 pages, more since then; the 2014 numbers have 262 and 267 pages respectively. They have established a standard of close to one-third of contents being Māori or Pacific research articles.

With the drive to publish more in digital formats, especially since 2000, *PJR* was accepted in 2011 by the highly competitive SCOPUS database, one of the two main research metrics databases. It was already being indexed with full text articles by five international databases, EBSCO and Gale Cengage (USA), Informit (Australia), Newxtext (NZ) and PINI (Pacific Islands News and Information). Statistics from its own site (www.pjreview.info, 15 November 2014), also carrying a full-text archive, indicate significant interest. For example, the weekly report average for May-June 2013 was 1676 page visits (of which 555 unique users, 466 first-time). The top country users were NZ (28.09 percent), Australia (19.41 percent), USA (9.03 percent), Fiji (7.23 percent), UK (6.76 percent), Sweden, Canada, India and France (together 10.31 percent), and PNG (1.46 percent). Where institutions like university libraries subscribe to *PJR* an accompanying online version has become *de rigeur* and a boon for researchers.

The online service from the Pacific Media Centre (www.pmc.aut.ac.nz - 15 November 2014) in May-June 2013 had 2082 page visits (1282 unique users, 1074 first-time), (PJR Media Release, 28 August 2012). It aggregates a plethora of news from the Centre, offerings from its off-shoot publications including *PJR* and *Pacific Journalism Monographs*, social media links, and a showcase for new video products. Also in this suite, *Pacific Media Watch* monitors media stories of note for the Pacific, threats to media and accountability issues for the journalists; *Pacific Scoop* is its own outlet for news reports or special investigations. In 2012, *Pacific Media Watch* had published 9092 articles, audio reports and videos; PMC Online news and database had hosted 2486 average weekly

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unique visitors and file downloads; and there had been 99 890 video views on the PMC's YouTube channel – exceeding 100,000 by early February 2015 (PMC Annual Report, 2014). As a part of AUT, the Centre, established in 2007, has access to student products and makes real the intention expressed in the first edition of *PJR*: to provide an outlet for the coming generations of journalists, and to enjoy their energy and initiative.

Digital publishing has been discussed in successive editions as a prime option for establishing an indigenous media, and community-based media for islands, e.g. in such contexts as the themed edition on the Indigenous Public Sphere, Vol 11(1), 2005, (canvassing developments in Māori media, Kalafi Moala's 'Case for Pacific Media Reform', and Michael Meadows's work on Australian indigenous radio and television). *See* also Kylie Anderson's 'Whither Pacific "traditional media"?: Internet technology in political education and participation', Vol 13(2), 2007—surveying internet developments in 12 Pacific countries.

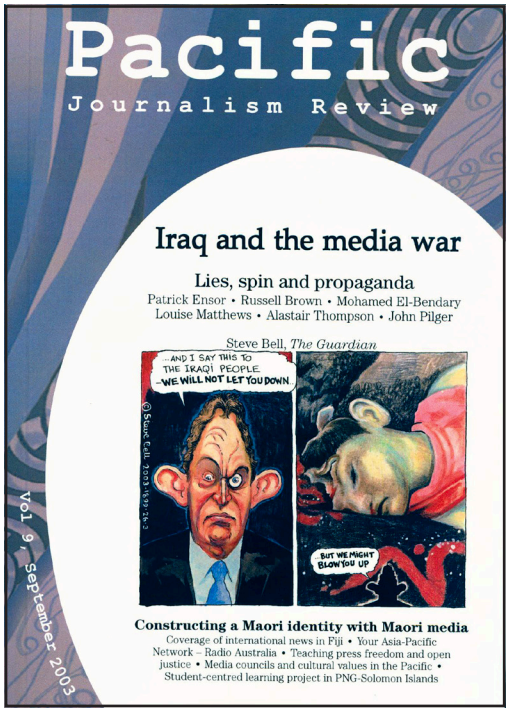

Figure 3: The first edition of *PJR* published by AUT University in 2003.

As has been pointed out, *PJR* is not well-funded, doing without large ongoing grants or endowments, while it canvasses good collegiate and 'in kind' support. That includes the strategic partnering of this Pacific-orientated journal with other institutions, and linking of its publication schedules to events that would produce copy for themed editions. This activity is both synergising, and cost saving, as with, for a further example, the joint edition produced with the CIJ in Sydney, following on from the latter's Public Right to Know conference in 2008, (*PJR*, 14(2), September 2008). On occasion grant funding has been obtained, like: funding from the Communication Assistance Foundation, the Netherlands, for Vol 3(2), 1996; funding from UNESCO, jointly with the Pacific Writing Forum at USP, Suva, for Vol 5(1), 1999; and a grant from the UNESCO Office of Pacific States for Vol 16(2), 2010, the edition following the UNESCO World Press Freedom Day event at Brisbane. External funding reached $60,000 during 2010-13 (Pearson, 2013)

Meanings, mission and editorial policies

As a reflection of quality, the wide range of contributors, and the presence of distinguished

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contributors helps to confer status on the publication. Addressing the 2011 ERA journal review, it listed three Prime Ministers who had contributed; Samoan chief Savea Sano Malifa, winner of the Commonwealth Astor Award for Media Freedom; the American theorist Robert W McChesney; the PNG Chief Ombudsman Chronox Manek, and the United States investigative journalist Bethany McLean.

External assessor Mark Pearson, a contributor as well in his field of ethics and media law, in 2013 credited the PMC, incorporating the academic journal, with high achievement and quality: 'While only a small team, its research outcomes have considerable impact and influence on policy making at an international level. It attracts international students and senior researchers and is internationally acclaimed as a research entity …' Pearson's official audit also draws attention to the editorship of David Robie, urging the host university to allocate more funding, and to provide for eventual succession, and continuity. Robie, as the resource provider and coordinator, is also a key contributor, having authored more than 63 articles (peer-reviewed) or reviews in *PJR*, beyond doubt the key influence on its editorial standards and character, and (to date) on its continued publication.

The editorial position of the journal is clearly marked by its eclectic range of coverage, as academic research, journalistic discourse and pedagogy; by its regional focus, and importantly, by its receptiveness to both the Pacific way (Sandra Kailahi's 'Pacificness'), and universal, Western liberal thought on human rights and the role of media. *PJR* gives attention to current global debates about journalism, as in the cases already mentioned, the reviews on Knightley's *The Latest Casualty*, and Fisk's *Great War for Civilisation.* The 'rights' approach—essentially journalists' insistence on the right to publish, as an extension of universal human rights—is applied in several instances from the Pacific, in the *PJR*. Take two examples from the very first editions: Journalists' objections to a government ban on reporters from the National Broadcasting Commission going to cover the fighting on Bougainville, (Vol 1(1), 1994); and Peter Cronau's article decrying self-censorship, (Vol 2(1), 1995).

The journal's concentration on military rule and blatant media censorship in Fiji, giving extensive attention to (this issue) in 16 editions, has committed it to an editorial these issues stand. The same is true of its agenda-setting in regard to crisis elsewhere: jailing of journalists in Tonga, threatened or actual media controls in Tahiti or PNG, bashing of an editor in Vanuatu by a senior government politician, threats also against the media in Solomon Islands, and reporting restrictions in Samoa. It has taken a position in the 'liberal-rights' and also 'social responsibility' tradition of what journalism should be, which has contributed to its respectability. An instance of esteem is the positive assessment from the European analysts Loffelholz and Rothenberger (2011), in their study of seven peer-reviewed journals in the Journalism discipline. They placed it in a category, of exhibiting concern with ethics, values, 'normative demands' and agenda setting, all

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of which 'seem to be theories that can easily be combined with empirical research and have a solid standing in the theory portfolio of our discipline.'

The journal gives oxygen to campaigns that decry suppression of truth; it examines self-censorship by the news as something of a professional failing; it backs the efforts of journalists who want to investigate in an independent way, and calls for their protection in conflict situations. Through the selection and content of articles *PJR* gives oxygen to the aspirations of indigenous people of the region, to economic development and freedom from oppression, and to journalists' aspirations to build independent media systems that accord well with local cultures and interests. It has probed media ownership and its limiting effects on independent work by journalists (see media proprietors and public trust, in Vol 18(2), 2012).

Figure 4: The latest edition of *PJR* published last November on the 20th anniversary of the journal.

If it was taking a political stance, that might seem an ambiguous stance. It is conservative in the sense of wanting to preserve what is widely valued, such as freedom to find out and report; yet has no truck with domination by powerful economic interests, as in its publication of researched arguments against excesses of mining operations in Papua or New Caledonia. It might be called left-wing for its preparedness to publish a defence of the interests of the disadvantaged or disenfranchised, and respectfully observe the interests and culture of indigenous people, but does not privilege any concept of collective rights that would jeopardise private individual rights. It might be called liberal for its stress on such individual freedoms, and the wide range of its agenda, but it is not relativistic when confronted with conflicting values, e.g. those of a dictatorship against journalists wanting to openly report news across the board—there is no 'false balance'.

Pacific Journalism Review is concerned with freedom, and with truth, easily defined as the outcome of inquiries based on plain evidence. Its stance is above all journalistic; as a publishing outlet for investigative journalism, and for scholarship on media and community; as an outlet for reflective debate within the media community about its work, and as a contributor to the formation of new entrants into journalism—in their values and their aspirations to best practice.

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Conclusions

Pacific Journalism Review at age 20, with 710 articles published to the end of 2014, is able to present a track record of consistent publishing, and a clear definition that was laid out for it at the beginning. It has followed to the letter, with a good degree of success, what is now the mission statement of the PMC overall: undertaking and stimulating research into contemporary Māori, Pacific, Asia-Pacific and ethnic/diversity media and culture production; raising Aotearoa / New Zealand research capability; publishing the findings of media research; winning funding from government and industry partners; developing collaborations with other Asia-Pacific centres of research excellence in media and cultural production; developing social change and development communication editorial and publications capability, (PMC, Annual Report 2014, p. 4).

David Robie, founding it as a lecturer at the University of Papua New Guinea in 1994, took it with him on a career journey, obtaining his Chair at AUT, and ensconcing the brainchild there as an adult entity within the institutional setting of a research centre. It is a tribute to his optimism, to ensure that it would keep publishing, and keep to its task as set out at the start. That is all the more so, where, as said at the beginning of this review, things began 'going wrong' politically, with the political environment for research and publishing hostile for much of the time, over much of the geographical territory.

There is scope for more of the same publishing from *PJR*. In each area of interest where it has published, change continues in the region, calling for a continuation of the monitoring and research. New developments beckon, not least ongoing anxiety over climate change, options for economic development, pressure on land use, impacts of poverty, opportunities for women, life-threatening societal breakdown in villages and towns, and calls for better recognition and adaptation of 'custom' in media, as in other aspects of community life.

Through all this—as a matter of attitude—*PJR* shows little sense of doubt about the efficacy of its work. By 2013, after much publishing on military rule and repression of news media in Fiji, it would editorialise: 'Fiji is a tough, but not wholly insurmountable, problem.' (*19*(1), 2013).

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POLITICAL JOURNALISM

3. Fiji media regulation

Emerging from 'worst of times' to the 'best of times'

Commentary: A tragic result of the repressive media environment in Fiji has been a huge brain drain within the industry. Many of the best and experienced media workers most have left or been forced out. In fact, Australia and New Zealand have benefitted by the migration of some of Fiji's senior media workers from as far back as 1987, the year of the first two military coups by Lieutenant-Colonel Sitiveni Rabuka, and more so in the past eight years since the Voreqe Bainimarama coup in December 2006. Those who have remained have either been moved to non-controversial roles or mellowed to the point of silence.

Keywords: coups, democracy, Fiji, media decrees, media freedom, media law, media regulation, military, *República*

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PERHAPS an apt description of the media environment that had been bequeathed to Fiji as a result of the eight years of military rule since 2006 can be found in the opening paragraph of Charles Dickens' work *A Tale of Two Cities*. They are words that, although written 155 years ago, can describe many of the social and political conditions in our world today, but they ring true for Fiji.

> It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way… (Dickens, 1859)

This article is about the post-election environment in Fiji, how we got to this point and what needs to be done to improve it. While commenting in a personal capacity as a journalist and editor of *República* magazine, I am also an advocate for my media colleagues

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in Fiji who elected me in June 2014 as president of the newly formed Fijian Media Association.

For years the media fraternity in Fiji had tried to become organised, but as we found out, media folk can be notoriously difficult to corral. In fact, we had begun our attempts to organise well before the 2006 coup that changed everything. For a brief period in 2004-2005, a chapter of the Commonwealth Journalists' Association was established, but this soon lost momentum and was forgotten.

The media industry in Fiji during those years had fractured on many levels. It was not uncommon for some journalists not to talk to or socialise with others over perceived or real slights, or differences of opinion. And the now—defunct Fiji Media Council had been accused of failing to handle ethical lapses and controversies satisfactorily or fast enough. The Council had been set up by the owners and editorial managers of most of the country's major media organisations in the 1990s and had gone some way towards the development of the industry, but ultimately it was not enough.

We were divided and it can be argued that such division was one reason it was easy for the military government to bring into force the *Media Industry Development Decree 2010*. The government justified its actions with reference to some of the unscrupulous journalism practices that should rightly be condemned. And I should point out here that the Fiji Media Council's legacy does live on in the form of the code of ethics for media workers embedded in the media decree.

We realised a bit too late that we were all in this together, despite our personal political views or those of the companies that we worked for. United we stand, divided we fall.

So it is a positive sign of the yearning by Fiji's media workers for an organisation that would speak in their defence when not many would (or could), and an organisation that would provide opportunities for continued learning, professional development and camaraderie.

From early on in his rule Attorney-General Aiyaz Sayed-Khaiyum had said that a media law would be brought into place to improve standards and practices in the industry. In early 2010, a draft Media Decree was presented to editors and managers gathered at the Holiday Inn in Suva. We were given about two hours to read through the document before the Attorney-General came to discuss the provisions with us. Although he said he wanted to hear our feedback he prefaced it with the words: 'This is not a debate.'

When the decree was finally gazetted some months later, we found that he had taken on board some of the feedback, for example by reducing the fines and jail terms for breaches, but many of the more worrying provisions remained, especially that relating to content which could be deemed in breach of the 'national interest' —a blanket term that is not defined and could be interpreted at will.

Thus began the era of media regulation in Fiji. If the media were subdued after the 2006 takeover and especially after the abrogation of the 1997 Constitution in 2009, they were truly intimidated when the Media Decree came into effect in 2010.

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Who could blame us? For many it was simply a bread-and-butter issue. Do we continue to report views and issues critical of the government—no matter how constructive—and risk a breach that could potentially land an editor or journalist with a fine of up to $10,000 and/or up to two years in jail, and the media company a fine of up to $100,000? Or do we adopt pragmatism and self-censorship and live another day?

A tragic result of the repressive media environment has been the huge brain drain within the industry. Many of the best and most experienced media workers have left or been forced out. In fact, Australia and New Zealand have benefitted by the migration of some of Fiji's senior media workers from as far back as 1987, and more so in the past eight years. Those who have remained have either been moved to non-controversial roles or mellowed to the point of silence.

Apart from the provisions of the media decree, other rules and regulations are being used to keep the media in check. Fiji Television has a noose around its neck with the company only being granted a licence for six months at a time. Compare this with the state-owned Fiji Broadcasting Corporation whose chief executive is Riyaz Sayed-Khaiyum, the brother of the Attorney-General. FBC TV has a 12-year licence and is also exempt from the cross-media prohibitions in the Media Decree.

Just recently, during the International Rugby Board (IRB) Gold Coast Rugby Sevens tournament, Fiji Television was forced to share with FBC TV live feed of the matches for which it had the rights. They were compelled to do so under the *Television (Cross-Carriage of Designated Events) Decree 2014*. Under this decree, free-to-air television stations must share any event designated under the decree as an important national one.

The smallest of Fiji's three commercial TV stations, Mai TV (for which I have worked) was forced to take the feed—even though it did not want to and had no advertising or sponsorship to run it. It also had to fork out a reported $50,000 for its share of the costs involved. Not only did this have an impact on the TV companies involved, it left viewers of free-to-air television with no other choice but to watch rugby sevens all weekend. This is truly ironic when you consider that one of the objects of the decree is to 'ensure the availability of a comprehensive range of quality television services in Fiji'.

Apart from the impact of all sorts of decrees and regulations on media companies, the environment that the Media Decree has created is not conducive to the practice of truly robust and critical journalism. Sometimes you get the impression that everybody with a little power to exercise will unreasonably limit journalists in their work. It is not only locals doing it.

In November 2014, during the visit of the Chinese President Xi Jinping to Fiji, only the Chinese journalists accompanying him were allowed in the room while he addressed the Pacific leaders he was meeting in Nadi. Two veteran local journalists, Makereta Komai of Pacnews and Dennis Rounds, stringing for *Islands Business,* who tried to defy the ban on non-Chinese journalists, were removed by Chinese security from the room at Denarau. They were not even allowed to listen to an interpretation of the speech on headphones.

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Instead, they were told to get the official transcript off Xinhua News Agency. Even in our own country, foreign officials can exert their will on the media.

There is also the fear that hangs over journalists and their media companies: fear of breaching the decree and perhaps catching a fine, which could very well cripple any media company. This is even more so for small, independent media operators, and the overall outcome is that many times the journalism presented to the people of Fiji is bland and unexciting. 'Infotainment' and puff pieces can be safer and more profitable.

Of course, not all media companies face this fear. It is well known that the *Fiji Sun* newspaper is unconditionally supportive of Bainimarama's vision for a 'new Fiji' and will consistently praise any policies of the government and denounce anybody with a differing view. And if you are bestowed with an 'anti-Fiji' or 'anti-government' label by the *Fiji Sun*, it can make life and business very difficult.

Companies that feel you are somehow 'anti-government' will steer clear of your media outlet, not because they do not believe in what you are doing, but because the ramifications for any business seen to be supporting a perceived 'anti' media company can be damaging.

The *Fiji Sun* has been richly rewarded for its loud and proud support of Bainimarama's government. Almost all government advertisements and those of government commercial entities are placed exclusively in the *Fiji Sun*. This was done to punish *The Fiji Times* for its perceived anti-government stance in the years after the military takeover. In recent times, though, some government ads have begun appearing again in the *Times*.

So how would I summarise the media environment in Fiji post the 17 September 2014 election? I have the assistance of a veteran colleague here when I describe it as 'only slightly more informative than before the election'. The provisions of the media decree still pose hazards that journalists and their editors must negotiate every day in a bid to have more balanced and open reporting.

The issue of balance, while a vital component of solid and ethical reporting, has often been used in a cynical way by some officials and government entities. Because they know that a provision of the media decree compels journalists to seek balancing comments before publishing any critical story, by not responding to questions from journalists seeking comment they can effectively kill a story. Editors will not risk running a story without the requisite balancing comment no matter how justified in the public interest or how long they've waited for a reply.

We have recently begun Parliamentary sessions and for the majority of those involved —from the Speaker, to MPs, the Secretary-General and journalists covering Parliament —it is a new experience. Learning parliamentary procedure and understanding the Standing Orders will take some time to master but we are getting there. In the meantime, the effects of dictatorship still hang over much of the process.

For example, the Auditor-General's reports covering the years 2007-2013 were laid before Parliament by the Attorney-General and Finance Minister Aiyaz Sayed-Khaiyum.

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The reports, of course, had been highly anticipated for many years.

The 29 volumes reveal quite a lot about how the government departments spent taxpayers' money during the years of military rule. In some of the reports, the Auditor-General highlighted dealings with government departments by the Nur Bano Ali, an aunt of the Attorney-General.

She had been given a contract to organise a strategic planning workshop for Fiji's dairy cooperative for which she was paid $35,450. According to the Auditor-General, her company was then later appointed without tender to restructure the dairy factory for its ultimate sale (Fiji Auditor General, 2010). The Auditor-General highlighted the fact in a report tabled in Parliament two years after being completed that no tender was sought for this restructure consultancy for which Nur Bano's company was paid $562,500.

In late November, Nur Bano, along with a hardware company that was also named in relation to a separate issue – took out a full-page advertisement in the *Fiji Sun* threatening to sue the Auditor-General along with *The Fiji Times*, Communications Fiji Limited (which is Fiji's largest private broadcaster) and the state-owned Fiji Broadcasting Corporation, unless they retracted and apologised (*Fiji Sun*, 2014). She also threatened to report those companies to the Media Authority for what she said was 'unfair reporting'. In the same edition, the *Fiji Sun* featured the legal threat as the front-page story and referred to the advertisement inside the paper.

If that legal threat and *Fiji Sun*'s reporting of it are anything to go by then parliamentary privilege does not seem to exist in Fiji's new democracy.

What I have described above is but a small snapshot of the myriad issues the media industry and journalists face in Fiji today. It may seem gloomy, but I am an eternal optimist and I can tell you I feel hopeful about the prospects for Fiji's media.

Perhaps one glimmer of hope is right there in the Constitution given to us in 2013. Section 25 guarantees access to information and a *Freedom of Information Bill* is likely to be brought before Parliament soon. When it is enacted, this law will open the doors for all sorts of public interest reporting and hopefully compel government officials to be accountable and fair in all their dealings.

Many of Fiji's journalists, while they may be young and had never covered an election until September, are aware of the contradictions they have to deal with in their work every day. There is also the sense that things will start to change if they persist in their role of holding our leaders to account and speaking truth to power. We are moving on, but with eyes wide open.

The Media Decree must be drastically revised or done away with altogether if the media in Fiji are to be truly free and regain the vibrancy they were once known for.

Which brings us to education and professional development. It has already been noted that the majority of young journalists in Fiji today have never worked in a completely free media environment. Many of them have grown up in a dictatorship and the repressive environment that it entails for the media and have known nothing else. Now more than ever

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we need journalists who know the craft, are well versed with the laws that govern our work and the context in which they work. If journalists stay well informed about issues, they will be able to develop the self-confidence to stand up to any threats or violations against us, and be able to faithfully serve the public that depends on us for reliable and compelling news, analysis and commentary.

The Fijian Media Association, in creating a profile for ourselves, will look to develop on-going training opportunities in which we will play a big part designing and organising. We realise that going on fully-funded workshops in which we had no input into planning may not the best way to develop a sustainable and self-confident media corps. We need to take ownership of our own destiny this will involve working with partners but ultimately determining what is best for us and how to go about achieving it.

At the end of October 2014, I was privileged to speak at the University of the South Pacific's journalism awards. In that speech I quoted the American television correspondent Ann Curry, who described journalism as an 'act of faith in the future' (Curry, n.d.). Journalism, she argued, should do more than inform. It should make you care.

That is what inspires me every day, and perhaps that's where my optimism springs from: the knowledge that journalism done right can hold such power to change lives and make governments apprehensive for no more than the words and images we use to inform and make people care.

So while Fiji's post-election realities may seem like 'the worst of times', the 'best of times' is certainly on the horizon.

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4. Censorship in Australia

Intrusions into media freedom flying beneath the international free expression radar

Abstract: Australia has ranked among the top 30 nations in recent world press freedom surveys published by Reporters Without Borders (RSF) and Freedom House and is broadly regarded as a substantially free Western liberal democracy. This article considers how the methodologies of those organisations assess the impact upon media freedom of a range of recent decisions and actions by Australian politicians, judges and government agencies. There is considerable evidence of a shift towards official secrecy and suppression of information flow. However, according to this analysis such developments are unlikely to impact significantly on Australia's international ranking in media freedom indices. This article uses the methodologies of RSF and Freedom House to explore whether the international free expression organisations' criteria are justifiably weighted towards violence against journalists, their imprisonment and formal anti-press laws and might allow for a nuanced comparison of other evidence of constraints on the news media in developed democracies.

Keywords: asylum seekers, Australia, democracy, freedom of information, media freedom, media law, media regulation, press freedom, secrecy, suppression orders, surveillance, terrorism

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THIS ARTICLE aims to assess how several key impositions on media freedom in Australia throughout 2013 and 2014 impacted upon Australia's reputation as a democracy placing a high value on press freedom. It uses the methodologies of two of the world's leading free expression agencies to assess their potential application to these identified developments. It begins by detailing recent decisions and actions by Australian politicians, judges and government agencies affecting the state of media freedom. These have included the issuing of broad suppression orders, the jailing of a journalist/blogger, increased national security and surveillance powers, the intimidation of journalists and politicians by public servants and the withholding of public information. It then summarises the methodologies used by Reporters Without Borders (RSF)

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and Freedom House for compiling their annual world press freedom rankings before considering how the recent Australian developments might fare under those criteria. It concludes by recommending the introduction of a more nuanced comparison of impositions on the news media in developed democracies accommodating longitudinal consideration of systemic changes and cultural shifts that might escape adequate attention in stark year-on-year comparisons.

Free expression in Australia

A succession of political leaders from both Labor and conservative parties have striven to position Australia as a leading Western democracy placing a high value on free expression. For example, in a joint press conference with Foreign Minister Julie Bishop in 2013, Prime Minister Tony Abbott described both Australia and Indonesia as 'robust democracies' with a 'robust free press' (Abbott, 2013). More recently, on the release of Australian journalist Peter Greste employed by Al Jazeera English after 400 days in an Egyptian jail in 2015, Abbott told the National Press Club in Canberra:

> … sometimes as Australians we do take our most precious freedoms for granted. And as a former journalist myself it would be remiss of me at such a gathering of journalists not to express my personal delight and our nation's relief at the overnight release of Peter Greste and to reiterate our support as a government and as a people for a free media and a free press. (Abbott, 2015)

Similar expressions of a commitment to freedom can be found in the election manifestoes of the major political parties. For example, the Liberal-National Coalition in its 2013 election manifesto promised to 'protect the freedom of speech to strengthen our vibrant democracy' (Coalition Plan, 2013, p. 44). Labor vowed to 'protect freedom of speech' by moving to 'recognise the public interest in giving the community appropriate access to information' and to 'review secrecy laws and laws that criminalise disclosure of matters of public interest' (Australian Labor Party National Platform, 2011, p. 187). Australia has also spent millions of dollars over two decades in the interests of promoting good governance, transparency and media freedom in developing countries in the region, including its most recent $11 million Pacific Media Assistance Scheme (PACMAS) initiative (Robie, 2013). However, despite the rhetoric and the investment in aid programmes, there is strong evidence that Australia is failing to practise what it preaches about the important role of the Fourth Estate in a functioning democracy.

As Pearson (2014a) noted, 'there are some telling signs that media freedom is on the decline' with several events over the past two years supporting the view that key Australian institutions have become eroded to the extent that free expression has become seriously compromised. Given that Australia regularly features in the world's top 30 countries in media freedom agencies' rankings (RSF, 2014a; Freedom House, 2014a) serious questions arise about the extent to which such indices reflect systemic shifts within developed

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democracies as distinct from the murder, jailing and torture of journalists that weigh so heavily against more despotic regimes in their press index rankings. Australia's reputation as a Western democracy valuing free expression has been eroded significantly by a raft of new laws and policies which might not be reflected in forthcoming media freedom rankings because of the methods used by free expression organisations and their weightings on various levels of press freedom threats.

The malaise at the heart of the assaults on free expression afflicts both sides of politics. The conservative Abbott government—which mounted a concerted campaign against its predecessor's attempts to rein in the media—has itself gone on to make serious incursions into media freedom through legislative and policy changes. Some of these shifts threaten core democratic values—including the role of the Fourth Estate. Labor, when it was in power, sought to introduce a raft of six Bills ostensibly aimed at improving media regulation, but its attempts failed spectacularly due to opposition to what was perceived to be its draconian reach and it resulted in the abandonment of four of the Bills (Fernandez, 2013a, p. 55). It also pursued the implementation of an internet filtering scheme between 2007 and 2012 (Coorey, 2012). In summary, we divide the present discussion into four key areas that impact heavily on freedom of expression: (a) suppression of information, including suppression orders issued by the courts; (b) official surveillance on communications; (c) erosion of the principle of separation of powers; and (d) official spin. We then consider how the RSF and Freedom House media freedom index methodologies apply in these contexts.

Suppression of information

The power of the courts to issue and enforce suppression orders is a systemic issue in Australia that has been complicated by the advent of online publications and social media spanning the jurisdictions of state and territory courts, the broadening of enforcement powers through post-2001 anti-terrorism legislation and the lack of any national suppression order notification register for the benefit of media outlets and other publishers (Pearson & Graham, 2010; Bosland & Bagnall, 2013; Robin, 2014). While the Australian judiciary operates relatively independently of the executive and the Parliament under the separation of powers doctrine, governments can broaden the powers of the courts to suppress certain kinds of proceedings, and it takes the leadership of a Commonwealth government to initiate reforms across jurisdictions via the Council of Australian Governments (COAG) and its subsidiary Law, Crime and Community Safety Council (LCCSC), formerly the Standing Council on Law and Justice (LCCSC, 2014).

During the period of its first year in office the Abbott government showed a willingness to do the former via tougher national security laws while demonstrating no initiative to institute a national suppression order notification scheme to alert publishers to the existence of orders. The national security thrust came through its *National Security Legislation Amendment Bill (No. 1) 2014*, *Counter-Terrorism Legislation Amendment*

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(Foreign Fighters) Bill 2014, and *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014*.

It also took a significant step towards politicising the suppression order process by seeking one from the Supreme Court of Victoria in order to 'prevent damage to Australia's international relations' (Booth, 2014). Wikileaks defied the order by publishing its details internationally on its website, material that cannot be published in this article under the terms of the order (Ackland, 2014; Booth, 2014). Blogger and journalist Derryn Hinch breached a suppression order related to a high-profile murder trial. He refused to pay a $100,000 fine for the breach and was then jailed for 50 days in default (*The Queen v Hinch*, 2013; *The Queen v Hinch*, 2013, No 2). A blogger and website owner was convicted of contempt for breaching a suppression order on details of a defamation action to which he was a party (*Justine Munsie v Shane Dowling*, 2014).

Even sections of a leading media law textbook had to be withheld, copies circulated to reviewers redacted, and reprinted with deletions, because it was discovered they were in breach of a suppression order issued in one state in mid-2014, a fact the authors and publishers only managed to discover by happenstance (Pearson & Polden, 2015). That episode highlighted the archaic system of suppression order notifications in Australia, which makes it difficult for publishers to know about orders issued by courts in other jurisdictions and even difficult for non-mainstream outlets and social media participants to know about suppression orders in their own jurisdictions.

While some of these cases could have occurred in other Western democracies, the Australian Commonwealth government chose to extend court powers of suppression in relation to national security and terrorism matters as a key feature of its three tranches of anti-terror laws introduced in 2014. The new laws included new powers for the courts to suppress information about terrorism and security-related trials and direct suppression of key news information, including a five-year jail sentence for anyone reporting on what the government deemed to be a 'special intelligence operation', increased jail terms for whistleblowers' leaks about security matters, and a new gag on so-called 'incitement to terrorism' (Griffiths, 2014).

On the suppression of names, numerous Australian jurisdictions have long suppressed a range of basic facts in a select range of case types, including those involving children, sexual offences, mental health patients, family law and some coroners' proceedings (Pearson & Polden, 2015). This is a systemic issue in Australian justice, complicated by the fact many of the laws apply differently across the nine jurisdictions operating at Commonwealth, State and Territory levels. Thus, for example, it is very hard to expose the wrongful detention of people with mental health conditions because of the limits on identifying them or covering proceedings in many cases (Pearson, 2012b).

The matter has become politicised in recent years through the anonymisation of asylum seeker names. In November 2014 immigration lawyer Kerry Murphy explained the dehumanising nature of anonymity requirements stemming from June 2013 amendments

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to the *Migration Act 1958* where the term 'offshore entry person' was replaced with the term and subsequent acronym 'unauthorised maritime arrival (UMA)'. Murphy wrote:

> With the arrival of the Coalition government, the legal term UMA remains unchanged in the Act. But the new minister insisted on calling people 'illegal maritime arrivals (IMA)' despite no such term appearing in the Act or Regulations. In fact the term 'illegal' has not been in Migration Law since 31 August 1994.

She said one client she called 'Ali', because his real name was suppressed, had effectively lost his identity in the process.

> His self-esteem was destroyed by a long period in immigration detention. His identity is now also gone. I recently received a letter for him where he was referred to only by his boat number and the term 'illegal maritime arrival (IMA)'. His name was nowhere to be seen on the letter and so he is now just a boat number and a derogatory three letter acronym.

In other examples of suppression via public policy, the Abbott government moved to stop not-for-profit organisations advocating against government policy in their service agreements, meaning they would effectively lose funding if they criticised the government; and proposed to abolish the Office of the Australian Information Commissioner (OAIC), the agency responsible for administering Commonwealth Freedom of Information processes and reviews (*Freedom of Information Amendment (New Arrangements) Bill 2014*). The Labor government's reform initiative that created a FOI Commissioner and the Office of the Australian Information Commissioner to champion freedom of information now 'lies in ruins' with the OAIC defunded, its staff of 70 or so facing retrenchment or dispersal and the FOI Commissioner transferred to another agency (Holmes, 2015). A government FOI review claimed that FOI 'reforms have been operating as intended and have been generally well-received' (FOI Review, 2013, p. 3). The Media Entertainment and Arts Alliance (MEAA), however, noted a growing gap between the intent of Freedom of Information law 'and the practical application of the law' and noted a common complaint was that FOI requests 'often become log-jammed in the office of the relevant minister' (Press Freedom Report, 2014, pp. 17-18).

Surveillance

The extent of surveillance of news media by police and security agencies has sometimes bordered on intimidation, often under the auspices of national security laws. The reforms under the *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2015* give the government access to all of Australia's networks with a single warrant and the telecommunications companies and internet service providers will be expected to retain metadata—including computer and telephone data and IP address and technical details—for two years so as to make it available to investigators.

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Surveillance powers of national security agencies have been increased under the *National Security Legislation Amendment Bill (No. 1) 2014*, triggering a joint submission from major media groups expressing their alarm at the long and intrusive surveillance reach potentially compromising sources and representing a real threat to media freedom because of the Bill's ability to 'undermine confidentiality of journalists' sources and therefore news gathering' (Joint Media Organisations, 2014, p. 4). The reforms also reverse the onus of proof about the purpose of their journey for anyone, including journalists, travelling to Syria or Iraq, again potentially triggering a threat to journalists' sources, fixers and associates. As MEAA noted:

> The implications not just for whistleblowers seeking to legitimately shed light on wrongdoing but also for journalists and media organisations whose work could be criminalised are grave. The assaults on press freedom that would arise from this legislation are real and pose a threat to the fourth estate's ability to operate in a manner expected in a healthy, functioning democracy. (Media Entertainment and Arts Alliance, 2014, p. 9)

Notwithstanding this, the Statement of Compatibility accompanying the Bill declares that it is 'compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Many major whistleblowers have been detected in recent years in Australia, including Victorian detective Simon Artz who admitted being the source of leaks about a major anti-terror operation to *The Australian* newspaper in 2012 (Pearson, 2013). In 2014, a squad of Australian Federal Police raided the headquarters of the Seven Network in Sydney and seized computers and data because of a suspicion that journalists there had been engaged in 'chequebook journalism'—that they had paid somebody for a story involving convicted Australian drug smuggler Schapelle Corby. The allegation, later shown to lack substantiation, was not over any pressing concern of terrorism or major criminal activity—it was over a potential commercial transaction, which might have breached federal proceeds of crime laws. Eventually the AFP apologised 'unreservedly … for the unnecessary reputational damage to Seven' (Rao, 2014). A further disturbing aspect of official surveillance is the incidence of routine applications by Australian authorities to international social media and internet platforms for information on users. These offshore corporations have voluntarily acceded to thousands of such requests per year. Facebook alone acceded to more than 60 percent of 610 Australian government requests related to 650 users and accounts over the first half of 2014 (Coyne, 2014; see also Wroe, 2013).

Separation of powers erosion

The doctrine of the separation of powers owes its theoretical origins to Sir William Blackstone and James Madison and is explicitly endorsed in the Australian Constitution

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in chapters II and III detailing the distinct powers of the executive government and the judicature, although its application to the separation of the legislature and the executive has been contested in High Court decisions (Gelber, 2006, p. 439). The extent to which public servants are permitted to engage directly with the media in support of the policy objectives of the government of the day has not been clarified. Two matters in 2014 appeared to put the separation of powers doctrine to the test in different ways—one involving communications between a senior public servant and a politician and the other involving communication between a different senior public servant and a journalist.

In February, secretary for the Department of Immigration and Border Protection (DIBP) Martin Bowles wrote a threatening letter to freelance journalist for *The Guardian* Australia, Asher Wolf, over an article she wrote about the Immigration Department accidentally releasing identity details about asylum seekers. The public service chief suggested in his letter that Wolf may have accessed her source material for the story by 'dishonest or unfair means' and insisted she not publish the details and 'return all hard and soft copies of the information' including any of her storage devices. *The Sydney Morning Herald* later reported that the DIBP was employing contractors to search social media and then order pro-asylum seeker activists to remove their politicised posts (Pearson, 2014b). In March, then Defence Chief General David Hurley wrote to warn Palmer United Party Senator, Jacqui Lambie, about her criticisms of the military in the news media (Pearson, 2014b). Such incidents appear symptomatic of senior public servants acting directly to stem the flow of information that might counter or question the policies of the government of the day.

Spin

The Abbott government's stranglehold on information about the fate of asylum seekers attempting to reach Australia by sea amounted to a near-blackout and created a cumulative effect on the level of information management—government spin—that had been gradually increased over several years of earlier governments. Successive Australian governments from both sides of politics managed or spun immigration information using a range of devices, including limited access to immigration detention centres, carefully managed statements to the media, and (as noted above) the use of dehumanising acronyms to refer to de-identified individual asylum seekers. The small island state of Nauru—host to an Australian immigration detention centre for asylum seekers who had been unsuccessful in reaching Australia by sea—increased its visa fee for media from $200 to $8000 in early 2014. This was reported as both a grab for cash and as an attempt to deter news coverage of the fate of asylum seekers in the centres (Freedom House, 2014d; ABC News, 2014).

Australia has used both its government rhetoric and its aid budget to spin the line that it is a democracy that cherishes media freedom and is an exemplar of transparency and good governance throughout the Asia-Pacific region. It has spent millions of dollars

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on aid projects with these aims, including the $11.37 million PACMAS project and a more recent $3 million Transparency International project (Pearson, 2014a). The irony is that the Australian government agencies operating the projects include a gag clause on consultants discussing such projects with the media without the explicit permission of the sponsoring agency—AusAID or the Department of Foreign Affairs and Trade. For example, the recent Asia Pacific Grant Agreement 63133 with Transparency International for a $3 million project 'strengthening civil society networks to address corruption in Asia Pacific (2014–2015)' states:

> 4.6 The Organisation must … discuss any matters relating to publicity or media relations before any publication or media release.
> 4.7 The Organisation must ensure it does not attribute, as funded or supported by AusAID, any activities conducted by the Organisation before discussing it with AusAID. (DFAT, 2012)

The PACMAS project states its goal is 'to support better governance in the Pacific … by supporting the development of a diverse, independent and professional media that promotes informed and meaningful public discourse throughout the region' (DFAT, 2015). Restrictive, or 'gag', clauses such as the ones above would seem to achieve anything but that end.

Across a range of often quite politicised topic areas there is evidence of a shift to shut down public debate, to diminish transparency and to deprive media (particularly public media) of resources necessary to undertake investigative journalism and to call power to account. Most concerning on the latter front were the Abbott government's cuts to the national public broadcasters' budgets, resulting in more than 400 redundancies including more than 100 news personnel at the ABC (Kidd, 2014).

A major systemic issue compromising media freedom in Australia is that, unlike most developed Western democracies and many smaller democracies and developing nations, Australia has no constitutional provision at a national level protecting free expression or a free media. Countries like the United States, the UK, Canada and New Zealand have such words enshrined in their constitutions or in a human rights instrument that has been ratified and forms part of their political and judicial system. In Australia, the media need to look for protection for their free expression on a case-by-case basis to the courts—unless certain rights or privileges form part of individual items of legislation (HRC, 2015). With the exception of shield laws and some media exemptions to privacy and consumer law, however, there are few express protections for free expression, a free media or the function of journalists in a democracy. To the contrary, those few mentions are considerably outweighed by hundreds of publication restrictions across numerous legislative instruments at Commonwealth, State and Territory levels. While international free speech barometers consistently rate Australia higher than many countries, there is the view that it still has some way to go to be able to proclaim a stout commitment to

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this ideal (Fernandez, 2013b, p. 18). Two jurisdictions—Victoria and the ACT—have enacted human rights instruments acknowledging free expression, but these are essentially aspirational documents that are not binding on the courts or the Parliament in either state or territory. They are:

> *Charter of Human Rights and Responsibilities Act 2006* (Vic), section 15(2): 'Every person has the right to freedom of expression …'; and
> *Human Rights Act 2004* (ACT), section 16: 'Everyone has the right to freedom of expression.'

For several decades, civil liberties advocates have pushed for a bill of rights at a national level, but the movement has not gained political momentum. The major political parties have differing views on the desirability of a human rights act, with the Coalition parties failing to see the need for it, while the Labor Party made a commitment in 2007 to gauge the need and support for the statutory protection of rights (Margarey & Jordan, 2010).

There are arguments that free expression is a 'free standing right', but as Buss (2006, IIC) has noted, the Australian High Court is distinguished from the US Supreme Court in this area because it has chosen to interpret it as a 'limitation on legislative authority' rather than as a 'free standing personal right'. Rather than an explicit statement of free expression, Australians have an 'implied freedom to communicate on matters of politics and government' developed by the High Court in a series of cases since 1992. Sadly it has been interpreted narrowly in decisions since 2012 (Pearson & Polden, 2015, pp. 47-49).

Press freedom indices and their methodologies

Two main media freedom indices are cited internationally as indicators of the relative state of press freedom and free expression internationally. They are issued by the Paris-based *Reporters Sans Frontières* (RSF—Reporters Without Borders) and by the US-based Freedom House. Each has fine-tuned its rankings system over time and we summarise their methodologies here. The RSF World Press Freedom Index was first published in 2002. On its launch RSF explained:

> The index was drawn up by asking journalists, researchers and legal experts to answer 50 questions about the whole range of press freedom violations (such as murders or arrests of journalists, censorship, pressure, state monopolies in various fields, punishment of press law offences and regulation of the media). The final list includes 139 countries. The others were not included in the absence of reliable information (RSF, 2002a).

It went on to detail its methodology as essentially a qualitative one based on its contacts in each country assessed and its headquarters staff. The index measured the 'amount of [media] freedom' in each country and the respective governments' efforts to observe that

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freedom (RSF, 2002b). Its questionnaire sought details on: direct attacks on journalists (e.g. murders, imprisonment, physical assaults and threats) and on the media (e.g. censorship, confiscation, searches and other pressure); the degree of impunity enjoyed by those responsible for such violations; the legal environment for the media (e.g. punishment for press offences, state monopoly and existence of a regulatory body); the state's behavior towards the public media and the foreign press; threats to information flow on the internet; and the activities of armed movements and other groups that threaten press freedom (ibid).

Clearly, RSF's emphasis from that early stage was on clear physical threats against journalists and major legal measures taken against the media in the surveyed countries. Australia ranked 12 out of 139 countries ranked in that first survey. New Zealand and other Pacific Island nations were not ranked because of a lack of information collected on them. The following year New Zealand debuted at position 17, while Australia had been demoted to 50 of 166 nations ranked (RSF, 2003).

RSF changed its ranking methodology significantly in 2013, when it ranked Australia at 28 out of 179 countries, and it is that revised approach which will be used for our discussion here about the potential assessment of Australia's performance. It explained a shift to a new questionnaire and approach, with Paris-based staff quantifying the numbers of journalists killed, jailed, exiled, attacked or arrested, and the number of outlets directly censored (RSF, 2013). Other important criteria formed the basis of questionnaires sent to outside experts and members of the RSF network, including 'the degree to which news providers censor themselves, government interference in editorial content, or the transparency of government decision-making'. Legislation and its effectiveness, concentration of media ownership, favouritism in subsidies and state advertising and discrimination in access to journalism and training were the subject of more detailed questions (RSF, 2013).

RSF then uses a complex algorithm to assign a score out of 100 to every country, drawing first on six general criteria of pluralism, media independence, environment and self-censorship, legislative framework, transparency and infrastructure; and then factoring in a special 'violence score' with a weighting of 20 percent, calculated using a formula taking account of violence against journalists in the following declining weightings: death of journalists, imprisonments, kidnappings, media outlets attacked and ransacked, journalists who have fled the country, arrests, and attacks (RSF, 2013). An additional co-efficient takes account of respect for freedom of information in a foreign territory. In short, the algorithm strives to add quantitative mathematical rigour to a process that is largely qualitative, with a stronger weighting on acts of violence than upon legislative and systemic anti-media features. The approach incorporates difficult and problematic comparisons of the value of the murder of a journalist *vis a vis* laws of censorship.

Freedom House was founded in 1941. Its comparative assessments of global political rights and civil liberties were introduced in 1972 as 'Freedom in the World' reports, which in its 41st edition in 2014 Freedom House described as 'the oldest, most authoritative

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report of democracy and human rights' (Freedom House, 2014a). Its 2014 Freedom in the World report profiled Australia and awarded it 16 out of 16 points for Freedom of Expression and Belief, although it noted some shortcomings:

> While the constitution does not protect freedoms of speech and the press, citizens and the media can freely criticise the government without reprisal. Some laws restrict publication and dissemination of material that promotes or incites terrorist acts. Ownership of private print media is highly concentrated. There are numerous public and private television and radio broadcasters. Religious and academic freedoms are respected. Anti-terrorism laws bar mosques and Islamic schools from spreading anti-Australian messages. (Freedom House, 2014b)

Freedom House started its narrower and distinct Freedom of the Press reports in 1980 and has produced them annually since then (Karlekar & Dunham, 2014). Its 2014 press freedom index listed Australia at 33rd of 197 countries, with New Zealand ranked 22nd. Both countries were categorised as 'free' (on a three-point scale of 'free'/ 'partly free'/ 'not free') under the Freedom House methodology for its rankings (Freedom House, 2014c). In that document, Freedom House described its methodology as 'a multi-layered process of analysis and evaluation by a team of regional experts and scholars'. It conceded 'an element of subjectivity inherent in the index findings' but stressed its process 'emphasises intellectual rigor and balanced and unbiased judgments' (Freedom House, 2014c). It claimed it used its New York-based team and outside consultants totalling more than 60 analysts to prepare draft ratings based on information from professional contacts internationally including the International Freedom of Expression Exchange (IFEX) network which were then reviewed at six regional meetings.

The methodology included 23 methodology questions and 132 indicators divided into three major categories of the legal, political and economic environments, with points allocated accordingly to what Freedom House described as 'the entire "enabling environment" in which the media in each country operate' (Freedom House, 2014c). Of special relevance, the legal environment category questioned laws and regulations including constitutional guarantees of free expression and the potentially negative impact of security and other laws, while the political environment section considered access to information and sources and the ability of journalists to cover news without harassment (Freedom House, 2014c). We consider specific questions in our discussion below.

The respective RSF and Freedom House indices are cited internationally in political speeches and academic works (Burgess, 2010, p. 4). For example, Belgian scholar Dirk Voorhoof linked high media freedom rankings with global reputation for human rights protection when he wrote:

> … the countries with a high level of press freedom, as shown in the international ratings of Reporters without Borders (RSF) or Freedom House, are countries in

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> which democracy, transparency, respect for human rights and the rule of law is strongly rooted, institutionalised and integrated in society. (2009)

However, despite assurances from both RSF and Freedom House that their reports and indices were undertaken with independence and rigor, they have come in for criticism from some quarters. For example, Schönfeld (2014) took issue with Russia's rankings in both indices on the basis of a potential Western bias. She cited rumours that the Freedom House index was sponsored by the US government (p. 99):

> The whole questionnaire presumes a comprehensive concept of media freedom, claiming that the media have to be embedded in a democratic society. (p. 100)

She raised similar concerns about the RSF index, again citing a rumour that 'the organisation contents itself with three or four completed questionnaires per country to the same target group' (p. 100). She drew comparisons between the RSF and Freedom House approaches:

> The conformity between these two indices is not astonishing, as the underlying concept of media freedom, methodology, and the target group are nearly the same. (Schönfeld, 2014, p. 100)

Burgess (2010) canvassed the academic literature on media freedom indices and found a host of criticisms, including poor survey design, and recommended they 'should continue to work to increase technical sophistication, validity across time, and transparency of sourcing, wherever possible without creating threats to the security of people who help in compiling them' (Burgess, 2010, p. 50). Pearson (2012a) offered reasons as to why the RSF index could not be a precise scientific measure.

> It could never be, given the enormous variables at stake, and has to rely on an element of expert qualitative judgment when making the final determinations of a country's comparative ranking. If it was purely quantitative, for example, there would be an in-built bias against the world's most populous countries because the sheer numbers of journalists and media organisations involved would increase the statistical likelihood of media freedom breaches or incidents involving journalists.

Further, the individual rankings of countries in any particular year are subject to the performance of the nations above and below them. In fact, a country might well decline in the real state of its media freedom but be promoted in an index because of the even worse performance of countries ranked above it the year prior. As Burgess noted, however, the indices were cited widely on their release each year and thus represented a useful tool for promoting the value of media freedom internationally (Burgess, 2010, pp. 6-7). Pearson (2012a) stated:

> Governments might take issue with the methodology and argue over their precise rankings, but the index draws on the energies and acumen of experts in RSF's Paris

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> headquarters and throughout the world; and is thus taken seriously in international circles. It serves to raise awareness about media and internet freedom, which cannot be a bad thing in an age of government spin.

Of course, any press freedom index is really only a continuum because media freedom is not an absolute, scientifically measureable criterion and there is no haven of free expression or press freedom internationally. Indeed, established international instruments reflect the non-absolute nature of free speech. For example, the Universal Declaration of Human Rights provides that everyone has a right to freedom of expression (Article 19). However, this right is qualified. For example, Article 12 provides that no one shall be subjected to attacks upon 'honour and reputation'. Likewise, the International Covenant on Civil and Political Rights qualifies the freedom of expression right in Article 19(2), with a provision stipulating that that freedom 'carries with it special duties. It may therefore be subject to certain restrictions … such as are provided by law and are necessary'.

Applying media freedom NGO methodologies to Australia

When we apply the two NGOs' methodologies to the recent impositions upon media freedom in Australia several issues merit consideration.

Considering the RSF approach firstly, it is likely the algorithm's weighting of violence against journalists would lessen the impact of many of the systemic and legislative impediments to a free media listed above. As noted above, a single journalist (Derryn Hinch) was jailed in Australia during the period of the Abbott government's first year in office and a single media outlet was raided (Seven Network) and no journalists were killed or physically attacked in the course of their work. Both of the above events, it is safe to say, occurred without direct government intervention or direction and the jailing of Hinch followed a state-based court process where he elected to go to jail in default of paying a $100,000 fine (*The Queen v Hinch (No 2)*. (As one reviewer of this article correctly pointed out, under Australia's federal system of government, the Commonwealth government cannot be held responsible for a state court's decision to jail a journalist. However, the RSF and Freedom House processes do not focus on a particular government's actions—rather they factor in the free expression infringements occurring in the country as a whole over the period of their annual survey.)

The RSF algorithm (RSF, 2013) would seem to discount developments such as the impact upon media of new anti-terror laws and their associated suppression of important national security trials, increased surveillance power for police and spy agencies, breaches of the separation of powers doctrine with public service chiefs threatening politicians and journalists, and the government's withholding of information from the media about the fate of asylum seekers in detention centres and at sea, and its proposed axing of the Office of the Australian Information Commissioner (OAIC). Rather, the RSF focus is on violence against journalists, direct government attacks, outright censorship, ownership

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and control of media, government manipulation of media outlets through licensing and ownership regulations, advertising and subsidies. That is not to say these factors do not figure in the RSF equation. Indeed, Section E of its questionnaire is devoted to 'Legal doctrine and practice' and internet surveillance of journalists and whistleblowers is covered within Section F 'The internet and technical resources' (RSF, 2014b). However, the algorithm allocates violence against journalists 3/15 (one fifth) of the overall score allocated to a country and threats to media pluralism 4/15. The lesser weightings for media independence (2/15), environment and self-censorship (2/15), legislative framework (2/15), transparency (1/15) and infrastructure (1/15) cover most of the themes of concern arising in Australia in recent years, thus making them less likely to impact upon its overall ranking.

The Freedom House methodology comprised 23 broad questions and 132 'indicators' divided into three broad categories: the legal environment, political environment, and economic environment (2014c). Its methodology seemed to offer the prospect of reflecting Australia's recent impositions on the media more accurately than the RSF algorithm, but for the fact that its recent reports of similar events did not prevent it awarding Australia 16/16 points for free expression in 2014 (Freedom House, 2014b). Table 1 presents 18 questions selected from the Freedom House survey's list of 23 questions which could impact significantly on Australia's ranking if they were more appropriately acknowledged, taking into account that the listed questions and the indicators remain highly relevant to any evaluation of the extent of media freedom in a country.

In summary, both the RSF and Freedom House indices have ample room to accommodate a more accurate reflection of intrusions into media freedom in Australia, but the RSF methodology places a much lower weight on the types of incidents and reforms stated. The Freedom House process, while drilling down into these kinds of matters in some areas of its questionnaire, is a substantially qualitative procedure which fails to properly capture the impact on free expression resulting from anti-terror laws and a lack of constitutional protection for free expression.

Conclusion

Several important inroads into media freedom occurred over the period after the Abbott government came to office in 2013. The conservative government placed its stamp on media law and free and open public commentary with several retrograde changes in both legislation and policy. Australia's reputation as a Western democracy valuing free expression was significantly eroded by a raft of new laws and policies, but such developments risk being under-represented in the main indices of these two important NGOs because of inadequacies in their methodologies and their application. (In fact, as this article was under review, RSF released its 2015 World Press Freedom Index and, despite these erosions in media freedom throughout 2014, Australia actually rose three positions in the rankings from 28 to 25 (RSF, 2015).

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Table 1: Selected Freedom House survey questions, 2014

Freedom House 2014 survey question	Authors (Pearson & Fernandez comment)
Does the constitution contain language that provides for freedom of speech and of the press?	No, generally.
Is libel made a criminal rather than a civil offence?	Yes, although prosecutions for criminal defamation have been few, and although some jurisdictions have abolished the crime, it remains on the books (see Burgess, 2013).
Do high-level government leaders contribute to the hostile environment of the press, for example, by engaging in repeated animosity toward or negative verbal rhetoric against the media?	Yes, particularly on immigration and detention issues and on the national broadcasters' coverage.
Do laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics?	Yes, through a Racial Discrimination Act and more than 50 national security laws since 2001.
Do the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests?	Yes, through new suppression powers under anti-terror laws.
Are writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet?	Yes, potentially so under anti-terror laws.
Are writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet?	Yes, potentially so under anti-terror laws.
Are contempt of court charges filed against journalists who attempt to cover court proceedings or cases?	Yes, journalist Derryn Hinch jailed for contempt in default of paying a $100,000 fine in 2014 for revealing the criminal record of a high profile accused in breach of a suppression order.
Are bans on coverage or gag orders frequently imposed by the judiciary on legal cases?	Yes, hundreds of suppression orders are issued each year nation-wide.
Are journalists able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost?	No, the system is far from adequate.

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Are journalists' or bloggers' professional actions or means of communication subject to either electronic or physical surveillance with the object of interfering in their work or ascertaining their sources?	Yes, through surveillance by intelligence agencies and police, and new powers granted under reformed anti-terror laws.
Are the activities of government – courts, legislature, officials, records – open to the press?	Partly yes, but FOI laws contain many exemptions.
Is there a 'culture of secrecy' among public officials that limits their willingness to provide information to media?	Yes, public officials operate under strict policies controlling their communication with media and this has been most profound in relation to Immigration matters.
Do authorities hold regular press conferences or other briefings to inform the media?	Yes, partly, depending on portfolio, but a remarkable lack of such briefings in immigration matters.
Does the regime influence access to unofficial sources (parties, unions, religious groups, etc.), particularly those that provide opposition viewpoints?	Yes, some NGO contracts state they will default if they criticise the government policies and consultants bound by AusAID gag clauses.
Are there shutdowns or blocking of internet sites or blogs, or of mobile-phone networks?	Yes, the ACMA runs a blacklist of banned internet sites.
Are certain geographical areas of the country off-limits to journalists?	Yes, several under anti-terror laws and others such as detention centres under immigration laws.
Is there surveillance of foreign journalists working in the country?	Yes, there is surveillance by national security agencies and police.
Have media companies been targeted for physical attack or for the confiscation or destruction of property?	Yes, Seven Network headquarters raided by Federal Police over an unproven allegation of chequebook journalism, later withdrawn.

The observations above moot for a review of both the RSF and Freedom House index processes to allow for more studied consideration of such laws and policies, some of which are part of the very fabric of the legal system that has produced them. It is understandable that methodologies would be skewed towards highlighting the murder of journalists, physical threats against them, and their incarceration. These are alarming acts and should rightly impact upon the rankings of the worst-ranked nations in such indices. The RSF index, however, does not allow for nuanced consideration of shifts against free expression within a functioning developed democracy and systemic changes and cultural shifts that might not lend themselves to stark year-on-year comparisons. The weightings of each country's legislative framework and transparency policies in

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the RSF algorithm also merit review. Freedom House might consider reviewing its processes that allowed for the award of 16/16 scorecard in its 2014 *Freedom in the World* report despite its acknowledgement that Australia had no free expression protection in its Constitution and had introduced anti-terror laws infringing on media freedom (Freedom House, 2014d).

The media freedom indices appear to be better equipped to deal with the explicitly legislated censorship and secrecy that occurs in nations like Malaysia and Singapore, for example through their *Official Secrets Acts*, than with the kinds of clamps on the flow of information adopted by governments in a Western liberal democracy such as Australia via restrictive national security laws, suppression orders, official spin and manipulation, and the thwarting of access to information. Further, neither NGO's year-on-year comparisons allow for a more general build-up of pressure on the media in democracies. Countries occupying the upper echelons of the respective rankings may experience more detrimental rankings if their *information flow/state secrecy* credentials were taken into full account by considering the cumulative impact of a series of stems on the flow of information over several years. A clearer foregrounding of the media's concerns in this domain ought to give nations more food for thought about where they actually stand in the international rankings and where they might aspire to be. An important issue is the nexus between press freedom and secrecy. It would be impossible to speak realistically about informed discussion without also considering access to information and freedom of information. Former Chief Justice of the Australian High Court Sir Anthony Mason noted:

> Information, of its nature is not freely available, unless the person who has it is either willing to make it available or is subject to some kind of enforceable duty to make it available. (2000, p. 233)

He made another important observation that needs constant reinforcing in countries that purport to subscribe to democratic ideals:

> The ability to criticise government and to participate effectively in government, if only indirectly by expressing one's views, depends upon the provision of adequate information about the workings of government and its decision-making processes. (2000, p. 230-1)

Citizens can quite legitimately ask: Can there really be informed discussion on matters of public interest and concern in a climate infested by considerable blocks to the flow of information and by the growing propensity for spin and obfuscation? This study offers evidence that RSF and Freedom House might review the design and application of their respective indices, in light of the foregoing arguments, in the interests of ensuring that countries do not occupy undeserved elevations in their rankings. This would be in the interests of preventing continuing encroachments into media freedoms by countries like

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Australia that seem to be lulled into a sense of 'free expression complacency' simply because they are Western democracies.

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5. Shield laws in Australia

Legal and ethical implications for journalists and their confidential sources

Abstract: This article examines whether Australia's current shield law regime meets journalists' expectations and whistleblower needs in an era of unprecedented official surveillance capabilities. According to the peak journalists' organisation, the Media, Entertainment and Arts Alliance (MEAA), two recent Australian court cases 'despite their welcome outcome for our members, clearly demonstrate Australia's patchy and disparate journalist shields fail to do their job' (MEAA, 2014a). Journalists' recent court experiences exposed particular shield law inadequacies, including curious omissions or ambiguities in legislative drafting (Fernandez, 2014c, p. 131); the 'unusual difficulty' that a case may present (*Hancock Prospecting No 2*, 2014, para 7); the absence of definitive statutory protection in three jurisdictions—Queensland, South Australia and the Northern Territory (Fernandez, 2014b, p. 26); and the absence of uniform shield laws where such law is available (Fernandez, 2014b, pp. 26-28). This article examines the following key findings of a national survey of practising journalists: (a) participants' general profile; (b) familiarity with shield laws; (c) perceptions of shield law effectiveness and coverage; (d) perceptions of story outcomes when relying on confidential sources; and (e) concerns about official surveillance and enforcement. The conclusion briefly considers the significance and limitations of this research; future research directions; some reform and training directions; and notes that the considerable efforts to secure shield laws in Australia might be jeopardised without better training of journalists about the laws themselves and how surveillance technologies and powers might compromise source confidentiality.

Keywords: confidentiality, contempt of court, ethics, media law, shield law, sources, surveillance, whistleblowers

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AUSTRALIAN journalists have fought for more than two decades for effective source protection against a backdrop of the sweeping powers of the courts and the oppressive powers of investigating authorities and inquiry bodies to demand

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disclosure (Fernandez, 2014b, pp. 24-25). Journalists have sought stronger source protection through shield laws by mounting concerted campaigns, including one that attracted more than 37,000 signatures to a petition addressed to an influential plaintiff, mining magnate Gina Rinehart, who was pursuing disclosure of journalists' confidential sources (Heffernan, 2013); and by tending to prefer sustaining a penalty for contempt of court rather than disclose a confidential source (Fernandez, 2014a, p. 139).

This study reports on insights gained from an online survey conducted nationally and through follow-up one-on-one interviews with journalists, on their experiences in working with confidential sources. The study was aimed at addressing the paucity of data showing the experience of journalists at the coalface when dealing with stories necessitating reliance on confidential sources. While there has been ample discussion of journalist source protection among legislators, law reformers, academics and commentators, including journalism commentators, there is a dearth of empirical data showing how journalists accommodate shield laws in their day-to-day professional duties, if in fact a shield law bears upon them. This study takes a step towards remedying that situation.

The study's objectives are to:

a. better understand how Australian journalists operate when obtaining information for publication through undertakings of confidentiality to their sources;
b. better understand how legal and ethical rules and other considerations impact on journalists relying on confidential sources; and
c. apply the understanding thereby gained towards efforts, including law reform efforts, aimed at addressing the issues identified.

As journalists persevere with their quest to ensure that all Australian jurisdictions are covered by effective shield laws, a South Australia Member of Parliament's observation during parliamentary debate on that state's failed attempt at introducing shield law, reinforces the argument for proper and comprehensive shield law protection for journalists:

> I ask all members here to be honest when they think about the consideration of this bill and what they have had to seek from constituents when they have come forward and they have said, 'I want to disclose an ill. I want to have this situation remedied. Please don't use my name. I will be in trouble if you do. I might lose my job. My wife might lose her job. I might be ridiculed publicly. But I want to have this issue exposed.' There would not be a member in this house who could honestly say we have not had people contact us, or provide us information anonymously because they state in that material their concern about repercussions of that disclosure. (Chapman, 2014, p. 2566; on this point see also Wingard, 2014, p. 2565)

This study acknowledges the importance of whistleblowers being able to turn to journalists with important 'off the record' information of public concern, trusting in the assurance that their confidentiality will be protected. However, the research raises fundamental questions about journalists' use of confidential sources, the answers to which are

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sometimes taken for granted. For example, although the desire for absolute protection against having to revoke a promise of confidentiality to a source appears to be beyond question, responses to this survey indicate a preparedness to recognise that a disclosure of the journalist's own volition, independently of any compulsion to do so by the courts, may be justified after taking into account overriding public interest considerations.

Background

The European Court of Human Rights has described the protection of journalistic sources as 'one of the basic conditions for press freedom' (*Goodwin v UK*, 1996, para 39). The court has noted further: 'Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest' (ibid). The formal consideration of statutory protection for Australian journalists' confidential sources began in the mid-1990s (Senate Standing Committee, 1994). This is a relatively recent start in an international context. Shield laws for journalists are in operation in 49 US state jurisdictions (Society of Professional Journalists, 2015)—the first was introduced in Maryland in 1896 (Silverman, 2010, p. 2). In the United Kingdom, journalists were granted confidential source protection under s.10 of the *Contempt of Court Act 1981*. New Zealand introduced legislation to offer some protection to a range of confidential relationships as early as 1980 under s.35 of its *Evidence Act 1908*. An important policy consideration is that all three of those countries have constitutional or human rights instruments protecting free expression (US Constitution First Amendment, UK *Human Rights Act 1998* and NZ *Bill of Rights Act 1990*), which have shaped judicial interpretation of shield laws. See, for example, the US Supreme Court's decision in *Branzburg v Hayes* in 1972 where, despite refusing the journalist source protection by a 5-4 majority, the court detailed a strict set of requirements under which a journalist could be subpoenaed to give evidence. Unlike the US and other Western democracies, Australia has no written free expression instrument at a national level—only a High Court finding of an implied constitutional freedom to communicate on matters of politics and government which has been interpreted narrowly since it was introduced by the High Court in 1992 in *Australian Capital Television Pty Ltd v Commonwealth*.

The problem this study seeks to address primarily arises from the gaping *expectations disjunct* afflicting the extent of shield law protection. Simply stated, the term 'shield law' refers to law providing legal recognition of the need for journalists to protect their confidential sources of information (*LexisNexis* dictionary, 2015, p. 579). That protection is defined, for example, in the Commonwealth law in a provision entitled 'Protection of journalists' sources', as follows:

> If a journalist has promised an informant not to disclose the informant's identity, neither the journalist nor his or her employer is compellable to answer any question or produce any document that would disclose the identity of the informant or enable that identity to be ascertained. (*Evidence Act 1995* (Cth), s. 126H(1))

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That provision is, however, qualified by the ensuing sub-section, setting out two specific grounds to over-ride the protection—if the public interest in disclosure outweighs:

a. any likely adverse effect on the informant or others; and
b. the public interest in the communication of facts and opinion to the public by the news media and the news media's ability to access sources of facts.

These qualifications set important bars on the protection. For example, it is clear that recognition of the protection turns entirely on the court's discretion; and it is not enough that the claimed adverse effect resulting from a court-ordered disclosure *may* occur, it must be a '*likely* adverse effect' (s. 126H(2)). The broad thrust of the legislation is similar in the various jurisdictions that currently provide a statutory shield. In addition to the Commonwealth statute, the protection is found in the respective *Evidence Acts*: Australian Capital Territory (s. 126K(1)); New South Wales (s. 126K(1)); Tasmania (s. 126B); Victoria (s. 126K(1)); and Western Australia (s. 20I). Inconsistencies may be found in respect of 'who is protected, when, how and in what circumstances' (Fernandez, 2014b, p. 24).

While legislators deem the balance struck by statutory shields to be satisfactory, the mainstream media industry has expressed dissatisfaction. Then Attorney-General Philip Ruddock when introducing the first real statutory recognition through the *Evidence Amendment (Journalists' Privilege) Bill* said the Bill 'implements an important reform… by introducing a privilege that will protect confidential communications between journalists and their sources' (Ruddock, 2007, p. 6). His successor, Robert McClelland, when introducing a shield law amendment, said the Bill 'delivered on [an] election commitment to strengthen journalist shield laws'; that 'the Bill recognises the important role that the media plays in informing the public on matters of public interest'; that the Bill 'strengthens provisions relating to the information provided to journalists'; and that the amendments 'are about ensuring the public is able to access information' (McClelland, 2009). The Attorney-General criticised the Howard government's 'flawed legislation in 2007 which was a quick fix to a complex issue' (ibid). The Bill's Explanatory Memorandum said the amendment would 'give recognition to the important function the media plays in enhancing the transparency and accountability of government [and that the media's] role in informing the community on government matters of public interest is a vital component of a democratic system' (McClelland, 2008-2009, item 4). Such lofty aspirations may be found in parliamentary documents accompanying other shield Bills. For example, the Explanatory Memorandum accompanying the Western Australia *Evidence and Public Interest Disclosure Amendment Legislation Bill 2011* said the protection being introduced 'represents an important reform to evidence law' (Porter, 2011).

Is there, however, really a disjunct in expectations? The foregoing avowals of a strong commitment to protecting journalists' confidential sources are, in fact, underpinned by qualifications that journalists and media bodies appear to overlook. Ruddock qualified his support for a shield law by observing that the Bill 'seeks to achieve a balance'; that 'the

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new privilege will not be absolute'; and that in deciding whether to exclude the evidence that would disclose confidential communications made to a journalist, the courts would 'take into account' a range of factors (Ruddock, 2007, p. 6). Likewise McClelland, in the very first paragraph of his general outline on the amendment, stated that the privilege would only operate 'in certain circumstances' (McClelland, 2008-2009, item 1). He said the privilege would 'provide that the court is to achieve a balance' between the public interest in the administration of justice and the public interest in the media communicating facts and opinion; and that the privilege would apply only 'in appropriate circumstances' (McClelland, 2008-2009, items 2 and 11). In pursuing statutory source protection media organisations have not advocated absolute protection—that is, the protection sought has always been for an attenuated protection, one predicated on a 'stronger presumption in favour of protection of journalists' confidential sources' (Media, Entertainment and Arts Alliance, 2009). A major coalition of Australian media organisations took a similar position, characterising 'effective shield law' as being one 'based on a presumption' that sources should not be revealed unless ordered to do so on strictly limited grounds by a judge (Moss, 2007, p. 73).

The above authorities set out the following fundamental propositions: (a) the protection of journalists' confidential sources is critical to media freedom and to democracy; (b) various Australian legislatures have recognised, in some measure, the importance of protecting journalists' confidential sources; (c) legislatures and the media are generally agreed that the protection to be afforded is necessarily a qualified one; (d) the critical remaining question is where the fulcrum should be set on the scales balancing journalists' need to protect their confidential sources and all other interests that militate against such protection, including that of the courts whose primary task is to administer justice for all.

Methodology and research questions

This study, approved under a university ethics process for low-risk studies, used the Qualtrics web-based survey software. It comprised 42 questions allowing for varying modes of answers. The questions allowed for 'yes/no' answers or multiple choice answers allowing for a selection of up to 14 choices in one question (the question on precautions) and 12 choices in another (the question on types of individuals given a confidentiality undertaking); answers allowing for text box entries to expand on answers ticked in the multiple choice section; questions requiring forced text box entry where particular responses were chosen; and questions allowing for the identification of the respondent for the purposes of follow-up interviews. The findings discussed in this article are set out under the next heading. It covers selected themes in the survey. The survey was opened on 8 August 2014 and the data were extracted on 7 October 2014. The survey was distributed mainly through the Media, Entertainment and Arts Alliance (MEAA), which disseminated the survey invitation through its member network. A selection of media outlets also assisted with distributing the survey, including the *Australian*

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Broadcasting Corporation, *The Australian*, *The Sydney Morning Herald*, *The Age* and *The West Australian*. The MEAA reported having 5913 'media' members in June 2014 (Media, Entertainment and Arts Alliance, 2014b, p. 27). A total of 154 valid responses were received, comprising 93 completions and 61 partial completions (explaining why the response rates varied across questions). The sample error was calculated at 7.8 percent based on a 95 percent confidence interval. This was followed up by 30 interviews, conducted via telephone, with respondents who agreed to follow-up interviews. Each interview lasted 15 to 45 minutes.

The findings, discussion and analysis

This article discusses selected themes drawn from the survey referred to above. As a general early note, where percentages below should total 100 percent, due to rounding off some totals arrive at 99 percent or 101 percent. Some questions permitted multiple selections that did not require the answer tally to total 100.

Participants' general profile:

Of the 154 responses to the question to 'describe your journalistic role', 53 percent said they were mostly engaged in interviewing sources or involved in researching or writing stories, while 18 percent said they were mostly engaged in editing or processing stories for publication, for example, as sub-editor or editor. Those who were engaged in all the foregoing roles constituted 23 percent of respondents. Thus, those who were engaged in one or more of the foregoing roles amounted to 94 percent of respondents. Those who opted for 'other' (6 percent) indicated roles such as work involving 'government publications' and 'blogger'. In response to the question asking participants to indicate the 'platform' on which their work was published, more than 70 pecent of respondents said they published in print and online, with the bulk of the remainder working in radio or television. Journalistic roles included: General Duties (39 percent); Government and Politics (47 percent); Crime and Courts (25 percent); Business and Economics (23 percent); Arts and Entertainment (21 percent); Higher Education; (10 percent); Sport (14 percent); Society and Community (40 percent); Defence and Security (14 percent); and Other (23 percent). Those who selected 'Other' cited the following as some of their areas of activity: Freelance, Health, Investigative, Real Estate, Travel and Lifestyle, Heritage, Law, Environment, Indigenous Affairs, Media, Industrial Relations, Rural and Agriculture, International Affairs, and Human Rights. These data indicate that the participants are engaged in a broad spread of journalistic activities and stark variations might arise as to the need to rely on confidential sources. More than half of participants nominated a full time work status. Most had more than seven years' experience (73 percent) with the rest indicating as follows: less than one year (4 percent); one-to-three years (16 percent); and four-to-seven years (7 percent). The final 'profile' question asked participants to indicate the type of employer by reference to number of employees in that organisation

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'engaged in journalism duties'. Most (60 percent) worked for organisations with more than 41 employees.

Journalists' familiarity with shield laws:

The survey indicated a gaping chasm in journalists' understanding of shield laws. Three-quarters of the 154 respondents were 'uncertain' as to whether a shield law applied in their jurisdiction. Of the remaining responses 11 percent said they were covered by 'State/Territory and Federal' shield laws; 6 percent said 'only Federal'; and 11 percent said 'State/Territory'. The next question was—'how would you describe your familiarity with shield law and the way it works?' Almost one-third (29 percent) of 147 respondents said they had 'no understanding' of shield laws and how they operate. The remaining 72 percent of respondents said they had 'some understanding' (62 percent); a 'good understanding' (9 percent); or 'excellent understanding' (1 percent).

The next question in the sequence sought to establish responses in relation to a key operational matter when it comes to confidentiality undertakings—how do journalists determine which portions of the communications made to them by sources, where a confidentiality undertaking claim might arise, are actually part and parcel of the undertaking given? In other words, when is information 'on the record'; 'off the record'; or 'background information'? A convenient summary of what these terms mean can be found in the *Australian Broadcasting Corporation* guideline:

> *On the record*, meaning both parties agree that the information imparted to the journalist may be disclosed and attributed to the source by name. *On background*, meaning both parties agree that the information imparted to the journalist may be disclosed but not attributed to the source. *Off the record*, meaning both parties agree that the information imparted is not to be disclosed, with or without attribution. (ABC Editorial Policies, Guidance Note, 2011, p. 3)

Controversies have arisen in the past involving information that may be characterised as being 'off the record' (ABC TV, *Media Watch*, 2005; ABC TV, *Media Watch*, 2012; Pearson, 2014). Only 2 percent of 147 respondents said they had 'no understanding'. The remaining 98 percent said they had a 'some understanding' (16 percent); 'good understanding' (46 percent); or 'excellent understanding' (36 percent). The responses suggest that while the majority claim to have a good or excellent understanding, 18 percent say they have 'no understanding' or only 'some understanding' and this can lead to particular difficulties for this group when it comes to their reliance on shield laws. This is because a clear apprehension of what is 'in or out' of the confidentiality promise is important for the purposes of establishing the precise content of the promise and thereby any obligation of confidentiality arising from that promise. As this was a self-estimate, further research might test the level of that understanding. In response to the question 'are you aware that there are penalties for withholding information when it involves

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police or other investigating authorities' the majority of the 146 respondents (75 percent) said 'yes'. However, the rest (25 percent) answered 'no'. On a related question 'are you aware that there are penalties for withholding information when it involves the courts?' while 81 percent of the 147 respondents said 'yes', it is a concern that 19 percent said 'no', especially given the high profile of such cases in recent years. In the text entry section (allowing participants to elaborate on the answer ticked) for this question two of the responses were: 'But I don't care, sources are protected'; and 'Pretty much tell them to stuff off'. Such responses may explain either resoluteness in subscribing to the source protection obligation even at the expense of incurring a penalty; a refusal to acknowledge the stakes involved; or, a failure to appreciate the qualified nature of statutory source protection provisions.

Journalists' perceptions of shield law effectiveness and coverage:

An important recurring issue in the area of shield laws anywhere in the world is the breadth of the protection that should apply. Butler and Rodrick broadly classify the privilege into three categories: (a) absolute—to apply in *all* circumstances; (b) judicial discretion—giving judges discretion to excuse journalists from disclosure; and (c) presumption of non-disclosure—where those seeking disclosure carry the burden of displacing the protection (2012, pp. 430–431). The privilege currently available in Australia generally falls in the last two categories (Butler & Rodrick, 2012, p. 431). In any event, absolute privilege is not available at all for the protection of journalists' sources. In response to the question 'how important is it to be able to provide strong protection for confidential sources' the 95 survey participants who responded overwhelmingly, and unsurprisingly, indicated that it was 'extremely important' (96 percent), while the remainder said it was 'moderately important'. In response to the question asking participants to choose from a list of preferences how the 'protection should be reflected' the participants indicated as follows: 'through a professional code of ethics that you can show binds you' (77 percent); 'through laws made by parliament' (72 percent); 'through decisions made by the courts' (51 percent); 'through rules laid down by your media employer' (40 percent); and 'Other' (5 percent). Text entry responses in the last category included such responses as through 'professional courage', through 'personal ethics' and through the teachings of educational institutions. It is notable that participants put the showing of an obligation under a binding professional code of ethics ahead of any other mode of protection. In response to the question asking participants to rate the present state of shield law protection in Australia it is noteworthy that 65 percent of the 95 who responded said it was 'somewhat adequate'; while 34 percent said it was 'totally inadequate'. One percent said it was 'totally adequate'. In interpreting these responses it is useful to keep in mind the earlier responses showing ignorance of whether shield laws might operate and confessing a limited understanding of shield laws.

Participants were asked to indicate, 'if it were entirely up to me', what type of shield

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law they would introduce. Unsurprisingly 59 percent of the 95 participants said they would introduce 'absolute protection'; 35 percent said they would 'retain the qualified protection with a presumption against disclosure'. In the text entry provided by those who chose 'Other' (5 percent), one suggestion was to amend defamation law to prevent the 'abuse of defamation proceedings as a cover for source identification', while another participant proposed to 'do as I please. I'll suffer the consequences … as long as the community's interests are duly served'. In response to the question 'which one of the following best describes your view of how shield law should work?' 59 percent of the 93 participants said the law 'must protect the confidential source in all circumstances', while 41 percent advocated such protection 'only when the confidentiality is justified'. On this point the responses were roughly similar to the above question in this section 'if it were entirely up to me' … although it indicates an inconsistency with another view above in this section, where 65 percent of participants said the present state of shield law was 'somewhat adequate'.

A critical and unsettled point is: whom should shield laws cover? Current statutory provisions are not consistent on the law's coverage in relation to professional journalists and others who, for example, publish material on the internet (Fernandez, 2014b, pp. 24–25). The following question was aimed at eliciting views on 'who should be covered by shield law?' and participants were invited to choose from a list of potential answers. The responses were: 'only journalists who can show that they are bound by a recognised journalistic code of practice governing journalism' (39 percent of 93 respondents); 'all journalists as long as the content in question…was produced in keeping with a journalistic code of practice, even though the journalist cannot show that they are bound by that code' (32 percent); 'all journalists, in any circumstance, regardless of whether they can show that they are bound by a recognised journalistic code of practice' (24 percent); 'all journalists regardless of whether they are employed by a "mainstream" media organisation, or whether they are "citizen journalists" or bloggers and other producers of journalistic content (18 percent); 'only those who can demonstrate that they perform the role of "journalist" for a living' (18 percent); and 'Other' (6 percent). The text entry for 'Other' included the following comments: 'I am not sure'; that protection 'shouldn't be extended to citizen journalists or bloggers who self-publish. Nor should it be extended to advocates who masquerade as freelance journalists'; and that 'full-time employment in the sector means nothing'. A related question asked participants to indicate how they would define 'journalist'. Of the 93 responses the largest group (48 percent) indicated that the term should mean that the person 'belongs to a registered professional journalism body that observes a professional code of practice'. The remaining definitions participants chose were: 'a person who is primarily engaged in work that is clearly governed by being employed in an organisation that has a news and current affairs function' (45 percent); 'a person who may not be strictly defined as a journalist but whose work for which protection is claimed qualifies as journalistic output (38 percent); 'any person who

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claims source protection for something they published regardless of whether it meets a journalistic standard' (6 percent); and 'Other' (5 percent).

Journalists' perceptions of their story outcomes when relying on confidential sources: The media's default position on stories that rely on confidential sources is well established and reflected in the Media Alliance Code of Ethics provision:

> Aim to attribute information to its source. Where a source seeks anonymity, do not agree without first considering the source's motives and any alternative attributable source. Where confidences are accepted, respect them in all circumstances. (Media, Entertainment and Arts Alliance, Code of Ethics, Clause 3)

While it is clear that the overwhelming majority of journalists deem source protection a *sine qua non* of the profession, how do journalists perceive the 'level of success', as demonstrated by published outcomes? In the first of the questions in this bracket, the participants were asked to 'rate your level of success (i.e. the published story served an important public good) in pursuing a story in reliance on information secured as a result of providing a confidentiality undertaking to your source'. The responses were: 'often good' (39 percent of 94 participants); 'sometimes good' (28 percent); and 'always good' (16 percent). Only 2 percent said 'no good', while 15 percent were 'neutral'.

The risk to a journalist of being manipulated by sources acting in bad faith is well recognised and acknowledged in some ethics code provisions to the extent of a readiness to deem the 'promise of anonymity no longer binding' if a source acting in bad faith were to succeed in using the medium to spread misinformation (*Los Angeles Times* Ethics Guidelines, 2011). In response to the question 'which of the following describes your experience in working with confidential sources?' participants were asked to select as applicable from the following: 'on occasion the source's information was flawed but the source was not motivated by bad faith' (49 percent of 94 responses); 'on occasion the source's information was flawed and the source appeared to be motivated by bad faith' (13 percent); 'on occasion the source's information was flawed but it was not clear if the source was motivated by bad faith' (26 percent); 'on occasion the source's information was readily available from other sources and therefore attributable and it was not necessary to enter into any confidentiality undertaking' (27 percent); and 'on occasion the source appeared to have ulterior motives but the overriding factor for you was whether the information had genuine public concern value' (55 percent).

Two further questions sought to elicit participants' perception of success, one focussed on the respondents themselves and the other upon 'other journalists'. The first of these questions was 'reflecting honestly on your own use of confidential sources, do you believe you may have over-used confidential sources in your own work?'. Not surprisingly the majority of the 94 responses (57 percent) were that, rating themselves personally, participants 'never over-used' confidential sources. The remaining responses

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were: 'sometimes over-used' (12 percent); 'justified use' (30 percent); with only 1 percent saying 'over-used'. Thus, the claim clearly was overwhelmingly that when rating their own use of confidential sources 87 percent saw their own use of confidential sources as either 'never over-used' or used justifiably. The picture is different when the question to participants was 'when thinking about how *other* journalists use confidential sources, do you believe there is an over-use of confidential sources in their work?' In response 62 percent said 'sometimes over-used' (50 percent) or 'often over-used' (12 percent). The remainder said 'never over-used' (16 percent) or 'justified use' (22 percent). While the partiality to the participant's own positive rating of their personal reliance on confidential sources was to be expected, the apparent lack of confidence in such use by *other* journalists is concerning.

Journalists' concerns about surveillance and enforcement actions by the authorities: Journalists' alarm about surveillance and enforcement actions by the authorities have become more pronounced in recent years as governments the world over invoke concerns over national security to bolster their powers and capabilities in this regard. It is referred to as the 'golden age for surveillance' (Swire & Ahmad, 2012, p. 463). Ewart et al state that those who take the risk of contacting sources by phone may be giving authorities access not only to conversations with the person contacted but may also be identifying other sources (2013, p. 121). The concern in Australia is reflected in media representations to the government in response to legislative initiatives that impact on journalists. For example, the peak professional organisation representing Australian journalists, the MEAA, in a submission on national security stated:

> Due to the rise of telecommunications interceptions, journalists must assume their conversations with sources could be intercepted – obliterating any professional right the journalist has to protect the confidentiality of their source and, thus, negating the intent of shield laws that recognise and protect journalist privilege. (Media, Entertainment and Arts Alliance, 2012, p. 7)

Pearson (2013) has suggested surveillance by the state is so sophisticated in the modern era that a source like 'Deep Throat' in the *Washington Post*'s infamous Watergate investigation could not be protected in the modern era.

More recently the MEAA raised similar concerns in relation to the Federal Government's *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2015* (Media, Entertainment and Arts Alliance, 2014c). The Bill ws referred to the Joint Intellegience and Security Committee and the committee recommended that the matter of protecting journalists' sources 'requires further consideration before a final recommendation be made'. (Parliamentary Joint Committee on Intelligence and Security, 2015, p. 258). The Bill (2015) passed with modest concessions aimed at protecting journalists' sources. In this study participants were asked 'how concerned are you about the implications

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of surveillance of your communications and communications devices (e.g. computers, mobile devices, telephones, web browsers, cameras, emails) for the sanctity of your confidentiality undertakings to sources?'. Somewhat surprisingly less than one-third of participants (31 percent) said they were 'very concerned'. The remaining responses were: 'not concerned' (8 percent); 'a little concerned' (26 percent); 'generally concerned' (27 percent); and 'neutral' (7 percent). These responses suggest that journalists are either not sufficiently aware of the reach of the government's surveillance powers and its implications for the sanctity of journalists' confidential sources, or that journalists are savvy enough to avoid detection. Some of the responses to the next question provide a clue regarding both assumptions. Participants were also asked 'how concerned are you at the prospect of an official raid at work/home in pursuit of information that will identify your confidential source?' Such raids have occurred in the past giving rise to strong protests from the media (Shorten et al, 2014; Senate Legal and Constitutional Affairs References Committee, 2014) and in one case, prompted a parliamentary inquiry into a police raid on a newspaper (Select Committee into the Police Raid on *The Sunday Times*, 2009).

The question put to participants in the present study was 'how concerned are you at the prospect of an official raid at work/home in pursuit of information that will identify your confidential source?'. The findings revealed a significant lack of concern about such raids. More than half the participants were 'not concerned' (46 percent of 108); while 22 percent said they were 'sometimes concerned'; 4 percent were 'often concerned'; 10 percent were 'always concerned'; while 18 percent were 'neutral'. The responses indicating a lack of concern may be attributable to a lack of interest, or more likely, the perception among the participants concerned that their work was unlikely to be of interest to the authorities to the extent that it was vulnerable to a police raid. Participants were also asked 'what precautions do you take to safeguard your sources, and materials such as documents, recordings, notes, digital data?'. The responses were: 'do not record identifying information' (36 percent); 'record identifying information but keep it separately from the information itself' (24 percent); 'assign a "code" to the source identity but keep the identifying information separately' (22 percent); 'keep the materials at my workstation' (15 percent); 'keep the materials in the editor's/line manager's office' (1 percent); 'keep the materials in a safe at work' (8 percent); 'keep the materials at home' (26 percent); 'leave the materials in the custody of a third party' (13 percent); 'avoid using the telephone to communicate with the confidential source' (62 percent); 'avoid using any form of traceable record of communication with the source' (38 percent); 'Other' (9 percent); and 'none' (6 percent). This final statistic, despite its small proportion is still a concern. The text entry responses from some of those who selected 'Other' included: 'I may arrange to meet a source using a traceable form of communication, but that conversation remains unrecorded by electronic means'; 'destroy the materials as soon as possible'; 'most of the sensitive information including source identity is committed to human memory alone…can't even be hacked'; 'password protected USB or cloud

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account'; and 'if I felt a life was in danger, I wouldn't record anything at all, at least not in a form that someone else could understand'. The range of measures journalists resort to in order to protect their sources, while it reveals an attitude of care or concern, may not necessarily always provide the real protection they expect. For example, it may be asked why so many journalists assume that keeping the materials at their workstation, at home or in the editor's/line manager's office are, *per se*, safe options given recent police raids on news premises.

Conclusion

In proposing reforms in this area, whether in the form of legislation, work practice or other reforms, the limitations of this research noted above are acknowledged. Furthermore, this work did not examine commercial pressures on journalists, the rivalry between journalists to get 'exclusives', and other pressures on journalists to rely on confidential sources. Notwithstanding these limitations, the findings above provide a useful foundation for some assumptions, directions for future research, and for some preliminary observations.

First, how well do journalists understand shield laws? A good understanding of shield law is critical for journalistic work involving reliance on confidential sources. It is significant that 75 percent of 154 participants were uncertain whether they were covered by a shield law. So too is the high number of participants who said they had 'no understanding' (29 percent) or only 'some understanding' (62 percent) of how shield laws work. In the follow-up interviews it appeared that participants were unaware of explanatory literature in this area (for instance, Media Alliance publications on the subject); found the area too complex; or admitted to neglecting this area.

Second, participants' claim to have a 'good' or 'excellent' understanding of information obtained 'on the record', 'off the record' and 'background information' merits closer attention. It is significant that 18 percent of this sample said they had 'no understanding' or only 'some understanding' of these three categories of information. For shield laws to operate effectively, a key element is the existence of a promise regarding confidentiality (for example, Commonwealth *Evidence Act*, s.126H(1)). Uncertainty as to the content of the promise can give rise to difficulties in a claim for protection.

Third, participants indicate a lack of awareness of the penalties that can flow from withholding information from the courts or the police. While the staunch defiance in some of the responses (for example, 'Pretty much tell them to stuff off') reveals a high level of commitment to source protection, and is to be lauded, journalists stand to benefit from appreciating that it is possible to avoid difficult situations through greater care when entering into confidentiality commitments.

Fourth, to a question on how to provide 'strong protection for confidential sources' the main preference was for a system that allowed journalists to show that they were bound by a professional code of ethics (77 percent of 95 participants). This was, as seen above,

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slightly ahead of the preference for statutory protection, and well ahead of the preference for protection through court decisions. This position merits further examination.

Fifth, as seen above, about one-third of the participants considered the present law 'totally inadequate' while 59 percent would introduce 'absolute protection'. Overall the survey responses advocating 'absolute protection' can be read as seeking the kinds of protection afforded to other established 'privileged classes' such as legal counsel and medical doctors. In reality, such a strong form of protection for journalists' confidential sources is next to non-existent, as noted above. It is likely, therefore, that the respondents are in fact voicing a desire for 'effective protection'—protection that would forestall the pursuit of sources on questionable grounds or grounds described in one shield law case as 'oppressive or constitutes an abuse of process' (*Hancock Prospecting No 2,* 2014, paras 6 and 44). There are also inconsistencies: between the data concerning the preference for absolute protection; the apparent strong preference for protection through the commitment to a code of ethics ahead of statutory protection; and the strong support for protection 'only when the confidentiality is justified'. Such responses illustrate the present lack of understanding of how shield laws operate and the substantial challenges facing reform initiatives. Notwithstanding this, the present lack of uniform and effective rules that are couched in clearer and simpler terms needs addressing.

Sixth, the question of 'who' should be protected indicates a deep division. On the one hand is the wide view that embraces an unwieldy constituency by encompassing much more than those who would pass as 'professional journalists' in the conventional sense. On the other is a narrow view that would greatly reduce the size of the group entitled to seek source protection. The present statutory framework in this regard is inconsistent (see item 5 on 'Definitions', Fernandez, 2014b, pp. 26–27). The acknowledgement in one court case that journalism is a 'profession' suggests that the courts are likely to take a measured approach in considering who is entitled to source protection (*NRMA v John Fairfax*, 2002, paras 146–150). One view is that media privileges generally 'are capable of applying to bloggers, tweeters and other users of the new media' (Finkelstein, 2012, para 5.14). In New Zealand, the High Court has ruled that a blogger can be defined as a journalist (*Slater v Blomfield*, 2014, para 140).

Seventh, while a high number (58 percent of 95 responses) indicated they were 'generally concerned' or 'very concerned' about official surveillance of their communications, the fact that the rest did not evince a similar view requires further examination. Preliminary indications are that a lack of concern may be due to the 'low risk' nature of the work these participants undertake, whether by choice or by coincidence, and their confidence (perhaps misguided) in their own precautionary measures. A related issue is the extent of culpability that may be attached to a journalist whose failure to properly safeguard the source results in a claim for damages. In one incident, a journalist lost her recording device, leading that journalist to observe that 'the simple fact is that journalists have a responsibility to protect their sources and I deeply regret this incident has

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compromised mine' (Tomazin, 2014). A range of legal remedies might be available to a whistleblower who has been misled by a journalist about the confidentiality they are offering including breach of contract (particularly in chequebook journalism), negligence and breach of confidence. Of course, none would apply if the journalist has been ordered to reveal a source in court.

The most alarming aspect of this study is the effect of apparent journalists' ignorance about shield laws, the various types of confidential information, safe protocols for confidential data storage, and the powers of courts and government agencies to compel their disclosure; combined with the sophistication of modern surveillance technologies and the new legal powers available to government agencies to use them. The combined effect of these contributing factors raises serious questions about the level of confidence a whistleblower can have in a journalist being knowledgeable and competent enough to protect their identity. The research indicates some journalists show a sense of bravado about their willingness to protect their sources, which is not underpinned by a working knowledge of shield laws or an understanding of surveillance technologies and agency powers. While the journalist might express a preparedness to be jailed for refusing to reveal a source, it is the source who will be burned if the reporter's ignorance and poor practices lead to their detection. Our sobering conclusion is that the efforts of media lobbyists over several decades to win shield laws in several Australian jurisdictions might go to waste if journalists do not learn more about their existence, their scope and their reliability in a new age of surveillance. Our strong recommendation is that training in shield laws, levels of confidentiality and source and data security should be implemented promptly. The liberty of both journalists and whistleblowers depends upon it.

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ENVIRONMENT

6. Atolls in the ocean—canaries in the mine?

Australian journalism contesting climate change impacts in the Pacific

Abstract: This article has two complementary aspects, empirical and theoretical. Empirically, it examines the reportage of the two most prolific Australian journalists on the threat posed by climate change to low-lying Pacific island states, reporting over the two-year period leading up to and following the high-profile COP15 summit in Copenhagen in 2009. It was at that summit that the concerns of the Association of Small Island States (AOSIS) were given extensive media coverage and managed to dominate the agenda for several days, to the consternation of some other summit participants. COP15 affords a good case study because the media coverage of this issue was variegated and heavily contested, contrary to earlier scholarly claims about an allegedly mono-dimensional quality to the journalism about climate change in the Pacific Ocean (Nash & Bacon, 2013). The two journalists were Adam Morton, environment reporter for *The Age* newspaper in Melbourne, and Rowan Callick, Asia-Pacific editor for *The Australian*, who produced ten and seven distinct reports respectively on this issue over the period, and took more or less contrary positions on the validity of the threat claims. Theoretically, the article argues firstly, and following Tuchman (1978), that spatio-temporality is a defining dimension of journalistic research and reportage, and it extends Tuchman by drawing on the work of David Harvey (1973, 2006) and Henri Lefebvre (1991) to analyse and compare the spatio-temporal dimensions of the reportage by the two journalists. Secondly, it argues that the successful application of scholarly debates about spatio-temporality to journalism practice supports the contention that some journalism can and should be treated as scholarly research practice alongside other humanities and social sciences (Nash 2013, 2014).

Keywords: balance, climate change, environmental journalism, fairness, field analysis, global warming, journalism as research, small island states, *The Age, The Australian*

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IN LATE March, 2014 the Intergovernmental Panel on Climate Change (IPCC) released the *Summary for Policymakers* (IPCC, 2014a) of its 32-volume 2014 report (IPCC, 2014), the fifth in the series since the first in 1990 and the fourth in 2007. For the launch, various scientist co-authors were quoted in the press making statements such as '[t]hings are worse than we had predicted [in 2007]', '[w]e are going to see more and more impacts, faster and sooner than we had anticipated' and '[t]he horrible is something quite likely, and we won't be able to do anything about it,' (Al-Jazeera, 2014). The 2014 report will provide the scientific context for the discussion by world leaders at the COP21 (formally, the Conference of the Parties) summit scheduled for Paris in December 2015. Expectations are building that the COP21 conference will achieve much more than the last climate change summit event attended by major world leaders, the 2009 COP15 Conference in Copenhagen.

The COP15 summit was notable for several things: firstly, the way in which the Association of Small Island States led by Tuvalu was able to commandeer the conference proceedings and highlight the plight of some of its members as the vulnerable first rank of countries set to become uninhabitable, if not disappear altogether, as a consequence of human-induced climate change; secondly, the undisguised policy discord between China and the US as major international generators of greenhouse gas emissions; thirdly, the ineffectiveness and apparent irrelevance of European attempts at conference leadership on effective policy development; and fourthly, the abject failure of the participating national governments to agree on much more than face-saving deferrals and procrastination on policy responses. For an introductory outline of the key events and outcomes at COP15 the UNFCCC website provides the official account (UNFCC, 2009), while Ryan addresses the Pacific Island perspective (Ryan, 2010).

There was a huge global media focus on climate change in the lead-up to and during COP15. In Australia, no other issue had more coverage in 2009 (Chubb & Bacon, 2010). Australian journalism about the impact of climate change on Pacific Island states was similarly intensive, and thus provided a large empirical data set for analysis on this issue. Nash and Bacon (2013) examined the content of ten major Australian newspapers and ABC News and ABC Current Affairs programmes on radio and television, generating a total of 282 individual reports, over the period from 1 October 2009 to 30 November 2011. They found that the journalism was variegated and heavily contested, contrary to earlier scholarly claims (Connell, 2003; Farbotko, 2005, 2010a, 2010b; Farbotko and Macgregor, 2010; Cameron, 2011). The results of their research were summarised as follows:

> Contrary to a prominent observation in the social sciences literature, Australian media coverage of climate change with respect to small island states is neither monolithic nor bipolar, but deeply variegated by multiple factors including spatiality, temporality, genre, attitude towards climate science and the use of sources. It cannot be readily reduced to single or binary categories. This variegation is not random but

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> deeply structured by the factors listed, and this complex structure constitutes the dynamic field of media reporting on this issue within which participants act. What is striking about the reporting is the extent to which it is contested within the field …. 17 percent of reporting does not take an implicit or explicit stance in respect of the fundamental question of whether climate change poses a threat to small island states, which means that conversely, more than four-fifths of the reporting does take such a stance. (Nash & Bacon, 2013, p. 256)

That research detailed the structure of the contested field of Australian reporting on this topic over the specified period. Within the coverage, the most prolific journalists were Adam Morton, environment reporter for *The Age* newspaper, who produced ten distinct reports, and Rowan Callick, Asia-Pacific editor for *The Australian* newspaper, with seven stories over the period. *The Age* is based in Melbourne while *The Australian* is a national newspaper; both are targeted at affluent, educated readerships; the Fairfax-owned *Age* is widely regarded as the most liberal mainstream newspaper in its social orientation while the News Corp-owned *Australian* is oriented to a right-wing political and business audience. This current article seeks to add depth to the field analysis by examining in specific detail the research and reporting practice of these two leading journalists, who conveniently took contrary positions on anthropogenic climate change, Morton strongly endorsing the scientific consensus and Callick offering a confusing interpretation.

In what follows, I will firstly outline the theoretical framework I will use for the analysis, then give an account of the coverage by the two reporters and analyse the adequacy of their research and reporting practice with respect to the truth claims they make, and finally indicate the significance of this analysis for the standing of journalism as a research practice among the humanities and social sciences.

Theoretical framework

The adequacy of research practice is a methodological question. Methodologies need to be detailed and intellectually rigorous, produce verifiable truth claims and go well beyond the basic journalistic touchstones of 'fairness' and 'balance'. Methodologies derive from conceptual frameworks, and there is an issue, discussed elsewhere (Nash 2013, 2014, 2015 forthcoming), about whether journalism is a disciplinary or intellectual activity, as distinct from a craft. This author agrees with Gaye Tuchman that journalism is a 'theoretic' activity and '[f]urthermore, news stories engage in theorising by juxtaposing facts gleaned from sources. Juxtaposition is a form of categorising, since it encourages the understanding that these facts have something to do with one another. It both claims and creates a theoretic relationship between and among the phenomena presented as facts' (Tuchman, 1978, p. 204). Facts for journalists are 'pertinent information gathered by professionally validated methods specifying the relationship between what

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is known and how it is known' (Tuchman, 1978, p. 82), which is a precise statement of the methodological requirement for valid truth claims.

Tuchman argues that journalistic research involves the production of a 'web of facticity' in space and time, i.e. journalists prioritise their actions in space and time to include certain opportunities for observation and evidence-gathering and to preclude others (Tuchman, 1978, pp. 82ff). She puts the spatio-temporality of their research practice at the very crux of their 'professionally validated methods [for] specifying the relationship between what is known and how it is known'. However, she treats space and time as self-evident and unproblematic concepts, which limits their efficacy for analytical purposes. Harvey and Lefebvre would concur with Tuchman on the fundamental importance of spatio-temporality in all human activity, but they separately propose much more multi-dimensional conceptualisations, which offer a richer framework for analysing the validity of truth claims.

David Harvey in 1973 (Harvey, 2009 [1973]) proposed a tri-dimensional framework for the conceptualisation of space: absolute, relative and relational space. Absolute space does not include time, and is stable, available to physical apprehension through the senses, and its attributes are directly measurable and verifiable; in short, it is the stable physical environment as we experience it. Relative space incorporates time, and therefore activity, change and movement, i.e. process. It involves the movement and circulation of mass and/or energy and therefore includes phenomena such as transportation, communication, markets, electronic and magnetic activity, weather activity, growth, decay and destruction. It is also directly observable and measurable. Relational space is constituted by the relations between agents or forces that produce the processes of relative space and the spatial characteristics of absolute space, for example the positive and negative poles of electric fields that produce electric currents and effects, differences in atmospheric density that produce weather patterns and events, demand and supply that produce exchange value and therefore prices and transactions in a market. Relational space is where values reside (Harvey, 2006, p. 141), and importantly it is not directly observable or measureable except through the facts it produces in absolute space, e.g. a weather event, a business meeting, and/or the processes it produces in relative space. Thus economic demand for a commodity is not measurable until it becomes active in relation to supply and produces a price in a market, social power is not evident until it produces activity that would not have otherwise occurred, and so on.

Harvey argues that relational space incorporates relative and absolute space, relative space incorporates absolute space, and absolute space does not incorporate either of the other two dimensions, although he very specifically states that there is no hierarchy among the three dimensions, that all three dimensions are potentially present in any spatial situation, and the key issue is how 'different human practices create and make use of different conceptualisations of space' (Harvey, 2006, pp. 125-6).

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Harvey was theorising space as it exists prior to any given act of human agency. Henri Lefebvre was interested in the social production of space (1991 [1974, 1984]). His conceptualisation is also tri-dimensional, encompassing material space, the representation of space and spaces of representation, or to put more prosaically—perceived space, conceived space and lived space (Lefebvre, 1991, pp. 38-41). Perceived space is amenable to direct and measurable human experience through the five senses; conceived space is a logical framework for understanding space, eg Euclidean geometry, Newtonian physics, climatology, political theory, economic theory; and lived space encompasses emotions, imagination, culture and so forth.

In 2006, Harvey reaffirmed his own theorisation of spatio-temporality, and put it together with Lefebvre's theorisation of the spatiality of social practice to produce a matrix (Harvey, 2006, p. 135). He made no greater claims for this matrix than that he thought it might be interesting as a conceptual tool to make sure that the complexity and nuance of human interaction with the spatial environment was being captured in any analysis. He did not advocate its use as a rigid checklist, but as a scoping tool. The theoretical aim of this article is to test whether the Harvey-Lefebvre matrix is a useful methodological tool for the evaluation of journalistic research practice. I have argued elsewhere (Nash, 2015, forthcoming) that news value is located in relational space because value is a relational concept—it does not exist except as a relationship between agents—and news is always about the value attached to change (in relative space) as evidenced by the facts (phenomena in absolute space) and its implications for relational space (how would/should agents reposition themselves to adjust to the reported change), sometimes very specifically conceived as in the import of a political decision by government, and sometimes very broadly conceived, e.g. the human condition in a 'human interest' story. Therefore news values are necessarily vague and indeterminate because they are not observable and measureable. Journalists in their practice produce evidence from absolute and relative space ('facts' that are verifiable, e.g. a politician's statement or a car accident) to support their analyses of the significance or meaning of the situation in relational space (values that are not verifiable), and therefore there is always contestable terrain between the production of verifiable empirical evidence and the consequent production of meaning.

In Lefebvre's terms, journalists act in perceived space to produce verifiable evidence in their reports; they assemble that evidence according to a logic that should demonstrate some consistency and validity in conceived space; and it is usually written with an eye for the lived space of the news consumer in the hope that it will appeal to their emotions, imagination and cultural sympathies. Table 1 sets out my interpretation of the Harvey-Lefebvre matrix for the purposes of journalism.

Before moving to the analysis of Morton's and Callick's journalism, I will rephrase and recapitulate the argument in favour of testing this theoretical framework in the ensuing analysis. Journalists report factual evidence for the truth claims they make in their reportage, and those facts need to be locatable in space and time for verification purposes.

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Table 1: The Harvey-Lefebvre matrix as applied to journalism

	Perceived space	*Conceived space*	*Lived space*
Absolute space	observable facts	logical framework for identifying facts	IEC engagement with facts
Relative space	observable processes producing outcomes	logical framework for apprehending processes	IEC engagement with processes
Relational space	invisible values and forces at work to produce processes and outcomes	logical framework for apprehending relationship of forces and values	IEC engagement with relationships and values

Note: IEC - imaginative, emotional, cultural etc.

Therefore the activity of journalists in space and time to include or exclude various facts in a report is a fundamental characteristic of the 'professionally validated methods specifying the relationship between what is known and how it is known' (Tuchman, 1978, p. 82). However, the news value of facts is not self-evident, and those facts need to be located in processes of change and development in a story (i.e. what's new?) that signify shifts in the continually developing relationships that underpin and drive the processes. Therefore, for analytical purposes we need a conceptualisation of the spatio-temporality within which journalists operate that can identify facts for verification purposes, but locate them within processes of change (and therefore incorporate time) and provide evidence for truth claims about the underlying values and relations that are driving the process. What is more, when journalists research and produce a report, they are working within an environment that has experiential, conceptual and imaginative/ emotional/ cultural characteristics, and their reports will be consumed and meaning produced by audiences/ readerships in circumstances that have specific experiential, conceptual and imaginative/emotional/cultural characteristics. Harvey and Lefebvre separately and together have theorised spatio-temporality with this degree of complexity, and our task now is to test its validity and utility in an empirical analysis. I would also note in passing that this methodology is compatible with a broadly Bourdieusian field analysis. Bourdieu's field theory provides a relational spatial metaphor for analysing social practice (Bourdieu 1977, 1990), and it complements, and indeed requires, a theorisation of spatiality (for instance, per Harvey and Lefebvre) to make it amenable to empirical research.

The reportage

Adam Morton produced ten reports (Table 2) on climate change in the Pacific for *The Age* (with two repeats in the *SMH*), among many other reports on climate change, COP15 and the state of the environment more broadly over the period. The average word length was 957 words. One, the second longest at 1726 words, was written from

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Table 2: The Adam Morton reportage for *The Age,* 2009-2010

Date	*Words*	*Location*	*Headline*
21/11/09	1726	Kiribati	As the globe warms up, a way of life is washed away
21/11/09	1369	Kiribati	Land of the rising sea (SMH edited repeat)
8/12/09	510	Copenhagen	Copenhagen deal within reach, says climate talks host
11/12/09	595	Copenhagen	Small nation with big voice and bigger problem
14/12/09	568	Copenhagen	Wanted (badly): US and China to get along
16/12/09	370	Copenhagen	Rich-poor divide theatens real deal
16/12/09	613	Copenhagen	Uneasy truce between wealthy and poor nations
18/12/09	584	Copenhagen	Breakaway nations rebel against China
18/12/09	611	Copenhagen	History will judge us if we fail, says Rudd, Clinton turns up heat on China
19/12/09	617	Copenhagen	The science is clear, but the politics are murky
27/3/10	2150	Melbourne	Climate can-do in Cancun?
27/3/10	1777	Melbourne	Copenhagen makes a comeback (SMH edited repeat)

Kiribati the month before COP 15, eight from the conference in Copenhagen, and the longest article (2150 words) as a reappraisal of the conference outcomes about three months after the event.

In anticipation of the looming prominence of the Pacific Islands at the conference, he visited Kiribati in the month before it began. He began his feature article thus:

> When a coconut tree dies, the decay starts at the top. First the leaves fall, then the fruit. All that is left is a desiccated trunk, cut off at half-mast. In a low-lying area flooded with seawater, the dead palms look like natural tidal gauges, the high water mark visible on their stranded remains. There is no shortage of them in Tebunginako, a tiny village on an outer island of the Pacific republic of Kiribati (pronounced Kiribas). (Morton, 2009a)

In the article, Morton referred to an array of direct evidence including dying trees, housing ruins now located offshore, quoted interviews with a range of sources including Kiribati and Australian politicians and local villagers, rising tidal levels surrounding buildings, reports from the World Bank and the Australian National Tidal Centre and the decline/disappearance of named fish and plant species. He cited natural processes including climate change, changing weather patterns, changing sea levels, environmental degradation and changing/disappearing landscape, and social processes including political debate and policy development at the local level, translocation of living quarters, changing food production practices and participation in international policy development processes. Throughout the article the locals are presented in relation to

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each other as a functioning polity, society and culture, and in relation to the international arena as participants of environmental and social processes beyond their control that they are attempting to mitigate, adapt to and/or participate in by adopting various roles.

The following eight articles by Morton were sourced from the COP15 summit in Copenhagen, and they described events, statements and actions by participants in the conference. A key figure in his reports was Ian Fry, whom he described in an early report on December 11 as a '56-year-old former environmental campaigner' who, as the official representative of the Tuvalu government, had called on the conference to create two treaties—one for industrialised countries and one for other countries—and for global warming to be limited to 1.5 degrees. Tuvalu's move was supported by other island nations and some other poorer countries that were angry that China, India and other nations had blocked the proposal. Fry was the defining and most important source in this article, which ended with Australian Climate Change Minister Penny Wong admitting that the talks had not begun well (Morton, 2009b).

The following day, Morton reported that the small island states had delayed proceedings for two days, providing justification for their claim with a reference to scientific findings that any limit higher than 1.5 degrees would 'lead to disastrous damage from rising sea levels and extreme weather'. He quoted Desmina Williams, a Grenada diplomat and spokesperson for the Small Islands Alliance, who pleaded with the conference to accept evidence that 'our islands are disappearing, our corals are bleaching, we are losing our fish supplies' (Morton, 2009c). On December 13, Morton again referred to Fry, who had been in tears when he made a 'strong and impassioned plea' for a 'deal rather than a decision to delay a legally binding treaty until next year'. He described Fry as fighting for the 'human rights of a country predicted to be among the first victims of climate change' (Morton, 2009d). In an article the following day that mostly focussed on the role in negotiations of China and the US, Morton described Ian Fry as 'for many the hero of the summit for his valiant fight' (Morton, 2009e). In yet another article, Morton referred to players as 'crudely divided up into heroes, villains and those with intentions which are harder to decode', and he again referred to Fry as the 'chief hero' whose 'principles were pure' (Morton, 2009f).

On the final evening of COP15, Morton reported that the conference 'ended in chaos after a small number of developing nations rejected a last-minute backroom deal between the world's biggest emitters and announced by US President Barack Obama'. After quoting a number of sources, including Obama and then-Australian Prime Minister Kevin Rudd, he focused on those who had rejected the deal including Tuvalu, quoting Ian Fry as arguing that the deal would 'lead to the tiny country being inundated by rising seas …. In biblical terms it looks like we are being offered 30 pieces of silver to betray our future and our people . . . our future is not for sale' (Morton 2009g).

A key theme in Morton's reporting from Copenhagen was the role played by small countries, especially Tuvalu, in the framework of geopolitical negotiations. The tone of

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his reports was earnest and serious. Quoted sources were described in respectful terms, including when Morton would appear to be disapproving of their stated position. His underlying premise was that dissenting small developing countries had a just cause in resisting the deal struck by more powerful geopolitical players. He retained a steady focus on them as active players intervening in the conference proceedings, not merely to garner worldwide attention for their plight but to influence the outcome. Although Morton expressed the opinion that Fry may have held up proceedings for too long, he nevertheless portrayed him as a legitimate player who had earned the respect of many (Morton 2009e). This contrasted with other reports, including in *The Australian,* that mocked Fry as not affected by sea-level rises because his home in Canberra was 144 kilometres from the coast (McIntosh, 2009; Maiden, 2009).

Three months after Copenhagen, Morton wrote a long analytical article in which he reviewed the geopolitical situation in the aftermath of COP 15 and the lead-up to the COP16 conference to be held in Cancun, Mexico in December 2010. The thrust of the article was that the climate change threat was serious, but that the achievements of COP15 were greater than generally acknowledged at the time by commentators. He expressed some optimism for future action by governments (Morton, 2010). During the period of our study, Morton published no other articles referring to small island states in the context of climate change.

The Australian's Asia Pacific editor Rowan Callick wrote seven articles (Table 3) in our sample, making a major contribution to the paper's coverage of climate change in the Pacific during this period. The average word length was 1138 words. His articles were spread out across the whole two-year period of the sample, contrasting with Morton's focus on the COP 15 summit. All of them were written from his office in Australia.

The first article was written during COP15 and began, 'Pacific island nations are under threat from a great deal more than global warming' and focused on Leah Wickham, 'a banker' and 'Suva-based Greenpeace activist' from Fiji who told the opening session of the conference that as someone on the 'frontlines of climate change' she 'hoped that

Table 3: The Rowan Callick reportage file for *The Australian,* 2009-2010

Date	*Words*	*Location*	*Headline*
12/12/09	1378	Australia	Strange climate neglect
2/1/10	1533	Australia	Movement for progress gets stuck in the lobby
4/6/10	466	Australia	Pacific Islands 'growing, not sinking'
11/6/10	2046	Australia	Coral islands left high and dry
18/12/10	409	Australia	Sinking islanders await rescue
22/7/11	487	Australia	UN snubs pleas on climate change
5/9/11	1646	Australia	Fiji casts shadow on Pacific forum

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her children would still be able to call our beautiful islands home'. After acknowledging her statement that 'scientists' are saying that 'low-lying islands such as Fiji are vulnerable to rising sea levels', he commented '[t]hey must be some scientists' (Callick, 2009).

Callick invited his readers to visit Nadi airport where they would see mountains of more than 1000 metres and referred to Australian National Tidal Centre research which showed Fijian sea levels are rising at 5.3mm a year, which he concluded meant that Wickham's fears for children were ill-founded. He acknowledged that 'evidence of the effect of climate change' in Kiribati was of 'greater concern' but asserted that if people relied on COP15 to deliver hope, they risked 'moving back to a form of cargo cult reliance on remote mechanisms, on the generosity or guilt feelings of foreigners (Callick, 2009). Contrary to the 'cargo cult' allegation, there is extensive research documenting the intense activity by AOSIS governments in response to the climate change challenges (Barnett and Campbell, 2010, pp. 111-137).

Callick quoted individual spokespeople for organisations from various international bodies and nations, referred to a range of academic and government reports as evidence; cited rubbish in waterways, inappropriate construction and large families as alternative environmental factors; queried the assumptions behind some computer modelling of rising sea levels, and cited "a vast range of factors to be considered in assessing the reason for changing sea levels: tectonic plate movement, the removal of groundwater because of excess populations, mining sand for construction, the removal of vegetation, El Niño and La Niña, and what the tidal centre calls a decadal slosh." (Callick, 2009) In terms of social processes he described and cited 'cargo cults' as a dangerous factor, and asserted that "[t]he next biggest danger in the islands region, after climate change, is the reorienting of environmental efforts, of development plans, of the process of government, towards this [Copenhagen] process". He decried aid dependency, endemic corruption, government unaccountability and a generalised lack of responsibility: "talking in Copenhagen is unlikely to deliver a significant improvement in island environments. Responsibility for that still lies substantially within the grasp of islanders themselves and their constantly globetrotting government leaders" (Callick, 2009).

This was Callick's only report during the COP15 conference itself, but there was a steady stream of articles over the next two years that referred to the issue, notably when two scientists published research suggesting that some islands at least were growing and not shrinking. Callick's attribution of authority to this research needs to be put into a wider context. In May 2010, the peer-reviewed journal *Global and Planetary Change* published a study by Drs Arthur Webb (Applied Geoscience Commission, Fiji) and Paul Kench (Auckland University) which used aerial photography and satellite images to study 27 low-lying Pacific atolls, and concluded that despite sea level rise and erosion, 86 percent of the islands had remained stable or increased in size due to accretion in other parts of the atolls, while the rest declined in size (Kench & Webb, 2010). This report built on earlier published work by these two scientists. Two weeks later it was picked up and

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promoted by *New Scientist* (McDonald, 2009).

On June 4, *The Australian* published a news story (406 words) by Callick about the research report that quoted no researchers other than Kench and Webb. He quoted Kench in the *New Scientist*: 'It has been thought that as the sea level goes up, islands will sit there and drown. But they won't. The sea levels will go up and the island will start responding.' Callick's story conveyed the imputation that sea level rise was not likely to be as serious a problem in the Pacific as previously understood (Callick, 2010).

The Kench and Webb research is well-known among climatologists, and controversial not because of its own specific findings but because it can be easily taken out of context to support unwarranted conclusions (Leslie, 2004; Woodruffe, 2008; Schaefer & Hare, 2010.) The ABC broadcast a report the day before Callick's report in which reporter Phillipa McDonald contextualised the Kench and Webb results within broader scientific interpretations (McDonald, 2010). Similarly the Pacific newsagency Pacnews, which had issued a short story about the research the week before, published a second report by Pacific Islands reporter Makereta Komai quoting Solomon Islands Ambassador Beck in Germany who described it as 'politicised science' (Komai, 2010).

Three days later, Callick wrote a further 2046 words on the Webb and Kench study. This article had a more detailed account of the research but quoted no other scientists or other critics of the study. The article began:

> The globetrotting leaders of Pacific islands who have attained international celebrity—especially in Europe—over the slow drowning of their homelands, are in a state of shock. The latest research indicates that most of the Pacific's low-lying islands are growing, not shrinking. And this week leaders of Tuvalu and Kiribati, the nations most often cited as the victims of inundation, struggled to respond to these findings: good news for their countrymen but an awkward message for those who have feted them as victims. (Callick, 2010b)

No evidence was provided that either Kiribati's President Anote Tong or Tuvalu Prime Minister Apisai Ielemi were in a 'state of shock'. Callick quoted a Kiribati spokesperson to the effect that some islands had causeways and other constructions that could provide an explanation for shifting shorelines, but that this might not apply to other islands.

Analysis

Harvey suggested that his matrix should be used in ways that are 'suggestive rather than definitive …. [I]t is possible to think dialectically across the elements within the matrix so that each moment is imagined as an internal relation of all the others' (Harvey, 2006, p. 134). While agreeing with that approach, in what follows I have named and treated each of the elements in the matrix separately, moving vertically down each column in turn, in order to see with some specificity what the method reveals about the reportage.

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The potential for dialectical links among the elements quickly becomes clear, but their identification and analysis would depend upon particular theoretical frameworks. The following analysis is operating at the meta-theoretical level, to argue the case for the potential and need for subsequent analysis within identified theoretical frameworks.

Perceived—Absolute space

Morton's reporting entailed personal observation in Kiribati or Copenhagen in all but one story. He gave factually detailed and internally consistent accounts of the different situations from which he was reporting, and used a wide range of sources including government and NGO spokespeople, official documents, community leaders and NGOs.

Callick's reports were all sourced from his Australian office, though he would have been drawing on his extensive personal experience in the Pacific region. He did cite factual accounts of particular events using other reports, including speeches by Leah Wickham and Ian Fry, and did cite material facts such as the height of Fiji mountains, the home address of Ian Fry in Queanbeyan, Australia, and the report findings by Kench and Webb. His reports also cited unspecified physical facts such as large families, rubbish and shifting coral detritus.

Perceived—Relative space

Morton provided accounts and evidence of various processes, e.g. changing climate patterns, the scientific research into climate change under UNFCCC's aegis, the diplomatic process at Copenhagen and other national and international governmental forums and processes. He accepted the legitimacy and bona fides of these processes, explored their complexities, and used the evidence he was reporting, whether it was in agreement or disagreement, to encourage a perception that the COP15 process was very serious.

Callick provided material evidence, such as the height of Fiji mountains or Fry's home address, to dispute the relevance or bona fides of individuals and organisations participating in the COP 15 negotiations. While acknowledging the reality of climate change he cited various scientific research and alternative factors to query its applicability or the seriousness of its consequences in given situations. He disputed the integrity and capacity of governments in dealing with the issue, dismissed the utility of international governmental processes in addressing climate change, and generally favoured local action and self-help as the most efficacious response. He ridiculed the COP process.

Perceived—Relational space

Morton used a wide range of official and local sources to nominate and describe the 'players' in both the climatic processes and the social ones. He described in detail the evidence supporting their relational position to the issues and processes and their dialectical activities in those processes. He accepted the AOSIS and scientific claims that the Pacific islands were in a frontline relationship to climate change impacts, and he described the values that the small island inhabitants and governments were invoking to position themselves in response to the challenges and processes underway.

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Callick acknowledged the underlying process of climate change, but sought to dispute the integrity and capability of some participants in relation to the COP process, gave a partial and decontextualised account of the value of the Kench and Webb research in relation to other research, challenged the relevance of governmental and international responses to the process of climate change mitigation and adaptation, and generally alleged that the supposed crisis was a product of manipulation by activists and incompetence of governments and UN bodies.

Conceived—Absolute space

Morton's selection of evidence and the factual accounts in his reportage accorded with the conceptual frame of the scientific consensus on anthropogenic climate change. The content and focus in his reports, and the fact that his first major report on this topic resulted from travel to remote Kiribati, provided evidence in support of the early impact of global climate change on the small island states. His Copenhagen reportage accepted the conceptual framework of coordinated governmental intervention as an appropriate response to the challenges.

Callick's articles were ambiguous and ambivalent with respect to the climate science consensus on anthropogenic climate change. He was dismissive of the utility of the COP process, and cited irrelevant facts (Fiji's mountains, Fry's home address) to query the integrity of the process. While claiming to accept the analysis, he queried or denied its applications to specific physical environments, and cited allegedly contrary evidence such as the Kench and Webb research. Twice he characterised islander responses to the issue as 'cargo cults', thus presenting an arguably colonialist conceptual framework to disparage local responses (for early and more recent interrogations of the usage of the term 'cargo cult' see Pouwer, 1958; and Kaplan, 1995)

Conceived—Relative space

Morton clearly accepted the relevance and integrity of the scientific and diplomatic processes in train under the aegis of the UNFCCC. Within that frame he further accepted the specific arguments by AOSIS about their members' place in those natural and social processes. He didn't query the need for internationally co-ordinated government processes, and indeed was critical of both individuals (Fry) and governments (eg China) that he perceived to be inhibiting the progress of negotiations.

Callick, while avowedly accepting the scientific consensus, cited other unrelated processes (tectonic plate movements, over-population, mining) as commensurate and responsible for some predicted climate change impacts, which arguably confused the conceptual picture rather than enhancing it. He accepted the Kench and Webb research but ostensibly misinterpreted it and failed to locate it within the larger scientific discussion as other journalists did. Most importantly, he explicitly argued that the two processes of effective climate change—adaptation and mitigation on the one hand and coordinated governmental responses on the other—were antithetical to each other. He argued that

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the most appropriate social process was self-help and hard work by islanders at the local level. There is a logical incompatibility between the global scale of the problems and solely local scale of the proposed solutions, which Callick did not address.

Conceived—Relational space

Morton approved of the values and position taken by AOSIS in response to their experience of climate change impacts, and in their diplomatic endeavours, though he did query the utility of the two-day hiatus in COP15 negotiations precipitated by Ian Fry. He effectively endorsed the appropriateness for AOSIS members of diplomatic fora such as COP and also local government and community processes such as the development of renewable energy sources, property purchases on unthreatened islands such as Fiji and guest worker arrangements with Australia and New Zealand to allow families to raise funds for such activities.

Callick disputed outright the relevance and effectiveness for island nations to enter into relations with international diplomatic negotiators on this issue. He argued that the island populations were being poorly served by their political leaderships and by international NGOs. He was dismissive of the positions being taken by international agencies, some scientists and the diplomatic community with respect to the challenges of climate change, and recommended that the islanders take a simple approach based on self-help, because all other avenues at the national and international levels were effectively incompetent and/or disingenuous.

Lived—Absolute space

Morton's accounts and language in depicting life on Kiribati and the lived experience of the Copenhagen conference included emotive terms of frustration, anger, despair and hope. He was empathetic with the perceived plight of island populations, their leaders and the NGOs and governments seeking to achieve effective responses at the summit. His reports from Kiribati were able to depict an imagined future experience of severe environmental degradation, translocation or emigration and their social and personal consequences.

Callick viewed such anxiety and fear as misplaced, expressed anger and contempt for Western activists and what he viewed as incompetent and irresponsible leaders, and described its effect as a 'cargo cult' passivity among island peoples. His description of Wickham's and Fry's activities and speeches at Copenhagen was contemptuous; arguably he was expressing frustration at an alleged unwillingness and incapacity of the island peoples for self-help and hard work, and despair at its likely consequences.

Lived—Relative space

Morton depicted the Kiribati experience and the COP processes as very serious and earnest in their efforts, but COP in particular became 'theatre' with its 'heroes and villains'. As the COP summit proceeded, he came to describe the process in tragic and occasionally farcical terms as it developed towards the final communiqué.

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Callick depicted the COP process, and international diplomatic processes on this issue in general, as farcical and disingenuous. He depicted shock and consternation (allegedly, and perhaps hyperbolically) among island leaders in response to the Kench and Webb research, and a general inability by island leaderships to engage constructively with the processes affecting their citizenry.

Lived—Relational space

Morton accepted the AOSIS view of their status and standing in relation to the issues and the negotiations at COP. He depicted Tuvalu and the Maldives as the leading AOSIS participants, gave them equal moral standing compared to larger states on the geopolitics of the issues, and described Fry as a perhaps flawed 'hero' in the 'theatre' of the convention. The AOSIS representatives were depicted as active, intelligent and effective, and as equal to Western government representatives in their competence and capacities. Morton was willing to align the interpretation of the conference proceedings with the perspectives and emotions of the AOSIS representatives, and accepted their characterization that they were the undeserved victims of anthropogenic climate change precipitated by large industrial economies. But they were depicted not as mendicants but as frontline representatives of a common humanity for whom the climate change bell is tolling.

Callick evinced an ill-disguised contempt for most of the participants in the climate change issue—disingenuous Western activists, incompetent island leaderships, misconceived scientists, passive islanders. He represented the international process as largely farcical, and mocked the positions taken by individuals such as Wickham and Fry at Copenhagen and 'shocked' island leaders in response to contrary scientific evidence. He bemoaned the impact of 'cargo cult' attitudes on unsuspecting island peoples being incompetently led by their elected representatives and western activists. Arguably Callick's depiction was underpinned by a genuine concern for the plight of island peoples in the face of such alleged incompetence and duplicity.

Discussion

The detail of the analysis above, as the successive elements or boxes of the matrix are filled in, confirms Harvey's point that the framework should be used suggestively and dialectically with respect to the internal relations among the different categories. There are many cross-connections, as indeed there must be: the different dimensions in the vertical and horizontal axes, Harvey's and Lefebvre's respectively, are themselves intertwined. But that is not to say that there aren't clear differences that emerge in the spatio-temporality of the two journalists' practice.

Callick as an editor was reporting from his Australian office, whereas Morton produced only one of his ten reports (the last one) from the office, and for the others he travelled to Kiribati and Copenhagen. Morton's visit to Kiribati enabled him to confirm

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evidence through personal observation, and interview a range of local sources to produce a detailed and nuanced analysis, while Callick, albeit perhaps drawing upon previous and lengthy personal experience or second-hand reports, reduced the analysis to the generalised characterisation of contradictory science, leadership incompetence, manipulation by activists and cargo-cult passivity among the populace. Morton's disposition in absolute space at Copenhagen enabled him to report firsthand on the material facts of interviews, speeches, documents and discussion as he personally observed them, the processes as they developed and the shifting relations among the players as they responded to the developments. Callick was forced to rely on others' reports from the conference, which information he then used in a different context, e.g. in his scepticism about the roles of Wickham and Fry. The two reporters conceptualised Fry's role in radically different ways: Morton reported him as a popular hero among a section of the attendees, whereas for Callick he was an impostor because he was not indigenous and lived in the suburbs of Canberra. In terms of lived or imagined space, for Morton the conference became tragic theatre, whereas for Callick it was disreputable farce. The conference process for Morton was conceptualised as a valid exercise in diplomacy and policy development, whereas for Callick its avowed aims were invalid and in practice it was directly antithetical to the interests of the Pacific Island peoples.

Generally it might be said that Morton conceptualised the scientific consensus on the climatology, and the international diplomacy, as bona fide activities in all his reports, and those bona fides formed the foundation for the sympathetic lived or emotional dimension of his accounts as the processes unfolded in his presence at the different locations. For Callick it was the alleged *lack* of bona fides in both the reported science and the diplomacy that justified the cynical and alienated emotional dimension, although arguably the relationship flowed the other way—it was a jaundiced, perhaps despairing emotional response that prompted the conceptual alienation from the science and the diplomacy.

The matrix framework can be applied almost on a fact-by-fact basis in an analysis like this, simply by posing questions such as: By what process does this particular fact get produced? What are the relations among agents or players in this field that are driving the process to produce these facts? How does the outcome of one process, e.g. the decision by AOSIS to disrupt the conference proceedings, affect other processes, e.g. negotiations among China, the US and Europe? How does one conceptualise the processes that are underway? What is the logic of these processes? How are the players in the field living the processes? Where is the emotional interest in this story? What are the cultural/social/political pre-conceptions of the intended public for this story?

Working journalists are making assessments on all of these fronts as a matter of course when they are researching and reporting a story. What the matrix does as a methodological tool for either reviewing previous practice or planning future practice is lift journalistic decision-making beyond the intuitive level that often accompanies quotidian professional practice, and isolate it for evaluation. Is it acceptable that Callick failed to contextualise the

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Kench and Webb research scientific debate in the larger scientific and policy debate about its interpretation? Is Morton's account of Fry as a hero pitching to an emotional response from a particular audience that romanticises his role and the plight of the threatened islands? Is there a David vs Goliath trope to Morton's reportage that distracted from the main game in the Copenhagen summit? Is the 'cargo cult' trope a relevant conceptual framework, and is it any more or less adequate than 'heroes and villains'?

Readers of Morton, Callick and this article will make their own responses to these questions: the point of this analysis is that it demonstrates that journalism can be evaluated for its adequacy by a rich engagement with theory and methodology that goes far beyond touchstones of fairness, balance and objectivity, whatever those terms might mean in any given situation. Of course, not all journalism is going to be explicit in this theoretical engagement, just as the professional vernacular practice of medicine or law or engineering is an application of professionally (and theoretically) validated procedures without explicit reference to the underpinning theory; but the fact that those procedures are amenable to theoretical exposition and interrogation is what makes them disciplines, and likewise for journalism.

What the matrix does not do methodologically is prescribe which particular theory should be applied in any of the given elements of the framework. For example, there are a range of disciplinary and scientific theories that apply to specific aspects of climate change processes and outcomes; there are contesting social and economic theories about how a community or an economy might be affected by the dislocation of climate change and what might be the most appropriate remedies, if any. In short, the matrix is not a theory in itself, but a framework for identifying the sorts of theory that might need to be considered in any given element of the matrix. It is a meta-theoretical framework (Lefebvre, 1991, p. 405) that foregrounds the role of theory, and for that reason performs the salutary role for journalism research of explicating that it is indeed a 'theoretic' activity, as Tuchman put it.

To conclude, I would suggest that firstly, following Tuchman, spatio-temporality is a very rich methodological framework for interrogating the adequacy of journalistic truth claims. Secondly, that the Harvey-Lefebvre matrix offers a valuable meta-theoretical tool for identifying the sorts of theory that need to be considered in different aspects or elements of journalistic research for specific subject matter. Thirdly, that the self-evident role of theory in this analysis makes redundant any challenge to journalism's status as a theoretic research practice: journalism has specific challenges that need to be addressed, specific problems that need to be solved in validating its truth claims, and these challenges relate in large part to the spatio-temporality of its practice (Nash, 2014). Fourthly, the explicit spatio-temporalities of climate change as a physical and social phenomenon and the geography of the Pacific island societies have made the journalism on this topic a very fertile one for making this argument. This point illustrates the levels at which inter-disciplinarity can and must operate for journalism to be a successful form of

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research practice: the spatio-temporalities of journalism practice have to be adequate to the spatio-temporalities/ geographies of the subject matter under investigation—in this case the agents, processes and results of climate change, and the agents, processes and results of Pacific Island responses to its challenges.

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The 2015 Jeanz conference will be held at Massey University's Journalism School in Wellington, New Zealand.
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Chief executive officer, News UK, publisher of *The Sun, The Times* and *The Sunday Times*

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IDENTITY

7. 'Team Australia':

reviewing Australian nationalism

Commentary: This essay reviews different notions about and approaches to nationalism in Australia in the year 2014 as seen through media commentary generated by the incumbent conservative Coalition government's declaration of new anti-terror initiatives (September-October 2014) and Prime Minister Tony Abbott's use of the metaphor 'Team Australia'. The aim is to shed light on divergent understandings of the place of nationalism in contemporary Australian politics and society. Nationalism can be both a means of engendering electoral and political affiliation and a more diffuse sentiment that pervades broader community ties in ways that go beyond mediated mobilisation. Multiculturalism as a trope, construct and category of political analysis serves as a useful context within which competing claims of national identity and nationalism may be examined. Multiculturalism is a well-embedded notion in Australia. However, continuing conflicts and international events constantly re-inflect understandings of nationalism and national unity against the backdrop of Australian multiculturalism. This essay surveys approaches to Abbott's declarations and poses queries for future research on discourse and nationalism in Australia.

Keynotes: discourse analysis**,** diversity, multiculturalism, nationalism, national identity, politics, terrorism

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AGAINST the backdrop of the burgeoning crisis in the Middle East that was precipitated by the rise of the Islamic State of Iraq and Syria (ISIS), domestic policy in Australia, as in much of Europe and the United States, became a site of critical contestations and challenges during 2014. The much-discussed phenomenon of the involvement of 'foreign fighters' in the conflict (estimates vary but in November 2014, US intelligence sources placed the number of ISIS fighters in Iraq and Syria with American, European and Australian citizenship at 2000, from among 15,000 foreign fighters overall), and the concomitant questions it raised about radicalisation and national security, prompted considerable debate and politico-legal manoeuvring in Western societies. The impact of the conflict in Western nations was amplified by a range of factors. Other than

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the seemingly intractable problem of radicalised individuals traveling to Iraq and Syria to join ISIS cadres on the ground, there was of course the politically more significant question of the US' assumption of a leading role in the military campaign against the organisation and the enormous financial and strategic commitments underpinning it.

However, no aspect of the conflict affected public sentiment as visibly and dramatically as the succession of beheadings of Western hostages carried out by ISIS from August to November 2014 and broadcast by the group via social media (Hjelmgaard, 2014). (Other than an unknown number of Syrian, Lebanese and Iraqi soldiers, most likely in the hundreds, ISIS is known to have beheaded six Western hostages, who were captured while working in the Syria as journalists or aid workers.) As images of these 'propaganda videos' filled mainstream media outlets, one of many discussions that dominated public discourse pertained to the implications for national security of the involvement of Western nationals and citizens in the burgeoning terror regime in Iraq and Syria, and the repercussions the return of said nationals would have in their home societies. In fact, discussion of the latter problem served as a precursor to a series of law-enforcement mobilisations and political debates about so-called 'home-grown terrorists'. Thus, amidst inevitable dissonance, the question of national security intersected with questions about citizenship, national loyalty and identity. It is in the light of these developments that a critical moment of political and discoursal contestation arose in Australia over the meaning(s) that may properly be ascribed to Australian national identity.

On 18 August 2014, ahead of a meeting with leaders of Muslim religious organisations in Australia, Prime Minister Tony Abbott expressed concern about the Australians among ISIS foreign fighters returning home:

> Some of them will want to come back to Australia and they do pose a risk if they do, because they've been radicalised, militarised and brutalised by the experience… So we do have to be vigilant against it, and my position is that everyone has got to be on Team Australia. (News, 2014)

He averred that in his forthcoming meeting with Muslim religious and community leaders he would emphasise the importance of an unequivocal commitment to Australian values:

> Everyone has got to put this country, its interests, its values and its people first, and you don't migrate to this country unless you want to join our team and that's the point I'll be stressing. (ibid.)

Abbott's assertion that every migrant who comes to Australia should abandon other (conflicting) political loyalties and become part of 'Team Australia' prompted considerable debate in the form of a series of engagements with the latter construct that were published in mainstream and alternative media. In this essay, I review some of these opinion pieces

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and present a few instances of how nationalism and patriotism were conceptualised by a cohort of commentators vis-à-vis their respective positions on Abbott's nationalist propositions. For this, I refer to *The Conversation* (8), *The Drum* (5), *New Matilda* (1) and *Crikey* (2). I chose my readings primarily from among the aforementioned online media platforms (which prioritise the views of academics, commentators and public intellectuals) to the exclusion of mainstream media outlets so as to leave the political leanings of mainstream outlets out of the equation (Henningham, 1995). This is not to foist expectations of neutrality on the former online publications but to use them to gauge the views of unaffiliated 'media intellectuals' (see Jacobs & Townsley, 2011). Half of the articles read (8 out of 16) do not address Abbott's comments directly at all; instead, in addressing other political or social issues, they refer to his invocation of 'Team Australia' only tangentially. However, these references nevertheless indicate particular attitudes or sentiments that serve to illuminate the original topic. Further, while it is true that the phrase originally emerged from a context of domestic security and counter-terrorism policy, it soon came to encompass a wide variety of meanings as seen, for instance, in Abbott's later use of the same phrase at a business summit (Trembath, 2014). I conclude with queries for future research on discourse and Australian nationalism.

Framing

In terms of framing, all the articles read from the aforementioned sources frame 'Team Australia' negatively. Broadly, Abbott's call to national loyalty was deemed confusing and divisive. In spite of its overtly inclusive content—insofar as it exhorted a commitment by all migrants to 'Team Australia', a metonym for the country and broader society—the pronouncement and, more importantly, the context in which it emerged cast doubt on the sincerity of the inclusiveness implied. Comments made by Australian Race Discrimination Commissioner Tim Soutphommasane capture the sense of confusion pervading certain readings of Abbott's usage of the phrase. Asking what the term 'Team Australia' meant, he argued:

> If 'Team Australia' is simply shorthand for an Australian liberal democratic community, for a community of equal citizens, I don't think any of us would have an issue with it. Signing up to this is already part of the contract of multicultural citizenship. All of us are already signed up. We are all proud to be Australians.
>
> But if 'Team Australia' is meant to suggest something else, we are entitled to ask for an explanation. Manufacturing patriotism can sometimes do more to divide than to unite. Genuine civic pride comes from within; it is not something that others can command us to display. (Grattan, 2014a)

Soutphommasane's criticism focused on the putative implications of the phrase and the manner in which it was assumed that some migrants lacked a commitment to 'a liberal democratic community ... a community of equal citizens' (ibid.). His opposition to the

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phrase was predicated on his belief that the 'contract of multicultural citizenship' enjoined on all migrants a binding commitment to Australian democratic values and that questioning this commitment amounted to excluding them from 'the family of the nation' (ibid.). Soutphommasane also criticised the Abbott government's approach to the controversial debate around proposed amendments to Sec. 18C of the Racial Discrimination Act and linked this to the former question in terms of how Muslim Australians were implicated in both. The crux of his antagonism to Abbott's exhortation was thus its implied criticism of Muslim communities in Australia and the perceived resistance within quarters of the community to an unequivocal commitment to Australian values over secularism and liberal democracy. This was also the antagonism that prompted the Islamic Council of Victoria to cancel a scheduled meeting with the prime minister after he had made his comments (ABC, 2014).

Where it was not seen as confusing, it was deemed deliberately provocative. In his critique of what he suggests are the Abbott's government's 'surprising' attempts (in spite of ongoing opposition) to 'transform Australian political culture', political scholar Dominic Kelly (2014) locates Abbott's pronouncements on 'Team Australia' alongside other contemporary decisions and events that, he believes, have been designed to 'take the focus off [the government's] unpopular budget policies with misguided "culture war" tactics, showing all of the hardline ideology but none of the political savvy of John Howard at his most effective'. Abbott's nationalism is projected as a diversionary tactic. Writing in *New Matilda*, scholar Jeff Sparrow (2014) argues that politicians have tended to exaggerate the threat posed by the Islamic State and have consequently contributed to an atmosphere of 'fear and loathing' in Australia. 'Team Australia' was thus implicated as a discursive tool in the 'culture wars' and in the creation of a febrile atmosphere of fear and terror.

In an article titled 'Dead Poets Society meets Team Australia under Captain Abbott', scholar of culture and sport David Rowe suggests that Abbott is 'uncommonly fond of sport metaphors, not least when addressing the domestic terror threat' (Rowe, 2014). He suggests that Abbott's 'championing of Team Australia … symbolically turns Australia into a giant dressing room and stadium' (ibid.). Rowe turns to formulations by historian Eric Hobsbawm and novelist George Orwell to illuminate the interconnections between sports, team metaphors, nationalism and war. In commentaries on emergent challenges in Australia's foreign policy vis-à-vis America's increased involvement in Iraq and Syria in the mobilisation against the Islamic State and Australia's commitment of resources to the same (Lockyer, 2014; Wright, 2014), Rowe's version of Abbott's perceived machismo is juxtaposed against the ribald, trigger-happy militarism of the US that is satirically depicted in the animated action-comedy film *Team America: World Police* (2004); thus are machismo, militarism and the comic potential of sporting metaphors yoked together.

'Team Australia' also emerged as a point of reference in a range of other discussions and commentaries. Working as an all-encompassing metonym for the nation in general,

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and the government in particular, the phrase was deployed in a range of opinion pieces on domestic and international issues, from the Ebola crisis in West Africa (Grattan, 2014b; Kamradt-Scott, 2014) to economic inequality in Australia (Blutstein, 2014; Green, 2014a; Green, 2014b; Lewis & Woods, 2014), the Australian citizenship test (Chisari, 2014) and telecommunications surveillance (Green, 2014c). While these opinion pieces do not address Abbott's remarks (or even the context in which they were made) directly, they illuminate attitudes to nationalism indirectly by framing 'Team Australia' as a flawed and ineffective construct. In each of these articles the phrase 'Team Australia' is included, or referred to, in the main text and not only, if at all, in the headline. As such, the use is attributable to the author, and not the editor or sub-editor.

In opinion pieces on the then-unfolding Ebola crisis such as 'Time for Team Australia to do more for Ebola' (Grattan, 2014b) and 'Gung-ho on terror, Australia is missing in action against Ebola' (Kamradt-Scott, 2014), the authors use the metaphor pejoratively to criticise the government for its reluctance to make a more substantial commitment to the global mobilisation against Ebola. A similar inflection is seen in an essay evaluating the performance and perceived effectiveness of the Australian citizenship test (Chisari, 2014). Essays on economic inequality in Australia are particularly trenchant in their criticism of the government's invocation of a cohesive and all-encompassing political identity. Critiques of inequality cite widespread and continually expanding economic divisions in society to argue that claims of a cohesive and inclusive political identity are inaccurate and misleading (Blutstein, 2014; Green, 2014a; Green, 2014b; Lewis & Woods, 2014; Summers, 2014).

Arguing that the apparent seamlessness of 'Team Australia' is belied by its inherent socio-economic contradictions, journalist Jonathan Green (2014a) writes: 'The Prime Minister's concept of Team Australia seems so simple: the Australian way, you're for it or you're against it. The Australian reality though? Well, that's a more complex thing altogether.' Green (2014b) asserts that we should be cognisant of the potential for social conflict that is imminent in a society teeming with 'masses of underemployed youth who are left in Team Australia's dust'. Discussing public perceptions of class divisions in society, communication strategists and pollsters Peter Lewis and Jackie Woods write:

> Tony Abbott's 'Team Australia' is designed to unite us. But the risk is Australians will see it more like the humiliation of primary school PE, with a captain who overlooks the average kids and blatantly favours the jocks. (2014)

Class divisions and economic inequality are thus posited as a critical impediment to political cohesion, and the unity implied in Abbott's metaphor is dismissed as notional. Another article by Green (2014c) uses the metaphor to highlight a perceived pre-empting of opposition to legislative proposals. In an article on the suite of anti-terror laws passed by the Australian Parliament in September-October 2014, and specifically on

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the controversial provisions for increased telecommunications surveillance included therein, Green writes:

> As they say: 'There's no jihad in team'… Team Australia that is. Or is that Operation Team Australia? Whichever, we're all in this together now, armed only with sprigs of wattle and the nation's internet browsing history against 'unhealthy immigrant values' and the chilling possibility of mass-casualty homeland terror. (2014c)

Here, Green sees the exhortation to political unity ('dutiful members of Team Australia') as a strategy to whittle down opposition and dissent.

On the basis of this review of the selected corpus of articles published in online and alternative media sites, it may be argued that Abbott's pronouncements on 'Team Australia' provoked considerable discomfort and consternation (manifesting as opposition to the term) among media commentators. Having delineated the ways in which this was expressed, the next two segments of this review: 1) provide a context for Australian nationalism, and 2) pose queries for future research on how nationalism and national unity could potentially be rearticulated.

Australian nationalism

Charting a genealogy of Australian nationalism(s), political scholar Shaun Crowe (2014) argues that Abbott's nationalism is 'framed in terms of external threats' and is thus an extension of Howard-era political mobilisations around the 'War on Terror'. He believes that this return to a nationalism 'defined in opposition to a military threat' was indicative of the Abbott government's 'pivot from domestic to foreign policy' (ibid.). By putting 'the question of national loyalty back at the centre of politics', Abbott was drawing on a historical legacy spanning various epochs (ibid.). While nationalism in the early 20th century was primarily associated with the politics of the left and emphasised cultural independence and egalitarianism (as also Australian isolation and the primacy of white settler culture)—as a counterpoint to identification with Britain—during World War I, nationalism was 'defined as unquestioning loyalty to a country under military threat' (ibid.). Opponents of conscription under the William Hughes government were accused variously of being German sympathisers, Irish republicans and industrial revolutionaries. During the Cold War, under Robert Menzies, Communism was the perceived enemy and patriotism was defined by a 'commitment to liberal capitalism' (ibid.). Newspapers such as *The Sydney Morning Herald* and leaders such as Harold Holt accused politicians like Labor leader H. V. Evatt of defending Communism and thus betraying the nation. In the 1960s and 70s, with Britain's departure from Asia and its integration into the European Economic Community, a 'new nationalism' emerged in Australia that stood for, in Gough Whitlam's words, 'self-confidence, maturity, originality and independence of mind' (ibid.)—in other words, a return to cultural nationalism. Crowe argues that the

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nationalism of the 21st century, under Liberal Prime Minister John Howard and now Abbott, shaped predominantly by the vagaries of global anti-terror mobilisations, corresponds more closely to that of the World Wars and the 1950s.

Queries for future research

In the contemporary context, nationalism and national identity in Western societies are highly contested conceptions (Dogan, 1994; Billig, 1995). Both academia and the public sphere are characterised by intersecting and divergent claims of what constitutes a legitimate context for articulating exhortations to national unity. In many quarters, nationalism has been assailed as 'banal' and as an anachronistic historical phenomenon (Billig, 1995). This is countervailed by the continuing insertion of nationalistic discourse into the public sphere, where it remains a valid and sometimes potent tool of political mobilisation. In Western societies, the ideological gap between those who espouse a resurgence of nationalism and those who abhor it is significant (Soutphommasane, 2009). This is in marked contrast to several 'non-western' nations where nationalism (in its contemporary manifestations) either remains or has recently become a commonly-deployed means of forging political identity and a staple of media discourse.

This essay has reviewed different approaches to nationalism as seen through media commentary prompted by the incumbent Coalition government's declaration of new anti-terror initiatives and Prime Minister Tony Abbott's use of the metaphor of 'Team Australia'. I argue that (both directly and indirectly) positions on the place of nationalism in contemporary Australian politics and society are embedded in the media commentary surveyed. Keeping in mind the necessary caveats about the context in which 'Team Australia' was deployed (and going beyond the particularities of this context as well as of the semiotics involved), my first query for future investigation is: in what ways could nationalism and claims of national unity potentially be rearticulated to forge a consensus around issues of political importance? Will national unity remain a valid and desirable tool of political mobilisation in the future?

Abbott's pronouncements were received overwhelmingly negatively in the online and alternative media sites surveyed. However, in other forums and spaces in the online public sphere, and of course in the mainstream media, the reception might have been very different. This leads me to ask: how are nationalism and claims of national unity articulated in different mediated spheres in Australia? What do the perceived differences between the contrasting articulations suggest about public discourse in Australia and the variegated nature of the political public sphere as a whole?

Nationalism can be both a means of engendering electoral and political affiliation and a more diffuse sentiment that pervades broader community ties in ways that go beyond mediated mobilisation. Multiculturalism as a trope, construct and category of political analysis serves as an accessible context within which competing claims of national identity and nationalism may be examined. It has been a clear policy programme in Australia

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with its own federal office from the mid-1970s to 1996; as such it is a well-embedded notion in Australia. However, continuing conflicts and international events constantly re-inflect understandings of nationalism and national unity against the backdrop of Australian multiculturalism. Finally, it may be asked how future (and current) frameworks of nationalism will subsume multiculturalism and how the rubric of multiculturalism itself will incorporate claims of national unity in the future. I suggest the aforementioned areas of investigation will illuminate crucial features of the evolving media and political landscape in Australia.

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FIJI

8. 'Stifled aspirations'

The 2014 General Election under restrictive laws

Abstract: On 17 September 2014, eight years after the 5 December 2006 coup, Fiji held a General Election under repressive laws curtailing freedom of expression and the media, government accountability and the judiciary. A notable number of 248 candidates aspired for the 50 parliamentary seats under the 2013 Constitution and an Electoral Decree released a few months prior to elections. In an atmosphere of lavish campaign advertisements on billboards, public transport vehicles and the print and television news media by the post-coup Prime Minister Voreqe Bainimarama's political party FijiFirst, recently activated political parties struggled to have their voices heard. Two daily media companies—the Fiji Broadcasting Corporation and the *Fiji Sun*—displayed bias towards the FijiFirst party by providing them with excessive and preferential coverage and portraying other parties in a negative light; other media organisations attempted to give fairer coverage. The debate heated up amid crackdowns by police on 'trouble-makers' vandalising FijiFirst posters. The country headed for the polls as celebrations marked the release of 45 Fijian soldiers held hostage by Al-Nusra in the Golan Heights. Amid complaints by five political parties, the election was declared 'free and fair' by the Electoral Commission. This article, through analysis of media materials, campaigning, polling and results calculations, contends that the elections only satisfied part of the international criteria for 'free and fair elections'.

Keywords: accountability, censorship, elections, Fiji, freedom of expression, freedom of information, media freedom

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FIJI was ruled by decree by an unelected government for eight years after the 5 December 2006 coup. Coup leader and Prime Minister Commodore Voreqe Bainimarama assured citizens of holding elections after the launch of the People's Charter in 2009. Instead, the 1997 Constitution was abrogated and decrees promulgated to restrict the judiciary, freedom of expression and the media, right to freedom of assembly and association, and the work of independent bodies and civil society organisations.

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Widespread consultations by the Constitution Commission in 2012, headed by renowned Kenyan constitutional specialist Professor Yash Ghai, renewed hopes among individuals, civil society organisations and disarrayed political parties that Fiji might return to parliamentary democracy. These hopes were dashed when the draft constitution was rejected and reportedly burned in the presence of Ghai by police in a move that shocked the region (Torching of Fiji's constitutional papers, 2013). After much speculation by the public, the regime promulgated into law its own version of the 2013 Constitution, which was released to the public by the Attorney-General Aiyaz Sayed-Khaiyum on 22 August 2013 (Constitution of Fiji, 2013) and was assented to by the President on September 6 2013 (Fiji Elections Office website, 2013) to pave the way for elections to be conducted by September 2014. People remained sceptical about the government's commitment to hold elections in 2014, as enabling legislation for holding elections had not been released to the public. Even before the finalised constitution was released, a *Political Parties (Registration, Conduct, Funding and Disclosures) Decree* was released to the public on 15 January 2013. The September 17 date for elections was announced in late March 2014 (Radio Australia, 29 March 2014) to coincide with the release of the Electoral Decree 2014 on 28 March (Fiji government, 28 March 2014).

However, instead of creating confidence, the offences and harsh penalties under these three enforced decrees had an unsettling effect on aspiring politicians. Parties appeared to have difficulty in recruiting candidates, and the majority of candidate names were only announced in the two months prior to elections. Political parties lacked confidence and did not feel secure to campaign because of the harsh penalties. No clear dates were given as to when campaigning would be allowed to start. Political parties were still waiting for the electoral office to signal the start of campaigning when there was a sudden release of lavish advertisements by the new FijiFirst party which made the other political parties realise they were allowed to campaign now.

In an atmosphere of lavish campaign advertisements on daily television, newspapers, billboards and public transport vehicles by the post-coup PM Bainimarama's political party FijiFirst, recently activated political parties struggled to have their voices heard. Two daily media companies—the Fiji Broadcasting Corporation and the *Fiji Sun*—displayed blatant bias towards the FijiFirst party by providing them with excessive and preferential coverage and portraying other parties in a negative light; other media organisations attempted to give fairer coverage. The debate heated up amid crackdowns by police on 'trouble-makers' vandalising FijiFirst posters (Loga, 2014a). The country headed for polls as celebrations marked the release of 45 Fijian soldiers held hostage by Al-Nusra in the Golan Heights. The election was declared 'free and fair' by the Chairman of the Electoral Commission Chen Bunn Young amid complaints by five political parties (Swami, 2014). The Multinational Observer Group (MOG) said it was a 'credible' election a day after polling (Narayan & Turaga, 2014). This article, through analysis of media materials, campaigning, polling and results calculations, contends that the elections only satisfied

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some of the international criteria for 'free and fair elections', as not all citizens were able to participate freely and fully in the 2014 'democratic' elections. This article will analyse the elections in two aspects: firstly, the Declaration on Criteria for Free and Fair Elections adopted by the Inter-Parliamentary Union (IPU) Council in 1994, and Fiji's new electoral and media laws.

IPU criteria on free and fair elections

The IPU reaffirms Article 21 (3) of the Universal Declaration of Human Rights (UDHR, 1948) that: '...The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections …' A coup-installed government does not have legitimacy to rule as the people did not provide them authority to rule through periodic genuine elections. The rule by the unelected Bainimarama regime continued to raise concerns as it violated this essential human right of citizens and made it more urgent to convene national elections.

The IPU has four sections in its Declaration on Criteria for Free and Fair Elections, which are: Free and Fair Elections; Voting and Elections Rights; Candidature, Party and Campaign Rights and Responsibilities; and the Rights and Responsibilities of States.

Section 1. Free and Fair Elections requires '...genuine, free and fair elections held at regular intervals…' According to the UN Centre for Human Rights (1994, pp. 11-12), periodic elections are necessary for '… a sustained political order, continually answerable to the will of the people…. to ensure that governmental authority continues to reflect the will of the people.' It states the interruption of periodicity will violate international standards. The 2006 coup, through removal of an elected Parliament, resulted in excessive power being held by the Bainimarama government as the electorate had no say in the policies and directions of the regime for eight continuous years; there were no elected opposition members of parliament (MPs) to scrutinise government activities and hold them accountable, thus leaving the power unchecked.

Fiji was obliged to hold elections in 2008 to satisfy the Millbrook Commonwealth Action Programme on the Harare Declaration issued by Commonwealth Heads of Government on 12 November 1995 in Millbrook, New Zealand, to protect democracy and democratic processes, where up to two years' time frame is given for the 'restoration of democracy where the institutions are not in place to permit the holding of elections within, say, a maximum of six months' (Millbrook Declaration, 1995 pp. 3-4). The interim government did not meet this obligation. After the abrogation of Fiji's 1997 Constitution on 10 April 2009, the Commonwealth fully suspended Fiji's membership when Bainimarama refused to commit by 1 September 2009, to have credible elections by October 2010 (BBC News, 2009) as he wanted to achieve his 'roadmap' before elections in 2014. The achievement of the goals in the 'roadmap' gave the Bainimarama regime an unfair advantage over the other political parties as they had a very long time to achieve the goals

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of economic and infrastructure developments, without having to seek the approval of voters or scrutiny from parliamentarians. The 2006 coup and the postponement of general elections for eight years violated the free and fair elections criterion as an unelected government was in power, and the postponing of periodic elections meant that the voters were unable to control the power of the ruling regime.

The UN Centre for Human Rights (1994, p. 6), in its explanation of the criteria on free and fair elections, states that: 'To be free, participation in elections must be conducted in an atmosphere characterised by the absence of intimidation and the presence of a wide range of fundamental human rights. To that end, obstacles to full participation must be removed and the citizenry must be confident that no personal harm will befall them as a result of their participation' and '… laws in force which might have the effect of discouraging political participation should be repealed or suspended.' A majority of the political parties—the Social Democratic Liberal Party (SODELPA), National Federation Party (NFP), Fiji Labour Party (FLP), People's Democratic Party (PDP) and Independent candidate Roshika Deo—were forced to participate in the elections under decrees that they opposed and which were not modified or removed, even after many concerns raised by citizens and civil society organisations (CSOs) in submissions to international bodies and media releases.

Section 2: Voting and elections rights

The registration, polling and vote-counting processes of Fiji's 2014 general elections largely satisfied six of the seven clauses in the IPU Declaration's Section 2. Voting and Elections Rights as there was no discrimination in citizens' right to vote; there was a non-discriminatory procedure for the registration of voters; there were very few cases of eligible citizens who were denied the right to vote or disqualified from registration voters had reasonable access to polling stations; voters had equal rights to vote and their votes had equal value; and the secrecy of the vote was reasonably met apart from visually-impaired, sick or elderly voters who required assistance to vote. Only clause (4) of the second criterion was not satisfied, as reasonable provision was not made to cater for appeals by the few individuals who were denied the right to vote or be registered as voters. This article now examines the remaining two criteria and the clauses which were not satisfied by the conduct of the 2014 elections.

Section 3. Candidature, party and campaign rights and responsibilities

Clause (1) 'Everyone has the right to take part in the government of their country and shall have an equal opportunity to become a candidate for election.'

Fiji's unstable political history after independence has seen four coups in 44 years of independence. The 'Fiji the way the world should be' bliss was only enjoyed for 16 years after Independence. The rest of the 28 years has been spent in the shadow of the

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simmering threat of a takeover by the country's military, which grew in size and strength after the deployment of the first peacekeeping mission to Lebanon in 1978. According to Baledrokadroka (2012, p. 106) 'Since its first peacekeeping deployment in 1978, the military's peacekeeping role has been controversial, as it has unintentionally aided political instability in Fiji.' The 2006 coup led to further militarisation of the civil service as well as key statutory bodies (see Bhim, 2011).

Bainimarama stated that he became PM after the coup to ensure the success of his 'clean-up campaign' against government corruption, and that he would not contest the election (*SMH*, 2007). However, in March 2012, Bainimarama announced he was considering standing in the elections (RNZI, 2012). To pave the way to contest the elections, Bainimarama announced Colonel Mosese Tikoitoga to be the new army commander in March 2014 (Vukailagi, 2014) and his own title reverted to Rear Admiral Bainimarama. Comments by the new military commander, Brigadier General Tikoitoga, that political parties should 'leave the military alone and it should not be part of their campaign' and that their role is to protect the 2013 Constitution (Susu, 2014) which entrenches immunity for the 2006 coup makers, interfered with campaigns as it bred fear among aspiring political party candidates, as well as the general public. The military is a political actor in Fiji and it has historically been shown that the military in Fiji is not apolitical, but tends to be biased towards a particular party. Tikoitoga's numerous statements that the military will protect the 2013 Constitution (on the eve of elections, during the blackout period) was intimidating because many political parties had pledged in their election manifestos to change problematic aspects of the Constitution. The implication was that the military may take adverse action if the winning party attempted to change the constitution.

Bainimarama, in his first interview on *4theRecord* programme on FBC TV, (Ep 36, 2014) assured interviewers Edwin, Peceli and Nemani that '…there will never be a repeat of the (political) events of 2000 and 2006. The 2006 was the end of all coups that's why we came up with the clean-up campaign …. And if you follow the 2013 Constitution there will be no coups'. Of particular concern to individuals and CSOs was the continuous link Bainimarama and Tikoitoga made between the entrenchment of the 2013 Constitution and prevention of future coups, as no statements or assurances were provided on what action Bainimarama or the Republic of Fiji Military Forces (RFMF) might take if attempts were made to change the 2013 Constitution or court action was taken to have it declared illegal—an action that was proposed in the manifestos of several political parties. A week prior to the 2014 Elections, Bainimarama stated on FBC News that 'Suva will not be allowed to burn as it did in 2000' and the full brunt of the law and security forces would be imposed on anybody who caused trouble (Stolz, 2014). The PM also led a thanksgiving ceremony for the Golan-released soldiers at 4pm next to the elections results venue, less than 24 hours before the commencement of elections the following day at 7.30am on September 17.

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These statements had several effects—firstly, they created fear among Indo-Fijian voters that if the SODELPA party won, they could be terrorised and victimised again as in the aftermath of the 2000 coup; secondly, it intimidated supporters of the other political parties that the military could again take over government—thus, having a great influence in the manner votes were cast (such views were shared in personal conversations with the author).

Action by the government against those perceived to be aligned towards the previous government and who were critical of the regime, by removing them from jobs or being persecuted by being subjected to long court trials after being charged with crimes (see Bhim 2011), further deterred some people from contesting the elections. The two former prime ministers, Laisenia Qarase (Tokalau, 2013) and Mahendra Chaudhry (Chand, 2014a) intending to contest the elections, were charged and convicted on 12-month sentences and unable to contest the elections, as the new criteria under the 2014 Electoral Decree does not allow people to contest if they have a conviction of 12 or more months in the eight years prior to elections.

The 1987, 2000 and 2006 coups in Fiji not only ousted legitimately elected MPs, they also deprived them of a source of livelihood. Some ousted MPs had difficulty finding employment and migrated overseas to work. The 2006 coup also resulted in MPs losing their sources of livelihood. Former FLP MP Lekh Ram Vayeshnoi, who was also the post-2006 coup Minister for Local Government until August 2008, moved to New Zealand in 2011 and was ordered by the Lautoka High Court not to sell his assets or withdraw savings, as he had failed to repay a $50,000 debt to Bhavani Jewellers (Chand, 2011). A former SDL (Soqosoqo Duavata ni Lewenivanua party) Minister for Women and Culture, Adi Asenaca Caucau, left Fiji after being ousted in the 2006 coup, and was living and working in the United States when she hit the headlines in 2008 after being charged with domestic violence (Fijilive, 2008)—the charges were dismissed the following month. Former Minister Kenneth Zinck, who claims to have been tortured three times at the army barracks and questioned several times by soldiers at his home, fled to Australia in September 2011 and filed for a protection visa (Callick, 2011). Fiji residents had difficulty expressing political views following the start of media censorship after the abrogation of the 1997 Constitution in April 2009 and felt scared about job security. The risk of another coup was high as a way out for coup-makers had been provided by the immunity for the 2006 coup-makers entrenched in the new 2013 Fiji constitution. Parties found it difficult to recruit candidates (see Bhim, cited in Dovirerata, 2014). Certainly, the message to the cream of Fiji's society was that it was not worth investing in a political career due to the possibility of losing everything after military takeovers. The future for politicians in Fiji appeared bleak.

The 2014 Electoral Decree was published on 28 March 2014, less than six months before elections day. In 2006, Fiji's House of Representatives comprised 71 seats. The number of seats in Parliament has been reduced to 50 under the 2013 Fiji Constitution

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Table 1: Fiji 2014 General Election candidates

Political party/ Independent	Number of nominations received	Number rejected	Number approved
NFP	50	1	49
FLP	42	5	37
SODELPA	50 (1 withdrawal)	1	48
FUFP	4	1	3
One Fiji	14	1	13
PDP	50	4	46
FijiFirst	50	Nil	50
Independent	2	Nil	2
Total	262 (1 withdrawal)	13	248

Source: 2014 General Elections - Final Report by Supervisor of Elections, Fiji Elections Office p. 24

(Section 54 (1), p. 31). Despite the challenges, in addition to FijiFirst, the NFP, PDP and SODELPA nominated 50 candidates. The Fiji Elections Office rejected four nominations from PDP, one from NFP, five from FLP, one from SODELPA and one candidate each from the One Fiji and FUFP parties (see Table 1).

After withdrawal of one candidate from SODELPA, FijiFirst was the only party fielding 50 candidates. There was a last-minute rush to recruit candidates in the two months before elections. Most people did not have an equal opportunity to become a candidate as workplaces require people to resign to stand in elections. If they lose the elections, they would not be able to return to work or, if removed after elections through a coup, they could face financial woes and hardships. Furthermore, party offices were not in operation for more than six years and had little or no activity. Parties regenerated after the announcement of elections and there was not enough time given for parties to fully activate for elections. Apart from FLP, there were new leaders for all parties. A brief look at the candidates' profiles reveals that the majority of the persons who stood for elections were those working in independent fields, were self-employed, could return to their former jobs if they lost the elections, or who could sustain being unemployed.

IPU criteria Section 3 Clause (2) states: 'Everyone has a right to join, or together with others has a right to establish, a political party or organisation for the purpose of competing in an election.' Apart from the perception of insecurity which deterred some citizens from joining political parties, there were no other impediments to realisation of this clause.

However, the major violations occurred for Clauses (3) and (4) of Section 3, which are: Clause (3): Everyone individually and together with others has the right:

- To express political opinions without interference;

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- To seek, receive and impart information and to make an informed choice;
- To move freely within the country in order to campaign for elections;
- To campaign on an equal basis with other political parties, including the party forming the existing government.

Before the campaigning period, a strengthened *Public Order Decree*, imposed after the cessation of the *Public Emergency Regulations* in place since the 2006 coup, as well as the enforcement of the *Media Industry Development Decree 2010* (known as the Media Decree) saw the prosecution of previous *Fiji Times* editor Netani Rika and current editor Fred Wesley. The country's pioneering TV station Fiji One, which began broadcasting in Fiji in 1993, was subjected to legal action and scrutiny by the government and their operations restricted through issuance of temporary six-month licences (Narayan, 19 June 2014). Prominent human rights activist Rev Akuila Yabaki of the CSO Citizens' Constitutional Forum (CCF) was given a three-month sentence suspended for one year and CCF fined FJ$20,000 for an article published in April 2012 in their newsletter, *Tu-taka*, criticising the independence of the Fiji judiciary (Naleba, 2013). CSOs were not allowed to hold panel discussions in the lead-up to the elections. Such discussions were normally held at the University of the South Pacific (USP) during any major political event in Fiji. However, they had to be cancelled and postponed till after the elections. A clause (Section 115) in the Electoral Decree required all training relating to elections and all printed material to be approved by the Fiji Elections Office. As such, a discussion paper by CCF on free and fair elections was ordered to be recalled and removed from their website, and they had to postpone their public conversation events on Separation of Powers, Bill of Rights and Transition Process (Pratap, 2014). However, as the campaign commenced in full strength, people expressed their views more freely.

The campaigning period—Media and MIDA

IPU Section 3. Clause (4) states: 'Every candidate for election and every political party shall have an equal opportunity of access to the media, particularly the mass communications media, in order to put forward their political views'.

This criterion was not fulfilled during the campaigning period for the September 2014 Fiji Election mainly due to the extensive and favourable reporting of the FijiFirst political party by the state-owned *Fiji Sun* daily newspaper and the state-owned daily radio and television broadcaster, Fiji Broadcasting Corporation (FBC), whose biased reporting possibly resulted in FijiFirst winning the election and the other parties losing. Headed by Riyaz Sayed-Khaiyum, the brother of Attorney-General (AG) and general-secretary of the FijiFirst party, Aiyaz Sayed-Khaiyum, the FBC ran talkback shows in the lead-up to the elections. While representatives from other political parties appeared once or twice on the talkback shows where they were grilled by their hosts, Bainimarama and Khaiyum were repeatedly interviewed, both in English and the vernacular languages. Prominent political party leaders Ro Teimumu Kepa (SODELPA), Felix Anthony (PDP), Professor

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Biman Prasad (NFP) and Mahendra Chaudhry (FLP) were questioned in an abrupt and abrasive manner with a lot of interjections by interviewers and were asked questions which automatically portrayed them and their parties in a negative light by making them appear guilty and incompetent, in FBC TV's *4theRecord* and *Aaina* (Hindi-language) programme (episodes 138-143, August-September 2014).

By comparison, the interviewers were sympathetic and respectful when interviewing Bainimarama in *4theRecord* programme and the i-Taukei language programmes, *Na Vakakeli* and *Bati Ni Tanoa*. Similarly, AG Khaiyum was interviewed in a sympathetic and respectful manner on *4theRecord* and *Aaina* programmes and both Bainimarama and Khaiyum were allowed to speak at length to answer questions without undue interjections. While interviewing candidates, host for *4theRecord* Edwin Nand and hosts for *Aaina*, Veena Bhatnagar and Shammi Lochan, gave their political stance that they did not think there was anything wrong with everyone in Fiji being called a 'Fijian'. In research ethics and journalism this is unethical questioning, as it is a leading question which is likely to make the guest respond in a manner that suits the agenda of the interviewer. Ethical behaviour of journalists and researchers requires that open questions be asked and the interviewers' own personal beliefs and feelings should not be shown. The above behaviour by the three hosts infringes on the Media Code of Ethics and Practice of the 2010 Media Decree, which states media organisations 'shall not allow personal or family interest to influence them in their professional duties' and 'shall show fairness at all times, and impartiality and balance in any item or programme…. when presenting news which deals with political matters, current affairs and controversial questions'.

By comparison, the Fiji TV programmes, *Outside the Box* and *Close-Up*, had fairer treatment of FijiFirst and other parties. In *Outside the Box* programme, four candidates from different political parties were interviewed each weekday and given an opportunity to discuss their views. Similarly, unlike the *4theRecord* programme host, *Close-Up* host Stanley Simpson asked critical questions of AG Khaiyum on the promises in the FijiFirst manifesto, why it was not released earlier, and questions posed by other political parties about FijiFirst's manifesto, such as the possibility of high costs for promised free goods, including free milk and juice for school children, and whether that would lead to an increase in Fiji's debt levels. Simpson used the same line of questioning as for other parties and Khaiyum had to defend the manifesto.

This difference in attitudes of interviewers can be seen when viewing Ro Teimumu's interview on *4theRecord* (Ep 40, 2014) where she was not allowed to speak freely due to continuous interjections which portrayed her in a negative light. However, in the interview on *Straight Talk* (14 September 2014) by Communications Fiji Limited's Vijay Narayan (livestreamed on the internet), Ro Teimumu was confident and was able to explain and justify the party's mandate and her vision for a Fiji where there will be no more coups and an end to the coup culture. Bainimarama, on the other hand, appeared flustered on

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the *Straight Talk* programme and stumbled in answering questions many times, although the interviewer treated him with extreme courtesy. Similarly, Bainimarama was not as confident in answering questions in the (14 September 2014) *Close Up* interview by Stanley Simpson where he could not strongly justify that the SDL government was rife with corruption, due to very few prosecutions on corruption charges of SDL-related officials. The different behaviour by the TV hosts led to the SODELPA party questioning the format of the *4theRecord* programme, which was cited as one of the reasons Ro Teimumu declined to appear a second time on the programme (Carnegie, 2014).

Reviewing stories covered by the two daily newspapers shows coverage of all political parties by *The Fiji Times* from August to September 2014. By comparison, the *Fiji Sun* gave biased extensive coverage to the FijiFirst party and gave negative and a small amount of coverage to other parties. Similarly, FijiVillage covered all political parties in its news and radio programmes. By comparison, the FBC gave extensive and preferential coverage to the FijiFirst party and negative or little coverage to other parties.

The preferential treatment of FijiFirst by the *Fiji Sun* and FBC was in stark contradiction with the Media Decree which requires 'fairness' and 'balance'. The decree established the Media Industry Development Authority (MIDA) and its Chairman, Ashwin Raj, announced on 26 March 2014 that they would set up an independent unit to monitor the way the media report on political campaigns, and ensure that newspapers and radio and television stations do not show bias in the way they report on politics (ABC News, 2014). A week before the elections, Raj appealed to Fijians to refrain from using the media (including social media) to incite violence through the use of inflammatory language to intimidate voters following allegations of death threats against two journalists (PMC, 2014). Raj stated that: 'The media must also remain independent, give equal access to all political actors, must not be seen as aiding and abetting the agenda of one political party over others…' (Ibid.). Raj, did not however, mention that the inflammatory reporting may have been done by the FBC and *Fiji Sun*, and he has so far not taken any action against their biased reporting towards the FijiFirst party. This has led to questions on MIDA's effectiveness and impartiality and if there is any need for such a body.

IPU Clause (5) highlights the rights of candidates to security with respect to their lives and property; and Clause (7) emphasises that any restrictions should be consistent with the state's obligations under international law and should not violate the principle of non-discrimination. There appears to be no violation of these two criteria.

IPU Clause (6) states: 'Every individual and every political party has the right to the protection of the law and to a remedy for violation of political and electoral rights.' Clause (8): 'Every individual or political party whose candidature, party or campaign rights are denied or restricted shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.' There appears to be no violation of these two criteria as individuals and political parties had the right to appeal decisions made by the Fiji Elections Office through court action.

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Section 4. The rights and responsibilities of states

The major violations during the 2014 Fiji Elections occurred for six clauses under IPU criteria Section 4. The Rights and Responsibilities of States. Clause (1) says that states should ... ensure the separation of party and state; and Clause (2) says that states should take the necessary steps to ensure the establishment of a neutral, impartial or balanced mechanism for the management of elections.

Numerous calls were made by political parties and CSOs for a caretaker government to be appointed so that there could be separation of powers of party and the state. However, PM Bainimarama and his cabinet members—most of whom were contesting the elections—did not resign and continued to work as ministers, as well as campaign for elections at the same time. An Electoral Commission (EC) was created, chaired by Chen Bunn Young, with four independent members: University of the South Pacific's Professor Vijay Naidu; electoral commentator Father David Arms; former academic and playwright Larry Thomas; and social/community worker Alisi Daurewa. Young made a good start to the elections process by taking the initiative to invite CSOs and political parties to meetings at the Fiji Elections Office (FEO), where provisions of the Electoral Decree were explained, and Section 115 discussed which restricts foreign aid-funded NGOs from being involved in electoral-related activities and requires them to write to seek permission for voter education from the EC (Marau, 2014). This was a welcome move by the Commission which displayed a commitment to transparency. The lead displayed by the EC chair was followed by Supervisor of Elections Mohammed Saneem, who held regular press conferences after those initial briefing sessions. However, when the time came to draw the numbers for the candidates list, it was revealed that the Supervisor of Elections had a higher authority than the EC, as the EC recommendations to allow two nominees to contest were not upheld by the Supervisor. The court upheld the Supervisor's decision in an appeal filed by the EC, where Young argued that the Supervisor of Elections was bound by the Commission to follow its directive (Loga, 2014b). This revealed that the independent EC did not have powers of enforcement, whereas the FEO—a body made-up largely of former civil servants—had powers of enforcement.

The FEO went ahead with drawing numbers of candidates without the presence of the EC (Chand, 2014b) further proving that the EC held no real authority. Since the ruling of the court case, the 'independent' commission took a back stage and the whole election exercise was managed by the FEO which was largely comprised of civil servants—a body that is not regarded as independent and impartial of the incumbent Government.

There was a major violation of Clause (3): 'In time of elections, the state and its organs should therefore ensure: That parties and candidates are free to communicate their views to the electorate, and that they enjoy equality of access to state and public-service media; That the necessary steps are taken to guarantee non-partisan coverage in State and public-service media.'

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The extensive and preferential coverage of the FijiFirst party and the incumbent government status quo by the *Fiji Sun* and FBC TV led to a perception that these two state-owned media were partisan and biased towards FijiFirst. No steps were taken by the incumbent government to make them independent.

Clause (4) states: 'In order that elections shall be fair, States should take the necessary measures to ensure that parties and candidates enjoy reasonable opportunities to present their electoral platform.' By failing to provide clear dates to political parties on when campaigns would be allowed to start, reasonable time was not given for them to prepare. Under the new Electoral Decree, all candidates were to be allocated a three-digit number for the elections. The draw of numbers took place on Saturday, 23 August 2014—less than one month before the elections. Pre-polling commenced after two weeks which means other parties only had two weeks for media advertising. While FijiFirst started extensive advertising well before this date, other political parties with limited budgets largely commenced media advertising after the draw of numbers. Television advertising is expensive and only the FijiFirst party extensively advertised on television for more than a month prior to elections. Parties focussed on advertising their leading candidates as the new electoral system had no demarcation of boundaries and constituencies—candidates had no constituencies and had to regard the whole country as their constituency, thus depriving them of a focused area to campaign. The new electoral system known as the open list proportional representation voting system (Hayward-Jones, 2014), favoured leading candidates and large parties—smaller parties and independents were wiped out because under Section 104 (3) of the Electoral Decree, any votes of parties or individuals amounting to less than 5 percent of total votes were disregarded. The system favoured the FijiFirst party, as their leading candidates had been in power for eight years and were well-known in Fiji. It was unfair to the other political parties who had been denied freedom of expression in the media for the past eight years and unfair to other candidates as it is difficult or impossible for most candidates to campaign in the whole of the country due to lack of resources.

Clause (7) says: 'States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers.' The Fiji government allowed a Multi-National Observer Group (MOG) comprising more than 90 observers to observe the 2014 Elections. However, a CSO domestic election observer group, which had applied much earlier on 18 June 2014 to the AG's office for accreditation, was not allowed to officially observe the elections as the AG felt the MOG was sufficient for observation (Sauvakacolo, 2014).

Clause (9) requires states to ensure that violations of human rights and complaints relating to the electoral process are determined promptly by an independent and impartial authority. A few political parties had appealed against the rejection of some of their nominated candidates. All court actions taken by political party candidates resulted in the

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decisions favouring the FEO. The EC had decided in favour of two candidates rejected by the FEO. However, the FEO did not abide by the decisions of the EC and upheld its own approved list. In the court action mentioned earlier taken by the EC, the court upheld the FEO's decision. Coincidentally, these decisions favoured the FijiFirst party and were against the other parties, raising serious questions about the independence and transparency of these institutions.

Transparency and accountability

The principles of electoral integrity from the International Institute for Democracy and Electoral Assistance (IDEA), the ACE (Administration and Cost of Elections) Project, and other international bodies, emphasise the need for transparency and accountability (Ace Project, 2012) from the incumbent government. Such transparency needs to be exercised not only during the elections but also during preparation of legislation relating to elections. No consultations were held with stakeholders in the preparation of the Political Parties Decree 2012 and the Electoral Decree 2014, and draft decrees were not available to the public for comment and scrutiny before promulgation. Chief Justice Anthony Gates, as Acting President, amended the Electoral Decree on 31 July 2014 to decrease Fiji residence requirements for candidates to 18 months, without any consultation or notice (Turagaiviu, 2014). Protests by leaders of political parties fell on deaf ears. While other political parties announced their manifestos well before elections, the FijiFirst manifesto was launched on 5 September by Bainimarama, giving them enough time to scrutinise the other manifestos to ensure they were offering more free goods and services to entice other party's supporters. PM Bainimarama launched their manifesto after opening a new $844,000 market extension in Nadi (Vafo'ou, 2014) thus again violating the international criteria that there must be separation of the party and the state. This was a non-transparent move by a party that claims to champion transparency, as they should have released their manifesto at the same time as the other parties.

The public were informed that a one-day election would be held; however, almost two weeks of pre-polling occurred before 17 September. The Voter Instruction Booklet had the number, name and picture of each candidate, but there were no political party names or symbols. This encouraged voting for the leaders of parties as voters would remember which parties the leaders belonged to. Party agents had difficulty monitoring the vote counting process as they tended to know few of their party representatives. A voter could vote for any of the 248 candidates at any polling station, and it was impossible for party agents to have information on the correct political party of all the 248 candidates to monitor their performance. The new electoral system allows leading candidates to redistribute their votes. Candidates with less than 1000 votes from FijiFirst became assistant ministers as the 202,459 votes received by Bainimarama (FEO, 2014) were redistributed to them, whereas several candidates from other parties with over 1000 votes did not get a seat in Parliament (Table 2).

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Table 2: Fiji 2014 General Election final results summary

Name	Votes	% of total votes	Seats
FijiFirst	293714	59.2%	32
Social Democratic Liberal Party	139857	28.2%	15
National Federation Party	27066	5.5%	3
People's Democratic Party	15864	3.2%	0
Fiji Labour Party	11670	2.4%	0
One Fiji Party	5839	1.2%	0
Fiji United Freedom Party	1072	0.2%	0
Independent - Roshika Deo	1055	0.2%	0
Independent - Umesh Chand	226	0.0%	0

Source: 2014 General Elections - Final Report by Supervisor of Elections, Fiji Elections Office p. 22

Concluding remarks

While the conduct of the 17 September 2014 polling activities and counting of results could be deemed 'free and fair', the limitation of certain freedoms under restrictive laws and media bias did not allow all parties and candidates a fair chance to compete on a level platform with the FijiFirst Party. The preferential and biased coverage by the *Fiji Sun* and FBC, combined with a lack of separation of the government-based FijiFirst party and the two state-funded daily media, the perceived threat of instability if another party won, and the lack of independent statutory bodies with powers for oversight,led to a majority victory by the FijiFirst party and stifled the aspirations of many political party candidates who may have achieved success under a fairer system.

The 2014 Fiji Elections largely satisfied IPU's Criteria 2. Voting and Elections Rights, which deals with the polling and counting processes. However, while the polling and counting processes can be deemed 'free and fair', the 2014 Fiji Elections failed to satisfy the other three IPU criteria which are: 1. Free and Fair Elections; 2. Candidature Party and Campaign Rights and Responsibilities; and 4. Rights and Responsibilities of States. If international observers were not following all four criteria, then Fiji's 2014 elections could not be deemed 'free and fair'.

The post-coup regime's media censorship was effective and bore fruit. The censorship of critical news, accompanied by flooding of the media with extensive positive publicity of government activities from a large sophisticated government media team, was successful in winning the poorly informed masses. Fiji's grassroots have again showed increasing naivety by considering the government as being highly endowed and doing them favour by giving 'gifts'. This shows a lack of understanding by voters that they could have more ownership and control of government and could have demanded

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more and better goods and services in a more timely manner under a freer democratic system with a free media and judiciary. Fiji's democracy remains young and fledgling with hopes for a better future.

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FIJI

9. The evolution of media laws in Fiji and impacts on journalism and society

Abstract: This article examines the cultural, political, ethnic and economic forces that have shaped the evolution of media legislation in Fiji and the evident impacts on journalism and society. The article argues that despite Fiji's British colonial heritage and its smooth transition to democracy after Independence in 1970, the spectre of stricter legislation has been a constant threat. This threat finally materialised in the post-2006 coup period, when media-related laws underwent a major overhaul, including the promulgation of the punitive *Media Industry Development Decree 2010*, which was later 'preserved' under the 2013 Constitution despite being labelled 'undemocratic'. The 2006 coup leader Voreqe Bainimarama, who was decisively voted back into power as Prime Minister in the 2014 General Election, justified the media reforms in the name of social stability and progress. This research uses document review to examine the genesis, nature and efficacy of Fiji's media-related laws, from the colonial to post-colonial periods, and beyond.

Keywords: democracy, elections, ethno-nationalism, Fiji, media law, military coups, military government

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FOR MOST of the colonial and post-colonial periods, Fiji's media-related laws were ostensibly on a par with some of the world's leading democracies, including neighbours Australia and New Zealand (S. Singh, 2010). This situation changed following the country's fourth coup in December 2006, staged by military commander Commodore Voreqe Bainimarama, who ruled for eight years before he was elected Prime Minister in the September 2014 General Election. Shortly after the coup, Bainimarama's military-backed government embarked on the most intense and sustained media crackdown in the country's history, claimed to be justified on the basis of improving journalistic professionalism, curbing inflammatory reporting, and ensuring social stability in a post-coup situation.

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Initially, Government agents used crude, intimidatory methods, such as threats and occasional assaults on journalists, to exert control. Later, they resorted to more sophisticated strategies, such as media decrees and emergency laws. These included the *2009 Public Emergency Regulations (PER)*, which gave the authorities sweeping censorship powers, and the punitive *Media Industry Development Decree 2010*, which replaced self-regulation with government regulation, and criminalised what were once regarded as ethical breaches (Crimes Decree, 2009). Another law, the *2009 Crimes Decree*, specifies maximum 10-year jail sentences for inciting political and communal antagonism through any form of communication (*Crimes Decree*, *2009; Media Industry Development Decree ... 2010*).

Based on document review method, this article looks at the genealogy and evolution of Fiji's media laws to understand how they arrived at their current point, and their impact on journalism. The article attempts to determine the efficacy of the major media-related legislation in terms of achieving its purported aims—facilitation of communal harmony and the enhancement of journalistic standards—as expressed by government (Sayed-Khaiyum, 2010; Bainimarama, 2012).

Based on empirical evidence, the article argues that the freedoms historically enjoyed by the Fiji media have always been fragile, even under democratic rule. In spite of constitutional guarantees, harsher legislation seemed inevitable, not only due to the autocratic mindset of successive governments (which has received a lot of attention), but also because certain British-inherited Fourth Estate traditions were at odds with Fiji's 'hybrid' democracy, based on a combination of Western and Indigenous systems of governance (*see* Boege et al., 2008; Robie, 2014).

In addition, various conventional media approaches and philosophies are in conflict with Indigenous Fijian norms of deference for traditional authority and avoidance of direct conflict (*see* Madraiwiwi, 2014). This cultural clash could explain the apparent public support for stronger media legislation detected in the 2011 Lowy Institute poll. The poll returned a strong approval rating for Bainimarama, which some disputed (Lowy Institute, 2011).

Yet another overlooked variable is the multi-ethnic nature of Fijian society and the ethnically-based political system. This often meant that political support was based along ethnic lines, rather than ideological lines, at least according to some viewpoints (Kant, 2013). The apparent public support for stronger media legislation (Lowy Institute, 2011) could be an indication of a low level of public tolerance for media opposition, said to be a feature of pluralistic societies (Fong, 2009).

A possible byproduct of these political, cultural and ethnic variables is an apparent measure of public support for stronger media legislation, as seen in the 2011 Lowy Poll (Lowy Institute, 2011). To contextualise, Fiji's media have been credited with exposing corruption and challenging military governments, but they are also said to lack cultural sensitivity, professionalism and educational standards (*see* Robie, 2001, 2013, 2014). The Fiji media, being paradoxically described as both a national security threat and champion

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of democracy, reflects the country's complex socio-political setting (*see* Boege *et al.,* 2013; Kant, 2012).

As this research will argue, governments have sensed, and capitalised on, the public's conflicting moods towards the media (see Lowy Institute, 2011) to propose, or in the case of the Bainimarama Administration, to impose stronger media legislation.

Methodology

This research uses various consultancy reports on the Fiji media sector, media decrees and other legislation, news reporting frameworks and training manuals, Fiji's four national constitutions (1970, 1990, 1997 and 2013), various speeches and presentations, and Government bills and legislation.

With regard to media law, much of the focus has been on the Bainimarama government and its punitive legislation. This is understandable: media freedom, as it is conventionally understood, had withstood three previous coups in Fiji in 1987 and 2000. The change in the media's status as a result of the 2006 coup was sudden, dramatic and profound.

To really understand how the legislation arrived at its current point, one needs to look at the situation in totality, incorporating the relevant variables—social, economic and political—over time and space. Subsequently, this analysis is guided by a constructivist paradigm, which analyses phenomena by connecting trends, processes and people over time and space, rather than focusing on individuals and events in isolation (see Houge, 2011; Conteh-Morgan, 2005; McLeod 2009). This approach dovetails with Frohardt and Temin's (2003) conflict reporting framework, which is based on studying the genealogy and nature of media legislation to understand the influences that shaped its evolution, before analysing its impacts. Consequent to the methodology, the presentation of results and analysis will be guided by the following three key variables:

1. The history of past legislation, which is normally an indicator of future trends in legislation.
2. The degree of media freedom established in the country's laws. This indicates the balance between legislation guaranteeing the media freedom to operate without excessive government interference and legislation covering privacy, libel, slander and hate speech to protect individuals.
3. The consistency, sincerity and fairness with which the legislation is applied. This is usually an indication of the independence and impartiality of the judicial system (see Frohardt & Temin, 2003).

Results and analysis

History of past legislation

Regarding the first indicator, 'history of past legislation', complaints about the media's ostensible provocation of ethnic tensions have persisted since the establishment of the press in Fiji, in the form of the country's first newspaper, *The Fiji Times*, in 1869. In the

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19th and most of the 20th centuries, it was alleged many times that *The Fiji Times* supported a 'White Fiji' campaign by attempting to drive a wedge between indigenous Fijians and Indian labourers, the latter brought by the British to develop the sugar industry (Gillion, 1977; Gaunder, 2008; Heartfield, 2002). One letter published in March 1922 described Indians as 'evil smelling' and 'treacherous' (Gillion, 1977, p. 81). It prompted then acting Governor Fell to consider legislation to prevent newspapers 'promoting racial discord', but there was no such legal precedent in the British Empire to follow through (Gillion, 1977, p. 82).

In the 1960s, the then editor of *The Fiji Times*, Len Usher, prompted calls for media control when he accused Indigenous Fijian leader and founding Prime Minister Ratu Sir Kamisese Mara of 'lavishing praise' on the Indo-Fijian Opposition. Ratu Mara, in turn, accused the paper of opposing his efforts to promote ethnic co-operation. Even Opposition MP K. C. Ramrakha, warned: 'We must strangle this newspaper before it strangles us, and I mean it' (*see* Gaunder, 2008, p. 257).

The question of stronger legislation receded in the face of two key developments—the euphoria over Fiji's independence in 1970 and the arrival of the country's second newspaper, the *Fiji Sun*, in 1974. The *Sun* was jointly owned by the Hong Kong-based Sally Aw Sian publishing empire and New Zealand publisher Philip Harkness (*see* Gaunder, 2008; Robie, 2001, p. 151).

The buoyant post-colonial mood, coupled with the harsh realities of competition conceivably forced *The Fiji Times* to drop its rhetoric. As the political and economic power of the European establishment dwindled, the paper noticeably re-invented itself from a publication catering for the elites to one that moved closer to the mainstream. This metamorphosis fitted into a global paradigm shift in the early 19th century, when market imperatives in the US and other countries forced newspapers to abandon partisanship and embrace the middle ground (Fengler & Ruß-Mohl, 2008, p. 676).

In Fiji, the liberties enshrined in the 1970 Constitution were a catalyst for further changes. Chapter two, section 3 of the constitution guaranteed the freedom of 'conscience, expression, assembly and association', constrained by the respect for the rights and freedoms of others (*Fiji Independence Order 1970* and *Constitution of Fiji, 1970*, pp. 18–19).

However, virtually all Fiji governments since 1970, whether elected or unelected, have threatened to introduce tougher media laws, usually in response to embarrassing media disclosures, or alleged lack of media professionalism (*see* Robie, 2009; Sutherland, 1992).

The 1987 coup, first brush with censorship and the heady 1990s

As the country's post-Independence honeymoon period cooled off, the political climate heated up, culminating in the 1987 nationalist coups against perceived Indo-Fijian political dominance. This saw the media experience their first real brush with censorship, short-lived as it was (Pareti, 2009). The *Fiji Sun* reportedly closed rather than publish under self-censorship restrictions. A new publication, the *Fiji Daily Post*, began operations in October 1987, eventually becoming the country's third daily (Robie, 2001).

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While the military imposed restrictions in the post-1987 coup period in the name of preserving social order, it used the Indigenous Fijian vernacular newspaper, *Nai Lalakai*, and the Fijian programme on the state broadcaster to promote the coup ideology, further sowing suspicion between the two major ethnicities (Ewins, 1998). A byproduct of the 1987 coups was the new 1990 Constitution, implemented in the name of Indigenous Fijian political supremacy. In reality, the constitution entrenched the power of Indigenous chiefs and other elites, besides propelling 1987 coup leader Sitiveni Rabuka, to the prime ministership (see Ewins, 1998). Based partly on traditionalism, certain sections of the constitution were in conflict with the British heritage of the Fiji press.

Section 13(2) granted special protections to the reputation, dignity and esteem of indigenous institutions and values, putting them virtually above criticism. Such institutions included the Great Council of Chiefs, although some argue that the chiefs' body is a British invention to implement rule by proxy (*Constitution of the Sovereign Democratic Republic of Fiji, 1990*; also see Ewins, 1998). Among other things, the 1990 constitution was a possible outcome of the tensions between Indigenous cultural norms of respect for traditional authority on the one hand (Madraiwiwi, 2014) and the egalitarianism that news media supposedly embrace as their guiding principle (see Christians et al., 2009).

Constitutionally and politically, the Rabuka government embraced traditionalism. Economically, the government adopted free-market reforms as part of the globalisation agenda (Firth, 2000). This led to the further opening of the economy in the 1980s and 1990s, marking one of the most robust periods in the media sector's evolution. Aside from acting as a trigger for re-investment in existing media companies, deregulation spawned a plethora of new companies, both in print and commercial broadcast, ending government's monopoly of the airwaves (Bhagwan-Rolls, 2007). One commentator described the scene as 'saturated to the point of overflowing', with three dailies, eight commercial radio stations, three monthly business magazines and one commercial TV station, owned by the state and various private interests (Digitaki, 2000).

The 1990s also marked a strong shift towards the internet. Associated Media Limited, the parent company of the now non-operational news and business magazine, *The Review*, was a pioneer in this field, as was Communications Fiji Limited (Digitaki, 2000). These developments were marked by a bigger, brasher and bolder journalist corps making new strides into previously uncharted territory, most notably investigative journalism. This trend drove government-media tensions to new highs (see Digitaki, 2000; Rabuka and the reporter, 1994).

Monthly magazine *The Review*, published by award-winning Fiji journalist Yashwant Gaundar, exposed the National Bank of Fiji collapse, implicating prominent politicians, businesses and citizens in the F$372 million (NZ$242million) scam (S. Reddy, 2010; also see Grynberg, Munro & White, 2002). *The Review* also broke an unwritten taboo by exposing Fiji's first political sex scandal between Prime Minister Rabuka and a female

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journalist. Certain Rabuka government ministers threatened stronger media legislation, only to back down since the country was democratising, and the government craved international legitimacy (Rabuka and the reporter, 1994).

In order to deal with what it regarded as increasingly belligerent media, the Rabuka government opted for an internationally more palatable plan. In 1996 it commissioned the Thomson Foundation of Britain to carry out a study on 'Future Media Legislation and Regulation for the Republic of the Fiji Islands' (Robie, 2009).

The ensuing report, implemented in 1998, recommended an independent, non-governmental regulating body, paving the way for the establishment of British-style self-regulation via a media industry-funded Fiji Media Council. Self-regulation was compatible with Fiji's democratic reforms, including the newly-adopted 1997 Constitution, which was deemed fairer than the racially-weighted 1990 Constitution. The Constitution's preamble recognised the 'human rights and fundamental freedoms' of all groups (*Constitution of the Republic of the Fiji Islands, 1997*, p. 9). The media drew their authority from section 30, which stated that 'every person has the right to freedom of speech and expression, including: (a) freedom to seek, receive and impart information and ideas; and (b) freedom of the press and other media' (p. 21).

Constitutional guarantees coupled with market deregulation and media self-regulation stimulated further competition in the media sector. This led to a somewhat jingoistic media environment, with a proliferation of what might be considered as both good and bad journalism. If investigative journalism reached new heights, then media tabloidisation reached new lows. Market pressures saw the financially-ailing *Fiji Daily Post* resort to headline stories of alleged ghost sightings in Parliament House and a woman giving birth to snakes (Usman, 2012). This phase did not last. Still, it was fodder for a government trying to justify the introduction of stronger media laws.

As government-media tensions increased, there were renewed calls from conservative politicians for strict, Singaporean-style media legislation (Committee to Protect Journalists, 1998). In Singapore, 'uninhibited' reporting was blamed for ethnic riots in the 1950s and 1960s (Ang & Nadarajan, 1996; Asiuzzaman, 2010). Consequently, social cohesion became an important government policy for nation-building and informed Singapore's future media legislation (Harish, 2013).

In comparison, Fiji had had a relatively smooth path to Independence and the push for greater media regulation was somewhat milder. However, some pressure continued to build during the heady 1980s and 1990s, when deregulation was the government motto. Government-media tensions peaked in 1999, when the Fiji Labour Party leader Mahendra Chaudhry became Fiji's first Prime Minister of Indo-Fijian descent. Unsettled by the relentless criticisms, Chaudhry went as far as to accuse then-News Limited-owned *Fiji Times* of 'subversive actions and provoking racism and sedition' (various researchers and analysts supported Chaudhry's claims retrospectively, e.g., Gaunder, 2008; Robie, 2001).

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Chaudhry threatened a 'swift justice' tribunal to curb a 'distorting, lying and seditious' press (Chaudhry, 2000, pp. 6-10). However, he was prematurely ousted by the 2000 coup. Some analysts blamed the coup on the Chaudhry government's alleged insensitivity towards indigenous fears and perceptions and questionable decision-making and nepotism. Such critics included two former *Fiji Times* editors-in-chief, Russell Hunter and Netani Rika. Both were forced to defend their positions as colonial-era claims about *The Fiji Times'* anti-Indo-Fijian agenda re-surfaced, along with claims about the Murdoch Media Empire's alleged anti-Labour agenda (see Hunter, 2009; Rika, 2009; Robie, 2001; T. R. Singh, 2011).

The 2000 coup was a watershed event for media freedom in Fiji. Spooked by the Chaudhry government's fall, future governments intensified censorship efforts. The Laisenia Qarase-led government, elected in 2001, tabled the *Media Council of Fiji Bill*, only to drop it in the face of a fierce 'No Media Bill' campaign mounted by the media sector (Government of the Republic, 2003). After winning a fresh mandate to govern in 2006, the Qarase government looked poised to re-introduce the media bill, but was ousted in the 2006 Bainimarama coup ('Don't blame media, 2006).

Soon after seizing power in December 2006, the military-backed Bainimarama government embarked on the most intense and sustained media crackdown in the country's history. Initially its agents intimidated and maltreated journalists, but later on adopted more sophisticated strategies, such as the use of decrees and emergency laws (see Dutt, 2010). A major piece of legislation, the *Public Emergency Regulation (PER)*, was activated a day after the April 9, 2009 landmark ruling by the Fiji Court of Appeal declaring the 2006 coup unlawful.

The PER gave the government sweeping powers to censor news and revoke the licences of offending media outlets, enforced by official censors placed in all Fiji newsrooms (*Public Emergency Regulation*, 2009). The PER was continuously extended before it was lifted nearly three years later in January 2012, only to be replaced by the *Public Order Act Amendment Decree (POAD),* which allowed the use of force to maintain public order (*Public Order (Amendment) Decree, 2012* United States Department of State, 2013, p. 9).

The core media legislation, the *Media Industry Development Decree 2010*, purports to incorporate all media-related laws. The decree stipulates stiff fines and jail terms for any breaches, with compliance overseen by the five-member Media Industry Development Authority (MIDA). The relevant minister appoints the chairperson and five other members, headed by the Solicitor-General (chairperson), or his/her nominee—an obvious conflict of interest (*Media Industry Development Decree*, 2010, p. 734). The minister may also direct the functions of the Authority, amend media codes as MIDA recommends, and issue policy and financial guidelines to the Tribunal (pp. 749-755).

The single-member Tribunal—a qualified judge—is appointed by the President, on the Attorney-General's advice, to adjudicate on reported media breaches. The Attorney-

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General can be heard at Tribunal proceedings and/or table submissions in writing (*Media Industry Development Decree*, 2010, pp. 739–741).

The media code of practice, general code of practice for advertisements and the television programme classification are virtually the same as those of the now-defunct Fiji Media Council, except that what were once regarded as ethical breaches are now treated as criminal offences (*Media Industry Development Decree*, 2010).

Section 22 disallows any material that is against the 'public interest or order', against 'national interest', or 'creates communal discord', without adequately defining these terms (*Media Industry Development Decree*, 2010, pp. 738–739). MIDA can procure an order from the Tribunal to force the disclosure of confidential sources, except in cases of State corruption (*Media Industry Development Decree*, 2010).

Upon conviction, media organisations can be fined up to F$100,000 ($NZ$65,000); publishers or editors up to F$25,000 ($NZ16,240); and journalists up to F$1000 ($NZ650), and/or two years' imprisonment. The Tribunal can also order restitution of up to F$100,000 to complainants who win their cases. Culpable publishers and editors are liable to pay up to $F25,000 and journalists up to $F1000, enforceable through the High Court (pp. 751-762). These are hefty sums relative to salaries and the size of Fiji's media industry. In addition, MIDA and the Tribunal have virtual protection from legal liabilities (p. 755).

Some other significant legislation relating to the media includes:

- *Television (Amendment) Decree 2012* (2012, p. 1439), which empowers the minister to 'revoke' or 'vary' the licence of any broadcaster deemed to have breached the media decree.
- *State Proceedings (Amendment) Decree 2012* (2012), which shields all government ministers from defamation lawsuits. The same immunity is extended to media organisations that reported ministers' defamatory comments (Government nullified this decree in July 2014).
- *Political Parties ... (Amendment) Decree* (2013), which bars media from reporting on or representing political parties that had been deregistered from contesting the 2014 elections (Political parties, 2013, p. 145).

In September 2013, the Bainimarama government gazetted a new Constitution, with elections held in September 2014, bringing Bainimarama's Fiji First Party to power. The 2013 Constitution's Bill of Rights enshrines the right to 'freedom of speech, expression, thought, opinion' and 'freedom of the press', subject to national security threats, or prevention of hate speech and inaccurate, offensive media reports (*Constitution of the Republic of Fiji*, 2013, pp. 12-13). However, section 173(1-4), *Preservation of laws*, retains the interim government's decrees, including the 2010 Media Decree. The Media Decree, extraordinarily, prevails over the constitution in the event of any inconsistencies, even though this is subject to legal challenge (pp. 112-114).

Analysis of the first indicator of the efficacy of media law, the history of the legislation, suggests that despite constitutional guarantees, media freedom has always been

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fragile in Fiji's 'hybrid' democracy, which is based on a combination of Western and Indigenous systems of governance (Boege et al., 2013).

The analysis suggests that indigenous cultural norms of respect for traditional authority and avoidance of open criticism (Madraiwiwi, 2014) were used to entrench elite indigenous power through provisions in the 1990 Constitution. Another variable was the racially-based electoral system. This meant that media had to cope with the general population's ethnic-based, partisan political affiliations (see Madraiwiwi, 2014; Sutherland, 1992). In other words, because of the nature of politics in Fiji, there is a high risk of the media antagonising all sides of the political and ethnic divides and ending up friendless. For instance, opinion polls in 2011 indicated a measure of public support for tighter media controls (Lowy Institute, 2011). Indeed, the Qarase government won 2006 election despite earlier tabling an anti-media bill. Later, the Bainimarama government won the 2014 election despite, or perhaps because of, promulgating the punitive 2010 media decree.

These developments suggest that in Fiji's political and cultural contexts, an overly-aggressive watchdog approach could be self-threatening. It could turn the public against the Fourth Estate, which in turn could strengthen government's case for tighter regulation. It seems Fiji's media not only face autocratic-minded governments, but also at times a cagey, untrusting and coup-weary public. This resembles, in the Fiji context, what Dalton and others (1998) describe as 'hostile media phenomenon'. The term derives from a 1992 study of the US presidential election, which identified a strong tendency among partisan Republican and Democrat supporters to regard even balanced news coverage of their political side as biased (see Dalton, Beck & Huckfeldt, 1998).

The analysis now moves to the second indicator of the three.

Degree of media freedom established in the country's media laws

In terms of the second indicator, 'degree of media freedom established in the country's laws', analysis of the Media Decree indicates that government controls the important functions of MIDA and the Tribunal through three key officials—the President, the minister concerned, and the Attorney-General. These officials make the appointments and as such, exercise certain control and influence over the media authority, which raises questions about the separation of powers relating to 'executive, legislative and judicial' functions (*see* International Senior Lawyers Project, 2013. p. 2).

Another issue is the sweeping nature of some provisions, such as section 22, which bars any content that is 'against public interest or order; against the national interest; or creates communal discord', without adequately defining these terms (*Media Industry Development Decree*, 2010, p. 739). The Tribunal's power to order media to pay compensation to complainants increases the risk of frivolous actions. This threat did not materialise in the first four years of the decree, but there is nothing to stop someone from setting a precedent. This provision is questionable when the country's defamation laws are still intact.

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With regard to the minister's emergency powers (*Media Industry Development Decree*, 2010; pp. 749–755), the International Senior Lawyers Project (2013) concedes that even in democratic societies, certain narrowly-defined State interests, such as the prevention of imminent violence, could justify some restrictions. However, the precedence in Fiji shows that emergency rule could be open to misuse. The PER, promulgated in April 2009, was continuously renewed before being lifted almost three years later (*see* Lauder, 2012).

As mentioned earlier, social stability was cited as a major justification for stronger legislation. However, in the internet age, it is virtually impossible to exercise full control over the media. The Government crackdown possibly drove dissenting views into the blogosphere, where they re-emerged in more virulent forms (see Hammond-Thrasher, 2007; Walsh, 2010). At its peak, around 72 blogs were reportedly expressing opposition to the Bainimarama government: a 'heady mix of rumours, misinformation, incitement to racial violence, calls for revolution, hate crime and even terrorism' (Hammond-Thrasher, 2007; also see C. Walsh, 2010).

These findings defy Bainimarama's (2012) claims that tougher legislation would deter 'self-interested individuals' who 'fan the flames of prejudice and intolerance'. It lends credence to Hackett's assertion that the 'solution of censorship' can be 'worse than the cure' (2013, p. 36). The Fiji situation indicates that an enabling national regulatory framework for journalism may be better founded on a certain level of openness. As media commentator Simon O'Connor states, media's first role in nation-building is to critique the style of the nation being created. To reverse this situation can lead to facts and serious questions being left out to facilitate only one group's vision of the nation (Fiji Media Watch, 2003).

O'Connor's perspective also relates to the Media Decree's disclosure provisions. Cases concerning state corruption are exempt, but MIDA can, under warrant, search premises and confiscate material (*Media Industry Development Decree*, 2010). In such swoops, the identity of confidential sources could be at risk, discouraging whistleblowing in a region where journalists often rely on 'judicious leaks' (Larmour, 2006). This indicates how the 2010 Media Decree could work against the very objectives Bainimarama staked his coup on, such as anti-corruption (Bainimarama, 2010, 2012).

In sum, the second indicator, 'degree of media freedom established in the country's laws', shows an imbalance favouring state power. The analysis moves to the third and final indicator.

Consistency and fairness in the application of the legislation

Regarding the final indicator, 'consistency and fairness in the application of the legislation', further insights can be gained through the interpretation of an independent review of the Fiji Media Council in 2009. The report, *Free and Responsible: Towards a more effective Fiji Media Council*, argued that statutory regulation would undermine press

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freedom by replicating the legal system's 'delays, costs and complexities' (Herman et al., 2009, pp. 5-40). This warning is valid. There are apparent duplications between section eight of the Media Decree, which prohibits the publication of material likely to 'create communal discord' (p. 739) and the comprehensive *Public Order Act*, which covers racial and religious vilification and hate speech (Crimes Decree, 2009).

The media decree notwithstanding, Fiji's defamation laws are still intact. Furthermore, the government has been vigorously enforcing any media breaches under pre-existing contempt of court legislation, with two successive prosecutions against *The Fiji Times* in 2011 and 2013 (Tough week and times, 2013). Still on defamation, the *State Proceedings (Amendment) Decree 2012* (2012), shielding all government ministers from defamation lawsuits, is another example of inconsistent, lopsided legislation, even though the government nullified this decree in July 2014.

Another possible case of over-regulation is the provision requiring all news stories to be 'balanced' (*Media Industry Development Decree*, 2010). This requirement has allegedly become a loophole for parties wanting to thwart media scrutiny. Such parties simply would not respond to media questions, making it impossible to fulfill the requirement for balance. It is alleged that if a story was positive towards the Government, the requirement for balance was ignored (see United States Department of State, 2013). If true, this is an example of how the state can selectively apply such laws in its favour.

Government has continued to pass laws to strengthen its hold over the media. The *Television (Amendment) Decree 201*2 not only empowers the minister to 'revoke' or 'vary' the licence of any broadcaster deemed to be in breach of the decree, it also stops aggrieved parties from challenging the decision through the courts (*Television (Amendment) Decree*, 2012). This decree was apparently used against Fiji Television following the expiry of its 12-year broadcasting licence in May 2012, with Attorney-General Sayed-Khaiyum opting to approve six-month temporary renewals only instead of a full renewal (No word on renewal, 2012).

The apparent inconsistencies in the legislation notwithstanding, whether future governments institute change is open to question. Normally, the trend is not to surrender hard-won power over the media. Singapore, which served as a model for Fiji's 2010 Media Decree, first imposed stricter laws in the name of social stability and economic development. Over the decades, even as Singapore became an international economic powerhouse, government used various tactics to tighten its hold on the media. The more sophisticated and subtler controls included harnessing market forces to apply pressure on the media (George, 2012).

On the other hand, analysts such as Robie (2009) believe that in Fiji, an element of 'hypocrisy' exists about media freedom, with little industry acknowledgment that the country's media do have shortcomings. Robie points out that the controversial Anthony Report echoed media weaknesses identified by the Thomson Foundation review more than a decade earlier (2009, pp. 109–111).

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In terms of the third and final indicator, 'consistency and fairness in the application of the legislation', the research indicates that some laws are duplicitous, selectively applied and advantage the Government. On the media's part, the literature denotes weaknesses in terms of ethics and professionalism, as outlined in several reports (Herman et al., 2009; also see Robie, 2009).

Conclusion

While Fiji's constitutions enshrined freedom of speech, the spectre of tighter legislation has been a constant threat due to cultural, political and social factors. Post-2006 coup, Fiji suffers from over-regulation, with too much power in Government hands, and insufficient space and protection for the media to carry out their monitorial role to the fullest extent. In certain areas of law, there is evidence of duplication, with media organisations and journalists answerable both to the court system and to the Media Tribunal for similar offences. While the legislative reforms were instituted in the name of social stability, the restrictions may have caused opposition views to migrate to social media sites, where they resurfaced in more extreme forms.

The application of the legislation is somewhat inconsistent. Moreover, the post-2006 coup Government continued to pass media laws, which were later used to its advantage.

However, there seems to be some public support for the Bainimarama government's media policy, evident in the 2009 Lowy Poll and in Bainimarama's win in the 2014 General Election. If the 2014 election results are anything to go by, the majority of voters placed greater value on the Bainimarama government's promises of development and progress than on media freedom. The intriguing question is whether Fiji voters assume a negative co-relation between media freedom and development. Empirically speaking, the link between the two with regards to Fiji is fuzzy at best, and needs further research.

This research highlights the need for greater consultation between government and the media industry on the complex but crucial issue of future media legislation in Fiji. Any such negotiations will likely be fraught with difficulties, not the least because of differences in opinion between the state and the media sector about the 'proper' role and function of the national media. As a start, the media sector needs to acknowledge its weaknesses and show willingness to take corrective action. Government, on its part, needs to address the various grievances concerning the Media Decree.

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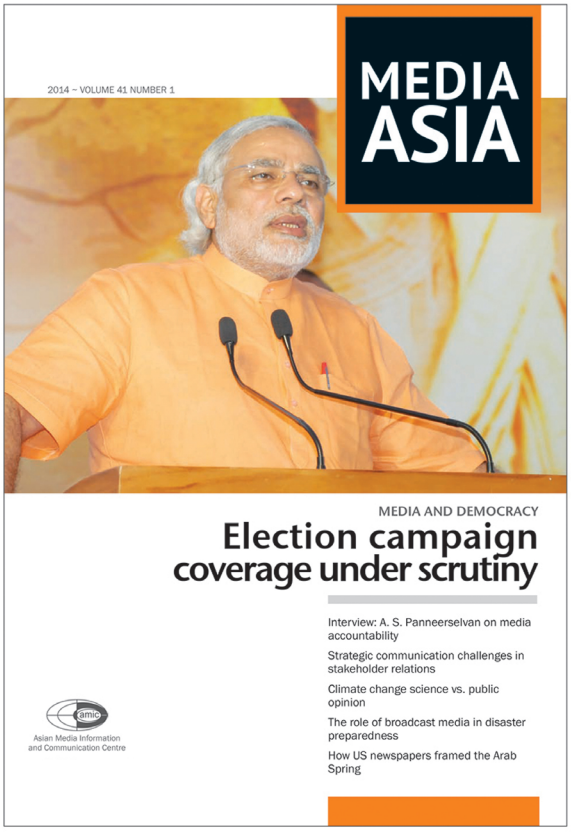

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FIJI

10. Honest Iago?

A media and academic freedom case study

Commentary: This case study involves issues of academic freedom and media freedom at the regional University of the South Pacific (USP) in a dispute between the senior administration of the university and two journalism lecturers over the impact of media releases and media comments made between May and July 2014, about the military-backed government and the right to freedom of expression. In May 2014, just four months before Fiji's post-coup general election, a student at USP, suddenly and unexpectedly, had his scholarship cancelled. As a result, USP student journalists wrote a radio news story, which was broadcast on the USP radio station Radio Pasifik. A few days later, the scholarship was reinstated. Shortly afterwards, the USP journalism lecturers issued a joint media release criticising the military government on two issues: (1) their support of torture; and (2) the refusal of accreditation for two senior Fiji journalists to attend an international conference being held in Nadi. This action brought the two lecturers into an acrimonious dialogue with the USP administration. The article reviews the media coverage and examines the issue from the perspective of the head of the journalism programme.

Keywords: Fiji, Fiji coups, human rights, journalism education, media freedom, media regulation, military, torture

PATRICK CRADDOCK
Broadcaster and media trainer, New Zealand

I HAVE titled this article Honest Iago in reference to a Shakespearean character who betrayed Othello, although Othello believed him to be honest and referred to him as 'honest Iago'. This affair is narrated against a backdrop of media and academic freedom issues at the University of the South Pacific over the past two decades.

This year will be the 21st anniversary of the establishment of the USP regional Journalism programme. It began in 1994 with French government aid and one journalist from the BBC World Service, François Turmel, supported by USP staff with a background of journalism. It grew with the appointment in 1998 of David Robie from Papua New Guinea, as its first coordinator, who got a budget, training room space and staff. His appointment was opposed by journalists supporting the Pacific Islands News Association (PINA) secretariat in Suva. Unsigned articles purporting to be news stories and denouncing the appointment of Robie because of his previous criticisms of 1987 coup

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leader Sitiveni Rabuka and PINA in his book *Blood on their Banner* were published in the *Daily Post*. The *Post* editor at the time was Laisa Taga, a former treasurer of PINA. Robie has long been a defender of freedom of expression in the media and in an article he recounts some of the difficulties when news organisations in Fiji were claiming to support media freedom while at the same time they were also trying to gag a journalism academic (Robie, 2008). Robie was the head of journalism at the University of the South Pacific for five years from 1998-2002.

The George Speight coup started in May 2000 when parliamentarians were held hostage by gunmen in the Parliament building. Journalism students, supported by their lecturers, went inside the parliamentary complex to take photographs, conduct interviews and write stories (Robie, 2007). Other students edited the stories, which were dispatched to news agencies around the world. The Vice-Chancellor failed to see the necessity to cover real events in real time and he closed the journalism website *Pacific Journalism Online*. Student stories were then relayed overseas by staff through several web and mirror sites set up by friends and supporters. Dr Biman Prasad, a senior economics lecturer and president of the Association of USP Staff noted in an article 'Crisis of Conscience' (Prasad, 2001) that the actions of and advice given by senior USP administrators were often in conflict with the principles of academic freedom of speech.

The 'Iago' affair began on 21 May 2014 when 'Tamani', a second-year Fijian student at the University of the South Pacific, had his scholarship cancelled because of his voluntary work supporting an Independent political candidate standing in the Fiji General Election, the first democratic election since a military coup in December 2006.

The student episode may have gone unnoticed, except that the student involved had his photograph published in a local newspaper. This information was reported anonymously to the Tertiary Scholarship and Loan Board (TSLB), which sent a letter to the student cancelling his scholarship and saying that it had come to its attention that he had been associating himself with a 'political agenda' without taking into consideration his obligation to the Scholarship Board. Tamani was ordered to refund all scholarship fees for both the current and previous years. The letter did not explain his alleged errors or give information on any right of appeal (T. J. Seruiraduvatu, personal communication, 21 May 2014).

This TSLB action became a news story for student journalists at the USP. A Fiji lawyer advised the students researching the story that any disciplinary action against Tamani should have been actioned by the USP, and not by the TSLB. Questions asked of both the TSLB and USP administration went unanswered. The journalism students wrote a news story that was broadcast on the USP station Radio Pasifik as the lead item in its weekly news and current affairs programme. It outlined the facts and included details that Tamani came from a poor solo-parent family.

The radio news item increased public interest in the story and Tamani voiced his opinion about his actions:

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> I don't see any violation or any wrong doing of my involvement in Roshika Deo's 'Be the Change Campaign' as I was clearly just exercising my political right (Tokalau, 2014).

The political element to this story developed with a statement by Felix Anthony, leader of the opposition People's Democratic Party, to a journalist at Radio NZ International (RNZI *Dateline Pacific*, 2014a):

> What we are concerned about is that this government has attempted to try and disqualify groups of people to not take part in the political activity of the country and in this case the targets are students who are beneficiaries of government scholarships.

A former USP economics professor and media commentator, Wadan Narsey, went further and inferred (RNZI *Dateline Pacific*, 2014b) that there had been military government interference in the student affair.

> Public officers are simply refusing to be accountable to the public on a matter which is so important. If they do not reinstate this scholarship, it is going to reflect very, very badly on Bainimarama's party and whoever has been responsible for terminating this scholarship. I mean it is a shameful episode in the history of this regime.

A few days later, Tamani had his student scholarship reinstated. So, who had initiated the scholarship termination and who influenced the re-instatement? We may never know, but we do have this shifting responsibility statement as reported on RNZI *Dateline Pacific*, from Dixon Seeto, Chairman of the Tertiary Scholarship and Loan Board:

> …[I]nvestigations show the information the board received about the student and a recommendation from the USP were incorrect. Mr Seeto says there is a clear document trail on the case, which led to the board's decision. He says the board in no way restricts the activities of scholarship holders outside of their study programme. The University of the South Pacific says it is investigating claims it gave incorrect information to the board. (RNZI *Dateline Pacific*, 2014c)

It appeared that the Iago affair was over, but not so. On June 20, Brigadier-General Mosese Tikoitoga, Land Forces Military Commander, was quoted in an Australian newspaper, *The Age* (Marks, 2014), admitting that Fiji citizens had been beaten and tortured by the military regime, claiming it was necessary to stave off civil disorder or the threat of civil disorder.

The two lecturers in the USP Journalism programme, Patrick Craddock and Dr Matthew Thompson, wrote a media release (Craddock & Thompson, 2014) condemning the acceptance of torture by the military. Tikoitoga responded:

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> But a lot of these people were actually trying to instigate violence by creating anti-government movements or militant groups … They were talking on the radio and so on. If you let them continue to have a voice, you create a potentially dangerous environment… So it was the lesser of two devils. (Madigubuli, 2014)

He said his comments were being taken out of context and suggested that political parties and the two USP staff were using the information for political ends. Apisalome Coka reported for *FBC News* that the Military Commander was quoted 'out of context' from an interview conducted in early 2013 (Coka, 2014). Thompson checked with Kathy Marks, the correspondent for *The Age,* who confirmed that the interview took place on April 2014.

The media release by the two lecturers said that *Islands Business* editor Samisoni Pareti had been denied accreditation to the Pacific Islands Development Forum (PIDF) held in the western town of Nadi during June 2014, without any explanation being given. Netani Rika, communications manager for the Pacific Conference of Churches and a former chief editor of *The Fiji Times*, was also refused accreditation. Rika said the police visited his hotel and asked questions about him. Both journalists confirmed the accuracy of their stories to the USP lecturers.

Pareti said in an interview on Radio New Zealand (RNZI *Dateline Pacific,* 2014d) that he went through the usual process of applying for accreditation with the Ministry of Information, but found out the night before the forum meeting that his application had been declined.

> I suspect it's to do with my previous work, and that was when I was covering the PIDF last year for the ABC in Australia and I did get into some issue and debate with some of the media organisers who were running PIDF who were not happy with my reporting of the conference last year.

Pareti asked the Ministry of Information for an explanation, but received none. The lack of action by the Ministry of Information drew unfavorable comment from the co-chairperson of the Pacific Freedom Forum (PFF), Titi Gabi (PFF, 2014).

> The decision to deny accreditation to *Islands Business* group editor-in-chief Samisoni Pareti to the forum without providing reasons or process to allow him right of appeal is a revealing trend that the media restrictions of the host country of the PIDF are part of the parcel governing this new body.

The impact of the academics' media release made them the front page story on the *Fiji Sun* two days in a row on 25 and 26 June 2014 in articles written by Nemani Delaibatiki (2014a, 2014b). They faced an attack from Ashwin Raj, Chairman of the Fiji Media Industry Development Authority (MIDA), also a senior academic at the USP. The *Media Industry Development Decree* was promulgated in 2010 and gave the military government powers to manage the output of media. The authority consists of a chairperson and

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five members all appointed by the minister, who has the power to remove them as he decides (*MIDA Decree 2010 handbook)*. In 2015, when this edition of *Pacific Journalism Review* went to press, the Decree was still in place.

In the *Fiji Sun* of June 25, Raj accused the academics of being 'ill-informed, self-aggrandising, self-selective moral entrepreneurs trying to instill fear among ordinary and decent citizens' of Fiji (Raj, 2014).

> Any responsible academic, as a necessary measure, would have first ascertained and corroborated the facts before making a series of gnomic pronouncements about freedom.

By this time RNZI and Radio Australia were following the story and Sharon Smith-Johns, Secretary of Information for the military-backed government, produced a statement saying Pareti should not have been barred from accreditation at the PIDF (Koroi, 2014). She said there had been an error due to miscommunication between the Ministry of Information and MIDA. This was an apology to Pareti and also a snub for Raj, who had said that academics should get their facts rights and corroborate them. It was ironic that the journalists' media release, the outrage by Raj of MIDA and the apology to Pareti from the Ministry of Information were all published in the same edition of the *Fiji Sun*.

This author, Pat Craddock, was then phoned by RNZI and so was Raj. I defended my point of view, and that of Thompson,

> We felt as academics with expertise in journalism, teaching young journalists to be ethical and bold, we had to speak out about this. (RNZI *Dateline Pacific,* 2014e)

Next day Thompson and I received a phone call from the USP administration saying that they we were both required to attend an 'informal meeting' with Deputy Vice-Chancellor Esther Williams and the head of the Human Resources Section, Heather Stadel, of USP. We requested to be interviewed together. This was declined.

On entering the HR room, I was surprised to find that the proceedings were to be audio recorded. As I possessed a recorder of my own, I said that I would also like to record the proceedings. This was accepted.

Deputy VC Williams said the meeting was an 'informal' one to explore what had been taking place in the media. The word *informal* is crucial and was said by Williams at the beginning of the meeting and can be clearly heard on the audio recording (P. Craddock, personal communication, June 25, 2014). In my understanding, an informal meeting is a private personal matter. The audio recording was to become a crucial part of the Iago saga.

During this discussion, Williams said that there had been a complaint from outside the USP saying that there were 'errors' in the journalists' media release. I asked who had complained but did not receive an answer. I asked about the errors and was told that MIDA should have been consulted for their viewpoint. I rejected this comment. The conversation continued:

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> *Esther Williams:*
> All of us understand that we don't live in a normal democratic government situation. I've been here a long time. When you released this, apart from this other purpose of initiating discussion, did you realise the situation here and also realise the impact it would have on the university?
>
> *Pat Craddock:*
> What do you mean the position we're in? I don't understand.
>
> *Esther Williams:*
> What I'm saying is we're operating right now, as you know, for the last six years, we're not under a democratic government. We are having elections in September 2014, so whatever we put out in the news media we are very careful, recognising that we've been very lucky: we operate within academic freedom principles – we all know—and we've allowed staff to do that and you realise that, too, but when things like this come out … you recognise there are some repercussions from the present government. We have to explain what's happening. We are a government institution funded by them.

Thompson also audio—recorded his informal discussion. It was then assumed by the two lecturers that the issue had been resolved, as Williams had not mentioned any further action or investigation. The following morning, the two journalism lecturers saw that for the second day in succession they were the lead item on the front page of the *Fiji Sun*, with their photographs and a heading in bold lettering saying 'USP probe pair' (Delaibataki, 2014b). The university was quoted as saying that the two academics were under investigation.

Both lecturers felt that there had been a misunderstanding or misrepresentation of what had taken place during the discussion. They then met again with the head of human resources, Stadel. Both lecturers asked to audio-record their discussion with her and she declined. During that discussion Stadel said she was unaware that USP would be commenting to the media. We asked if a retraction could take place and we were asked by Stadel to prepare a suitable draft answer for her consideration. We prepared a one-paragraph draft.

Next morning both lecturers received a hand-delivered letter from HR asking them to sign a statement (H. Stadel, personal communication, June 26, 2014). The letter addressed to me said that there had been complaints about the accuracy and nature of the comments in the media release. There was also the inference that I had breached the condition of my work permit, which says that I must not '*behave in a manner that is prejudicial to the peace, good order, good government or morale of the people of the Fiji Islands. [Author's emphasis]*

This letter also inferred that I had potentially put at risk future work permits for other USP staff. I viewed the content as an intimidation from the USP administration. Within an hour of receiving the letter, I was contacted by a Fiji reporter asking if I would sign

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it. The letter had obviously been leaked as he was quoting from it. I asked the reporter for his name, if he had a copy of the letter and who gave it to him. He immediately terminated the phone call.

I decided then that the confidence of the 'informal discussion' held with Williams, Stadel and myself had been betrayed and that I would respond through the media. Hence, what previously were personal communications would now be in the public domain. I immediately emailed my letter from HR to the media. I then wrote a media release, which was published in the New Zealand-based media transparency blog *Café Pacific* with quotes from the 'informal discussion'. It included statements about the military and the USP. Audio was also attached. In my media release I said that I would not sign the letter from HR. This led to interviews with both local and the international media. Thompson also declined to sign his letter from HR.

Iago did not end there. Dr Biman Prasad, a former professor of the USP and now the leader of the opposition National Federation Party in Parliament spoke to RNZI on the issue of academic media freedom,

> I think these two academics in the journalism programme at the University of the South Pacific were merely exercising their role as academics and commenting on a very, very important issue. I am appalled at the way in which the government has reacted through MIDA and indeed how the University of the South Pacific has reacted to the work and the comment of these two academics (RNZI *Dateline Pacific,* 2014f).

Was the Iago saga now over? Not quite. I lodged a formal written complaint with the USP administration against Ashwin Raj of MIDA for slandering my name (Craddock, 2014). I noted in my letter that he was also a fulltime employee of USP. Amnesty International Australia entered the fray with a statement from crisis response campaign coordinator Michael Hayworth:

> This is the latest act of intimidation against journalists by the authorities. There is a worrying pattern in Fiji of the authorities trying to silence journalists ahead of the elections in September.
>
> Attacks against the media are one of the most serious violations of the right to freedom of expression, particularly in the lead up to elections. The media must be allowed to freely publish information concerning the elections, including criticisms of the government and candidates, without fear of retribution. (Amnesty International, 2014)

Emeritus Professor Crosbie Walsh, a former academic at USP, then wrote a two-page opinion article, entitled 'Blowing the embers on old fires', in his Fiji blog, which was republished in the *Fiji Sun*. He said that during his time at USP he had never made comments that were political (Walsh, 2014). His article was full of political opinion. Walsh

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had not been teaching journalism to students preparing to build a career in the media. We were. We were trying to develop young minds to ask important and sometimes difficult questions of their leaders. We had ethical responsibilities to students, to the public, to our profession and ourselves.

The story of honest Iago had come to an end. Both journalism lecturers returned to their home countries after the semester ended when the examinations and assessments were completed. Williams retired from USP in September 2014. Raj remains chairman of MIDA and is also on the staff working in the USP Vice-Chancellor's Office. A General Election was held in Fiji during September 2014. The former coup leader, Voreqe Bainimarama, who had retired from the military to become leader of a new political party, FijiFirst, was voted into office with a considerable majority. He is now Prime Minister legally.

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Pat Craddock began his radio career with Radio New Zealand and worked as a producer for Morning Report*, the documentary programme* Insight *and Radio New Zealand International. He was then appointed as the first manager for the newly formed Radio New Zealand Continuing Education Unit. He has been a media trainer in Fiji, Kenya, Kiribati, Mozambique, Papua New Guinea, Tonga and Tuvalu. He has worked for the University of the South Pacific (USP) on four different occasions over a time frame of 20 years that spanned the Speight coup of 2000 and the Bainimarama coup of 2006. His last appointment at USP was from March to July 2014. Craddock is on the editorial board of* Pacific Journalism Review.
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STUDENT PRESS

11. Media freedom in Fiji

Journalism challenges facing *Wansolwara*, an independent, campus-based newspaper

Abstract: This article is a case study of *Wansolwara*, the University of the South Pacific (USP) journalism programme student training newspaper. The article compares the outcomes of *Wansolwara*'s coverage of the 2000 and 2006 Fiji coups in relation to student learning and an alternative media voice in a climate of restrictions. Interviews with student journalists and lecturers involved in the coup coverage indicate that *Wansolwara*'s status as a campus-based newspaper has been a strategic benefit in filling some gaps in mainstream media reporting, besides providing students with empowering learning experiences. The case study illustrates the importance of an independent, campus-based newspaper somewhat less restrained by commercial pressures and less exposed to direct state coercion.

Keywords: censorship, Fiji, journalism education, press freedom, student press, University of the South Pacific, *Wansolwara*

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THIS ARTICLE examines how the University of the South Pacific journalism training newspaper, *Wansolwara*, covered the 2000 and 2006 Fiji coups, skirting institutional pressures and state censorship. The real-world training included having to come to terms with punitive legislation, such as the *Public Emergency Regulations (PER)* introduced in 2009 and the *Media Industry Development Decree 2010*. It was part of efforts to provide undergraduate students a 'taste' of what it is like to be a professional journalist. The article also examines *Wansolwara*'s contribution to the media discourse at a time when the national media were reputedly restrained in their reporting due to legal curbs and owners' commercial considerations (see Narsey, 2013). While equally bound by the media laws, *Wansolwara* fell somewhat under the radar, possibly because it was a journalism training publication printed and distributed infrequently, with a limited circulation at the time. However, since September 2009, the paper has been printed by a major national daily newspaper, the *Fiji Sun*. It is distributed nation-wide as an insert in the *Sun*. A PDF version is available online.

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In spite of claims by former USP Vice-Chancellor, Esekia Solofa, that journalism students should practise 'simulated' journalism, The USP journalism programme considers *Wansolwara* as a serious newspaper tackling major national and regional issues. The publication has won several Journalism Education Association (JEA) awards in its 16-year existence, including the Dr Charles Stuart Best Publication award for coverage of the 2000 George Speight attempted coup (Robie, 2010).

The May 2014 issue, under the leadership of student editor Tevita Vuibau, focused on media freedom, media responsibility and the impending 2014 elections. This was at a time when some mainstream media outlets were accused of producing 'churnalism' as a result of legal constraints and the commercial considerations of the owners (Hooper, 2013; Narsey, 2013). Vuibau works at *The Fiji Times,* but considered that he had more freedom to report in the campus newspaper, as this article will discuss. Based on document review and interviews with former student journalists and former lecturers, the article finds that while the replicated newsroom experience gained through *Wansolwara* is achieving its core aim of providing training for students, much more has been gained. This illustrates the importance of an independent campus-based newspaper that is unencumbered by commercial and other forms of pressure emanating from owners and advertisers, and is somewhat less exposed to direct state coercion.

Background

Media are deemed to provide a platform that enables dialogue across all sectors of society, even if there is considerable debate about this concept (Aslam, 2011). Media are seen as channels for the dissemination of and obtaining knowledge and information, ranging from blogs to podcasts (Vasterman, 2005). According to UNESCO (2014), media freedom is essential for 'building strong democracies, promoting civic participation, upholding the rule of law and encouraging human development and security'. Such goals are purportedly achieved when the media act as the Fourth Estate and scrutinise the government on behalf of the public (Darwish, 2010). However, in many countries, including Fiji, the media is subjected to censorship due to political and/or cultural reasons (Perrottet & Robie, 2011).

The normative notion of media as a social watchdog faces various challenges in an ethnically and politically unstable country such as Fiji, which has faced four coups between 1987 and 2006 (Robie, 2014; Singh, 2010). The media have faced various levels of censorship since the country's first coup in May 1987; staged by the then Lieutenant-Colonel Sitiveni Rabuka in the name of Indigenous rights (Robie, 2001a). Successive Fiji governments have argued for tighter media controls for the sake of social stability. Such arguments gained momentum after the 2000 nationalist coup that toppled Fiji's first Indo-Fijian Prime Minister, Mahendra Chaudhry. Some claimed that 'reckless journalism' emboldened the coup plotters, while others insisted that a 'blundering' Chaudhry government was ultimately responsible for its own demise (see Hunter, 2009; Robie,

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2001). Veteran Pacific Islands correspondent Michael Field pointed out that the 1999 election result that brought the Chaudhry Government to power was 'remarkably clear but the media, or elements of it, were reluctant to accept it'. Sections of the media were 'arrogantly anti-democratic' (cited in Robie, 2001b, p. 152). Former *Daily Post* publisher T. R. Singh (2011, p. 37) claimed that 'Chaudhry contributed to the problem through some bad choices', including controversial appointments, while Lal (2001, p. 11) described Chaudhry's leadership style as 'pugnacious'.

The Fiji media faced another round of crackdowns after military commander Commodore Frank Bainimarama ousted Prime Minister Laisenia Qarase's elected government in a coup in December 2006. Bainimarama claimed that the Qarase government was corrupt, discriminatory and racist (Goodwin, 2010). After assuming power, the Bainimarama government introduced various pieces of media legislation, including the PER on April 2009 and the punitive Media Decree in June 2010, claiming that journalists were more a threat to communal harmony than a public watchdog. The decree criminalised what were once considered ethical breaches. Violations of the provisions are punishable by a fine of up to FJ$10,000 (US$5000) or imprisonment of up to two years for journalists. Penalties for media companies are as high as FJD$100,000 (Media Decree, 2010, p. 739). The Media Decree was retained after Bainimarama's FijiFirst Party won the 2014 General Election.

Campus-based newspapers

The USP's journalism programme is based in the Fiji capital, Suva, and its flagship publication, Wansolwara, has been publishing in the context of Fiji's political and social environment, including its national media laws. Generally, independent campus student publications are seen as an important educational tool while keeping people informed, with some viewing them as strategic models (Robie, 2011). Such publications are regarded as the primary mass medium of communication on most campuses—an 'excellent barometer of the views and moods of the student body it serves and the campus it reports' (Oetting, 1980; Zimmer, 1975). Over time, the common role of the student newspaper has changed, with readership no longer confined to the university environment. Newspapers like the *Badger Herald* at the University of Wisconsin-Madison encompass a broad readership no longer bound by the physical attributes of the campus (Steinberger, 2010). *Wansolwara* has been a part of this trend. It covers national and regional events and issues, including global trends affecting the Pacific, and is circulated nationwide as an insert in the *Fiji Sun*.

However, critics of campus newspapers argue that they are founded on a compromise. Such publications can print anything, but only as long as it is not critical of the school or university. Decades ago, Lane (1972) claimed that administrators and newspaper advisers had a common—although unspoken—agreement that the student newspapers could print whatever they wanted as long as it was uncontroversial and uncritical of the school, community, or nation.

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This 'understanding' has not always gone down well with students. In the late 1960s, more and more school newspapers began publishing controversial stories. The unrest and rebellion, which characterised many university campuses that filtered down to the high school, and students began demanding the right to publish stories considered outside the realm of high school publications (Kraus, 1983). Kraus goes on to state that as controversial issues appeared, some school administrations, fearing adverse publicity and possibly the disruption of the schools, censored student publications. The above are some of the examples outlining the impacts that student publications have in university campuses around the United States. To what extent there are parallels with the situation in Fiji is discussed in the next section.

Student publications in the Pacific

There have been a number of student publications in the Pacific region. There was *Uni Tavur* at the University of Papua New Guinea (UNPG), which has since closed. Besides *Wansolwara* (USP), there is *Liklik Diwai* (DWU, PNG). McManus and Papoutsaki (2004) noted that *Liklik Diwai* provides practical training, which motivates students. Knowing that they can actually 'produce worthwhile publishable materials motivates them to improve their work' (McManus & Papoutsaki, 2004).

However, student publications can trigger unpleasant reactions. *Uni Tavur* and *Wansolwara* have had their share of brushes with administrations. *Uni Tavur*, based at the University of Papua New Guinea journalism programme, is no longer in publication. It became the first publication from New Zealand or the Pacific to win the top student newspaper publishing Ossie Award in 1996. The award was in recognition of a series of investigative journalism reports about national development, the environment, forestry, mining and human rights (Robie, 2012). For their trouble, student reporters were attacked by drunken police officers who assaulted student journalists inside their university van. David Robie, head of the programme at the time, described *Uni Tavur* as an example of real-world journalism reported in real time by students (Robie, 2012).

Wansolwara has faced its own battles with the authorities. The newspaper was founded in 1996 by then-lecturer Philip Cass, along with a number of students. Cass was instrumental in the set-up of the publication after noting that there was no outlet for students' work (Robie, 2002). The name *Wansolwara* was adopted, expressing the idea that all those who were born in or live in the Pacific were bound together by the ocean. *Wansolwara* literally means 'one ocean one people' (Cass, 1999). The publication of the first edition was not easy, as Cass noted, but by the following year the newspaper was on a stronger financial footing and starting to gain a reputation for breaking stories (Robie, 2002). The paper's founding student editor, Stanley Simpson, said at its 10th anniversary event that the 'paper was founded by a group of young people who wanted to do things their way' (Founding editor reminisces, 2006). The newspaper was already well established by Cass and Simpson when the new head of USP journalism, David

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Robie arrived from Papua New Guinea. Robie introduced changes and integrated the newspaper into the curriculum so that students earned course credits (a similar system to that which he had established at the University of Papua New Guinea with *Uni Tavur*).

Wansolwara covers national and regional issues as well as USP news, with a strong focus on governance and environmental issues. In general, first year students cover campus-based and national news events, often in partnership with the more senior students; second-year students edit the newspaper and write the opinion pieces in semester one, while the third year students write in-depth reports and edit the paper in the second semester. *Wansolwara* has consistently won Journalism Education Association of Australia (JEA) awards and also Fiji Media Awards for Excellence.

Institutional and other challenges of covering coups

Wansolwara shot to greater prominence with its coverage of the May 2000 coup in Fiji and the hostage crisis in Parliament, during which the deposed Chaudhry government was held in captivity for 56 days (Robie, 2001). At the height of the coup coverage, USP authorities shut down the *Wansolwara* news website, citing potential threats to staff and students. The USP acted after coup supporters rampaged through the Fiji Television studio in downtown Suva in an angry response to a current affairs report, and also raided a shop across the road from the main entrance to USP.

Young and Brave

In Pacific island paradise, journalism students cover a strange coup attempt for course credit

Fiji's young media corps had a front-row seat to a strange coup in the Islands earlier this year. On May 19 businessman George Speight led a group of armed rebels into Fiji's Parliament, took the multi-ethnic government hostage and then waited as the nation's military and tribal leaders gave in to his demands one by one. The situation ended 10 weeks later, on July 26, when Speight and many of his followers were arrested by Fiji's army. The military installed a new civilian government and called for elections in three years.

Covering this insurrection was a test for Fiji's mostly young corps of journalists, who have an average age of 22, and average only two-and-one-half years of experience, according to University of the South Pacific journalism coordinator David Robie. Robie writes that at first, some of them had trouble determining the legality of the would-be regime. A few showed a too-swift readiness to give legitimacy to, and cozy up with, Speight's rebellion. Fiji's print media largely failed to give insightful and critical analysis. Even when the media performed well, mob violence forced some journalists to curtail reporting. Others gave in to threats.

Confusion over the government's status in the days after the coup was evident in the reports filed by some of Fiji's press organizations, Robie writes. The newspapers referred to "self-proclaimed head of state" George Speight when clearly there was only one legitimate prime minister — the hostage Mahendra Chaudhry. Likewise, after Speight named Ratu Timoci Silatolu "interim prime minister," the media began referring to Silatolu as such. Within a week, the *Fiji Sun* was already calling the rebels the "Taukei civilian government," in reference to the Taukei protest movement, which had demonstrated against Chaudhry's government and had given tacit approval to Speight's takeover, according to Robie.

Meanwhile, local media were miss-

Rebel leader George Speight, center, addresses the media on talks with the military at the Fiji Parliament in Suva. A businessman and former government official, Speight had been scheduled for a court hearing the day of the coup to address corruption charges.

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Figure 1: *The Global Journalist* report about *Wansolwara*, (2000), 3, 26-29.

Reflecting on the verdict to close the website, the then-head of the USP journalism programme, Robie, stated that management was fearful about the security of the university. But to close the website without consultation was the 'worst' decision at the time (D. Robie, personal communication, 18 January 2015). Robie, now a journalism professor at AUT University, describes the 2000 coup as 'one of the most challenging' examples of campus-based journalism that he and his students had ever faced. He added that USP students, all volunteers, 'rose to the task splendidly' (ibid.). In 2010, Robie presented a paper at the global UNESCO World Press Freedom Day conference in Brisbane detailing a behind-the-scenes account of this period at USP. He interviewed coup-reporting students from USP reflecting on their experience a decade later and how this had impacted on their career (see Robie, 2010). The article conclusion noted:

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> While reporting the coup was certainly cathartic, and led to some pedagogical changes, such as including critical 'military studies' with journalism school workshops alongside peacekeeping soldiers on leave from Timor-Leste duties in the Suva barracks—to better understand the military psyche—the experience proved to be a unique one-off case. (Robie, 2010, p. 123)

For some students, the closure of the website by the administration was demoralising. It had contradicted what they were taught in class and shook their belief in notions of free speech and academic freedom. A student journalist at the time, Joe Yaya, recalled that they saw the USP management's action as an 'infringement on media freedom'. He said:

> We felt we were doing a great service in informing the rest of the world what was happening in Fiji at the time because our coverage went beyond what was happening inside Parliament. (J. Yaya, personal communication, 12 January 2015)

Such responses indicate that practising real-time journalism exposes students to some hard truths about institutional barriers, power dynamics, gatekeeping issues, and other limits of media freedom. It helps contextualise any romanticised notions about journalism and allows students to experience and understand the difference between theoretical concepts and the realities of the job. *Wansolwara* founding lecturer Cass describes it as a 'reality check'. Referring to the closure of the *Wansolwara* news website, he said:

> Ultimately the USP administration came down on the students' coverage, so I think that was a reality check insofar as an institution will ignore questions of freedom of the press if it thinks it is going to be endangered by the activities of journalists or journalism students and staff. (P. Cass, personal communication, 14 January 2015)

Being put into difficult situations in real-life conditions can also produce innovation and a chance to hone problem-solving skills, which cannot always be replicated in classrooms. In order to find a way out of their dilemma, the journalism programme made arrangements to host a 'mirror' site at the University of Technology, Sydney. A former USP design lecturer, Mara Fullner, also st up a mirror site. The coup coverage continued, eventually winning USP Journalism JEA Awards for its efforts. Cass later noted that the coup coverage ultimately shaped the journalism courses and experience of the graduates who returned to their home islands (Cass, 2002).

Contrary to the sentiments of then vice-chancellor Solofa, USP journalism students practise real journalism as part of their learning. Pedagogically speaking, coups provide an opportunity to apply ethics and professionalism, including following safety guidelines for operating in a responsible and conscientious manner. Moreover, coverage of the 2000 and 2006 coups by the campus-based newspaper contributed an alternative, independent voice to the discourse, as pointed out by Cass:

> Much of the outside coverage seemed to be done by people who were just taking the plotters' statements at face value or else were writing their reports beside the

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> swimming pool at the Travelodge, so the students were giving an alternative view that in many cases was much closer to what was going on. (P. Cass, personnel communication, 14 January 2015)

Coverage of the 2006 coup—'grow a pair'

Indeed, because of its position as a campus-based newspaper, *Wansolwara* has certain strategic advantages. With regards to the coverage of the 2006 coup and related issues that emerged in the ensuing years, *Wansolwara* was able to remain under the radar and operate under comparatively fewer restrictions, less scrutiny and less suppression. In its June 2008 issue, the paper headlined the expulsion of *The Fiji Times*' Australian publisher, Evan Hannah, by the Bainimarama government. Student reporters interviewed Hannah's wife, local USP academic Dr Katarina Tuinamuana, who said that 'journalists are now working in very difficult conditions and I have a lot of respect for their courage in carrying out what I think is a very important role' (R. Singh, 2008).

In its April 2009 edition, *Wansolwara* ran a four-page 'Insight Report' on the 2006 coup and its impact on the media sector. It tackled the associated themes of media freedom and media responsibility. The lead story entitled 'Caught in the crossfire: Fiji media and the coups', highlighted the media's 'great challenges' and 'immense responsibilities' in coup situations.

Another story, entitled 'A muted media?' pointed out that media's traditional watchdog role was being seriously eroded. The coverage included an interview with prominent Fiji academic and economist Dr Biman Prasad, now an Opposition Member of Parliament. Prasad said the 'media should champion coup victims, not coup plotters'. He added that coup reporting in Fiji often lacked economic focus, ignored the views of the ordinary people and fixated on coup plotters. Another interviewee, former *Fiji Times* editor-in-chief Netani Rika, said that the media reported Bainimarama's allegations about corruption within the deposed Qarase government without examining the claims critically.

The Insight Report filled a major information gap at a time when the mainstream media were said to be wary of criticising government, self-censoring and ignoring opposition voices (see Hooper, 2013; Narsey 2013). Moreover, there is little, if any, tradition of critical self-analysis by the national media. This role is often carried out by independent publications. This highlights the important role of *Wansolwara* as an alternative voice in Fiji's media landscape.

The *PER*, which imposed pre-publication censorship as well as stiff fines and jail terms for any breaches, was implemented while the April 2009 issue was still at the press. The Solomon Islands student editor at the time, Leni Dalavera, called lecturer Shailendra Singh to ask whether they risked arrest once the issue came out. He was assured that the arrests of students were highly unlikely and that the lecturers would take responsibility for the publication. Apart from this being a clear example of the conditions in Fiji at the time, it was an indication of how student journalists were keeping up with developments on a national level.

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The publication revisited the connected themes of media freedom and media responsibility in post 2006-coup Fiji in its May 2014 issue. Under the leadership of tutor Irene Manueli and student editor Vuibau, *Wansolwara* reviewed the impact of the 2006 coup on Fiji's media sector. The front page, entitled 'Fiji media woes', addressed, among other things, the alleged targeting of individual journalists who had attracted the government's ire for one reason or another. This was a major topic on social media, but scantily reported by the mainstream media.

The May 2014 issue included an interview with ABC's veteran Pacific correspondent Sean Dorney, who explained the circumstances surrounding his ban from Fiji at the time. In an editorial, the newspaper lamented eight years of censorship and welcomed the forthcoming 2014 elections. The editorial said that Fiji's late-teen to 20-something journalists would be reporting on a democratic process in which—given eight years of military rule—they had never taken part. It drew attention to the immense responsibility resting on the shoulders of Fiji's young journalists to dig out 'everything the public needs and deserves to know in order to make a properly informed choice at the ballot box'.

This edition drew on the discussions at the 2014 World Press Freedom Day celebrations held at USP. By then, Fiji's media climate was reported to be slightly more relaxed, with the much-disliked *PER* lifted in 2012. However, the Media Decree was still in place and the mainstream media were allegedly continuing to self-censor, even if to a lesser degree (see Fraenkel, 2014).

Under the prevailing restrictions, *Wansolwara*'s critique of the state of Fiji's national media and political landscape was considered a bold piece of journalism. This was evident in some Fiji journalists' reaction on the 'Friends of Fiji Media' Facebook page, which describes itself as a 'social forum where journalists, former journalists, friends, family and supporters can interact, exchange ideas and information and plan for the next mix!' (www.facebook.com/groups/friendsofmediafiji/). Some comments are reproduced below:

> *Go read Wansolwara folks—and grow a pair* (Former *Fiji Times* editor-in-chief Netani Rika).
> *Vinaka* (thank you) Tevita Vuibau and *Wansolwara* (Former Fiji journalist Vasiti Ritova).
> *Brilliant edition - great reading! Some very interesting points made, esp by Ricardo Morris in the USP discussion* (RNZ International journalist Alex Perrottet).

USP journalism students covering the 2006 coup faced less institutional pressure—at least in some respects—than there had been in 2000. There was no threat from USP of closing down student publications. In terms of reporting for *Wansolwara*, the students generally felt that the environment within USP journalism was relatively freer than that which prevailed at the national level. USP Journalism provided pockets of space and freedom that allowed journalistic instincts to flourish, to the extent possible under the prevailing restrictions. This is well articulated by student editor Vuibau, who worked at

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The Fiji Times as acting deputy chief of staff and had returned to complete his studies in 2014. He indicated that *Wansolwara* provided him an outlet to express himself more freely as a journalist:

> 'I had the privilege to express my opinions while I was at *Wansolwara*. This is a privilege that the mainstream media journalists do not have' (T Vuibau, personal communication, November 24, 2014).

If Vuibau felt more liberated as a student journalist than as a professional journalist, it was partly because of the different outcomes of the 2000 and the 2006 coups. Members of the renegade military unit behind the George Speight 'civilian' coup in May 2000 could not secure full army support and their putsch was a failure. The Bainimarama takeover was a full-blown military coup. A military-backed government headed by Bainimarama secured power and ruled for eight years until the 2014 elections. The Bainimarama government had the power to pass legislation to restrict the national media and to pass policies that could affect the profits of the media company owners. Hence the mainstream media were beholden to the government in more ways than a student publication like *Wansolwara* (See Narsey, 2013).

However, students had to be mindful of new pressures in 2006. For one, there was the Media Decree. For another, USP is owned by 12 Pacific Island countries, including Fiji. The Fiji government is USP's largest single financial contributor, providing around $36 million annually. Besides, three expatriate USP lecturers who had issued anti-government statements left the country and did not return to USP (Fiji PM opens, 2014; Narsey, 2013).

Vuibau and the student editorial team would have been aware of these contexts. Indeed, as a former USP journalism student from the Solomon Islands, Alex Akwai said, institutional pressures, applied or implied, can weigh heavily on student reporters' minds:

> Some hindrance comes from the institution itself in giving full authority to a campus-based student newspaper to be fully independent. It is a question of the degree of independence. How impartial will the paper be when it comes to reporting stories that will directly or indirectly affect the bigger learning institution as a whole? (A. Akwai, personal communication, January 16, 2015)

With regards to the expatriate lecturers, they may have felt that criticising the government was a legitimate part of their jobs as academics. From a student perspective, Vuibau was of the view that if 'you are brought in as lecturers, your first responsibility is to your students' (T. Vuibau, personal communication, 25 February 2015), In one sense, Vuibau found the lecturers' stance 'admirable', but said it was not entirely 'fair' on fee-paying students whose education was disrupted as a result of the clash with government. These competing issues and arguments, which are perhaps equally legitimate in their own right, were not present in 2000.

For Vuibau and his team, the challenge was to engage with the issues without getting

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involved in an open clash with the authorities. Taking calculated risks was deemed important for avoiding any further disruption to students' education and possible restrictions on student publications. Despite these pressures, Vuibau felt 'embarrassed' by the accolades that the *Wansolwara* team received from Fiji's media fraternity. He felt the comparison some were making between *Wansolwara* and the mainstream media was inappropriate:

> … the praises that I was getting from social media and also from my senior colleagues at *The Fiji Times* made me feel embarrassed because of the kind of environment that they work in. I was able to write freely at USP. And that is why it is very important to have an independent campus-based newspaper. (T. Vuibau, personal communication, 24 November 2014)

An enriching experience

Student interviews indicate that working on a student newspaper is an enriching experience for those who choose to fully participate in the exercise and make meaningful contributions. Solomon Islander Akwai, who now teaches journalism in his home country, said that holding an editorial position at *Wansolwara* provided a fair understanding of how a newsroom operated and what kinds of pressures to expect. His *Wansolwara* experience also influenced his teaching approach:

> Working for *Wansolwara* as a student reporter was indeed a wonderful and challenging experience. Coming out of such an experience has helped me in terms of working with my students, who are aspiring journalists. I always try to maintain the experience of a student and a reporter with my students by allowing them to treat the classroom as their newsroom. (A. Akwai, personal communication, 16 January 2015)

Students involved in the coverage of coups and related events found it to be an empowering experience. One student editor in 2014, Priya Chand, said that 'it's important to take some risk, move past self-censorship and uphold the principles of ethical and honest journalism'. Yaya, who covered the 2000 coup, said that:

> I enrolled in the journalism programme in 2000 and covering the coup was the best practical experience I could have asked for, particularly as a first year student with no field experience. Covering the coup in a way hastened my journalism career. It also sharpened my analytical skills and deepened my interest and knowledge of Fijian politics. (J. Yaya, personal communication, 12 January 2015)

Besides the firsthand learning experience, there are other reasons why a student newspaper could play a useful role in a country like Fiji. As Robie said:

> To some extent, the mainstream media, especially the newspapers, have been bitten by the Western media bug so prevalent in Australia and New Zealand today. Nowadays the media is focused on high profile 'entertainment' and 'infotainment' stories about celebrities, lifestyle and waffle. Quality student papers can carve out a

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niche for doing in-depth development and environment stories and issues. (D. Robie, personal communication, 18 January 2015)

Conclusion

This article has outlined *Wansolwara*'s coverage of the 2000 and 2006 Fiji coups in terms of the threats and opportunities. This case study highlighted that university-based student newspapers can play an important role in terms of providing training in real-life situations and contribute an alternative view in the discourse. Such publications can be strategic assets in the national media landscape, especially under a climate of state censorship. Reporting live enabled students to experience first-hand institutional pressures and how to cope with them. It also forced them to come to terms with the legislative environment on a practical basis. With regard to state and institutional pressures, a truthful understanding was required of how far it was possible to go without inflicting serious self-damage. Students gained practical experience in how to push the boundaries and provide a valuable public service without becoming a casualty of the law. The learning outcomes indicate that student reporters may benefit by being put into challenging reporting situations and taking calculated risks, rather than practise 'simulated journalism'. Real reporting provided students with some preparation for the real-world challenges they were bound to face in their future roles as journalists. *Wansolwara* reporters were exposed to the realities and challenges of practicing journalism, which some found useful when they started their professional careers. Being put into difficult situations allowed students to hone their problem-solving skills and work out innovative ways of overcoming obstacles. Unrestricted by commercial pressures, student publications can offer different perspectives on the coverage of historical events such as coups.

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NEW CALEDONIA

12. Making the case for a political ecology investigation into Goro nickel mine

Abstract: New Caledonia's Goro nickel mine, owned by Brazilian mining giant Vale, is unique in the world. The US $6 billion smelter, set over a vast biodiversity hotspot, is using high-pressure acid leaching treatment technology that has never been tested on such a scale. Over the past 10 years it has been the source of a series of environmental accidents, and the object of many conflicts, including intra-community conflicts (Horowitz, 2009, 2010). With multiple actors, complicated motives and set within a political and economic context of decolonisation and development, Vale New Caledonia's mining project at Goro in the south of the main island of Grand Terre deserves to be the focus of a multi-dimensional and nuanced journalism investigation. This article argues that to do so requires combining journalism as a research practice with a political ecology framework. This combination should ensure that the journalist has an in-depth understanding of the structures and processes of the field (Nash, 2014), enabling her to interrogate, map the visible as well as the visible, and avoid the superficial.

Keywords: decolonisation, development, environmental journalism, environmental risk, Indigenous rights, journalism as research, New Caledonia, nickel, political ecology, pollution

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MINING in New Caledonia is nothing new. For the past 150 years the exploitation of nickel has played a significant economic and political role in the small French Pacific Collectivity, as shown in the New Zealand documentary *Cap Bocage* (Marbrook, 2014). The territory of 250,000 inhabitants, with a vote on independence due before 2018, owns 25 percent of the world's nickel resources. However, until recently, New Caledonia only had one nickel treatment plant, 56 percent owned by the French group Eramet. In the last couple of years the situation has changed dramatically, with two new smelters starting production, one in the north of New Caledonia, the other in the south, at Goro.

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Brazilian mining giant Vale is testing on its Goro site an unconventional nickel treatment method called high-pressure acid leaching, or hydrometallurgy technology. If it succeeds at full capacity, it should allow the difficult extraction of low-grade nickel ore in the face of dwindling global stocks of high-grade ore. Yet acid leaching has proved difficult to master elsewhere, including in Australia, and it has never been trialed on such a scale. The treatment plant has been classified SEVOSO II, the highest level of industrial risk by European Union standards. The project includes a new coal power station and industrial port as well as limestone and sulfuric acid factories.

Production ramp-up started in 2012, but, since construction begun 10 years before then, the treatment plant has been plagued with a series of environmental accidents, and, at times, violent environmental protests against the mine, combined with intra-community conflicts (Horowitz, 2009, 2010).

In 2012, the author published a short investigation into the Goro nickel mine in the *Pacific Journalism Review*, entitled 'Sulphate Sunrise' (Gooch, 2012, p. 158). This article makes the case for the need for further research into the multiple dimensions of the Vale New Caledonia mine, this time using political ecology as a conceptual framework, combined with journalism as a research practice, in order to do justice to the complexity and rich nuances of the issues surrounding the project.

The reasoning behind this approach is that journalism may, in many instances, such as general news reporting, be defined as a non-reflexive craft, just like history or the law can be at times too (Bacon, 2006, p. 149; Nash, 2014, p. 78); yet, in other forms, particularly in investigative and/or long form (Bacon, 2006, p. 151), journalism can constitute an academic research practice that contributes new, original knowledge, with its own rigorous research methods and processes (Tuchman, 1978; Nash, 2014).

In order to achieve this journalism, as a research practice, requires an interdisciplinary framework that will provide it with an in-depth grasp of 'the processes and structures of the field' it is investigating (Nash, 2014, p. 83).

Given the complex socio-cultural-economic-political context within which the Vale New Caledonia mining project is embedded, this article explores how political ecology is, in this case, the most appropriate framework applicable as it 'allows us to examine the diversity of alternative ways of conceptualising and constructing nature-society relationships' (Horowitz, 2003, p.16). The focus of political ecology includes the 'political and economic contexts of community–ecosystem relationships' (Horowitz, 2008, p.260) and thus provides 'valuable insights into the interactions, at multiple scales, among various factors behind environmental issues' (Ibid.).

With its emphasis on a contextual approach, the author will demonstrate how political ecology can offer journalists a powerful toolbox to dig deeper and produce more nuanced and complex journalism.

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Case study: Sulphate Sunrise – a complicated story

In 2002, Canadian mining company INCO began the controversial construction of its high-pressure acid leaching smelter near the vast reserve of low-grade laterite ore at Goro. In 2006, Brazilian mining giant Vale took over Inco, and was in 2013 voted worst company in the world for contributing to build a hydroelectric power plant in the Amazon and for a host of alleged labour rights abuses in dozens of countries (Rapoza, 2012).

Vale New Caledonia is now worth US$6 billion, and Vale plans on eventually producing about 60,000 tonnes of refined nickel a year and 4000 tonnes of cobalt at its Goro smelter, to be, for the most part, shipped to China (personal communication with Vale, 2012).

Vale owns 74 percent of the mine and its smelter, New Caledonia's three local governments own 5 percent, and the remainder is controlled by the Japanese consortium, Sumimoto Mitsui SUMIC (personal communication, Vale, 2012).

However, more than 4000 fish, many listed as endangered by the IUCN, have died in a series of acid spills from the plant into a nearby river, the latest being in May 2014 (RFO, 2014). The river flows into the bumper zone of New Caledonia's UNESCO World Heritage-listed lagoon. An independent inquiry led by *Lloyd's Register* into the first major accident, which occurred in April 2009, noted the presence of faulty joints, inadequate safety designs and procedures, and professional negligence (Gooch, 2012, p. 161).

In September 2009, workers from the trade union Force Ouvrière presented the government with a list of grievances that highlighted mismanagement and amateurism at the mine (Gooch, 2012, p. 169). Other incidents since then include chemical burns to workers and in 2013, a passenger ferry narrowly avoided a 15 metre broken piece of the potentially toxic tailings' pipe that was drifting in the lagoon (INERIS, 2014).

The mine has also been at times the focus of violent Indigenous land rights protests. Many of those protesting also worked for Vale New Caledonia, and wished to continue to do so (Horowitz, 2010; Gooch, 2012).

In April 2006, at the height of the protests, prominent indigenous environmental group Rhéébù Nùù blockaded the mine for more than a month, sparking violent confrontations with French troops. In September 2008, many were then surprised when Vale convinced the blockade leaders to sign a Sustainable Development Pact. Raphael Mapou was one of the leaders of Rhéébù Nùù at the time, and a veteran of local politics. After signing the Sustainable Development Pact, he was tasked with the presidency of l'Oeil, a new environmental monitoring body for the south of New Caledonia, set up partly by Vale New Caledonia. Mapou said:

> I know that for many people, it felt as if we were simply giving up, especially for young Kanaks in their twenties, for whom this fight was the equivalent of the one we fought in the 1980s against France.
> But I warned them: if you want to keep on fighting to win, people will have to die.

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> And we fought in the 1980s for independence, but here we are nearly 30 years later and we are still in the process of decolonisation towards independence—if we ever get there. (Gooch, 2012, p. 167)

In May 2014, the second large acid spill became the sixth accident since 2009 and led to another round of furious protests by workers at the mine and local residents. However, World Wildlife Fund (WWF) warns that these more spectacular accidents are actually merely the 'trees that hide the forest' (WWF, 2013). WWF accuses Vale of endangering the 'exceptional biodiversity of the Great South and its populations' by less visible means. These include the destruction of forests thanks to sulfuric acid emissions as well as pollution of subterranean waters from the waste storage area.

Set within a complex political and economic context of decolonisation, Vale New Caledonia's mining ambitions have therefore raised important issues of trust, legitimacy, transparency and corporate violence for the country. While providing employment, education and community development support, Vale New Caledonia has also been the object of multiple conflicts, involving complicated motives and a clash of different perspectives on the environment.

As such it has shown how, contrary to Western expectations, (Filer & Macintyre, 2006; Macintyre & Foale, 2004; West, 2006) not all Indigenous peoples are eco-warriors and Indigenous views on development and conservation are as diverse as they are complex.

Political ecology as a conceptual framework

Scholars in political ecology are drawn from a variety of academic disciplines, including geography, anthropology, development studies, political science, sociology, forestry, and environmental history. All are united by a 'contextual approach to viewing ecological problems compared to more traditional, "apolitical" ways':

> The difference between a *political* and *apolitical* ecology is the difference between identifying broader systems rather than blaming proximate and local forces; between viewing ecological systems as power-laden rather than politically inert; and between taking an explicitly normative approach rather than one that claims the objectivity of disinterest. (Robbins, 2012, p. 13; original emphasis)

Critical cultural geographer Leah Horowitz suggests 'political ecology appeared in the 1970s when researchers began to challenge structuralist and functionalist notions of societies as closed, isolated and unchanging, and instead to examine them as parts of wider socio-economic and political systems' (Horowitz, 2013, p.15), 'as integrated into, and transformed by, a global economy' (Peet & Watts, 1996, p. 5, cited by Horowitz, 2003, p. 15).

Furthermore, according to geographer Piers Blaikie, 'environmental issues do not only become so (if at all) because of ontologically real changes in nature, but because

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they are constructed by social processes, successfully represented and launched' (Blaikie, 1999, p. 133).

Thus, in their 2003 review of the anthropology of mining, anthropologists Chris Ballard and Glenn Banks note how anthropology research had, in parallel with an expansion of mining in greenfield areas, also expanded in the two decades since the 1980s from 'an earlier focus on mining labour and the threat posed by transnational mining capital to the sovereignty of newly independent nation-states' to 'a much broader frame for inquiry that addresses the exceptional complexity of the relationships that coalesce around mining projects' (Ballard & Banks, 2003, p. 287).

Ballard and Banks also observe how that same period coincided with a growing recognition of the rights of indigenous communities and 'the increasing prominence of indigenous movements and non-government organisations dedicated to Indigenous rights' (p. 288).

Consequently, as a panoply of new actors has emerged on the front of the scene, 'so too is there an increasing awareness of the internal complexity of what had previously been considered the monolithic entities of community, state, and corporation' (p. 289). Yet, despite these questions and potential new areas of research, Ballard and Banks argue 'the anthropology of mining remains largely under-researched and under-theorized' (p.287). Instead, their research indicates that 'studies of mining have been persistently parochial and regional in their scope' (Ibid.).

Matthew Allen's (2012) political ecology research into resource capitalism and violent conflict in post-colonial Melanesia echoes these findings, as he highlights how 'in sharp contrast to the resource determinism, state-centrism and ahistoricism of much of the "resource conflict" literature, attention to governmentality and scale highlights the highly contextual and contingent nature of resource-related violence in Melanesia' (Allen, 2012, p. 159).

Likewise, Macintyre and Foale (2004) explore the political meanings embedded in local demands for compensation for environmental damage and highlight the disparities between local conceptions of the 'environment' and the global, Western ideas that inform environmentalist criticisms of mining. They dispute the "'romantic primitivism" of some environmentalist discourses' and contest 'the view that there is a natural conservationist ethic in Melanesia' (Macintyre & Foale, 2004, p.231).

Macintyre and Foale argue 'the image of the "noble primitive ecologist" that some environmentalists appeal to, would in most circumstances be rejected by Melanesians as racist and paternalistic, but is embraced as a strategy in conflicts with mining companies and when making legal claims for compensation' (p.231).

Using a political-ecology approach, Horowitz (2008) also explores the motivations of local people in initiating co-managed conservation projects on customary lands in New Caledonia. She found that 'local people viewed "conservation" largely as a means of reinforcing their cultural identity through preservation of their cultural heritage,

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grounded in the landscape, and strengthening their customary authority structure by reinstating people's traditional guardianship roles. However, at the same time, they hoped to promote economic development by encouraging tourism at the protected areas, with financial and technical support from the provincial government.' (Horowitz, 2008, p. 259; original emphasis).

Complex motives such as these are, according to Paul Robbins (2012, p.95), an example of 'apparent mismatches between practice and expectation and between "common sense" and complex reality', which is often at the heart of political ecological texts. These contradictions 'propel political ecology narratives to unravel knots and explain the unexplainable' (Ibid.).

Hence, while conflicts in Papua New Guinea may indeed be driven by disputes over resources, according to Banks 'they are better understood as conflicts around identity rather than resources' (Banks, 2008, p.23). 'In other words, resource conflicts are not conflicts over elements of the external environment, but are deeply embedded in the social workings of these different societies' (Ibid.).

Banks argues that 'the very different conceptualisation of natural resources in most Melanesian societies—as elements of the social as much as any external environmental sphere—means that resources become a conduit for local social and political agendas and tensions to be expressed' (Ibid.).

Political ecology is often pitted against the 'resource curse' school of thought, or the neo-Malthusian theory. According to resource curse theory, there is a direct correlation between the exploitation of a country's resources, and a lack of development, increased internal tensions, human rights abuses, and conflict at the national level (Ballard & Banks, 2003, p. 295).

The neo-Malthusian theory is closely linked as its argument rests on the notion of resource scarcity and environmental security. Anthropologists Nancy Peluso and Michael Watts (2001, p. 5), however, dismiss such 'automatic, simplistic linkages' between environmental scarcity and conflicts. Instead, they see 'violence as a site-specific phenomenon rooted in local histories and social relations yet connected to larger processes of material transformation and power relations' (Ibid.).

As an example, geographer Matthias Kowasch and political scientist Andreas Holtz (2014, p. 10) found that 'the resource curse and human conflict are broadly linked, but resource conflicts are generally more complex and there is no direct correlation between the two in either New Caledonia or Papua New Guinea'. They argue that 'all conflicts have their own history, and resource exploitation and uneven distribution of benefits are only "amplifying" factors' (Ibid.).

Setting the journalism research agenda

Journalism's academic pedigree has been the object of controversial debates since it first appeared in universities about 100 years ago (Lamble, 2004, p.85). For many, it has

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been seen merely as a 'hybrid, interdisciplinary mix of the humanities and the social sciences' (Reece, 1999, cited by Lamble). Lamble argues that the image of journalism as 'partly professional in outlook and partly academic' (p.85) has 'fuelled a perception that journalism lacks a formal academic methodology and, in that sense, it is seen as something of a bastard orphan discipline' (p. 85).

Yet, contrary to widespread perception, it can be demonstrated that journalism, particularly long-form and investigative journalism, is a research practice in its own right, with its own strict methodology and procedures that enable it to contribute new scholarly knowledge (Adam, 1993; Bacon, 2006; Nash, 2013; Nolan & Lester, 2011; Robie, 2014a, 2015; Tuchman, 1978). Journalist and academic Wendy Bacon, for instance argues that 'nimble, diverse and lateral methodologies of journalism produce fresh insights and verifiable "truth claims" which social scientists are likely to miss'. (Bacon, 2013, p. 23).

However, like other academic fields such as history or law, journalism itself is rarely its own subject of research, outside of media studies. Journalism as a research practice is interdisciplinary and 'requires a conceptual framework specific to the field of empirical focus, and that can only be supplied from the relevant field and associated discipline(s)' (Nash, 2014, p. 83).

That does not however imply that 'journalism becomes a subset of the relevant discipline, nor a mere exercise in popular communication on behalf of elements in that discipline' (Nash, 2013, p. 130). If journalists do not have an in-depth understanding of the field they are reporting on, their work risks falling into the realm of the superficial, whereby the 'why' and the 'how' are 'frequently left unanswered' (Carey, 1996, cited by Nash, 2014, p. 83). Carey argued that in such instances, the 'why' is often reduced to 'personalised motives of the protagonists'. This is a frequent occurrence in the Pacific, and in particular in terms of coverage of Pacific issues in the Australian media. What coverage there is tends to appear when there is a perceived crisis including the occupational political coup or dramatic natural disaster (Mason 2001, p. 57; Perrottet & Robie, 2011). When there is news coverage of the Pacific, 'it is usually a mere chicken scratch across the surface of the issues' argues Pacific media expert Lisa Williams-Lahari (personal communication, 2009).

There are many reasons for this, including journalists' lack of experience of time, costs and editorial policy (Nash & Bacon, 2002; Gooch, 2012; Robie, 2014b). However, when it comes to reporting on complex issues such as environmental conflicts, journalism's failure to report beyond the superficial can often be attributed to what journalist and academic Chris Nash argues is 'a lack of acknowledgement or understanding of the deeper structures and processes of a field and their relevance to the events or activities in the story' (Nash, 2014, p. 83). This is an argument echoed by journalist and media professor David Robie, who suggests environmental journalism in the Pacific, confronted with the threat of climate change, would benefit from a form of 'deliberative journalism' (Robie, 2014b, p. 73). A deliberative approach to journalism implies filing reports

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that are 'incisive, comprehensive and balanced so that the public can frame issues and understand the background and context of these issues' (Ibid.)

As argued by anthropologist Alex Golub (2007), there is already in anthropology a 'well-worn path of examining the "impact" of "global forces" on "local" people' (Golub, 2007, p. 627). Instead, an approach is needed that will enable the author to examine the Vale New Caledonia project within its specific historical, social and economic context, and will take into account the complex perspectives of the multitude of stakeholders involved.

Political ecology, through its interest in the themes of ecology, environmental knowledge and power (Robbins, 2012, p.86), is concerned with 'establishing a chain of explanations' that traces 'the contextual forces that constrain and direct more immediate outcomes' (p.88). Thus, political ecology provides journalism with an extra set of tools to achieve the common goal of challenging 'long-held assumptions' by tracking 'the historical process, legal and institutional infrastructures, and socially implicated assumptions and discourses' (Ibid).

In addition, journalism as a research practice can extend the concept of political ecology by grounding it with theories originating in sociology and geography, such as those of geographer David Harvey, sociologist Pierre Bourdieu and philosopher Henri Lefebvre.

Indeed, finding answers within a political ecology framework will mean 'shifting a single-minded focus on the destruction or degradation of nature to a serious consideration of the way the environment is produced, by people and non-humans together' (Robbins, 2012, p. 120). Robbins argues 'it is not discreet objects or events that make up socio-environments but relations and processes' (p. 94). Political ecology, he adds, rarely focuses 'on how individual things and variables cause outcomes or explain other things in a straightforward way, but instead how things and relations change by becoming entangled with one another' (Ibid).

Bourdieu, for instance, sees 'society as differentiated into a number of semi-autonomous fields (e.g., fields of politics, economics, religion, cultural production, etc.) governed by their own "rules of the game"' (Benson, 1999, p. 464).

Each field reproduces what is a larger societal division between the dominant economic and political power on the one hand, and dominated cultural power on the other, as each field is driven by the opposition between the 'heteronomous' forces, which are external to the field, and 'autonomous' forces, representing the specific capital unique to that field (Ibid.).

'To think in terms of fields is to think *relationally*,' argues Bourdieu, rather than structurally (Bourdieu & Wacquant, 1992, p. 96; original emphasis). 'In analytical terms, a field may be defined as a network, or configuration, of objective relations between positions' (p. 97).

Participants, like players, be they individuals or organisations, take positions in a field. 'At each moment, it is the state of the relations of force between players that defines the structure of the field' (Bourdieu & Wacquant, 1992, p. 99). If compared to a game,

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the moves a player makes will be dependent on the type and number of tokens she has in front of her, that is 'on the volume and structure of her capital' (Ibid.), which is in reality the education, resources and skill a player brings into the field.

To carry a study of a field requires three steps (Bourdieu & Wacquant, 1992, p. 104). 'First, one must analyse the position of the field vis-à-vis the field of power' (p. 104); 'second, one must map out the objective structure of the relations between the positions occupied by the agents or institutions who compete for the legitimate form of authority of which this field is the site' (p. 105); and third, 'one must analyse the habitus of agents'; that is, the manifestation of their capital 'acquired by internalising a determinate type of social and economic condition' (p. 105).

However, Bourdieu's fields are only a spatial metaphor, and therefore they need theorisation as material entities for journalists to be able to then conduct an empirical observation of those fields. Harvey's theory of the three dimensions of space provides journalists with the tools needed to understanding how the fields work in practice, beyond the spatial metaphors, while Lefebvre, who defines space as a social product with his own tripartite division, theorises spatial practices in a way that helps us to understand how fields interact and reproduce themselves through the production of space, linking back to political ecology.

Lefebvre defined space as a social product, albeit a concrete one, which is constantly being produced dialectically through the interaction, or intersection of a triad of the perceived, the conceived and the lived (1991, p. 38), or material space, representations of space and representational spaces (p. 46). Every society, or more accurately every mode of production produces its own space (p. 31). Social space incorporates social actions (p. 33) and the creation of space is a 'process' (p. 34). As such, Lefebvre argues that social space works 'as a tool for the analysis of society' (p. 34).

Lefebvre's concept of space and spatial practice can help explain the contradictions that are also at the heart of political ecology, such as that of Indigenous protesters working at the Vale New Caledonia mine. His triad provides an insight into how the protesters conceptualised this contradiction, and how they experienced it and lived it everyday.

Harvey also engaged Lefebvre in his own multi-dimensional categorisation of spatio-temporality. For Harvey, space is characterised by three frames of reference: the absolute, relative and relational (Harvey, 2006, p. 125). Absolute space is fixed and we record or plan events within its frame. We can use it 'to pigeonhole or individuate phenomena' (p. 121). In this case, the physical setting for the mine constitutes our absolute space, and so do the government offices in Noumea, or Vale's headquarters in Brazil, as well as the nearby villages.

Relative space comprises space in relation to time. According to Nash, it is 'space that is subject to the impact of movement, whether it be of objects or energy flows.' (Nash, 2014, p. 89).

Relational space, the third dimension, is the space of 'internalisation of forces and

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powers and of social relations' (Harvey, 2006, p. 121). The relational view of space holds there is no such thing as space outside of the processes that define it (Harvey, 2004, p. 4).

Although it is tempting to establish a hierarchical order between the three spatio-temporal frameworks, argues it is 'far more interesting in principle to keep the three concepts in dialectical tension with each other and to think of the interplay among them'. As such, in relative terms, the appeal of New York's Ground Zero to capital developers will be in dollar signs, 'according to a logic of exchange relations' (Harvey, 2006, p.136), whereas from a relational perspective, the victims' families will view Ground Zero in terms of memory and history (Ibid).

If Harvey's concept is applied to New Caledonia's Vale nickel processing plant, it can be recognised as a physical and legal entity that situates it in absolute space. The plant's position in relative space can also be determined given its location with respect to nearby villages, to the lagoon and surrounding bush land, and the flows of people, electricity, water, chemicals, market demands and money that sustain it as a place of production. Finally, Vale New Caledonia can be understood in terms of its relationality to development, to politics of decolonisation, to economic independence, climatic change, the sense of what is or is not a biodiversity hotspot, to safety values, and its significance as a place of personal and collective memories, cultural values, sentimental attachments, and the like. What happens to the refinery over time can only be fully understood, as Harvey may argue (2004, p.6), 'by working through effects constituted through the three forms of spatio-temporality simultaneously'.

So where to begin? In light of what has just been outlined, the first question asked by a journalist may be: 'What are the fields at play within the different spaces?.' There will obviously be a political field, environment field, media field, government field and cultural field, but what are the other ones, what are their structures, who are their participants and how do they all interact?

The mine will have different meanings, according to different actors, grouped in separate fields with their own cultural capitals and habitus, be they environmentalists, Indigenous land rights protesters, corporate managers, or women from nearby villages presented with the opportunity of independent, skilled work at the mine.

A journalist investigating the multiple dimensions of the Vale New Caledonia mine project will therefore need to identify what variables to focus on and what scales (Robbins, 2012). She must for instance delineate the panoply of stakeholders involved, their power relationships, and how they have engaged with each other, be it the trade unions, the Kanak villagers or the French government; analyse the accidents; investigate complaints of amateurism and negligence, and responses to those. Beyond that it will also be necessary to examine relevant local and international regulatory frameworks. This analysis will inform decisions such as whom to interview, for instance, and provide the author with a deeper understanding of stakeholders' motivations and their type of engagement in society, thus how different environmental problems surrounding the mine have been created.

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Conclusion

In conclusion, applying a political ecology framework to the Vale New Caledonia nickel project should provide an example of how journalism as a research practice combined with a conceptual framework within a specific scholarly field can contribute to producing in-depth, nuanced and complex journalism of a high standard of academic practice.

In light of the complexity of the issues surrounding the Vale New Caledonia treatment plant, from divergent perspectives on the environment to issues of negligence, trust, legitimacy, decolonisation and development, the analysis of this empirical focus requires a specific framework that can cater for the needs of a journalist by providing the relevant dissecting tools.

Political ecology, as a framework that deviates from well-trodden paths of simple cause and effect of environmental problems, and that, to the contrary, favours complex, contextual explanations beyond 'black and white' frames, offers journalism a range of rich, new perspectives on the structures and processes at play within the field of environmental conflict.

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PAKISTAN

13. Media, politics and the threats to journalists in Pakistan

Abstract: This article examines how the fundamental right of freedom of expression for news media in Pakistan continues to be threatened both by the government and conflicting parties, an issue that is compounded by the threat to the journalists' safety and survival. Giving examples of three Pakistani journalists who lost their lives after their investigations during the America's so called 'War on Terror', the article gives an account of the nature of the dangers and threats that are faced by the journalists in Pakistan who report on armed political conflicts. Drawing on the experiences of five other journalists, who were interviewed during research visits to Pakistan in 2012 and 2014, the author also reflects on the role of journalists in the light of the social responsibility theory and explores some of the factors that contribute towards making conflict reporting a dangerous business in Pakistan.

Keywords: conflict reporting, conflict resolution, Fourth Estate, freedom of expression, media freedom, Pakistan, social responsibility, 'trust bonus', watchdog

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JOURNALISM is considered to produce the first draft of history (Tomalin, 1969). Journalists follow the oral tradition of storytelling, but their 'stories' are the reporting of facts using their skills of observation, description and writing. 'To grow up in the profession was to discover a trove of impressions, claims, images and declarations' (Lynch, 2013, p. 2). The ideals of the journalists' role in society have been to inform and educate the public. They are the watchdogs in society, guarding the interests of the people, fulfilling their socially responsible role in society (Robie, 2004; 2014).

Journalists are often referred to as the Fourth Estate and the guardians of public trust. Indeed Siebert et al (1963) argued that journalists have a social responsibility to criticise those in power on behalf of the peoples and societies, more or less serving as their watchdogs (Siebert et al, 1963; Curran, 2011).

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Article 3 of the 1978 UNESCO Declaration states that 'the mass media have an important contribution to make to the strengthening of peace and international understanding and in countering racialism, apartheid and incitement to war' (UNESCO 1978, p. 1). The social responsibility of journalism, in Nordenstreng's opinion, calls for initiatives 'to systematically monitor what the media tell about the world with a view to improving media performance and contributing to media ethics' (2001, p. 1).

Moral responsibility to society, it thus follows, is an important obligation of journalists. According to Kempf, it is their goal. However, 'it is not an external goal imposed on journalism from outside… [but] results directly from the role assigned to journalism in democratic societies (Kempf, 2007). In return, Kempf argues, it rewards the journalists with the 'trust bonus' that the public gives to them; the faith that the journalists would 'comfort the afflicted, and afflict the comfortable'; that they would 'scrutinise the powerful on behalf of the powerless'; that they would give 'voice to the voiceless'. The public trust bonus is thus collective in its application. It implies 'the willingness' of the people to believe in the credibility of journalists, to give them access to information and to share their thoughts and experiences. The watchdog role of journalists owes a great deal to that 'trust bonus' (Kempf, 2007).

But what happens if the equation is reversed? What happens when this 'trust bonus' is withdrawn, especially if it is a conflict that is as much about politics as about religious beliefs and ideologies; when journalists are not given access to the conflict; when no information is available to them about the human suffering; when there is no opportunity to capture images and when all the parties in the conflict, including the local community, are not willing to trust them? The case in point: Pakistan's tribal areas.

Pakistani journalists and the war in tribal areas

Kabir building is located in the heart of Quetta—the capital city of Balochistan, which is one of the four provinces of Pakistan and closest to the tribal borders of Afghanistan where the so-called US 'War on Terror' has been taking place since 2005. Kabir building is known as 'Quetta's Fleet Street where national and international media offices jostle for space in the 1950s building compound' and discuss their stories (Intermedia Pakistan, 2011, p. 3). Most of the conversation revolves around which stories should be 'filed' and which should be 'killed'. The test question is always the same: 'is it worth your life?' (p. 3)

The irony—and the gravity—of the situation is not lost to anyone who believes in the media's right of the freedom of expression. Not even to those living in Pakistan, a thickly populated country that has survived three military regimes, two dictators and three wars with neighbouring India within its short life of 68 years. Since 2005, Balochistan has been the military base for the US forces, to launch drone attacks in the so-called 'War on Terror' against the Taliban after 9/11.

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The long porous border with Afghanistan has meant an influx of Taliban leadership into the Pakistani tribal areas bordering in the region (Mir, 2009). The War on Terror was also fought in Pakistan's other Federally Administered Tribal Areas (FATA) from 2005 till 2012. These tribal areas lie in the remote region of the North-West of Pakistan also bordering Afghanistan.

The special report *Press in stress: Media under threat in Balochistan* was compiled by Intermedia Pakistan in 2012 and contains the findings of the 'Assessment Mission' that went to Balochistan in 2011 to determine the state of media in the country. It was supported by the Pakistan Journalists Safety Fund (PJSF), an initiative run by an independent Steering Committee of Pakistan's renowned journalists and human rights activists, and managed by the Pakistan Union of Journalists and non-governmental organisation Intermedia Pakistan.

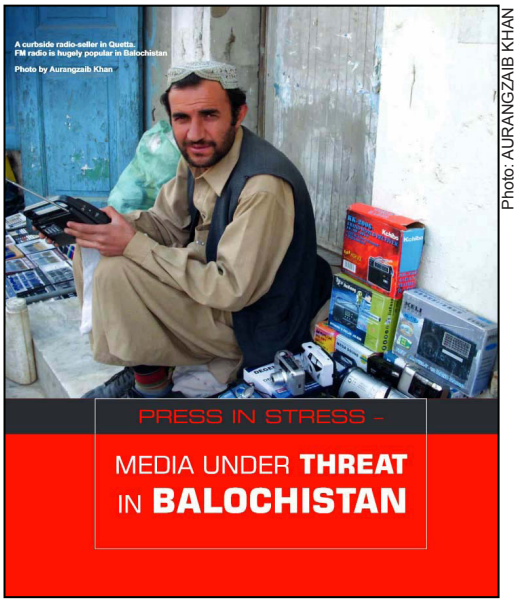

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Figure 1: The *Press in Stress* report in 2012. Shown in the cover image is a curbside radio-seller in Quetta. FM radio is hugely popular in Balochistan.

The report is a revealing example of how fragile and insecure are journalists' lives when reporting on the political imbroglio in Balochistan. It notes that approximately 76 journalists in Pakistan were killed for doing their job and investigating events between January 2000 and December 2011 alone, making Pakistan one of the most dangerous countries for journalists in the world at the time. Reporting in Balochistan has become 'the toughest beat one can ask for'.

> Torn between duty, ambition—the relentless drive, that is breaking news, to keep a job or hunger for scoop—and the anxiety to stay safe, journalists in Balochistan are watchful of both news and the consequences of reporting it. (Intermedia Pakistan, 2012, p. 3)

Reporting on the US 'War on Terror' fought in Balochistan and the FATA has cost many Pakistan journalists their lives. But it also provides a 'unique case' in the analysis of journalists' role in an armed conflict led by the US forces on Pakistan's soil. Despite Pakistan being the epicentre of the conflict, there is no access for local or foreign journalists to cover the conflict. The foreign journalists are looked upon as spies and the local journalists not only face death every day, but are also looked upon with mistrust by the government as well as the local community (Aslam, 2010). The local Taliban's

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approach towards the media is even worse. They are hostile to the presence of any outside media person, considering them all 'Western spies' (Dietz, 2006).

Some cases are discussed below to demonstrate how journalistic investigations into stories led to journalists being harassed, kidnapped, tortured and killed:

Hayatullah Khan

A young journalist in his 30s, Hayatullah Khan was a reporter for the English language daily *The Nation* and the Urdu newspaper, *Ausaf*; he was also the general secretary of the Tribal Union of Journalists (TUJ) and had been covering the US-led 'drone attacks' in Waziristan since the beginning. Hayatullah was kidnapped by gunmen in January 2006 and found shot in North Waziristan six months later on 16 June 2006. His family and many others believe he was kidnapped and detained by the security agencies for his reporting on US military action in tribal areas. According to Aamer Ahmed Khan, who reported his death on BBC News Karachi (Mystery of murdered tribal journalist', BBC *Online News*, Karachi, June 19, 2006). Hayatullah Khan was the first journalist to show the remains of the drone after one attack, in the midst of the US denial of drone attacks on the tribal village

The report said the Pakistan government officials were 'furious' because of his 'independent reporting'. 'Mr Khan went missing after reporting that al-Qaeda suspect Abu Hamza Rabia had been killed in a US air strike—and not in an accidental explosion while making a bomb, as claimed by Pakistani authorities','it said.

Mazhar Abbas, secretary general of Pakistan's largest journalist union, pointed at the government as 'the prime accused' in Khan's report. 'Unless it can pinpoint and arrest Hayatullah's murderers, it may be impossible for the government to shake off the allegations of being guilty of killing a journalist,' he was quoted as saying in the report.

Dietz, Asia programme coordinator of Committee to Protect Journalists (CPJ) —a New York-based independent, non-profit organisation that promotes press freedom worldwide – led an inquiry mission to Pakistan in July 2006 (www.cpj.org). His report, 'The last Story: Hayatullah Khan' (Dietz, 2006), said that the dead journalist was no stranger to trouble in Pakistan's troubled tribal areas. 'In 2002, US forces in Afghanistan's Paktika province detained Khan for four days. Over the years, he was threatened by virtually every regional faction: Pakistan's powerful Inter-Services Intelligence division (ISI), the military, the Taliban, and al-Qaeda,' he wrote.

> Whatever role, if any, the government played in Khan's killing, it appeared to engage in a cruel misinformation campaign during his six-month disappearance. As Khan's family careened between government sources in search of information, the official account morphed from one month to the next: Khan was in government custody, soon to be released; Khan had been abducted by 'miscreants'; he had been taken by Waziristan mujahedeen; he had been flown to the military base at Rawalpindi and then detained in Kohat air base…a regional government agent, summoned family

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> members on May 15 to say that the journalist was at the US-run Bagram air base in Afghanistan. (Dietz, 2006)

'Of the eight journalists murdered in Pakistan since 2002', Dietz also reported, 'only the case of the American, Daniel Pearl, has been investigated to any result or degree of competence'.

Chandran (2006) argues in his article that while the murder of Daniel Pearl (South Asia bureau chief of the *Wall Street Journal*) at the hands of Taliban in February 2002 attracted much attention and occupied the headlines, the Taliban ban on media in the region had gone largely unnoticed. For instance, two journalists working for the *Frontier Post* and Khyber TV, Amir Nawab Khan and Allah Noor Wazir, were killed in Wana town by the militants in February 2005. Some were luckier: Dilawar Khan Wazir, a Wana-based journalist working with BBC World Service, was warned with a bomb in his compound after he participated in a Voice of America radio programme in December 2005. 'Militants have repeatedly issued threats against any adverse reports, both in the electronic and print media,' Chandran (2006) wrote online.

Syed Saleem Shahzad

An Islamabad-based investigative journalist, Syed Saleem Shahzad, 40, wrote for leading European and Asian media. He worked for the Italian news agency Adnkronos and was the bureau chief of *Asia Times Online*, Hong Kong. He reported on the naval base attack on 22 May 2011 that took 17 hours to repel. The Taliban had claimed responsibility, saying the attack was carried out to avenge the US killing of Osama bin Laden in Pakistan (Waraich, 2011).

According to the news report, Shahzad's last piece was an investigative report that al-Qaeda had carried out the attack on Pakistan's naval air base on 22 May 2011 to avenge the arrest of naval officials arrested on suspicion of having Al-Qaeda links (*Times,* 31 May 2011). Shahzad had alleged that the attack was facilitated by someone in uniform. There had been rumours for months about some navy personnel picked up by intelligence agencies for links to jihadi groups, but the veil of secrecy was tight and media reports had not got very far on the details.

Shahzad went missing the next day after he left his home in the capital city Islamabad to take part in a television talk show, but never arrived. His body was found two days later about 150 km southeast of Islamabad. Police said it bore marks of torture.

The kidnapping and brutal murder of Shahzad created a furore in the national and international news media. The news report on Dawn.com, 3 June 2011 termed the incident 'the perennial squeeze on the truth' and warned that 'burying the truth and journalists like Saleem Shahzad is [not] making Pakistan any safer or stronger' (www.dawn.com, 2011; also see Saleem, 2011).

The Guardian in a report published on 13 June 2011 said that 'chasing the truth' was

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a 'perilous business' in the myriad politics in Pakistan and that the country had become 'the world's deadliest beat for journalists'. *The Times* published on 31 May 2011 that the disappearance of Shahzad was 'a reminder of the multiple hazards faced by journalists working in Pakistan.' *Asia Times Online*, for which Shahzad worked, published a report 'Who killed Syed Saleem Shahzad?' on 4 June 2011 saying:

> Whoever is responsible for Shahzad's barbaric murder, one thing is for sure - he will not be the last journalist to have sacrificed his life for uncovering the truth, as there are many more newsmen in Pakistan who firmly believe that the 'truth' remains superior to the so-called 'national interest'.

Assassination attempts

On World Press Freedom Day this year, the Intermedia Pakistan, a media-related NGO, launched its annual report, *State of Media in Pakistan 2014*, giving an analysis of key developments and trends in Pakistani media covering the period 3 May 2013 to 3 May 2014. In its executive summary, it reported the 'targeted killings of five journalists and three media workers'; 'assassination attempts against senior journalists including Hamid Mir and Raza Rumi'; and 'the issuance of a fatwa by the proscribed Tehrik-e-Taliban Pakistan (TTP) that formally declared media a target' (Intermedia Pakistan, 2014, p. 5).

According to the report (pp. 8-9), on 19 April 2014 prominent private television channel Geo TV anchor Hamid Mir, of the popular current affairs programme *Capital Talk,* was shot in his car near the airport in Karachi minutes after he landed and made his way to his office. Unidentified gunmen in a car and motorcycle tailed him before opening fire, and continued to fire as the vehicle carrying Mir sped away to safety. He sustained six serious gunshot wounds, but survived after being rushed to hospital. Hamid Mir's brother, Amir Mir, himself an investigative journalist of repute, blamed the Inter-Services Intelligence (ISI) for the attack minutes after it occurred on live TV. Hamid Mir himself had declared in his talk show that if ever he was killed, the government's intelligence agencies would be responsible. He had done it as a precautionary measure against possible attempts on his life. Almost years previously, Hamid Mir had narrowly escaped a car bomb planted by the Taliban in November 2012 as they were 'angered over his and other journalists' positive reportage of school girl campaigner Malala Yusufzai' (who received the 2014 Nobel peace prize), says the Intermedia report 2014.

The report also gave an account of journalist and writer Raza Rumi, who on 28 March 2014 narrowly escaped an assassination attempt. His driver Muhammad Mustafa was killed and a guard sustained grave injuries. Unidentified armed men opened fire on his car as Rumi, a news show anchor from *Express News* TV channel, was returning home after hosting his nightly current affairs show in Lahore (Punjab province). Police recovered 11 bullet shells from the car. 'The car was sprayed with several bullets and Rumi was able to save his life by ducking between seats in the vehicle's rear' (Intermedia Pakistan, 2014, p. 8).

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In an article, 'Pakistan deadliest place to be a journalist' published online on 13 June 2011, *The Guardian* correspondent Dulcan Walsh, reported that Umar Cheema, another senior correspondent for Pakistan's English language daily *The News*, was abducted from Islamabad in September 2010. 'Bundled into a jeep and blindfolded, he was taken to a safe house where he says he was stripped, beaten with a leather strap and threatened with rape. After seven hours he was dumped on a road in rural Punjab.'

'The causes of these deaths are as varied as Pakistan's myriad conflicts', declared *The Guardian* in the same report. 'Some are caught in suicide blasts; others targeted by Taliban militants or Baloch insurgents. In Karachi, several reporters have been gunned down as part of the city's vicious political wars'. The Intermedia's report (2014, p. 6-7) also gives a detailed account of how the threat to journalists has surged from tribal areas to include other political conflicts. On 21 August 2013, Abdul Razik Baloch, a subeditor for *Daily Tawar*, was found tortured to death in Karachi where he was based for his reporting on the provinces' turbulent political events. On 11 October 2013, Ayub Khattak, working as a reporter of the *Karak Times* in Karak, was shot dead outside his residence. 'He appears to have been killed for reporting crimes, especially the sale of drugs in his city', the report says. On 1 January 2014, reporter Shan Dahar, working for *Abtak TV* channel in his hometown of Larkana, was shot in the neck and later died in the hospital. The report cited his employers as saying that he had been receiving threats for reporting 'on the sale of spurious and expired medicine at hospitals and medical stores in Larkana' (p. 6). On 17 January 2014, unknown gunmen on motorcycles shot dead three media workers of the *Express* media group in Karachi. Banned Tehreek-e-Taliban (the Taliban movement) Pakistan claimed responsibility for the attack. Technician Waqas Aziz Khan, driver Khalid Khan and security guard Ashraf Arain were killed on the spot as they sat in the *Express TV* DSNG van. Reporter Bakhtaj Ali of the weekly *Manzar-e-Aam* was kidnapped by unknown people on 28 January 2014 after receiving threatening calls for his reporting. His beheaded body bearing severe torture marks was found on 30 January 2014 in Mardan. On 2 March 2014, Ayub Tanoli, photographer for Reuters news agency and reporter for dailies *Mahasib* and *Shumal* was shot in the neck in his hometown of Abbottabad (Khyber Pakhtunkhwa province) by unidentified gunmen. He died on March 3, 2014. According to the Pakistan Federal Union of Journalists (PFUJ) and local Abbottabad Union of Journalists (AUJ), he was under threat for his reporting and had been provided police protection for two months before he was killed.

These examples highlight the magnitude of the problems facing Pakistani journalists engaged in conflict reporting in a situation like this: when they have no access to the conflict; when no information is available to them about the human access to the conflict; when no information is available to them about human suffering; when there is no opportunity to capture images and when all the parties in the conflict, including the local community, are not willing to trust them.

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Factors contributing to the threat to journalists in Pakistan

This section of the article discusses the various factors that contribute to the situation prevalent in Pakistan's case in the light of the media's role in reporting conflict. The arguments are based on the author's doctoral research on the subject, including the interviews conducted with five Pakistan journalists during her visits to Pakistan in 2012 and 2014 (see Aslam, 2014).

Media and conflict

Conflicts are 'a central part' of human lives (Hamelink, 2011, p. 11) and journalists 'an active part of any conflict' (Tehranian, 2007, p. 2). The power-play between the government and the opposition as manifested in the conflicts is watched, analysed and reported by the journalists. The government's role is to establish the 'authoritative allocation of values for a society' (Easton, 1953; cited in Isaak, 1975, p. 19). On the other hand, the journalists in their watchdog role question these values and the methods employed by the government. The tension between the two sides manifests when each tries to claim and dominate the public sphere of communication, the media space (Hackett, 2007).

According to Castells, the 'historic shift of the public sphere from the institutional realm to [a] new communication space' has made media the platform for social dialogue and power play (Castells, 2007, p. 238). Media have become 'the social space where power is decided'; he argues (p. 238). But news nowadays is not only about power, money or politics; it is also about 'entertainment' (Harcup & O'Neil, 2001). The advent of the digital revolution and new media technologies has made news more 'entertaining, interactive and instantaneous' (Aslam, 2010, p. 346). It also gives people 'unprecedented access to global events, with immediate and detailed reporting of war'. In a paradox, it has also became the tool for state propaganda; a means 'to inculcate and defend the economic, social and political agenda of privileged groups that dominate the domestic society and the state' (Herman & Chomsky, 2002, p. 298).

The media assume 'a central role in international affairs' because 'citizens are dependent on media to provide timely, credible information of distant events' (Ross, 2007, p. 54). And journalists act as the communication agents to provide this information. Communication itself 'is a crucial determinant in conflict and conflict resolution: it creates consciousness of, and attentiveness to, the other' (Peleg, 2007, p. 26). The 'information failures' of the media in providing timely and credible information can become a 'primary contributor' in escalating the conflict (Lake & Rothchild, 1996, p. 73). Such failures occur when the media constructs and reinforces a simplistic or negative portrayal of those representing the other side (Hofman, 1972; Ibrahim, 1972).

'Decades of study of the role of media in ongoing conflicts suggests that media rarely report conflict neutrally', argues Ross (2007, p. 57). In her study on deconstructing conflict reporting, she points out several factors that contribute to the contemporary reporting of conflicts: such as the government pressures, political influences, propaganda mechanism,

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foreign policy issues, commercial considerations, structural constraints, political cultures, norms and traditions of societies and nationalistic emotions. Under these influences, the media frame the news on conflict in ways which serve the hidden or prominent interests of the various players in the conflict (Ross, 2007; Herman & Chomsky, 2002). For instance, after the Gulf War of 1991, many Western journalists claimed they had been duped by the US-led forces (Keeble, 2010). Several reporters gave accounts of how they—despite their ideals of professional objectivity and social responsibility—became obsessed with the military jargon surrounding the sophisticated weaponry. 'Iraqi civilians were reduced to 'targets' and the night air raids were described as 'fireworks'. The horror of the mass slaughter of Iraqi soldiers and citizens lay hidden behind claims of 'heroic victory' (Aslam, 2010, p. 336).

Freedom of expression

Pakistan's constitution grants the people and the media freedom of speech and expression. The Article 19 of the 1973 Constitution declares:

> Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security, or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offense. (Article 19, 1973)

It is apparent under the constitution that while every citizen has the right to freedom of speech and expression and there is freedom of the press. However that 'freedom' is conditional to '*any reasonable restrictions imposed by law'* without making clear what is meant by the phrase '*reasonable restrictions'* (Nizami, 2013). The very fact that such conditions are '*imposed by law'* renders them questionable. The only further explanation given in the Article is that these restrictions can be forced 'in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence'—terms and phrases that are neither explained nor defined. Their meaning and application can be subjective and relative to individual interpretation or interests.

The same limitation applies to the journalist's right to information—Article 19(A) of the Constitution of Pakistan grants every citizen 'the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.' There is little doubt how limited the scope for freedom of expression is for the local journalists and how great the risk of being manipulated by the political government and its agencies.

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Pakistan's media have undergone massive change over the past decade. Until 2004, there was only one state-owned television channel, one national radio station and five regional radio stations. Since former president Pervez Musharraf liberalised the television sector in 2004, the number of TV news channels has increased to dozens. The boom has created thousands of jobs and fostered a vigorous culture of debate (*The Guardian*, 2011). But there have also been negatives.

> Reporting can be reckless, with some channels spreading lurid conspiracy theories in pursuit of ratings. Military and civilians leaders use the media to manipulate public opinion through bribery, intimidation or coercion. And clear 'red lines' about what is permissible still exist. (Walsh, 2011)

In the case of the assassination attempt on Hamid Mir's life mentioned above, the allegations against ISI turned into a 'war of words' between Geo TV and the military, according to the Intermedia's new report *Annual State of Media in Pakistan 2014* (p. 9). The military asserted that privately owned Geo TV, by making allegations against ISI, had been 'unpatriotic' and 'treasonous.' A reference was also filed by the Ministry of Defence, on request by the security agencies, to Pakistan Electronic Media Regulatory Authority (PEMRA) 'to ban Geo TV for bringing the armed forces in disrepute through unsubstantiated allegations'. A three-member Judicial Commission was established to probe into the attack on Hamid Mir and 'to recommend measures to combat impunity against journalists in Pakistan,' the report adds (p. 9). The media reports on Hayatullah Khan's disappearance also mentioned the fact that the government and the military did not like his independent reporting.

What happened to the journalists discussed in the above section is a reflection of the direst consequences of the conditions imposed in Article 19 and 19(A) which make investigative reporting against the 'armed forces' or 'the friendly states' or the so-called custodians of the 'glory of Islam' so dangerous for the journalists. It is what provides justification to all the conflicting sides to 'target journalists arbitrarily and with brutality' (*Times*, 31 May 2011).

Propaganda, lies and secrecy

Propaganda and secrecy are the hallmarks of all conflicts, which makes it difficult for the journalists to seek truth. Lynch & Galtung (2010) argue that news coverage in most conflicts is fed on 'embedded journalism' and the 'communiqués from the top military command' (Lynch & Galtung, 2010, p. 17). In an age of globalisation, new media technologies and visual images, 'we are immersed in war propaganda; our media relations, our very medialised existence perhaps, is saturated in it' (Lynch, 2010, p. 81). Jowett and O'Donnell (1999) define propaganda as 'the deliberate and systematic attempt to shape perceptions, manipulate cognitions and direct behaviour to achieve a response

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that furthers the desired intent of the propagandist' (Jowett & O'Donnell, 1999, p. 6). 'News is the ideal vehicle for this because it weaves images and snippets of information into what Gaye Tuchman calls 'a web of facticity…[i.e.] to flesh out any one supposed fact, one amasses a host of supposed facts that, when taken together, present themselves as both individually and collectively self-validating' (Tuchman, 1978, as cited in Lynch, 2010, p. 72). Journalists' investigations, it means, have to find a way through information shrouded in propaganda, misinformation and secrecy. Add to it the slippery road of the freedom of expression and speech as outlined in the Article 19 and 19(A) of Pakistan's Constitution 1973, and the stories of Hayatullah Khan, Saleem Shahzad, Hamid Mir and the others do not come as a surprise.

The initial accounts of media-related NGOs, like Internews Pakistan, in June 2006 showed that within the first six months of the War on Terror, at least 20 journalists in the tribal areas were killed, kidnapped, arrested, tortured or threatened by the local administration, the law enforcement agencies and the Taliban. The Pakistan Press Freedom Report (2007) added that 'most journalists in tribal areas have either been forced to give up their profession or leave their home town. The few that remain, limit their coverage to innocuous topics such as school functions and activities of administration officers.'

Since then, the only source of information left in the tribal areas is provided by the Inter Services Public Relations (ISPR) which is the army's official agency (Aslam, 2010). Its news credibility remains 'questionable as most of it is written in and disseminated not from the conflicted areas but its offices in Islamabad' (p. 348).

ISPR claimed dozens of Taliban leaders had been killed yet not a single photograph was released to the press in the first five years of the conflict. It claimed that the tribal area of Swat was cleared of all Taliban elements yet the Radio News Network reported on 21 July 2009 that the Taliban were running an FM radio station—just days after the internally displaced people (IDPs) from the valley were allowed to go back to their homes. Before the military operation in Swat began in April 2009, an estimated 88 FM radio station were estimated to be operating illegally in the area, mostly by the Taliban (Aslam, 2010, p. 348).

The reports of the Taliban leader Baitullah Mehsud being killed in the drone attacks came in August 2009. Lanche (2009), a research intern at the Institute of Peace and Conflict Studies (IPCS), wrote in an article that it was a fact that a missile strike had destroyed Taliban leader Baitullah Mehsud's father-in-law's house in Zanghora, South Waziristan, on 5 August 2009. But ironically 'no one knows for sure if the Tehrik-i-Taliban Pakistan (TTP) chief was either killed or injured in the blast,' he wrote. 'Since then, various contradictory statements have been made by US officials, Pakistani intelligence and Taliban commanders to confirm or invalidate Mehsud's death.' The US media reported in the affirmative, followed by the confirmation by Pakistan's foreign office official and the Interior Minister but denied by the Taliban. Lanche concludes:

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> … neither the government nor the Taliban have been able to produce any material evidence that TTP's charismatic leader is either dead or alive. 'Time will reveal the truth', most Pakistani commentators say. But patience will be required here, for one cannot step [into] South Waziristan to confirm the facts so easily. (Lanche, 2009)

Players and interests

Also pertinent to the discussion is the issue of the interests and stakes of the involved parties in the conflict. Lynch & Galtung (2010) argue that there is a tendency to see conflicts as a game between two sides fighting to win the game, ignoring the underlying geo-economic, geo-political and geo-cultural aspects of the conflict. In real-life conflicts, 'there are never only two parties (teams), never only one ball, the field is tilted, not even, and the numerous parties are not necessarily playing the same games with the same balls' (Lynch & Galtung, 2010, p. 6). 'Some parties are not playing at all, are only around hoping for some spoils to pick up' (p. 6).

In the case of the War on Terror, the game is complex, the players many and the stakes high. Pakistan, with an area of 796,095 sq. km, is an Islamic Republic located in the South of Asia sharing borders with Iran, India, Afghanistan and China. Offering the only gateway to the land locked Central Asian Republic States, Pakistan occupies a geopolitically important location at the crossroads of South Asia, the Middle East and Central Asia (Mohiuddin, 2006). The War on Terror is America's war against the Taliban being fought on Pakistani soil but with equally high stakes for the neighbouring countries India, China and Iran (Mir, 2009). And while the Taliban movement might have roots in Afghanistan, they are equally settled in Pakistan's tribal areas and have even adopted Pakistani citizenship. The people of Pakistan are divided on the issue as to what extent the government should help America wage a war against their own (Mir, 2009).

After almost a decade of the conflict, all journalists the author interviewed in her visits to Pakistan in 2012 and 2014 want to see the conflict in Pakistan end, issues resolved and peace restored. But what version of 'peace', is another matter entirely, says Tanveer Shazad, a freelance photojournalist for AP and Reuters who has covered the conflict extensively over the years. 'Whose version of peace are we talking about? America's? Afghanistan's? Pakistan's? Taliban's? The Tribal Areas'? Or the neighbouring countries?,' he said in an interview with the author. In his opinion, 'each player's definition of peace is linked to their interests'. America would like to see the Taliban eliminated; Pakistan would like to slide back peacefully into America's good books politically and economically; the Taliban want their hegemony in Afghanistan; the tribal areas want the Pakistani and American forces to back off and to regain their independent existence; India prefers to see Pakistan lose its political and economic footing in the region so as to tip the regional balance in its favour; and China sees the conflict as a threat to its economic stakes in Pakistan as well as in the region. 'There are as many versions of peace as are the players and stake holders,' he said (Interview, 7 April 2012).

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Training, support and attitudes

Among other factors discussed in the above section, the Intermedia's special report on Balochistan 2012 acknowledges that the threats and dangers faced by the journalists in Balochistan are compounded because they are 'less qualified, ill-equipped, inexperienced and not trained', especially when there is no organisational support system at any level for them (p. 17). They are learning conflict reporting the hardest way, it says—'by risking their lives' in their efforts to keep the flow of information running, 'uncluttered from the all-round propaganda that permeates the province'. (p. 2)

Unfortunately, the incidents of violence against journalists have become so common that it has created apathy and indifference in newsroom offices also. This is reflected in the story of Ahmed Bilal, the 27-year old cameraman assigned to the TV reporting team to cover Taliban activities along the areas of North and South Waziristan, Khyber Agency and other tribal areas where they have a stronghold. He was kidnapped by the Taliban in 2011, imprisoned for several days and then released. Bilal was one of the few lucky ones to have survived the experience, mainly because he was a local journalist and knew the Taliban's language and customs. But feeling helpless and captive, not knowing how long he would live, admitted Bilal, was nonetheless a harrowing experience for him. When he was released by the Taliban after re-assuring them that he was 'not a spy', there was another surprise waiting for him in his office. 'So when I came back to my office afterwards, they looked at me and said: "Oh, you are back. Good. What's up?"' (Interview, April 7, 2012)

Bilal's recount of what he called 'the remarkable apathy' on the part of his colleagues towards him reflects two things about the mindset in the newsrooms in Peshawar. First, that the media organisation takes no responsibility or liability regarding the risk to a journalist's life, property or job. And second, he added, the threats to journalists in the form of kidnappings and killings have become so common that they have become a routine matter—nothing to be worried or excited about.

As the author talked to Bilal (Interview, 2012), he laid out a list of what was lacking in the 'organisational support system' to provide health and safety for journalists when they covered conflict areas in Pakistan. It included no background briefing, no formal training on survival techniques, no additional expenses and no transport from the organisation. In the case of injury, he added, there is no medical or life insurance by the organisation and no disability allowance in terms of financial benefit. According to Bilal, it affects intensely the Pakistani photojournalists and cameramen more who have to rely on either the reporter for his knowledge and experience, or on the party they are travelling with—the armed forces or the tribal people. The training on first-aid was given to them once, said Bilal, 'but it was organised by the Peshawar Press Club and funded by an NGO. No news organisation does it.' In Bilal's own case, there was no post-trauma therapy or care provided to him by his organisation after he came back from his ordeal.

Another senior photojournalist, Abdul Majeed Goraya, who worked with Bilal several

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times on assignments, endorsed Bilal's comments. He recalled an incident in which he and his team were shot at by the soldiers at a check-post that borders the tribal Mahmund Agency. They ran for their lives but the driver got shot in his back and was disabled for the rest of his life. 'He got no compensation for getting injured while on duty; rather he lost his job and his savings. In the end, other journalists in the city and members of the press union collected some funds to help him,' he said (Interview, 7 April 2012).

There is also no job security or reward for the journalists for risking their life. 'Most of the time we are on our own when we travel on such assignments. We don't get any money for travel fare, food, lodgings or transport,' Goraya said. 'Sometimes we get reimbursed—for instance if we get good stories and pictures—but not always'. Their incentive is their byline or what gets sold to international news agencies like Reuters, AFP or AP etc.

But Goraya said that this was accepted by many photojournalists. What disturbs them more, in his opinion, was the risk to their equipment in case of breakage, accidents or confiscation by the army or government agencies. 'The first thing that happens when they don't want us to film and take photos is that they break our cameras and recorders. That's the worst part. So the first thing we do on such occasions is hide the equipment,' he said. He conceded that it may seem ironic to worry about one's equipment more than one's life. But the equipment is very expensive, is the personal property of the photographers and not provided by the organisation; hence it is seldom insured. Getting it broken or confiscated can effectively cripple their work and livelihood, he pointed out. Without hopes of an insurance covering it, the loss can be too great for many photojournalists to take lightly.

The only thing that the Pakistani journalists get when they are travelling with the army is the protective jacket. 'But many of us cannot use them,' said Bilal. 'They are the military jackets provided by the American army and easily recognised by the locals and the Taliban. We will be considered a spy and shot before we can say "surrender",' he explained albeit laughingly. Moreover, the design of the jackets does not provide an 'adequate cover'. Upward they can protect the chest, 'but what about the rest of the body—the arms, the head, the spine and the legs', said Bilal. 'A bullet in any of these parts can be equally dangerous.'

In Shahzad's opinion, the photojournalists face greater threats and dangers than the reporters and hence have a tougher job to do. 'Reporters have many sources on their hand and can write a story sitting on their desks and getting information on their phone or computer. It is secondary information but a much safer option. But a photojournalist needs to be on the spot where things happen,' he explained.

> Moreover, photojournalists need greater presence of mind and energy to make on-the-moment decisions and judgement calls. Sometimes having other people around hinders their creativity. So they work best when they are on their own and, therefore, they are exposed to greater risk to their life and equipment. (Interview, 7 April 2012)

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Recalling his own experiences during many assignments while covering the War on Terror in the Swat region, which won him the prize for best coverage in 2011, Shahzad said: 'A picture that is worth a thousand words does not come by itself. Sometimes I had to spend hours working on my own to find a new angle and a new perspective for my pictures.' It was risky and many times he had to rely on his knowledge of the local area and customs to help him out in tricky situations. But it was always 'more satisfying because a good creative picture really does not need a story,' he said (Ibid.).

Improving the situation

Many media professionals in Pakistan feel that the problems faced by the Pakistani journalists can be solved by providing them with adequate training, organisational support and capacity building. Zahir Shah Shirazi, Bureau Chief of DAWN TV in Peshawar, for instance, believes that journalists are 'part of society and media is a tool.' They can give hope to the people after wars and give voice to their needs and issues, he said in an interview with the author in 2012. 'They need to learn constantly to adapt themselves to the changing situations and therefore must be empowered through organisation's support, better education and professional training.' (Ibid.)

Indeed, the special Intermedia report *Press in Stress: Media under threat in Balochistan* (2012) recommends a list of measures that ought to be taken to make media in Balochistan 'both professional and safe' (p. 19). They include a broad range of suggestions: some as specific as providing the local journalists professional and safety/survival training courses, better wages, job security and insurance of life and their equipment. The other suggestions are general and pertain to the government's obligation to provide journalists safe and speedy access to information, to initiate media-community dialogue, and to train 'the military and government sources in dealing with media, the media's information needs and the need for independence' (p. 19).

For Pakistani journalist Goraya, the solution to the journalists' problems lies in three words: *Access, trust* and *respect*. He says: 'Give the journalist access to the story; trust the journalist enough not to kill him; and give the journalist respect enough not to kill his story' (Interview, 2012). His plea is equally directed to the editors, media organisations, the government and the conflicting parties, who for their own stakes and interests put journalists' lives on line.

Intermedia's new report on the *Annual State of Pakistan Media 2014* also gives a detailed account of the Pakistan Coalition on Media Safety (PCOMS), which was set up in March 2013 in Islamabad, Pakistan, by a broad-based group of relevant stakeholders including representative associations of media owners, media workers, working journalists, media development organizations, human rights organizations, civil society groups, parliamentarians and the government, and was reactivated through a Steering Committee in October 2013. The PCOMS was further divided into two sub-committees. One was 'mandated with drafting a set of recommendations on appointment of a special prosecutor

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to investigate attacks against media and crimes against journalists' (2014, p. 15). The second sub-committee worked 'to consult key media houses and other stakeholders to evolve a set of consensus safety protocols based on best practices and on the peculiar security environment of Pakistan that would be adopted by most major media houses in the country' (p. 15). The result was the comprehensive draft proposal of security policies, protocols and procedures for the journalists, editors and media houses to observe and practice while working in a conflict zone. The overriding principle for everyone was: *'no story is worth your life'* (p. 16).

Conclusion

Journalists are an active part of politics in any country, whether it is in the developed or developing world. In conflicts, the politics becomes more complex, the situation more complicated and information-gathering more difficult. The journalists' right and freedom to seek and speak without fear or threat might be taken for granted in peaceful democracies but in countries like Pakistan where anarchy, strife and disorder reign during a conflict, upholding the journalistic principles of truth and justice is a struggle against the tide. There are recommendations, protocols and advice designed and recommended by the concerned media professional and organisations for the safety and security of the Pakistani journalists in areas of conflict as well as for the media organisations. The problem continues however because they are not implemented, as the discussion above shows.

In the case of Pakistani journalists, it would not be unrealistic to expect that the fear of loss of life, job or property would force them to shun the 'public trust' and digress from their professional path. But the fact that there are journalists still reporting in Pakistan in the political turmoil proves that journalism under threat has become something more than just a profession or a spirited defiance or even battle for survival. It is a commitment, a responsibility and for some, perhaps a quest. Giving journalists what Goraya calls for, i.e. 'access', 'trust' and 'respect', is not more than what they give in return: their lives.

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PHILIPPINES

14. Courageous women in media

Marcos and censorship in the Philippines

Abstract: When Philippine President Ferdinand Marcos declared Martial Law in 1972, press freedom became the first casualty in the country that once boasted of being the 'freest in Asia'. Printing presses, newspaper offices, television and radio stations were raided and padlocked. Marcos was especially fearful of the press and ordered the arrest of journalists whom he charged with conspiring with the 'Left'. Pressured into lifting martial law after nearly 10 years, Marcos continued to censor the media, often demanding publishers to sack journalists whose writing he disapproved of. Ironically, he used the same 'subversive writings' as proof to Western observers that freedom of the press was alive and well under his dictatorship. This article looks at the writings of three female journalists from the *Bulletin Today*. The author examines the work of Arlene Babst, Ninez Cacho-Olivares, and Melinda de Jesus and how they traversed the dictator's fickle, sometimes volatile, reception of their writing. Interviewed is Ninez Cacho-Olivare, who used humour and fairy tales in her popular column to criticise Marcos, his wife, Imelda, and even the military that would occasionally 'invite' her for questioning. She explains an unwritten code of conduct between Marcos and female journalists that served to shield them from total political repression.

Keywords: *Bulletin Today*, censorship, gender, history, human rights, press freedom, *Manila Daily Bulletin* , martial law, media freedom, Philippines, President Marcos

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THE PHILIPPINES has always boasted of having a robust Western-style democracy following independence from American rule in 1946. It was 'the showcase of democracy in the Orient' and its political process is described as an 'amiable, profitable, and socially undisruptive competition for office among the gentry' where competing parties alternated in governing the nation through regular elections (Rosenberg, 1979).

But in 1969, then-President Ferdinand Marcos faced the prospect of a last term in

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office as stipulated by the 1935 Constitution. Rocked by protests, allegations of corruption and skyrocketing inflation, Marcos' popularity was at an all-time low.

Following his State of the Nation address on 26 January 1970, he and his wife, Imelda, were booed and heckled as they left the hall of Congress. A makeshift coffin with the word '*demokraskya*' draped around it signifying the death of democracy in the country was tossed at the scurrying couple (Bas, 1984). No wonder. Just the year before, the infamous Plaza Miranda bombing killed nine people when two hand grenades were tossed on stage at the political campaign rally of the opposition party, the Liberals. Many candidates on stage, among them incumbent Senator Jovito Salonga, two other senatorial candidates, a vice-mayor and congressman, and the mayoral candidate for the City of Manila were all badly wounded. Marcos was swift to impute responsibility to 'communist' elements in society. He suspended the writ of *habeas corpus* which then allowed the police to make arrests without warrants and to detain the arrested without charges. It was, one might say, a dress rehearsal for things to come.

The 1970 Constitutional Convention which sought to draw up a new constitution to replace the old one was also rocked by allegations of corruption and bribery by the government. Envelopes filled with money from the presidential *Malacañang* Palace were allegedly distributed to the delegates to help ensure that a 'Ban Marcos' legislation would be voted down (Gleeck Jr., 1987). A majority of the delegates were already traditional politicians who, not unlike Marcos, were eager to extend their own political careers. The senators and representatives were all looking forward to the opening of the regular session of the legislature on 22 January 1973 (Bas, 1984).

In mid-June 1972, one-time Marcos Nationalista ruling party member Senator Jose Diokno delivered his 'Throne of Bayonets' speech in the Senate where he asserted there was no way Marcos could hold on to power, except illegally (Siak, 2007). In that famous speech, the fiery senator said that even if Marcos were to declare martial law, he should vacate the presidency and turn it over to the Senate president until a new president was elected and sworn in (Celoza, 1997). 'Marcos can create a "throne of bayonets", Diokno said. But how long can he sit on it?' (Mercado, 2013).

Marcos, meanwhile, did have plans to stay in power by any means, legal or otherwise. In the weeks leading up to September 1972, newspapers were full of reports about rallies, protests and demonstrations. The government reported a series of dramatic events to demonstrate that communist and subversive elements were indeed operating in society and that there was imminent danger to the republic. Terrorists were reported to have blown up a police car in August. A series of bombs were set off in downtown Manila department stores, city halls and school campuses. Two people were killed and about a hundred were reported injured following some 16 explosions across the metropolis. The final straw was the alleged ambush by guerrilla forces on then-Defence Secretary Juan Ponce Enrile's two-car convoy on the evening of September 22, further justifying in

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Marcos' mind his declaration of martial law (In his own words: Marcos on martial law, 2012). In later years, questions about how real this alleged ambush was would be the subject of inquiry and political intrigue (Yamsuan, 2012).

A manipulated and complicit press

During the 1960s, the Philippine press was a conflicted press. Like many of its counterparts in newly independent governments of South-east Asia, it had enjoyed an environment of almost total freedom. But unlike its counterpart press in South-east Asia, whose freedoms were soon controlled by their governments which viewed the ultra-libertarian system as incompatible with nationalistic programmes for unity and nation-building, the Philippine press remained uncontrolled, critical and at times, licentious. It also became clear that in Philippine politics, newspapers were valuable political allies that were, sadly, not above bribery. A former editor of the *Evening News*, Amando Dacanay, quoted in Rosenberg (1979) said: '… most newspapers here are extensions of business empires. We are a country where unfortunately, keeping a newspaper is a good defence weapon for big business.'

Marcos had wanted the press on his side. Indeed, during his re-election campaign, he is reported to have poured millions of dollars into public relations campaigns, only to lose his popularity so quickly and so dramatically, especially in the editorial pages. He alternately wooed and threatened the press, often inviting publishers and editors to sumptuous luncheons and dinners at Malacañang Palace only to accuse them of 'fomenting disorder' and 'harbouring Communists and Communist sympathisers' (Rosenberg, 1979). Unable to get them on his side, his government forayed into publishing, putting out a weekly called the *Government Report*. In its maiden issue, the headline read: 'Can publishers foment disorders?' (Rosenberg, 1979).

So it was that martial law was declared and Filipinos awoke to find themselves without newspapers, radio or television. Martial law, otherwise known as *Proclamation 1081*, provided the general orders for the government to control media and the dissemination of information. Foreign news agencies and cable and telegraph offices were also shut down.

Columnist Arlene Babst (1982a), who at the time had just completed university, and was exactly four months and three weeks on her first reporting job at Pace magazine of the *Evening News*, had been working on a robbery story the night before. She woke to find her newspaper shut down along with every other newspaper in the country and her robbery story paling in comparison to the biggest (unreported) story of the declaration of martial law and the arrest of opposition politicians, publishers and journalists.

By midday on September 23, police and the military had rounded up 52 of the targeted 200 persons of interest including Senators Benigno Aquino, Jr, Jose Diokno, and Ramon Mitra (In his own words: Marcos on Martial Law, 2012). Along with them were prominent newspaper publishers, journalists, radio commentators, Constitutional

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Convention delegates, a governor, a congressman, and several labour leaders.

Still, the arrested journalists were unperturbed. Journalist and author Hernando Abaya narrates that during the early hours at the Manila military base of Camp Crame where they were held, there was no fear or expectation that the detention was anything but temporary. Instead, he said, there was an air of 'uninhibited excitement and warm camaraderie and stimulating talk' and much backslapping and hearty handshakes among old friends (Gleeck, Jr, 1987). Data collected of the period showed that 8281 people were apprehended and detained in the three months following martial law: 2410 alleged members of subversive groups, 2219 wanted criminals, and 3652 categorised as 'others' (Martial law arrests and detentions by end-1972, 2012). The senators and 22 Manila-based journalists fell under this 'others' category.

Aside from the three senators, publishers and journalists Eugenio Lopez, Jr., Amando Doronila, Chino Roces, Teodoro Locsin, Soc Rodrigo, Luis Mauricio, Napoleon Rama, Roger Arrienda, Jose Mari Velez, Rosalinda Galang and Max Soliven were detained. Also arrested were Congressman Roque Ablan, Rafael Aquino and Gov. Luis Bocalan who was allegedly the country's number one smuggler (Gleeck, Jr., 1987). Labour leaders Bert Olalia and Cipriano Cid national president of the Philippine Association of Free Labor Unions, were also in the group.

But the days turned into weeks, and for some, detention stretched to years. The captors on orders from the Palace were selective on who were let go, and who were detained. The Western press became critical of the arrests and the harsh way Marcos dealt with local journalists. One *Newsweek* journalist wrote:

> When Marcos first arrested hundreds of politicians, journalists and gangsters, it was said that some of the worst men in the country had been locked up with some of the best. The trouble is that by now, many of the worst crooks and cut-throats have been released. The people still in jail are the President's political foes… (Marcos' first 100 days, 1973)

Through *Presidential Decree 36* issued in November 1972, Marcos provided a rationale for government censorship, pointing to the need to dismantle what he characterised as the oligarchic structure of media ownership in the country. A Marcos confidant, former head of the Palace press corps and later whistleblower Primitivo Mijares, then said 'press freedom is for the people and not for a few self-appointed publishers, who are in the business and not in the vocation of media' (Rosenberg, 1979). The new order called for the dismantling of media monopolies, most of which not surprisingly had been hostile to Marcos.

Apart from the media, the country's largest corporations were also turned over to Marcos and his allies. The new cronies became the new oligarchs, loyal to and beholden to the Marcos regime. Their new monopolies controlled domestic industrial production and the nation's prime commodities. Breaking his silence in 1974, the elder Eugenio Lopez,

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Sr. revealed his family's properties were used as ransom for the release of his son, Eugenio Jr, from detention and had not been sold to the government as Marcos had claimed.

> Our properties were given to the Marcos family through its 'front men' in exchange for the release of my son and the safety of our family. Some of our properties are now owned and/or operated by the 'front men' through some 'artificial agreement', legal or illegal. (Aquino, 1999)

As to the press, by the end of 1972 only three daily newspapers were back in operation. The *Philippine Daily Express* was reportedly financed by Marcos allies, including newly appointed ambassador to Japan, Roberto Benedicto. *The Times Journal* was owned by Benjamin 'Kokoy' Romualdez, younger brother of the First Lady Imelda Marcos. The third was the *Bulletin Today* which was originally the *Manila Daily Bulletin*.

The *Manila Daily Bulletin* began operation in 1900 and was acquired by industrialist Hans Menzi in 1957. It operated as the *Manila Daily Bulletin* until the declaration of Martial Law in 1972 when all media was shut down. The story goes that a couple of months after the declaration, Menzi was summoned by Marcos and told to revive the newspaper but under a new name. Menzi promptly arrived at the Palace with two designs, one called the *Philippine Daily Bulletin*, and the other, *Bulletin Today*. Marcos approved the latter to which he also scribbled 'ok' on the design blueprint (Mariano, 1995).

In the years that followed, there was a loosening of media control and in 1974, foreign press censorship eased. An issue of *Newsweek* containing a news article on Muslim dissidents critical of the government was allowed to be circulated. Several other international publications resurfaced with notably favourable stories on the gains made under Marcos' 'New Society'.

The New York Times in June 1974 quoted Marcos as promising an ultimate return to 'complete individual freedom and civil rights' and that he had already 'decongested' the jails of political prisoners (Gleeck, Jr, 1987). It was a common ploy of Marcos to release a few of the detained journalists following meetings with delegations from the International Press Institute to placate the international media.

Lifting of Martial Law

By the early 1980s, there was renewed pressure on Marcos to lift Martial Law. Pope John Paul II was scheduled to visit the country in February 1982. Even in the face of an increasing number of human rights abuses by the military being reported, Marcos was keen to minimise criticism of his regime during the Pope's visit. The United States had a new president in Ronald Reagan. Reagan was governor of California, and with his wife Nancy had been guests of the Marcoses in 1969. In a state dinner for Marcos in 1982, Reagan reminisced about that first visit:

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> … tonight we welcome old and good friends to the White House in a visit symbolic of the superb relationship between our two countries. It's a nostalgic occasion for us, as well. Nancy and I often think of our 1969 visit to Manila, when we first experienced that unexcelled Philippine hospitality as the guests of our guests here tonight. (Toasts of President Reagan and President Ferdinand E. Marcos of the Philippines at the State Dinner, 1982)

Perhaps it was as a 'gift' to his long-time friend that Marcos lifted martial law just three days before Ronald Reagan was sworn into office. In declaring the end of martial law, Marcos said that 'anarchy has been successfully checked', and that 'the leftist-rightist rebellion has been substantially contained, its ranks reduced to disorganised bands alienated from the people' (Proclamation 2045, 1981).

At the *Bulletin Today*, publisher Hans Menzi was keen to regain supremacy over rival newspaper *Philippine Daily Express* which had amassed the highest newspaper circulation in the country. As Menzi was Marcos' close ally, his newspaper was considered one of the 'crony press'. Many of the male editors and reporters who were critical of Marcos had been imprisoned or had gone into exile. The remaining men in the newsrooms were often co-opted by the government. The women reporters and writers who previously had been sidelined in feature supplements and entertainment pages entered the breach. They challenged the government with reports and editorials that contributed to the groundswell of opposition against the dictator.

One of the *Bulletin Today's* regular female writers, Arlene Babst, was beginning to gain attention through her column as she 'tweaked prominent noses, teased the self-important, and otherwise boldly criticised the regime, the various members of the ruling family and their cronies, showing up the sham of some government programmes and other political foibles' (de Jesus, 2012). Babst had suggested to her publisher Hans Menzi to put on more women writers for the paper's Op-Ed section. Among those invited to write for the newspaper were Ninez Olivares, Melinda Quintos de Jesus and Sylvia Mayuga.

Olivares recalls she met Menzi at a dinner and offered him her services as a columnist. She had been a television newscaster during the martial law years and had been a very visible Marcos critic. Asked to read propaganda stories from the Palace, she would roll her eyes on camera. She said 'They [viewers] all know that you don't like it. It's propaganda. You roll your eyes and have this kind of smirk. That was my way of maintaining my reputation as an independent journalist even under such adverse conditions' (N. Olivares, personal communication, 29 August 2014). Menzi liked the idea of having Olivares as a columnist for the *Bulletin* because it lent credibility to his newspaper.

Another columnist, Melinda Quintos de Jesus recalled she did not think of herself as a political journalist.

> I had no intention of becoming a political critic. I did not feel I could write about politics and shared my misgivings with Arlene who had extended the invitation

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> to me… But in a month's time, I had written my first political piece, questioning the propaganda line of the government's food production programme, dubbed the KKK. (de Jesus, 2012)

Freedom of the press and human rights violations were common themes in the columns the women wrote, unlike their male counterparts who tended to focus on more 'international issues'. For example, on writing about press freedom, Babst wrote:

> Press freedom does not mean merely the right to criticise the Marcoses though it certainly should include that right… On the other hand, press control which is still abundantly in operation hereabouts in spite of official disclaimers and naïve readers is the first requirement of anyone who has wants and wants to keep power. (Babst, 1982b)

She bravely and categorically stated in this piece that press control and censorship were still very much in force in spite of assurances from the dictator to the contrary. On power, she wrote:

> Each of us has some measure of power: the beggar has power to curse, the jobless to envy, the kin of murdered folk to hunger for revenge, the hungry to hate, the comfortable to be comfortable, the rich to be rich. Presidents and paupers both have some power to act within their sphere, some only to negate, others to create. (Babst, 1982e)

De Jesus, in recalling her two-year stint at the *Bulletin*, and later the newsmagazine *Veritas,* said Marcos was keen to gain credentials as a democrat and they (women writers) inadvertently helped him by challenging censorship:

> Marcos held up a copy of *Veritas* on the US talk show *This Week* with David Brinkley, to prove that he allowed a free press to criticise him. It was on this same show that he announced he would hold a snap election to prove that Filipinos would keep him in power. (De Jesus, 2012)

Columnist Ninez Cacho-Olivares who had long admired James Thurber's style of humour and Art Buchwald's political satire, adopted this writing approach to poke fun at the foibles of Marcos, Imelda and their cronies. Initially, she used fairy tales and amusing anecdotes about kings with avaricious wives everyone knew were very thinly veiled criticism of Marcos and Imelda. She would write fictional and witty dialogues between inanimate objects such as shadows in a climate of surveillance, or about the longstanding feud between the pen and a sword over who was mightier.

> 'I am the stronger,' boasted the sword. 'With my strength, I can pulverise the pen.' 'Nay,' the pen answered, 'the speech has been spoke through history.The pen is

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> mightier than the sword.'
> Strange as it may seem, the pen's might found favour with the people...The pens grew in strength and number. More abuses were exposed… Then came the time for the sword to suppress the pen for evermore… With the pen's head on the guillotine block, the blade struck and the pen was stilled. (Olivares, 1982a)

The story does not end here. Olivares ends this medieval tale with a reminder to the reader that there would be other pens to carry on the chivalric ethos.

> Ah, but there are other pens that say, 'history shall be rewrit'. They say too that the pen's black fate on more days doth depend, for that day but began the woe others must end. (Olivares, 1982a)

Columnist Melinda Quintos-De Jesus, on truth and propaganda, questioned the official line of the government's response to the alleged massacre of 200 people in the southern province of Leyte. In her column, she questioned how then-Defence Minister Juan Ponce Enrile labelled the reports that appeared in the *Far Eastern Economic Review* and the *WE Forum* publications as 'pure fabrication and … part of the pattern of deception waged by the propaganda arm of the New People's Army' (de Jesus, 1982b). She laments that in this case, the government could only offer the testimony of the very units under suspicion as their defence against the accusations. She ends by admonishing the reader to distinguish truth from propaganda. On corruption, she wrote: 'The problem with corruption now is that we no longer react to it. Because it wears many masks, we no longer recognise its face' (de Jesus, 1982). Brave words. And even braver women journalists pushing the limits. With that first line, de Jesus asserts there was corruption *now*; a fact long been denied by Marcos under his New Society.

Apart from De Jesus, Babst, and Olivares, a handful of women investigative reporters had also emerged in the early 1980s. Babst singled out Jo-Ann Maglipon who wrote about forgotten provincial towns and the plight of the Indigenous Aeta whose villages came under military siege; Sheila Coronel, who wrote on decades-old landlord-tenant relations; Eleanor Dionisio, who persisted in the investigations behind the murder of Dr Remberto 'Bobby' de la Paz in the province of Samar; and Ma. Ceres P. Doyo, who reported on the murder of chieftain Macli-ing Dulag, who had opposed the construction of the Chico Dam (Babst, 1982d).

Journalist Ceres P. Doyo's career as a journalist is certainly worth recalling. Doyo started out not as a journalist but as a human rights activist. In 1980, the Marcos government, with World Bank funding, had been pushing hard to complete the construction of a dam begun in 1974 along the Chico River in northern Philippines. For more than three decades, the Indigenous people in the Cordillera region had been staunchly opposed to the construction, fearing that the dam's reservoir threatened to inundate 1400 square kilometres of traditional highland villages, rice fields and ancestral domains in the modern

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day provinces of Mountain Province, Kalinga and Apayao (Bantayog ng mga Bayani website). Local chieftain Macli-ing Dulag who was also a road maintenance worker for the Department of Public Works and Highways was the recognised spokesperson for the anti-dam opposition. On April 24, 1980, elements of the 4th Infantry Division of the Philippine Army raided his house and killed Macli-ing Dulag and a companion. But no journalist was reporting the murder. Doyo took it upon herself to visit the site, write the story, and submit her work to *Panorama*, the Sunday magazine of the *Bulletin Today*.

> 'Nobody was writing about it, so I wrote it, took my own pictures and sent it to the editor of *Panorama*, whom I did not know,' Ms. Doyo said. In hindsight, she said, 'Maybe I was half stupid or half brave.' (Conde, 2011)

At *Panorama*, feisty and independent-minded editor Letty Jimenez-Magsanoc published Doyo's story. For this, Doyo received a summons from the military on 5 July 1980 (Lapeña, 2013). Magsanoc came to her defence and began writing scathing editorials against Marcos and his oppressive regime. This eventually led to her being fired as editor of *Panorama* in 1981 and she would refer to the type of writing the women did as 'suicide journalism' (Doyo, 2012).

This is not to say there were no other brave media during this period. During the waning years of Martial Law when restrictions were somewhat more relaxed, satirical programmes on television did dare poke fun at the regime. These included *Sic O'Clock News, Hanggang sa Susunod na Kabanata* (Until the Next Chapter) and the very short-lived, *Mr Minister*. *Mr Minister* lasted all of two episodes before it was unceremoniously withdrawn from the small screen. De Jesus (1982) reviewed the programme in her column and reported that the RPN 9's general manager (who also conceived the show), conceded it may not have been commercially viable due to its potential for controversy. One can only assume that the Palace did not take kindly to seeing government ministers parodied and portrayed as ineffectual on a weekly television programme.

For print journalists, censorship came in the form of 'friendly invitations' by the military. *Bulletin* publisher Hans Menzi, himself, was occasionally called in to the Palace whenever Olivares or any of her other intrepid female colleagues wrote something controversial or irritating to Marcos and Imelda.

On one occasion, Olivares turned the tables on her interrogators, making them the lead players in her satirical piece on her dread of being 'interviewed'. In the piece, she says she wanted to refuse the invitation but was caught in a Catch-22 situation. She could not say no even to the most personal of questions such as, 'Gasp! How she ran her household?' 'I adhere to democratic principles, I answered, flashing a smile in return. Democracy is a byword in my household,' (Olivares, 1982b). Using her wit and not-so veiled parallelisms to how Marcos ran his government, that is, appointing relatives and friends to key positions, Olivares claimed to do the same in her household.

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> 'All the members of your family seem to have positions in your household. True or False?' 'That's not accurate,' I said. 'My nephews, nieces, brothers-in-law and friends are involved in the running of my household too, and they don't get any allowance from me either, because their services are voluntary.' (Olivares, 1982b)

Clearly, her response to the interrogator sounded suspiciously like the Dictator's claim that family and friends did not enjoy any benefits from being in government. Certainly not Imelda's younger brother Benjamin 'Kokoy' Romualdez, who was appointed ambassador to China, Saudi Arabia and the United States while serving as Leyte province governor. He became owner and board member of a range of companies, banks and utilities seized by the Marcos regime during Martial Law. An older brother, Alfredo, came to head the casino gambling industry.

Following the publication of this story, Olivares says she received a second invitation from her clearly annoyed interrogators. These interrogations usually lasted hours, were held inside closed doors and the interrogators were high-ranking military officials (Doyo, 2012). Olivares asked them if they 'got it' [the inside joke] and they sheepishly had to admit they did and found the writing humorous. 'What I was doing was skirting around it [censorship]. Babst and the rest could write about it but only indirectly' (N. Cacho-Olivares, personal communication, 2014).

There were occasions, though, when even the straight-writing Babst would join the fun and train her sights on the First Lady, Imelda. In her column, *Let the lady do the talking* (Babst, 1982c), Babst reviews an interview of Imelda that had appeared in *Newsweek* magazine. Imelda Marcos had granted the interview to *Newsweek's* Bangkok bureau chief Seth Mydans and Canadian foreign correspondent Richard Vokey whom Babst would later marry.

Babst writes, with her tongue firmly in cheek, that the only way the intelligent reader could assess Imelda Marcos' genuine quality was to let the lady tell her story in her own words. What follows is the most hilarious and cringe-worthy account the First Lady had ever given of herself. On her role as First Lady, Marcos said: 'My role as First Lady is to be "S" and "S" —star and slave. As a star, to give the people a standard to reach for. As a slave, to lift people from the gutter.' On her lavish lifestyle, she said: 'I am always criticised for my jewellery; for what they call my lavish lifestyle, my extravagant frivolity. But I have always been criticised for my sense of beauty. I will continue to be a soldier for beauty because that is the only thing which feeds the human spirit.' And perhaps her most (in)famous statement yet on the Filipino people: 'Yes, they are living in slums and hovels. But what counts is the human spirit, and they are smiling. For me the real index of this country is my smiles of the people, not the economic index.' Babst asks cheekily: 'Will anyone dare censor the First Lady's words?'

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The women are silenced

By 1983, Marcos had had enough of these audacious women. Menzi was summoned yet again to Malacañang Palace over the women's writing. Mariano (1995) in his oral history of the *Manila Bulletin* writes that Menzi was a realist. If Marcos became really angry, they would all be out of work. He writes: '*The Bulletin* was so liquid that it was able to pay for the construction of its present building in cash and without incurring any debts. He [Menzi] didn't want to lose that because of some hotshot columnist' (Mariano, 1995).

It is also worth recalling that in 1972, when journalists were being rounded up, Menzi had 'surrendered' his society columnist Amelita Reysio-Cruz to the authorities on October 3. Reysio-Cruz was sought by authorities because she had made Imelda angry over her writings about Marcos' affair with American B-movie actress Dovie Beams two years earlier. She was also openly contemptuous of Imelda who she nicknamed 'Imeldita' and Imelda in turn, labeled her 'Animalita' (Mariano, 1995). She was to be detained for almost three months and released only due to illness.

In 1983, Menzi had to let go of Olivares and de Jesus, and eventually Babst who was then the one regular columnist. Olivares narrates that once before, Menzi had requested her to tone down her writing or write about something other than political issues while Marcos 'cooled down'. She had acquiesced.

> It was around 1983, and I was really getting to be too direct but still on the humourous side. So he [Menzi] said again, 'Ninez, can we do it again?' I said, 'I did it once. I'm willing to do it again for your sake but I said what kind of journalist would I be if every time the president is mad at me for writing this stuff, I stop. And when he's cooled down, I write again?'
> 'But I'm not firing you,' he said.'I know, but it's better for the both of us if we just part ways.' He accepted that. (N. Cacho-Olivares, personal communication, 2014)

Olivares moved to *Business Day* where publisher Raul Locsin gave her a 'no censorship' guarantee.

How did the women journalists manage Marcos and censorship during this period when their male counterparts could only write about innocuous topics as OPEC oil prices, *barangay* (local body) meetings, traffic jams and petty burglaries?

Olivares explains about an unwritten code relating to Filipino male machismo. She says Marcos was of the old school and would never dare engage a woman in a public quarrel.

> The thing with Marcos that a lot of people haven't realised, and why women journalists got away with it—Marcos followed tradition or the code of conduct of Filipino males. A man never quarrels with a woman. His stature and esteem go down. It's never done. You can quarrel with a woman in private but never in public. On the other hand, the unwritten code says also that women can fight each other even if

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> they pull each other's hair out. It is acceptable in the Philippine context (N. Cacho-Olivares, personal communication, 2014).

Another reason was that the women were not the family breadwinners. Olivares said she could lose her job and still have her husband support her. This may serve to explain why the women had more fire in their bellies than their male counterparts. De Jesus adds to the gender argument: 'It also helped that the custom and convention had kept us mostly out of the old boy cliques which could have made it more difficult to break away from the pattern of press controls' (de Jesus, 2012).

De Jesus adds that being deeply identified with the establishment (most of the women were products of a Catholic education), it was virtually impossible to accuse them of subversion, communism or terrorist movements, and were considered 'safe'. But being safe was never an option for the women.

> We were not victims. Ours was a success story... It would have caused more pain to have kept to our comfort zones, to be blind and to be silent to the truths that our sources shared with us. It would not have been easy to restrain the impulse to report and to comment, to choose instead not to be involved. (de Jesus, 2012)

Conclusion

Beneath the highly 'macho' facade of the Filipino male is a strong matriarchal foundation where women are mature, entrepreneurial and persevering. The family system is marked by cooperation, loyalty, and dutifulness to elders, and women maintain a highly respected position. Traditionally depicted as coy, retiring, and subservient, the Filipina woman is also supposed to have power and influence unofficially and in private (Castillo, 1976). In pre-Spanish times, women had the same civil and political rights as men (Aguilar, 1989). Following colonisation, the effects of ideologies of colonial domination served to construct a Filipino womanhood perpetuating the illusion of male dominance and female submission. But as shown through the experience of the women journalists writing during what Ceres Doyo (2012) describes as 'years of writing dangerously', women journalists can rejoice in the knowledge that for a brief period, they were able to rattle the status quo:

> We all emerged uncracked. Ah, the stories we narrated to one another. What did we-the women writers-do next? Having gotten all the interrogators' names, we plotted in the dead of night and built a case against them with the help of the Flag and Mabini lawyers. We strode into a jam-packed Supreme Court to question the so-called National Intelligence Board, a creation of the Marcos military dictatorship to cow writers. We won. The respondents said they were done with it anyway. Duuuh…

Following the ouster of Marcos in 1986, Ceres P. Doyo continued to write and served on the board of the Philippine Center for Investigative Journalism for many years until 2010.

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She has also written a number of books about her martial law experiences, among them, *Journalist in Her Country* (1993) and *Human Face: A Journalist's Encounters and Awakenings* (2013). Today, she is a staff writer and columnist on the *Philippine Daily Inquirer* where she covers a variety of issues and writes special reports, feature stories and a weekly column, *Human Face*.

Of the other women journalists, Sheila Coronel worked for the *Manila Times* as a political reporter, and also wrote special reports for *The Manila Chronicle*. With eight other journalists, she co-founded the Philippine Center for Investigative Journalism (PCIJ) in 1989. PCIJ is a non-profit media organisation whose aim is to produce well-researched, high-impact investigative reports that help build the media's credibility and gain public support. She became the first Filipina to win the Ramon Magsaysay Award for Journalism, Literature, and Creative Communication Arts in 2003. She is currently academic dean at Columbia University where she is also director of the Toni Stabile Center for Investigative Journalism.

Eleanor Dionisio is associate director of the John J. Carroll Institute on Church and Social Issues. She continues to write for the *Philippine Daily Inquirer* on church matters, particularly the role of the Catholic Bishops' Conference of the Philippines (CBCP). The CBCP was created following the Second Vatican Ecumenical Council (Vatican II) and is a grouping of bishops of the Philippines who represent the Christian faithful to 'promote the greater good which the Church offers to humankind, especially through forms and programmes of the apostolate which are fittingly adapted to the circumstances of the time and place' (Robredillo, 1996). In its early years, the CBCP oscillated between the old and the new ecclesiological paradigm. Following martial law, more progressive members saw their role as 'more than social charity and development' and then-Cardinal Jaime Sin instituted a policy of 'critical collaboration' with the government that in actuality was more 'critical and prophetic than collaborative' (Robredillo, 1996).

Jo-Ann Maglipon continues to write and is *YES! magazine* and Philippine Entertainment Portal (PEP) editor-in-chief. In 2011, she was appointed by the President to serve as a member of the Movie and Television Review and Classification Board (MTRCB) Appeals Committee, tasked to assist and to recommend to the President on 'the proper disposition of appeals from the decisions of the MTRCB disapproving or prohibiting the public exhibition of a motion picture or television programme' (Godinez, 2011).

As for Babst, she revelled in the power of the women journalists and celebrated the friendship she had with the *Bulletin* women she considered her friends rather than rivals. She wrote:

> I thank God for being born at a time when strong women can express themselves, do things, travel, live with whomever they choose with or without marriage, control the reproductive functions of their own bodies, and come to their own hard-won conclusions about God or the American bases or Ferdinand Marcos. (Babst,1982c)

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Babst lives in Vancouver, Canada, with her husband and fellow journalist, Richard Vokey.

After the *Bulletin*, Melinda Quintos de Jesus became deputy editor and columnist of the newsmagazine *Veritas Newsweekly*, an 'alternative press'. Later, she founded and became executive director of the Center for Media Freedom and Responsibility (CMFR), a private, non-stock, non-profit foundation that focuses on the protection of press freedom and the establishment of a framework of responsibility for journalism practice. Among its flagship programmes is work on ethics and social responsibility in which the CMFR conducts media monitoring and review, as well as special training programmes. It also maintains a database of journalist killings and conducts analysis of the 'culture of impunity' that has resulted in specific recommendations to counter this disturbing reality (2015, CMFR).

After working at other leading newspapers, Ninez Cacho-Olivares founded and became publisher of *The Daily Tribune*, a contrarian broadsheet that has been critical of every president that followed Marcos. The dictator himself died in exile in Hawai'i in 1989 but his wife, Imelda, is still active in Philippine politics along with two of her three children, Imee Marcos who is Governor of her father's bailiwick Ilocos Norte, and Ferdinand 'Bongbong' Marcos, Jr. who is a Senator in the 16th Congress. *The Daily Tribune* has reported continuing cases of large-scale corruption under the new presidents such as the granting of huge government contracts without due process, presidential abuse of power reminiscent of the dictator, and nepotism. In February 2006, the offices of *The Daily Tribune* were searched by police during a plot to topple the Arroyo government that resulted in the imposition of a State of Emergency. In 2008, Olivares was found guilty of libel by a Makati Regional Trial Court and sentenced to a minimum of six months and a maximum of two years imprisonment (Aurelio, 2008). She was granted bail and continues to publish her newspaper to this day.

Journalism remains a profession under siege not just in the Philippines but around the world. Journalists, men and women, continue their work in the midst of personal struggles, criticism, potential harm or death. But such is the responsibility that comes with the profession that they continue the task of serving the interests of the common people, protecting and nurturing fundamental freedoms and ultimately, helping people uncover where the truth lies.

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PHILIPPINES

15. Cybercrime, criminal libel and the media

From 'e-martial law' to the Magna Carta in the Philippines

Abstract: President Ferdinand E. Marcos declared martial law in the Philippines on 21 September 1972. Issuing the declaration under *Proclamation 1081* which suspended civil rights, gagged the news media and imposed military authority in the country, Marcos defended this draconian move under the Philippines Constitution in response to a series of bombings allegedly caused by communist rebels. The emergency rule at the height of the Cold War was also planned to quell rebellion and drive national development. Four decades later, on 12 September 2012, President Benigno Aquino III signed *Republic Act No. (RA) 10175*, or the *Cybercrime Prevention Act*, into law. This legislation was immediately widely condemned as a threat to freedom of expression on the internet, the media and online privacy and has been likened by human rights groups, media freedom advocates, 'netizens' and opposition Congress members as comparable to the Marcos Martial Law era. Kabataan Representative Raymond Palatino branded the legislation 'e-Martial Law', comparing it to repressive Marcos-era decrees censoring and harassing the media. Fifteen Supreme Court appeal petitions were lodged against the Cybercrime Law but the subsequent ruling found the law constitutional in February 2014. This article examines the law, challenges since the constitutional ruling, and demands for repealing the law and replacing it with a so-called 'Magna Carta' of internet media freedom.

Keywords: censorship, criminal libel, freedom of expression, freedom of information, digital media, martial law, media freedom, media law, Philippines

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CRIMINAL libel is one of the most abused means to suppress free expression and press freedom in the Philippines, according to media freedom advocates such as the Center for Media Freedom and Responsibility (CMFR) and the National Union of Journalists of the Philippines (CMFR, 2012; NUJP, 2014a). Media freedom

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advocates have argued for decriminalisation of libel for decades. They have asked Congress to amend the provisions on libel of the 83-year-old Revised Penal Code. The most significant development in the Philippine campaign to decriminalise libel has been the United Nations Human Rights Committee's (UNHRC) declaration in October 2011 that the criminal sanction for libel in the Philippines is 'excessive' and in violation of the International Covenant on Civil and Political Rights (ICCPR) to which the Philippines is a signatory.

Despite the UNHRC declaration that it is incompatible with human rights law, libel suits are still being filed against journalists, in many cases to limit criticism of public officials and other powerful individuals. The status of the Philippines in various global media freedom audit assessments has continued to decline.

For example, the Philippines 'sank further down' a global ranking of press freedom by the international media watchdog Reporters Sans Frontières (RSF) or Reporters Without Borders, reported GMA News (Marcelo, 2014; RSF, 2014). Elizabeth Marcelo cited the RSF World Press Freedom Index rankings for 2014 to show the Philippines had 'slid two rungs lower' on the ladder to 149th from 2013 when it was 147th. However, according to the most recent Index, the Philippines rose seven places to 141st (RSF, 2015). The worst year for rankings was in 2010, after the Maguindanao Massacre on 23 November 2009, when 32 of the 58 people killed were journalists. The RSF Index is based on a methodology using six general criteria—the extent of pluralism; media independence; environment and self-censorship; legislative framework; transparency of institutions and procedures that affect production of news and information, and the quality of infrastructure that supports the production of news and information.

Other media freedom organisations have been equally critical of the status of the Philippines. For example, the New York-based Committee to Protect Journalists reported that 'violence and threats against journalists, particularly in provincial areas, remained widespread' as President Benigno Aquino's vow to end impunity in media murders went unfulfilled during his third year in office (CPJ, 2014).

> At least three journalists were killed in 2013, one of them was radio reporter Fernando 'Nanding' Solijon. A police officer was later identified as a suspect and placed under house arrest. At least six other reporters were killed in 2013. (Ibid.)

At least three journalists were killed in the Philippines in 2014, behind Syria (15), Palestine (7), Ukraine (6), Iraq (4), Libya (4) and Somalia (4), equal to Afghanistan (3), and ahead of Brazil, Central Africal Republic, Colombia, Democratic Republic of the Congo, Pakistan and Paraguay (all 2) (Press Freedom Barometer, 2014). Another key development raised by CPJ was the fact that the Maguindanao massacre trial for the 2009 killings of 32 journalists and media workers failed to convict any of the 197 suspects after nearly four years of legal proceedings. 'Reforms to the criminal justice

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system, including new mechanisms to expedite priority cases, failed to break the trial's procedural deadlock,' reported CPJ.

'Corruption and state plunder' remained in the spotlight in 2013 with new exposés of malfeasance, according to Freedom House. The agency's World Freedom report showed how the state audit agency had confirmed the 'organised abuse' of Congress's Priority Development Assistance Funds (PDAF), which had been revealed by an investigating local newspaper. More than 38 legislators and officials were implicated in creating bogus non-government organisations, siphoning off US$23 million from state funds. The report also found the Philippines 'remains one of the most dangerous places in the world' for journalists to work, and 'impunity for crimes against them is the norm' (Freedom House, 2014).

This was ironical given that the Philippines has 'enjoyed' democracy for almost three decades since the harsh authoritarian rule under President Ferdinand E. Marcos ended in 1986. President Marcos declared martial law in the Philippines on 21 September 1972. Issuing the declaration under *Proclamation 1081* which suspended civil rights, gagged the news media and imposed military authority in the country for nine years, Marcos defended this draconian move in response to a series of bombings allegedly caused by communist rebels. The emergency rule at the height of the Cold War was also planned to quell rebellion and drive national development.

Marcos defended the authoritarian law under the Philippine Constitution, and argued that it was needed to defend Filipino citizens from 'dangerous threats' posed by Muslim rebels and Christian vigilantes challenging national security. Four decades later, on 12 September 2012, President Benigno Aquino III signed *Republic Act No. (RA) 10175*, or the *Cybercrime Prevention Act*, into law. This legislation was immediately widely condemned as a threat to freedom of expression in the internet, the media and online privacy and has been likened by human rights groups, media freedom advocates, 'netizens' and opposition Congress members as comparable to the Marcos martial law era. Kabataan Representative Raymond Palatino branded the legislation 'e-Martial Law', comparing it to repressive Marcos-era decrees censoring and harassing the media.

Fifteen consolidated Supreme Court appeal petitions were lodged against the Cybercrime Law but the subsequent ruling found the law constitutional in February 2014. However, new challenges have been issued since then, advocating a repeal of the law and replacing it with a so-called 'Magna Carta' of internet media freedom. This article examines controversy over the law as a case study and relates it to other tough new legal mechanisms against online media in the Asia-Pacific region and the implications for political reporting.

Media ownership and a 'cluster of laws'

While Filipinos take the free flow of information and the availability of news for granted,

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argues CMFR executive director Melinda Quintos de Jesus (2006), they appear 'incapable of making effective use of them'. She continues:

> Preaching press freedom seldom arises above the level of the motherhood statement. Despite the high profile given media personalities, many journalists remain vulnerable to manipulation and harassment, their freedom and lives subject to threats and attacks.
>
> Public officials ban media critics from covering their activities. Judges are quick to declare journalists 'in contempt' for negative reports on their decisions or their conduct. Mayors have ordered radio stations closed for alleged violations of business regulations, an excuse to silence strident criticism. (De Jesus, 2006)

Another example cited by de Jesus was President Gloria Macapagal Arroyo's *Proclamation 1017*, a declaration of a state of emergency in 2006 to foil an alleged coup attempt. This 'authorised the unthinkable: the police takeover of the offices of an [opposition] newspaper'. None of these violations, according to de Jesus, provoked public protest.

According to Article 19, an analysis of the state of the media in the Philippines in 2005 indicated that unlike in many other countries, there was no cluster of laws in the Philippines that could be described as 'media laws' (CMFR, 2006, p. 15). Instead, a range of laws applies to the mass media and other sectors in the Philippines. Also, there is substantial body of jurisprudence which upholds, limits and otherwise interprets constitutional provisions involving freedom of speech and the press (Article III) or other media issues (such as Article IX on the Commission of Elections, and Article XVI prohibiting foreign media ownership). There are also several presidential decrees from the Marcos era which remain in force. Interestingly, a 'shield law' (*Republic Act 53* as amended by *RA 1477*), which provides in Section 1 protection for journalists' non-disclosure of the sources of their information (CMFR, 2006, p. 11), still applies.

According to the Center for Media Freedom and Responsibility (CMFR) (2006, p. 12), 'media ownership is one of the most problematic aspects of the media situation in the Philippines, given the extent to which owner interests often intrude upon reportage and commentary in the newspapers'. The CMFR has also noted that in response to the 'sometimes heavy-handed efforts of media owners to intervene even in the daily operations of their newspapers', some journalists have argued that it is time to allow foreign media ownership in the country, currently prohibited by the 1987 Constitution. However, this possibility has also faced criticism. For example, Luis V. Teodoro, a former dean of the University of the Philippines (UP) College of Mass Communication, said: 'Any move to open the media to foreign ownership would be divisive not only on nationalist lines but on constitutional lines as well' (*Philippine Star*, 7 October 2004). He added:

> No foreigner should be allowed to dictate … what news is good or bad for the Philippines. Only we Filipinos should decide that. The moment we give in, we surrender our last precious heritage, whatever is left of freedom of the press. (Ibid.)

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When Marcos declared martial law in September 1972, 'he proceeded to destroy what many had considered to be the freest press in Asia over the next 14 years'. Today there are dozens of English-language and Filipino newspapers in Manila—but none has had a circulation of more than 400,000—while there are about 50 radio stations and six television networks, three owned or controlled by the state.

The *Revised Penal Code* of the Philippines contains provisions relating to national security offences, including the crime of incitement to rebellion or insurrection (Article 138), which can have and has had an effect on the media, since it includes incitement to rebellion through 'speeches, proclamations, writings, emblems, banners or other representations tending to the same end' (CMFR, 2006, p. 14). Under international law, an expression or news item can only be classed as 'endangering the public order' if it passes a three-part test. Principle 6 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, a set of principles established on the right to freedom of expression and national security endorsed by the United Nations Special Rapporteur on Freedom of Opinion and Expression, states:

> … expression may be punished as a threat to national security only if a government can demonstrate that:
> a. the expression is intended to incite imminent violence;
> b. it is likely to incite such violence; and
> c. there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence. (Article 19, 1996).

Under this law, anybody who simply distributes any leaflet without the real printer's name could be arrested and fined, even without inciting violence.

The crime of libel (defamation) in the Philippines

Libel, a criminal offence that carries imprisonment on conviction in the Philippines, is provided for in the same Penal Code (Articles 353 to 362). Prison terms range from one day to six years, in addition to the imposition of fines. The UN Human Rights Committee, the body responsible for overseeing the implementation of the International Covenant on Civil and Political Rights, has repeatedly expressed its concern about the use of custodial sanctions for defamation, especially over specific country reports, for example Cameroon, Iceland, Iraq, Jordan, Mauritius, Mexico, Morocco, Norway, Romania, Tunisia and Zimbabwe (CMFR, 2006, p. 16).

In the Pacific region, criminal libel, or defamation, is on the statute books in some Australian states, for example sections 10 and 11 of the *Wrongs Act 1958* in the state of Victoria. This law criminalises libel if the defendant knows the publication is false. Invoking the truth defence under this law 'requires proof of both truth and public benefit' and it carries a two-year jail sentence as its maximum penalty (Pearson & Polden, 2015,

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p. 273). As media law educator and analyst Mark Pearson notes: 'While prosecutions for criminal defamation are rare, it is important for professional communicators to know of its existence' (Ibid.). Pearson and Polden also point out that basic civil defamation defences now apply to criminal defamation in most jurisdictions.

The media law authors also point out that too many journalists and publishers suffer from a 'libel chill'—where reporters and news-executives become over-cautious for fear of defamation (Ibid., p. 275).

Article 353 in the Philippines *Penal Code* defines libel as

> a public and malicious imputation of a crime or a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead. (CMFR, 2006, p. 15)

Article 354 declares that 'every defamatory imputation is presumed to be malicious, even if it be true',' except when it is made in a private communication to another person undertaking a legal, moral or social duty; and when it is in a report on 'any judicial, legislative or other official proceedings … or any act performed by public officers in the exercise of their functions' (CMFR, 2006, p. 15).

According to the UN Human Rights Committee, the 'chilling' effect, which disproportionate sanctions such as a custodial sentence, or even the threat of such sanctions, may have upon the free flow of information and ideas, must be taken into account when assessing the legitimacy of defamation laws.

Under international law, the right to privacy has to be balanced with the right of the public to know, public interest, and the exercise of freedom of expression. A special law (*Republic Act 53*) is unique to the Philippines in protecting journalists from being forced to reveal their sources unless 'demanded by the security of the state'. Section 1 of this Act states that no one from a newspaper, magazine or periodical of general circulation can be 'compelled to reveal the source of any information or news report appearing in said publication … unless the court or a House or Committee of Congress finds that such revelation is demanded by the security of the state' (CMFR, 2006, p. 18).

Special campus journalism freedom law

In 1991, Congress passed the *Campus Journalism Act* (*RA 7079*), which recognised the vital role played by the campus (university and college) press in the anti-dictatorship resistance, and granted student journalists substantial freedom.

This law limits school administrations to selecting publication advisers from a list provided by the newspaper staff. The faculty adviser—a post abolished in 1964 at the University of the Philippines, the country's largest state university and arguably its best tertiary institution—is limited to the function of providing technical guidance and is

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denied any censorship role. Staff members also have security of tenure and may not be expelled from the school solely on the basis of the paper's performance.

> Although the Act appears to be limited in applicability to a narrow, non-professional sector of the print media, its significance can be best appreciated in the context of the role school newspapers played during the martial law period (CMFR, 2006, p. 20).

Most Philippine universities and colleges, whether government-owned or private, publish student newspapers. During the martial law regime (1972-1986) a number of these newspapers, for example the University of the Philippines's *Philippine Collegian*, were at the forefront of that resistance. The *Collegian* was widely read, even outside the university, but a succession of its editors was arrested and detained indefinitely in the Marcos regime's detention centres (Ibid.).

Among many publications that have published articles marking four decades since Marcos imposed martial law, has been *Interaksyon*, the award-winning website which published a series on corruption and human rights abuses in '40 years after martial law', including a feature on Marcos and his 'temple of doom'—the mothballed US$2.3 billion Philippine Nuclear Power Plant at the Bataan coastal town of Morong (Paredes, 2014). Describing the 'pain before forgetting', the *Interaksyon* editors reflected:

> When Ferdinand Marcos declared Martial Law 40 years ago, thousands of Filipinos from all walks of life disappeared into military and police stockades and safehouses to undergo the horrors and indignities of torture. Hundreds more were summarily executed, others simply disappeared, never to be seen again. (*Interaksyon*, 2014)

To remind readers of what building the 'New Society' that Marcos envisioned really entailed, the *Interaksyon* website posted a series of videos of those who survived the torture, and narratives from the affidavits of some of the 10,000 peopled who filed a class civil action to lay claim to the dictator's ill-gotten billions as compensation for their suffering. Since the ousting of Marcos, some 206 journalists and media workers have been killed, including 33 so far during the term of current President Aquino.

Historically, argues Melanie Pinlac, politicians and other powerful individuals in the Philippines have 'abused the law on criminal libel to silence criticism' (Pinlac, 2012). She cited the case of the husband of former President Gloria Macapagal-Arroyo who filed 11 libel lawsuits against 46 journalists demanding 140 million pesos (US$3.16 million) in damages. Jose Miguel Arroyo subsequently dropped all libel cases in May 2007 after undergoing heart surgery. (Mike Arroyo drops all libel cases, 2007).

Early in October 2012, the Supreme Court of the Philippines suspended the implementation of the new law targeting cybercrime, mainly because of protests from netizens, free expression advocates and journalists' groups, including the CMFR. Branded by opponents as the 'e-martial law' because of its harsh penalties for criminal libel, tougher even

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INTERAKSYON

PINOYPOLITIKAS

Figures 1 & 2: Protests against the Cybercrime Law have been widespread in the Philippines, likening the legislation to an internet version of the Marcos Martial Law era.

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than under the mainstream law, the *Cybercrime Prevention Act 2012* came into force on October 3. Some critics likened the new law to the failed anti-piracy laws introduced the year before in the United States. The *Stop Online Piracy Act* (SOPA) originally known as the *E-Parasite Act*—and its Senate counterpart, the *Protect IPAct* (PIPA) , were described by the Electronic Frontier Foundation as 'a series of bills promoted by Hollywood in the US Congress that would have created a "blacklist" of censored websites' (EFF, n.d.).

The laws against 'rogue' websites were defeated by an internet campaign started by EFF and other groups, leading to an 'internet blackout' on 18 January 2012 in protest over the censorship that would have been imposed on non-infringing websites and political speech. Commented EFF in its online issue paper: 'Had these bills been passed five or 10 years ago, even YouTube might not exist today—in other words, the collateral damage from this legislation would be enormous' (Ibid.).

Many Filipinos immediately campaigned against the law on social media—turning both profile images on Facebook and Twitter black in protest— and by filing 15 Supreme Court petitions challenging the constitutionality of the Act (Figures 1 & 2). Six days later, the court suspended implementation of the law for four months.

Advocates for the law argue that it would strengthen the internet governance and clamp down on identity thieves, hackers, data pirates and cybersex offenders. They also say there will be an economic spin-off because more Information and Communication Technology (ICT) companies would be more enthusiastic about investing in the republic. In contrast, notes Melanie Pinlac:

> While we [CMFR] and other critics agree that there is a need to punish those who use the internet to harm children and women. Or steal identities and data for illegal use. We also believe the government has no right to impose limitations on freedom of expression in exchange for security and safety on the web.
> There are also existing laws Congress could have amended to address these violations—perhaps a better option than creating a vague, badly written and all-encompassing cybercrime law that could be subject to abuse. (Pinlac, 2012, p. 1)

Under this new law, upheld as constitutional in February 2014, higher penalties have been introduced for online libel. A person convicted of cyberlibel could spend a maximum of 12 years in prison—double the imprisonment maximum for libel committed in traditional media platforms, such as broadcast and print. Fears that a journalist facing libel charges for an article published in a newspaper could be charged again under the cybercrime law if the libelous item is republished online have eased with the Supreme Court ruling in February 2014, which prohibits a separate prosecution.

> Most local news organisations repost what ha[s] been printed in the papers on their websites or blog, so they would all be susceptible. This is in addition to the possibility of facing civil defamation charges. In the Philippines, a person can be sued separately and independently under both its penal and civil codes. (Pinlac, 2012, p. 2)

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However, the Supreme Court judgment explained: 'Online libel is different.There should be no question that if the published material [in] print, said to be libelous, is again posted online or vice versa, that identical material cannot be the subject of two separate libels.' (Disini v Sec. of Justice, 2014).

According to the CMFR and other critics, the cybercrime law 'brazenly disregards' national and international protections of free expression (Ibid.). Several days before the Cybercrime Act came into force, Freedom House had ranked the Philippines as one of the countries with the freest internet environment, citing the Constitution and Filipinos' unrestricted access to 'the Net'. The only criminal restriction on free expressions—before the cybercrime law—had been libel as defined in the Penal Code. Opponents and blogger Katrina Stuart Santiago, among others, quickly branded the legislation 'e-Martial Law' in reference to the harsh criminal libel penalties and the Marcos martial law years (Youth groups, tutors appeal, 2014; Torres, 2013).

Among 15 consolidated petitioners against the law were some faculty and students at the University of the Philippines whose College of Mass Communication condemned the Act for 'undermining' both free expression and communication education. A statement, signed by the dean, Dr Roland Tolentino, said communication and journalism students in the Philippines were taught that freedom of expression and of the press were rights guaranteed by the Constitution and were the foundations of responsible journalism (Expression and communication education, 2012). Tolentino concluded by declaring:

> [The law] clearly imposes unacceptable constraints on reporting and the shaping of public opinion through whatever medium which is the essence of responsible communication and journalism. UP CMC therefore joins the press and media community calling for the immediate repeal of the *Cybercrime Prevention Act 2012* and encourages its faculty, students, staff and alumni and friends to lend their voices in opposing this repressive law. (Ibid.)

According to Mark Mereuñas, writing for the Technology section of GMA News, while the Supreme Court had ruled that the online provision of the law was constitutional, it struck down others, including one that empowered the Department of Justice to restrict or block access to data violating the law (Mereuñas, 2014). He wrote that in the 'landmark ruling' partially granting the petitions, the court clarified that only 'original authors of libelous material are covered by the cybercrime law, and not those who merely received or reacted to it'.

> 'The high court … declared Section 4(c)(4), which penalised online libel, is not unconstitutional with respect to the original author of the post but unconstitutional only where it penalises those who simply receive the post or react to it,' said [Supreme Court] spokesman Thodore Te, who announced the ruling in a press briefing.
>
> In a late text message to reporters, Te clarified that online contents posted prior to the issuance of the SC ruling, including the period of the restraining order (TRC), are not yet covered by the law. (Ibid.).

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In its ruling, the Supreme Court upheld the legality of section 5, which penalises anyone who aids or abets the commission of cybercrimes and anyone who attempts the commission of cybercrimes, if the crimes involved are:

- Illegal access
- Illegal interception
- Data interference
- System interference
- Misuse of devices
- Cyber squatting
- Computer-related fraud
- Computer-related identity theft
- Cybersex

The National Union of Journalists of the Philippines (NUJP), an affiliate of the Brussels-based International Federation of Journalists, was among those organisations that condemned the law, describing it as '[a] half-inch forward but a century backward' in adding to an offence that 'former colonisers had, a hundred years ago, declared criminal … to stifle dissent' (Espejo, 2014; *The PCIJ Blog*, 2014). Describing the online libel provision as 'a convenient tool for the corrupt', the NUJP said in a statement:

> By extending the reach of the antediluvian libel law into cyberspace, the Supreme Court has suddenly made a once infinite venue for expression into an arena of fear, a hunting ground for the petty and vindictive, the criminal and autocratic. We can only hope that the Supreme Court will not remain blind to this when appeals to the ruling are filed. (NUJP, 2014).

In an analysis of the enacted law in October 2012 entitled 'Martial law reborn', CMFR deputy director Luis V. Teodoro argued that by invoking a Marcos comparison that the law was not just a form of 'cyber martial law: it is martial law reborn in the digital age'. He added that the law was 'too crafty, and too deliberate an attempt to silence criticism to be anything else but malicious in its intent rather than to have been the result of what some say is the ignorance of the country's legislators' (Teodoro, 2012, p. 2). Asked two years later by the authors why reference to 'e-martial law' had apparently declined in public discourse, Teodoro replied that after the Supreme Court ruling to uphold the essential elements of the Act, 'the focus shifted to the specifics of the law, primarily the libel provisions the Court said were constitutional' (Teodoro, L. V., personal communication with the authors, 17 November 2014)

> What we have in the Philippines is a conflict between lip service to libertarian principles on one hand and on the other, political dynasties' anti-democratic traditions.
>
> Press freedom is legally protected by the Constitution, but attempts to go around this protection have been around for some time. The continuing killings [of

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> journalists], of course, make a mockery of the claim that the Philippines has the freest press in the region. (Ibid.)

Earlier, the professor had frequently described the Act as a 'grave threat to free expression' when discussing the implications for the cyberworld. He had said the Act not only united those who had a Facebook or Twitter account, 'who have a blog or website, who access chat rooms or who use email', it had also 'led to the realisation among journalism and media practitioners who primarily use the old media (print and broadcasting)' about the threat (Teodoro, 2012, p. 1).

> The protests that greeted the adoption of the Act had tended to emphasise the threat to Netizens, in the process implying that the Act is a danger only to the exercise of free expression via the Net. The reality, however, is that it is a threat to everyone, including those who use mobile phones and even to those Luddites who disdain the internet and who prefer to communicate through the old media. (Teodoro, 2014, p. 1)

According to Teodoro, there is a 'punitive mindset among the dynasties that rule Congress and *Malacañang*'. In his view, although no journalists have so far been successfully prosecuted under this new Act, once the law 'finds victims in the form of a blogger sued for libel, or *prima facie* evidence of libel in a website' and the website is blocked by the Department of Justice, it will 'exacerbate the atmosphere of repression'.

> The chilling consequence would be self-censorship, and the subsequent decay of the press traditions of investigation and criticism in the old media, while the exuberance that has characterised internet communication in this country would decline into conformity and acquiescence—if the Act does not otherwise silence millions of critical websites, and bloggers and social media activists. (Teodoro, 2014, p. 2)

In fact, the first person charged under the Act was a woman and she was indicted for computer fraud, not over a media issue. Karla Martinez Ignacio was charged in Las Pinas, near Manila, in June 2014 and could face up to six years in prison if found guilty of transferring thousands of pesos to her bank account using fraudulent computer data (Woman to be first charged, 2014).

The first prosecution against a journalist was filed two months later in August 2014 by the Senate President, but not reported until early October (Senate president sues journalist for libel, 2014). But this libel case was based on the Revised Penal Code, not the cyber law. Journalist Manuel 'Boy" Mejorada posted a blog entry on 30 September 2013 titled 'Putting safety on the line—the Iloilo Convention Center'. Mejorada alleged that Senate President Franklin Drilon must have helped a named architectural company 'bypass the government's procurement process' in constructing the convention center. Mejorada added that 'other architects and engineers' found it anomalous that the designs

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for the centre were already prepared before geo-technical investigations and soil tests had been carried out. Mejorada asked:

> Will DPWH [Department of Public Works and Highways] sacrifice safety just to meet the deadline for the APEC [Asia-Pacific Economic Cooperation] ministers Summit in October 2015? (Ibid.)

In his libel complaint filed in the Pasay City Prosecutor's Office on 27 August 2014, Senator Dilon alleged that Mejorada's blog posting was 'malicious'. He added that Mejorada held a grudge against him after the senator no longer used him as a consultant after he had 'irresponsibly used my official social media accounts to attack political personalities' (Ibid.).

The 'Magna Carta' for the internet law

The so-called Magna Carta for Philippine Internet Freedom (widely known by its hashtag #MCPIF) is a bill introduced by Senator Miriam Defensor-Santiago as SB 53 in response to a crowdsourcing initiative by a group of Filipino lawyers, bloggers, technology buffs and human rights advocates describing themselves on their website as Democracy.Net.PH. A Senate open statement in March 2014 by engineer Pierre Tito Galla on behalf of DDN said:

> Cyberspace is an alien world for many. Many are afraid; many more only grasp its fringes. Cyberspace exists as a domain of the mind, of zeroes and ones, of abstract concepts. It is not surprising, therefore, that the view of the internet is one of the widest disconnect between a government and its people. Neither has walked in each other's shoes. (Galla, 2014)

Promoting the notion of the 'Freedom Doctrine'as a holistic approach to the #MCPIF for ICT legislation, Galla declared: 'The Philippines is being cited as a model for participative democracy, that through crowdsourcing—the collaboration and direct participation of citizens enabled by the internet and ICT—laws can be crafted that reflect most accurately our people's aspirations.' Comparisons were made with the 'praise they showered [on] the parliamentarians of Brazil working towards a "Marco Civil da Internet' (Web Index Annual Report, 2013).

The bill has passed the first reading in both chambers of the Philippine Congress. The charter is based on four pillars—rights, governance, development and security. It comprises 10 parts and 85 sections and codifies a Bill of Rights for Filipino internet users, including sections banning internet censorship and data discrimination, along with sections promoting data privacy, data security, information security, net neutrality and freedom of information. Due process clauses are included in this chapter. Other parts deal with information and technology policy such as ICT4D (ICT for national development) and e-governance;

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provision for the repeal of the *Cybercrime Prevention Act* 2012; and national cybersecurity and counter cyber-terrorism. Galla explains: 'A law on the internet and ICT cannot exist in a vacuum; the protection and promotion of rights and freedoms requires a more holistic approach than that offered by the *Cybercrime Prevention Act*' (Galla, 2014).

Another progressive feature of the bill is provision for the creation of an Office of Cybercrime within the Department of Justice with powers as the central authority in enforcement of the law. Also, special courts would provide for judges who are required to have specific expertise in computer science or IT to hear or resolve cases brought under the Act. Noted EFF analyst Jillian York: 'Overall, the crowdsourced [bill] is a success story and we support our allies in the Philippines as they work to push it forward in the Senate' (York, 2013).

However, a parallel Magna Carta for Journalists Bill, *HB 2550*, has been widely condemned by local and international media groups, as a tool to regulate the media and a 'horrendous assault on press freedom by utilising the name of one of the great documents of civil rights' (Corrales, 2013; *Newsdesk*, 2013). While the bill recognised the need to improve the welfare and safety of journalists, it would impose a Fourth Estate accreditation and licensing system, long opposed by media freedom advocates. The bill proposed the creation of a Professional Journalist Examination and a Philippine Council for Journalists (PCJ) that would oversee the exam-based accreditation system. However, NUJP president Rowena Paraan condemned the 'discriminatory' bill, saying it would be 'akin to determining who can and cannot speak out freely' (Ibid.). Responding to Senator Jose 'Jinggoy' Estrada, who defended the bill by claiming it was justified due to the spate of killings and harassment of journalists and media workers in the Philippines, the NUJP declared that the union 'works for the safety and welfare of Filipino journalists and media workers. We have never seen it as one of our roles to judge who is fit or unfit to be a journalist' (Table 1) (NUJP, 2013). In January 2015, the NUJP again denounced accrediting of journalists through back-door legislative changes, this time in protest of a proposed amendment to the so-called Sotto Law shielding journalists from disclosure of sources, *Republic Act 53*, introducing an amendment HB362, which would extend the 'shield' to 'accredited' journalists. The NUJP said: 'Any state regulation of journalism can only lead to one sad result—the death of press freedom and the independent Philippine media' (NUJP, 2015).

In a separate statement, the IFJ was even harsher about state regulation, saying:

> If politicians in the Philippines truly want to emulate the Magna Carta then they should focus more on the public's right to know by passing the long-delayed Freedom of Information Bill and other measures that allow media [to] keep their communities informed …
>
> [A] greater effort must be made by all those in power to combat the outrageous culture of impunity that aims to silence the media by killing journalists and allowing the perpetrators to get away with murder. (Cited by Corrales, 2013)

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Table 1: Philippine journalists killed : February 1986 - March 2015

Year	Number killed	Presidents
1986	3	Corazon Aquino Total = 37
1987	10	
1988	7	
1989	4	
1990	8	
1991	5	
January - June 1992	0	
July - December 1992	6	Fidel Ramos Total = 19
1993	5	
1994	0	
1995	1	
1996	3	
1997	2	
January - June 1998	2	
July - December 1998	3	Joseph Estrada Total = 9
1999	2	
2000	3	
January 2001	1	
February - December 2001	3	Gloria Arroyo Total = 108
2002	2	
2003	7	
2004	15	
2005	11	
2006	12	
2007	6	
2008	7	
2009	39	
January - June 2010	5	
July - December 2010	3	Benigno Aquino III Total = 38
2011	8	
2012	7	
2013	14	
2014	4	
March 2015	2	**GRAND TOTAL = 211**

Source: A total of 211 Filipino journalists and media workers have been killed during four democratic administrations since the Marcos dictatorship, February 1986-March 2015. Thirty eight of these deaths have happened during President Benigno Aquino's term alone. These figures have been adapted and updated from Robie, D. (2013). *Don't Spoil My Beautiful Face: Media, Mayhem and Human Rights in the Pacific*, Auckland: Little Island Press (p. 309), and compiled from the Center for Media Freedom and Responsibility (CMFR), Committee to Protect Journalists (CPJ), Human Rights Watch (HRW), International News Safety Institute (INSI), International Press Institute (IPI), Global Journalist (GJ), National Union of Journalists in the Philippines (NUJP) and Reporters Without Borders (RWB/RSF) reports.

Reporting information of public concern and interest involves not just journalists, but also lawyers, scientists, NGO advocates, people's movements, academia and others who have information of public interest they wish to share more widely. However, criminal libel discourages all these people from contributing to the public discourse on political issues that is vital for any democracy. The Inter-American Commission on human rights described criminal libel as having an 'inevitable chilling effect' on freedom of expression. (cited in Diokno, 2008, p. 25). According to human rights lawyer Jose Diokno: 'A journalist cannot report from prison bars. The mere threat of criminal prosecution can prevent journalists from reporting and publishing important stories' (ibid.).

By entrenching criminal libel, and with the highest court arguing constitutional justification with higher penalties for online breaches, the Philippines has signaled it wants to impose a 'chilling effect' on the nation's media. Self-interested lawmakers believe that this is an important move to safeguard their reputations no matter what the cost. This is not all; there is a critical danger of a draconian law for export as copycat legislation—just as the US anti-piracy SOPAC law provided an international precedent, as already both Singapore and Thailand have similar laws. In the South Pacific, Samoa has had criminal libel on the statute books since 2011 although it vowed to remove this (Malifa, 2012). Papua New Guinea is toying with new legislation designed to censor online. Other governments in the region could look to the Philippine model and try to emulate it in the Pacific, posing a serious threat to freedom of expression and introducing online criminal libel regimes.

Finally, Vergel Santos (2012), the former chair of the editorial board of *Business World* in the Philippines, wrote a pithy note defining criminal libel in an address to lawyers. His view:

> As a law that punishes malicious attacks on someone's reputation, libel sets down determinants you can't put your finger on—undeterminable abstractions, matters of necessarily arbitrary judgment. You can cut out the heart of a journalist, and still you will find no evidence either way—malice or any purer intention; in the meantime, you have killed him; you have silenced a voice for a most critical freedom in a democracy (Santos, 2012).

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WEST PAPUA

16. Conflict in West Papua

The contrast between historic and contemporary media coverage in New Zealand

ABSTRACT: Many New Zealanders, even in politically aware circles, have a limited understanding of West Papua and frequently confuse the Indonesian-controlled territory with its neighbour Papua New Guinea. This reflects the limited mainstream media coverage of the territory and of the ongoing conflict that is taking place there. However, in 1962 and again in 1969, the New Zealand media gave considerable attention to the crises that enveloped West Papua and determined its subsequent destiny. The territory's Pacific location was often highlighted and the statements of West Papuan leaders were reported. The year 1962 saw escalating Indonesian military intervention in the territory and subsequently the signing of the controversial US-brokered New York Agreement between the Netherlands and Indonesia. In 1969 Indonesia conducted an 'Act of Free Choice' which was widely seen by external observers as a fraudulent act of self-determination. This article gives examples of this historic coverage and considers what might be done to bring about change and to bring West Papua back into the frame as a Pacific neighbour.

Keywords: conflict reporting, foreign correspondents, independence, Indonesia, international journalism, self-determination, West Papua

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MAINSTREAM print media in New Zealand gives scant attention to the political and conflict issues in West Papua, and *Pacific Journalism Review* deserves credit for exposing and endeavouring to correct this 'blind spot' (Abplanalp, 2012; Blades, 2014; Leadbeater, 2008; Perrottet and Robie, 2011; Zweifel, 2010). Content analysis undertaken in 2011 by David Robie (Robie, 2013) confirms that the New Zealand print media offer negligible coverage of West Papua, even of major events involving deaths and mass arrests.

Two examples are illustrative. The print media failed to cover the 2014 story of two French journalists who were detained for nearly three months in Jayapura, West Papua. The pair were finally released on 27 October 2014 (Arrivée a Paris, 2014). French journalists

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Thomas Dandois and Valentine Bourrat were tried and convicted of misusing tourist visas to work as journalists. The pair, well-regarded in France, were working on a documentary for TV channel Arte, and were following a well-established precedent by entering on tourist visa. The Indonesian authorities almost never grant working visas for current affairs journalists to report on West Papua. Any that do gain permission to work 'above the radar' must accept tight restrictions on their activities. The detention of Dandois and Bourrat was highly unusual; others caught in similar circumstances have been been summarily deported. Some of the people they met were detained and although tribal leader Areki Wanimbo was relesed on 8 May 2015, a prosecution appeal was undergoing. Some 46 activists were arrested when they demonstrated in support of the journalist pair (Papuans Behind Bars, 2014).

This was a dramatic story, a story with much to say about the current state of media freedom in West Papua. New President Joko Widodo—who had made campaign promises to open up West Papua—was about to take office in Jakarta (Jokowi to open access, 2014). There was no lack of soft 'human interest' story possibilities to include as anxious family members and colleagues set up petitions and traveled to the area. There was even a 'local' angle; a solidarity vigil in Auckland attended by representation of churches, human rights organisations and a journalist union.

For once the story did include people from our familiar context. Walter Zweifel, news editor of Radio New Zealand International, which offers extensive and thoughtful coverage of West Papua, has suggested that the absence of 'First World protagonists' is a significant reason for the West Papua media blind spot (Zweifel, 2010). However, despite these two journalists' 'First World' credentials, their story appeared in New Zealand only in online media and on Radio New Zealand. If the journalists had been detained in Samoa or Fiji would the reporting have been different?

In August 2014, a rising star among Papuan human rights defenders, Victor Mambor, made a brief visit to New Zealand. He is the Papua chair of the Indonesian Independent Journalists' Association and the editor of the Jayapura-based newspaper and website *Tabloid Jubi*. Early in 2014, Victor made representations about the lack of press freedoms to the European Parliament. No mainstream print media covered his visit to New Zealand, and media coverage was again almost entirely web and radio-based, although a short TV3 interview (McRoberts, 2014) was a welcome development.

Things were a little better 18 months earlier when exiled West Papuan leader Benny Wenda[1] toured New Zealand. Parliamentary Speaker David Carter scored an own goal when he refused permission for Green MP Catherine Delahunty to hold a meeting for Wenda in Parliament Buildings. Foreign Minister McCully also refused to meet with him, thus giving news media a strong local political angle (McCully snubs West Papuan, 2013).

The situation was vastly different in the 1960s. This was the period when control of West Papua (then West New Guinea, commonly known as Dutch New Guinea) passed from the Netherlands to Indonesia. It was a turbulent time for the people of West Papua,

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who had no influence over the international power play which denied them their right to self-determination.

Brief background

Indonesian nationalists unilaterally declared their independence from the Dutch in 1945, but it was a further four years of bitter conflict before the Dutch agreed to transfer power. The nationalists reluctantly agreed to allow the Dutch to continue to administer West Papua in the short term, but over time intensified their campaign for the inclusion of West Papua in the new republic. The Indonesian claim rested largely on the principle of *uti possidetis juris*, that newly liberated states should preserve the boundaries set out by former colonists. The *uti possidetis* principle has a controversial legal status and does not sit well alongside other international legal principles such as the right to self-determination.

As US President Woodrow Wilson said in 1918:

> Peoples are not to be handed about from one sovereignty to another by an international conference or an understanding between rivals and antagonists ... 'Self-determination' is not a mere phrase. It is an imperative principle of actions which statesmen will henceforth ignore at their peril. (Wilson, 1918)

By 1961, the Dutch were well-advanced with their plans to prepare the Papuan people for self-determination. The West New Guinea Council—a mostly elected local parliament—had been set up and the national symbols of the nation-to-be chosen. The now-banned *Morning Star flag* was raised officially on 1 December 1961 alongside the Dutch tri-colour.

At the same time, Indonesia was escalating both its military and its diplomatic campaign and had begun armed infiltration into the territory. These events coincided with a critical period in the Cold War when the United States under President J F Kennedy was determined to ward off increasing Soviet influence over Indonesia. In 1962, Indonesia was the largest recipient of Soviet aid in the non-communist world (Saltford, 2002). The United States brokered negotiations between the Dutch and the Indonesians. In August the New York agreement was signed; it provided for a seven month United Nations administration to be followed by Indonesian rule. Jakarta was however obligated to conduct an act of self-determination not later than 1969 (Saltford, 2002).

New Zealand media in the 1960s

An overview of the media coverage of West Papua in 1962 and 1969 follows. A selection of articles from each year from both major Auckland papers of the time, *The Auckland Star* and *The New Zealand Herald*, were taken for this survey. In the 1960s, as today, *The New Zealand Herald* had the country's highest circulation as a morning newspaper delivered throughout much of the North Island. The *Auckland Star* was an evening news-

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paper distributed in the metropolitan area. It ceased publication in 1991, and partly by contrast with its rival, was generally seen as less conservative in both style and political stance.

For the month of May in every year every edition of both newspapers was studied. This overview establishes that the conflict, its causes and the views of the antagonistic protagonists were well covered. If there was bias it was generally pro the rights of the Papuan people.

There were 14 articles about West Papua in May 1962 in the *Auckland Star* and 6 in *The New Zealand Herald.* Some of the *Auckland Star* headlines were 'With West New Guinea foregone conclusion: Indonesia's internal war against Reds is what matters now' (Warner, 1962), 'More Red arms for Indonesia'(1962), 'Indonesians in Dutch territory' (1962), 'Holland urges U Thant: Stop aggression in New Guinea'(1962) and 'Indonesia's slaves, says Papuan'(Heymanson,1962). At the end of May, the *Star* published an opinion article penned by University of Auckland geography professor Kenneth Cumberland who had visited West Papua and talked with Papuan leaders. His article was titled 'The Papuans want autonomy. Soekarno's claim has slender basis' (Cumberland, 1962).

The *Herald* headlines were a little less colourful but show that the newspaper was covering the contemporary story of military clashes and US attempts to get negotiations under way. For example 'Dutch pour in reinforcements Indonesian troops under attack' (1962) and 'Holland Ready to Reopen N. Guinea talks: American's Plan' (1962).

By 1969, West Papua (officially renamed West Irian) had a well-established guerrilla movement, the Free Papua Movement or OPM (Osborne, 1985). The preparations for the 'Act of Free Choice' took place against the background of armed rebellion in the north-west Bird's Head area and in the Central Western Highlands. Indonesia only reluctantly agreed to go ahead with the Act and then chose the procedures under which it would take place, setting aside the protestations of UN representatives. The conduct of the UN and other Western nations at this time does them grave discredit.

In May 1969, there were 15 *Auckland Star* articles about West Irian, including two separate stories on May 13. *The New Zealand Herald* covered the issue in four articles in this same month. As in 1962, the *Herald* headlines were comparatively sober along the lines of 'Indonesians going on with the vote despite rebels'(1969) and 'Major problems ahead for West Irian rulers' (Mohr, 1969).

The Auckland Star had many arresting headlines such as 'Standing by with guns, axes, blowpipes; 10,000 ready to battle Indonesia in West Irian' (1969) and '"Hot land" in our near north a world of strife'(1969). Two articles, 'On the fringe of tormented land' and 'New Guinea's rebels not from the Stone Age' carried the byline of correspondents in the region. Donald Woodford (Woodford, 1969) reported for the New Zealand Press Association from Wutung on the border or 'fringe' of Papua New Guinea and Frank Palmos, who had visitedthe territory previously, wrote from Jakarta. Palmos quoted traders and mission members in support of the contention that the Papuans were not 'Stone Age' but rather

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a good percentage were 'schooled, work on small trade ... and have a tight knit village structure of long standing.' (Palmos, 1969) Several stories featured the concerns of West Papuan leaders in exile and their appeals for UN troops to be sent to the territory and for the UN to ensure a 'one man one vote' poll.

The 'Act of Free Choice' was a carefully scripted process that allowed for no possibility of a dissenting vote (Drooglever & Instituut voor Nederlandse Geschiedenis, 2009). It was conducted by a series of assemblies or 'musjawarahs'[2] at which just 1022 representatives were granted the right to vote. Saltford (2002, p. 158) records that Brigadier Ali Murtopo, commander of special operations during the Act, warned Papuans who dared to vote 'no' that they 'would have their "accursed" tongues torn out'.

The process began in July and the New Zealand ambassador was among diplomats invited to observe part of the process. Now that official External Affairs documents have been declassified, it is clear that Ambassador Bill Challis was distressed by his experiences. He reported in a letter to his Wellington colleagues that 'the atmosphere was oppressive, and joy was artificial, where it was not restricted to the Indonesian population'. The ambassador's reservations were set aside in favour of the 'realities of the situation' and 'our general sympathies for Indonesia'. (Department of External Affairs, Wellington, 1969).[3] However, many New Zealand media articles and editorials were condemnatory.

In June, *The New Zealand Herald* published a lengthy article from Garth Alexander, a British journalist who offered an eyewitness perspective based on a five-week visit to the territory. The byline said the story was 'specially written for the *Herald*' and it was titled 'Army rules in West Irian'. Many people were afraid to talk to Alexander, resorting instead to leaving notes in his luggage or in his hotel room to tell him to open his eyes to 'this reign of terror' (Alexander, 1969).

Subsequent stories also emphasised the fear and repression which accompanied every aspect of the plebiscite process. For example a *Star* article on July 19, headlined '"Free Choice"—so long as you vote "yes"' began: 'Only 1600 miles away in New Zealand's near north, a tormented and impoverished little country is being subjected to the farce of what must be the most contrived "free election" outside the communist bloc' (1969).

A July 29 editorial in *The New Zealand Herald* concluded 'there was never the least prospect that the West Irians would be allowed to opt for independence—or for any form of rule best suited to their needs' (Act of Free Choice, 1969).

Australian journalist Hugh Lunn was on the spot to observe the conduct of the assemblies in Manokwari and Biak in the far west of the territory. In July 1969, US President Nixon visited Jakarta and Lunn has since described how his journalistic colleagues were recalled from the territory to cover the Nixon story and he was left to cover these heavily policed events alone (Worth, 2003).

A number of Lunn's articles were published in *The New Zealand Herald* from the New Zealand Press Association-Reuters news service. Lunn documented the small brave protests that invariably ended in arrests. One group of four tried unsuccessfully to make

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their way into the assembly shouting 'Self..Self..Self'—they were severely beaten and summarily loaded onto the back of a truck (Lunn, 1969).

Discussion

News reporting has been described as 'the first draft of history'. Forty five years on we have the benefit of scholarly works to help us understand role of the UN and other major players in the events in West Papua at the time of the 'Act of Free Choice'. Weighed against these works, New Zealand media stories were offering a commendable 'first draft'.

What are the reasons for differences between the print news coverage then and now? This must be put in the context of the media landscape of the time. In the 1960s, overseas corporate ownership of the media was not predominant and newspapers were relatively autonomous. Newspapers were not in competition with the wide range of other media communications available today, and employed larger numbers of staff. The concept of news as titillation or entertainment was virtually unknown.

The NZPA placed importance on covering international news for a New Zealand readership. It was a non-profit cooperative imbued with a spirit of public service and its links with the Reuters news service enabled the distribution of stories from correspondents such as Hugh Lunn, who was based in the Asia-Pacific region. In 1966, NZPA decided to base a correspondent of their own in South-east Asia (Sanders & Nevill, 1979).

Although there were considerable restrictions on media access to West Papua/West Irian in 1969 (Tapsell, 2015) it was still possible for journalists to gain access as the examples of the visits of Hugh Lunn and Garth Alexander demonstrate. Since then the shutters have gone up and local journalists work under restrictions and threats (Perrottet & Robie, 2011). In the past 14 years only one New Zealand journalist, freelancer Paul Bensemann, has visited West Papua to report on the conflict. His 2013 visit was under-cover and his story featured seldom—heard Papuan leaders speaking about New Zealand's controversial police training (Bensemann, 2014). Even so, it took Paul Bensemann five months before he was able to get the story accepted for publication (P. Bensemann, personal communication, 27 February 2015).

In 2015, media ownership in New Zealand is concentrated in the hands of overseas companies owned by international financial institutions and wealthy foreign media moguls (Myllylahti, 2014). The mainstream media have a vested interest in maintaining the political status quo which allows this investment to flourish.

The term 'manufacturing consent' was popularised by Noam Chomsky in his writings and in a ground-breaking movie, *Manufacturing Consent—Noam Chomsky and the Media* (Achbar & Wintonick, 1992) which illustrates the ways in which media bias serves to control the views and the responses of the public.

A highly memorable example of bias in the *Manufacturing Consent* movie was the comparison of the genocide in Cambodia under the Khmer Rouge and relatively comparable

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level of killing in East Timor, then still under Indonesian occupation. In the time period 1975-1978, *The New York Times* devoted 70 column inches to the crisis in East Timor compared with 1,175 inches to Cambodia. The startling difference in coverage is explained by Western complicity in the crimes committed by Indonesia as well as Indonesia's geostrategic and economic importance to the West. A media analysis of US coverage of West Papua would probably produce a comparable result.

In 1963, Indonesia embarked on a campaign of 'confrontation'—an undeclared war against the newly formed state of Malaysia, mostly fought in Borneo. New Zealand forces were engaged in the conflict alongside Britain, giving rise to public concerns—albeit at a lower level than in Australia—about Indonesian expansionism. However, in 1965 Indonesia's leftward drift was decisively halted by an abortive coup which was blamed on the entire left, who were said to be planning a communist takeover. A prolonged bloodbath followed, in which more than half a million Indonesians were killed because of alleged communist sympathies. General Suharto, who rose to power at this time, fell into line with Western economic and security interests. New Zealand forged closer links with Indonesia from this time—a Jakarta Legation was upgraded to Embassy status in 1968 and military ties were established in 1973. New Zealand's political blind-spot on West Papua also reflects the desire to protect this harmonious relationship with Indonesia.

By 1969, New Zealand had accepted that *realpolitik* meant they would turn a blind eye to Indonesian abuses in West Papua and vote at the UN in favour of endorsing the 'Act of Free Choice'.

A personal clipping file of West Papua news stories in *The New Zealand Herald* covers the period from the 1980s to the present day. The stories were infrequent and unlike the stories of the 1960s, failed to provide a reader with any context to make sense of the issues behind the headlines. For example, in 1984 escalating conflict led thousands of West Papuans to flee across the border and attempt to seek sanctuary in neighbouring Papua New Guinea. A few stories, including two headlined: 'Refugees found starving' (1984) and 'PNG proposal inhumane' (1984) highlighted the deprivations suffered by the refugees and the tensions that developed between Papua New Guinea and Indonesia, but failed to provide an explanation for the exodus.

In recent decades, electronic and digital news services have become far more prominent and many people no longer rely on a daily newspaper to inform them about world events. The 'snapshot' of newspaper stories from representative months which illustrated the 1960s coverage would not fairly illustrate contemporary coverage.

Thanks to the internet, social media, digital cameras and so on there is a steady stream of information available about political developments, human rights abuses and activist movements in West Papua. Although there is room for bias and distortion of events from these more informal sources, information about significant events can be cross-checked across a number of sources, including reports from widely respected church and human rights groups. This means it is more revealing to examine the way in which particularly

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newsworthy or notable events are covered or not covered in contemporary media sources.

David Robie, Alex Perrottet and the Pacific Media Watch team took this approach when they surveyed coverage of 2011 violence in West Papua. (Pacific Media Watch, 2011; Perrotet and Robie, 2011). They describe how in October, an otherwise peaceful Papuan People's Congress was brutally disbanded when the Indonesian military opened fire on a thousands-strong gathering. With the notable exception of Radio New Zealand International, the events went under the radar of mainstream media sources. There is a reference to the events in *The New Zealand Herald* but it is in an Op-Ed article published only online, some months later when the Congress leaders were put on trial. (Leadbeater, 2012).

Looking at website news, *Pacific Scoop* stands out as *Café Pacific* (2011) noted:

> In a content analysis of a two-week period between the start of the military crackdown on October 19 until November 2, 2011, it was found that *Pacific Scoop* published 66 percent of the total of 99 news stories carried by main NZ news media websites about the West Papua crisis.

On December 8, 2014, five schoolboys were shot dead by Indonesian security forces as they participated in a traditional (waita) dance protest, after an incident the previous evening when security forces allegedly assaulted people attending a Christmas event. The only reference to this shooting in *The New Zealand Herald* was in a listing of events by numbers: '5 protesters died after Indonesian soldiers reportedly opened fire on a crowd of students in the troubled Papua province' (2014).

As an activist, I am keen to challenge both the media blind-spot and the political blind-spot. A change at the media level would encourage greater public engagement with the issue and potentially lead to political change.

Looking back at the 1960s, media coverage suggests two practical points of leverage. The first is the need to press for renewed media access to the territory as was promised by the new Indonesian President in his campaign speeches. A parliamentary resolution put forward by Green MP Catherine Delahunty in support of greater media freedom in West Papua gained cross-party support (Delahunty, 2014)[4]. A similar resolution was passed by the Australian Senate.[5]

Secondly, there is a need to reposition West Papua as a Pacific neighbor rather than part of Asia. This is already the perspective of Radio New Zealand International, *Pacific Scoop* and Pacific Media Watch, to their great credit. In the 1960s West Papua was seen as part of our region. The territory was described as being near to us and its location as the neighbour of Papua New Guinea, then under Australian governorship was often highlighted.

The West Papuan diaspora has played a big role in renewing the campaign focus on the Pacific. For more than a decade there has been a concerted effort towards the goal of West Papuan inclusion in regional bodies, particularly the Pacific Islands Forum and

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the Melanesian Spearhead Group. The newly formed United Liberation Movement for West Papua, which brings together the three major resistance movements, resubmitted an application for membership in the Melanesian Spearhead Group on 5 February 2015. (Radio New Zealand International, 2015). The pursuit of this objective has generated media exposure in Pacific countries, including New Zealand.

At the grassroots level, there is a lively new Māori and Pacific women's collective, Oceania Interrupted, whose performance work focuses on West Papua. The collective is attracting interest in the Auckland Pacific community and is beginning to break though into print media circles such as *Spasifik* magazine (Curran, 2014), as well as having a high profile in social media such as Facebook. In February 2015, a new Fiji solidarity movement held an inaugural march in Suva. The new network has strong church support including backing from the regional Pacific Conference of Churches (Radio Australia, 2015).

These are hopeful developments for the growing awareness that geographically, culturally and ethnically, West Papua is part of the Pacific region.

Notes

1. Benny Wenda was appointed spokesperson for the United Liberation Movement for West Papua in December 2014.
2. The term *musjwarah* is usually translated as consensus but the 1969 assemblies bore little resemblance to consensus decision making practice as it is known in contemporary parlance.
3. The summary in this September 1969 Briefing Paper notes: 'Reservations about the benefits likely to ensue for the West Irianese or about the validity of the method whereby the decision was reached, cannot set aside the hard fact that in 1969 there was no reasonable and *practical* alternative to this result …'
4.The wording of the New Zealand motion passed on 30 July 2014 was: 'That this House call upon the new President of Indonesia to commit to genuine media freedom in West Papua, including the right of local and international journalists to report on the political situation there without risk of imprisonment or harassment by the Indonesian State.'
5. On October 1, the Australian Senate passed a resolution which noted that press freedom in the Papuan provinces was 'tightly restricted' by the Indonesian government. The motion expressed concern at the imprisonment of two French journalists for working in the area on tourist visas, and urged the Australian government to call for their release.

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FRONTLINE

17. 'Cloud forest', court battles and competing narratives

A Pacific research journalism case study

Abstract: This *Frontline* article documents and analyses the process of creating a piece of journalism about an Indigenous-run legal bid in the Solomon Islands to challenge potentially corrupt government logging approvals. It also documents the responses of 12 editors to whom the piece was presented to, including the reasons, in terms of standard newsworthiness criterion, that some of them gave for not running the article. This process illustrates how the criteria exclude coverage of some international issues. According to lawyers working on it, this case could set important legal precedents that change the way companies deal with both the government and traditional land owners in the Solomon Islands. Spreading its relevance to other places, the story, when told at length, differs from and therefore challenges stereotypical narratives about Pacific Islanders. In doing so, it contributes to a process called 'social bridging' described by Ward (2010) as being an aim of ethical journalistic practice. The writing and publication process are analysed with reference to Foucault's (1972) model of discourse and enunciative modalities.

Keywords: ethics, exegesis, Pacific, journalism ethics, legal issues, logging, media law, newsworthiness, Solomon Islands

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KOLOMBANGARA is a towering round volcanic island in the Western Province of the Solomon Islands. About 6000 people live there, mostly in huts, many without power or water. The jungle higher than 400 metres above sea level is called a 'cloud forest' because the altitude bestows ecological properties that make it biologically distinct from the lowland ecosystems.

In this region there are currently: companies interested in logging the cloud forest; some locals interested in profiting from logging; other locals keen to preserve the forest, who have a plantation company funding them; legislation that prescribes conditions for granting approvals; and a government that stands accused of granting approvals without

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following the legislated protocols. This is the first time a local group has challenged the government in the nation's high court for its manner of managing approvals, so there are precedents being set that will influence future cases. The first legal injunction, stopping the chainsaws, was granted in 2010 and the current case is scheduled for trial in early 2015.

I first heard about the ongoing legal battle in 2011 from Stephanie Price, an AusAid-funded Australian lawyer, who was working on it through her position with the Landowners' Advocacy and Legal Support Unit (LALSU). This unit is part of the Solomon Islands government-funded Public Solicitors Office. The context of the conversation was social, not work. We have a family connection and I was in Honiara to visit her. The story struck me as interesting but it was not immediately obvious that it was 'newsworthy', in the way that commissioning editors would appreciate. In addition, I was aware that journalism ethics usually precludes interviewing relatives (Reuters, 2015; NYT, 2004) but relatives can provide leads that can be followed and, in this case, there would be other experts I could access. Over time, I started exploring ways to tell the story that came closer to fitting the structure and narrative that editors could accept.

This article is in two parts. The first is an exegesis that documents and analyses the process of creating a publishable feature article about the case in mid-2014, giving consideration to its 'newsworthiness'. The second presents the 2500 word feature article, in the form in which it was sent to 12 editors. Of these, six ran the story; four published the piece with minimal editing, while one assigned a staff journalist to work on a shorter/newsier version and one requested a 220-word version. Publication by these six outlets gave rise to at least three instances of publication by other outlets via copy-sharing arrangements. The reasons the other six editors gave for rejecting the story are discussed in the exegesis.

Part 1: Exegesis

The purpose of an exegesis is to locate a story within a scholarly context with reference to specific disciplinary and theoretical frameworks (Nash, 2014; Nash, 2013; Bacon, 2012). The disciplinary framework that gave rise to the creation of this piece of writing is journalism, as described by Ward (2010) in his book *Global Journalism Ethics*. The theoretical framework through which decisions about what to include/exclude will be analysed is Foucault's (1972) discussion about fields of discourse and enunciative modalities.

Journalism has been described by so many experts in so many ways that to simply say that 'this work is a piece of journalism' lacks specificity. Ward's *Global Journalism Ethics* (2010) was written 'with an eye to how journalism is practised on the ground' (p. 7) and the process of crafting this article about Kolombangara was informed and inspired by Ward's arguments. He contends that only with the help of a philosophical theory of justice and goodness can we be clear about what it means for journalism to serve the public good (p. 6). The argument that the journalism produced by academics should primarily seek to serve the public good by functioning as a 'critic and conscience

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of society' is made by Robie (2015). Ward's model is derived from a liberal democratic perspective and draws on Western philosophical traditions such as contract theory, constructivism and cosmopolitanism. Responding to potential criticism of having Western bias, he explains that these ideas are not only Western: 'For example, cosmopolitan ideas can be found in Confucianism and Eastern philosophies' (p. 235). Ward's conclusion is that journalism should be cosmopolitan in content, procedure and aim, and he describes this as a necessary shift in the ethical identity of journalism that has struggled to hold its claim to be able to deliver 'objective' views from nowhere, and that has set itself the task of serving its audiences first and foremost. He wrote:

> Historically, journalism ethics has been parochial with its standards applying to particular groups. Journalism ethics was developed for a journalism of limited reach. The evolution of journalism ethics enlarged the class of people that journalism was supposed to serve, from political parties to the general public. But even today, the news media's claim that it serves the public has limits. It is usually assumed that the public includes readers of local newspapers, audiences of regional TV broadcasts, and the citizens of a country. Most of the 400 codes of journalism ethics in the world today are for local, regional or national media. Little is said about whether or not journalists have a responsibility to citizens beyond their town or country. Journalism ethics, it seems, stops at the border. (Ward, 2010, p. 158)

In light of Ward's suggestion that best-practice journalism should transcend national borders and promote cosmopolitan understanding there appeared to be value in telling the story of the legal battle to save the cloud forest to international audiences. The original contribution to knowledge made by the journalistic endeavour was to use the methodology of journalism (Lamble, 2004) to bring to light a situation that had not yet received any international media coverage. The challenge in doing so was to conform to the journalistic requirement to be succinct, while not sacrificing accuracy about the complexity of the story, because the empathy-evoking human struggle in this case is to do with persistence in the face of mind-numbingly slow and possibly negligent bureaucracy. In addition, the value in describing the complexity is that it challenges stereotypical descriptions that may be readily understood by readers, but that are not necessarily true or useful (Loto et al., 2006). Pratt (1986) mentions stereotyping in an essay about ethnography where she refers to writers commonly describing a 'utopian scene of first contact that acquired mythic status in the eighteenth century, and continues with us today in the popular mythology of the South Sea paradise (alias Club Méditerranée/Fantasy Island)' (p. 36). Rejecting stereotypes and depicting more complex situations conforms with one of the ethical 'goods' that Ward (2010) advocates that journalism should pursue, namely assisting with 'social bridging'. He argues that 'journalism has a duty to act as a bridge between diverse classes, ethnic groups, religions, and cultures within and among countries ... and to encourage tolerant but frank cross-cultural discussion of issues' (p. 170).

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The genre selected to convert the story, as heard via conversation, into media content was text-based feature article structure. This was because, as Tanner et al, (2012, p viii) explain, feature writing is well suited to 'providing explanations of complex political, social or economic events and issues'. It achieves this via the use of colourful language, characterisation and narrative structures that engage readers, and by providing deeper analysis and more perspectives than news structure allows (Tanner et al, 2012). With regards to the choice of a text medium, a pragmatic consideration was that video images and natural sound would have been logistically difficult to acquire, given the constraints of distance and technology. High quality photographs taken by Andrew Cox, an AusAid volunteer who had spent two years on Kolombangara, were submitted along with the feature and used by all five online editors. The length of the original piece was confined to 2500 words because very few publications will run longer articles, although all editors were offered the opportunity to request a re-written version at any length they preferred, or as a series. Having decided on the long-form text format, the next decisions were to do with which facts and voices were included/excluded.

Firstly, in order to conform with the format of journalism, the story had to answer the standard journalism questions of where, when, who, what, why and how (Lamble, 2004). Facts about the location of the island and the timing of events therefore needed to be included and these were researched using the online archive of *The Solomon Star* newspaper and the Solomon Islands government website. Finding answers to who, what, why and how was a more complex process as it involved decisions about inclusion and exclusion. Foucault's (1972) concept of discourse and enunciative modalities is a useful theoretical framework for analysing journalistic practices such as these (Davies, 2009).

In the 1970s, Foucault turned his attention to describing the mechanisms through which change occurs in the ideas that inhabit the transient realm of contemporary culture. He developed a model of dots and lines to describe discursive fields (or discourses) that is useful in that it makes the slippery and rarely-defined components of cultural exchanges visible and amenable to discussion. The positions that speakers occupy are dots. They are modalities from which statements are enunciated (said/written). These statements are lines that join dot to dot. Some speakers (such as media content producers) are located in positions that give them access to more people than others; some are located in positions privileged with more authority than others. The webs or matrices formed by the adjoining lines are called 'discourses' or 'discursive fields'. It is important also to stress that Foucault's approach does not look at people as individuals, instead it focuses on the positions they speak from, as these positions are sometimes also imbued with limitations or rules about what can and cannot be said from them. In the case of this story I am looking at what I could say as a journalist given the subject matter and the format of feature article journalism.

In Foucault's (1972) model, it is the content and form (meaning the internal rules and practices) of a discourse that dictate the behaviour of institutions and individuals. But

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he does not see discourses as static or stable. While the rules that operate within them can be described, he said a discourse is 'by nature, the object of a struggle, a political struggle' (1972, p. 120). ('Political' in this context meaning culturally influential, rather than governmental). What can be said in the media matters because Foucault (1977a, pp. 131-132) describes the media as an institution that, along with other institutions such as universities and the military, produces and controls the transmission of what a community perceives to be truth. In his book on the prison system (1977b), he wrote about the processes through which media can transform discourses, and to function as a battleground between opposing discourses.

An important field of discourse about Pacific Islanders is the one developed by anthropologists and ethnographers over the past few hundred years. Tyler (1986) described how, (in line with Foucault's premise that discourses are mutable), this field had evolved:

> In the eighteenth centre the dominant mode was 'ethnography as allegory', centring around the concept of utopianism in which the 'noble savage' played his enobling role as a therapeutic image. In the nineteenth century, the 'savage' was no longer noble; she was either 'fallen', in the continuing biblical allegory, or a figure of therapeutic irony—a minatory Satanic finger, or an instance of the primordial 'primitive', a 'living fossil' signifying past imperfection healed by time in the emerging evolutionary allegory. In the twentieth century, the 'savage' was no longer even 'primitive'. She was 'data' and 'evidence', the critical disproving instance in the positivist rhetoric of political liberalism. Later in the structuralist and semioticist revival of seventeenth-century rationalism, he again became pure 'difference', a formal pattern of collocated signs totally robbed of therapeutic significance. Now, in addition to these, each of which, or in some combination of them, still feeds the imagination of some ethnographer somewhere, she has become the instrument of the ethnographer's 'experience', the ethnographer having become the focus of 'difference' in a perverse version of the romanticism that has always been in ethnography, no matter how desperately repressed and marginalised by the objective impulses of seekers of pure data. As in the utopianism of the eighteenth century, the other is the means of the author's alienation from his own sick culture, but the savage of the twentieth century is sick too; neutered, like the rest of us, by the dark forces of the 'world system'. (Tyler, 1986, p. 128)

One of the elements of the Kolombangara story that appealed to me most was that it is not about a juxtaposition of Indigenous people and Western culture, or even, at the heart of it, about powerful corporations versus disempowered citizens. Instead, the conflict in the story is between Solomon Islanders who want to use the forest sustainably for long term economic reasons and other Solomon Islanders who want to sell it in the short term for economic gain. In addition, the conflict is being enacted by lawyers employed by the government and officials from the same government whose practice they are critiquing. In this way the narrative provides a natural challenge to the us/them

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dichotomy described by Tyler (1986) and shown to still exist by Loto et al, (2006) who found that New Zealand print media reports predominantly portrayed Pacific people as unmotivated, unhealthy and criminal 'others' while non-Pacific New Zealanders were predominantly portrayed as active, independent, competent and caring. The framing of the story as a local vs local issue evokes the natural tendency of readers to take sides in stories about conflict, to build a 'social bridge', to use Ward's (2010) term, uniting readers with either pro or anti-logging Kolombagarans.

In order to draw attention to the conflict, and to highlight that it is a contest between Solomon Islanders, the court case was used as the news hook and centrepiece of the story. To draw still more distance away from the ethnographic 'savage' narrative, attention was also given to the legal complexity of the case and the educated way in which the law is being used by the Kolombangarans to settle the dispute. In order to do this the history and complexity of the laws in question needed to be described.

Once decisions had been made to highlight the court case and the legislation, along with the requirement to explain the geography and timing, the choice of interviewees was the next task. The relevant enunciative modalities were legal expertise, Kolombangara Island Biodiversity Conservation Association (KIBCA) expertise, and broader contextualising expertise. The people who spoke from the legal modality were Stephanie Price, who worked on the case in 2011 and 2012 and Martha Manaka, a lawyer from the Solomon Islands, who is still working on it. Both are from LALSU. In addition to providing verbal background information, Price was co-author of a paper published in an academic law journal (Hou, Johnson & Price, 2013) about an earlier phase of the legal challenge that included valuable background information about the relevant legislation. The inclusion of Price, someone known socially and through family connection, raised the risk of a perception of a conflict of interest and a resulting perception of bias (Reuters, 2015; *The New York Times*, 2004). In order to manage this potential perceived conflict we deliberately used Foucault's concept of enunciative modalities (1972). For the purpose of quoting her I was clear that I was asking her, as a lawyer, what she would like to say to me, as a journalist, about the case. None of the information from our casual conversations was used, only the statements given as lawyer to journalist were. I also disclosed our relationship to the editors involved in publishing the story, in line with the Reuters (2015) sourcing guidelines, which echo other industry codes.

The people who spoke about KIBCA and its motivations were Andrew Cox and Ferguson Vaghi. Cox's input was valuable because telephone contact with Vaghi was sporadic and often cut short by connectivity problems due to his location in the Western Province. Contact with Cox was easy though as he is now in Australia and so he provided abundant information that I later checked with, and sought comment on, from Vaghi. In addition to functioning as a source of both useable quotes and background briefing Price also functioned as a fixer, providing introductions to Vaghi and Cox.

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While the process of expanding the circle of interviewees could have continued indefinitely, the word-limit of the chosen format constrained how many voices would fit into the article. Answering the question 'How much research is enough?' for a feature article, Tanner *et al* (2012, p 23) wrote: 'The simple answer is that you have done enough when you have the answers you need'. The five interviewees had provided ample answers for the construction of a 2500 word story. In addition, the list of five interviews (two Solomon Islanders and three Australian) satisfied requirements for ethical journalism described by Ward (2010, p. 182) in that it included 'less powerful voices' and allowed me to tell the story 'from the perspective of non-dominant groups[s]', the more powerful/dominant voices in this case would have been company and government sources. It is worth noting, however, especially as the article is about a conflict, why no attempt was initially made to contact the people on the other side of the dispute, namely the Director of the Environment, Jo Horoku, and the then-Commissioner for Forests, Reeves Moveni, and Forestry Minister and majority shareholder in the logging company Heinz Horst Bodo Dettke. My reasoning was that as the matter is before the courts they were unlikely to be willing interviewees or to expand beyond bare facts. In addition, their views on the matter were included in the story without need for an interview, as they were evidenced by a lack of capitulation in the legal actions to date.

The article also included the line: 'In August 2012 the Attorney-General, representing the Commissioner and Director, filed a defence denying any wrongdoing." This information was sourced from both lawyers and was in Hou, Johnson and Price (2013). The ABC, which published the article on 17 February 2015, requested that an attempt be made to contact them. Time was duly spent leaving messages at the various offices of Dettke, Moveni and Horoku but no calls were returned and no emails were answered. The lack of response was noted in the ABC's version of the story. Other parties who could have been interviewed include former Prime Ministers Gordon Darcy Lilo and Danny Philips, environmental scientists, and representatives from the plantation company that funds KIBCA. While adding these voices would have provided a more holistic view, they also would have lengthened the story and so a decision was made to interview Dr Ian Scales instead, as his 2003 PhD study had focussed on the dynamics between these individuals, and he was therefore able to provide a succinct yet informed description of the complexity of the issue. In addition, the inclusion of other political and scientific voices would have shifted the focus of the story to the question of whether the forest should be saved or not, and moved it away from the chosen focal point which was the use of legal mechanisms by a local group. In addition to having first-hand experience of conditions on Kolombangara, the five voices chosen were expert-sources, as described by Day (2010), in that they had all occupied relevant professional positions and therefore their inclusion bolstered the credibility of the article. But as none of them had previously had much, if any, exposure in international media, selecting them was not a case of 'over-accessing

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of elite sources and thus a reiteration and perpetuation of dominant ideologies' (Atton & Wickenden, 2005; cited in Day, 2010, p. 13)

Having chosen the focal point and the facts and voices that would be included/excluded, the next stage was writing the story. I did this with mindfulness of editors' interest in 'newsworthiness'. Newsworthiness is a concept used as a measuring stick in all editorial decision-making, and it is commonly defined as comprising of a number of elements. While the exact number of elements in different definitions of newsworthiness varies (MacDougall, 1977; Masterton, 1995; Allan 1999) there is broad consensus about the sort of things it involves. Considering the strengths and weaknesses of the Kolombangara story in the light of MacDougall's (1977) list of five news values shows that it was not likely to be a perfect story from a news editor's perspective:

Table 1: Newsworthiness matrix for the Kolombangara story

News values	Strengths	Weaknesses
Timeliness	The case is current	But very slow moving
Proximity	It is in our region	But not in Australia/NZ/UK
Prominence	The interviewees have relevant qualification	But are not already famous for any reason
Consequence	It may make a difference to the rate of logging in the Pacific	The outcome won't affect the daily lives of Australian/NZ/UK readers
Human interest	It could evoke some anger, empathy and/or admiration	But there is no horrific tragedy, it fails the "if it bleeds, it leads" test

Note: The five-point MacDougall news value scale as applied to the Kolombangara story. (MacDougall, 1977).

Aware that from the enunciative modality of an editor's chair there was a requirement to consider newsworthiness I sought to write the story in a way that was accessible and intriguing, in order to compensate for its deficiencies in conventional newsworthiness. This is standard practice with feature writing (Tanner et al, 2012). I then selected 12 publications to send it to. The publications were chosen because they were deemed likely, based on a brief scan of articles they had published previously, to potentially be open to the idea of publishing a piece of this length on this topic. (Future studies employing this technique could conduct more detailed content analyses prior to the selection of editors, to further test the application of standardised news values in story selection and to provide comparisons between story selection, and the publication's stated editorial policies). It is also worth noting that Nash and Bacon (2004) found that editors often impose resource and logistical constraints on coverage of international issues that they do not apply to domestic news. They explained that while there are patterns and gaps in international coverage, they are open to negotiation and change via the actions of journalists, and stories

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are 'produced by dynamic interaction of agents in a structured terrain of resources and power' (p. 23).

In this case, the six editors I spoke to about the story who rejected it were:

- *The Australian* features editor Michelle Gunn who said: 'Unfortunately, I think I will find it hard to accommodate it in *The Weekend Australian*' but didn't elaborate about why (M. Gunn, personal communication, 20 October 2014; approval to publish this quote granted 14 January 2015).
- *The Australian Financial Review*'s *Weekend* editor Matthew Drummond who responded: 'What's the hook to get people from Australia interested in a fight over logging on Solomon Islands? There's the islands natural beauty but is there something else?' (M. Drummond, personal communication, 24 September 2014; approval to publish this quote granted 14 January 2015).
- *The Monthly* editor Nick Feik who said: 'It was a really interesting read, but unfortunately our focus at the moment is more on Australian stories and issues' (N. Feik, personal communication, 23 September 2014; approval to publish this quote granted 14 January 2015).
- *The Saturday Paper* editor Erik Jensen who said: 'It is an interesting piece, but unfortunately it's not quite right for *The Saturday Paper*. Our focus is overwhelmingly domestic, and our features rarely run to this length' (E. Jensen, personal communication, 17 October 2014; approval to publish this quote granted 20 January 2015).
- *Voyeur* (Virgin Pacific in-flight magazine) editor Sarah Norris who said the magazine was: 'currently more holiday-centric' and didn't cover this kind of issue (S. Norris, personal communication, 24 October 2014; approval to publish this quote granted 14 January 2015).
- *The Conversation*, environment and energy editor, Mike Hopkin, who said his editorial committee had said: 'It's a good issue, but it's a bit localised and remote.' (M. Hopkin, personal communication, 14 January 2054; approval to publish this quote granted 14 January 2015).

Looked at collectively, it appears that the most prominent reason for rejecting the story was weakness in terms of proximity and consequence to Australian readers. These responses, therefore, support Ward's (2010) assertion that there is a strong tendency for mainstream journalism to have a local or national, rather than an international, focus. (Note that these rejections were received prior to it running in the online publications that accepted it).

The six publications that accepted the article were UK-based *New Internationalist* magazine and online; NZ-based *Scoop* and *Pacific Scoop*, which are sister online publications in Wellington and Auckland respectively with different editors and readerships; Australian online publication *New Matilda*, and the ABC Online International Section.

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The ABC assigned a journalist to work into the copy and she opted to give greater prominence to the role of the Minister for Forests, who owns the logging company involved but is not involved in the current court case. I dealt with two separate editors at *New Internationalist*, one for the hard copy magazine, which ran a 220-word version of the story on September 14, 2014, and another for the online edition which ran the feature at full length on November 6, 2014, hence my tally of 12 publications/editors. *Pacific Scoop* (December 12), *Scoop* (November 11) and *New Matilda* (November 11) also ran the story at length. Some of these publications have, via copy-sharing agreements, distributed the story to other news websites such as *The Solomon Star* (via *New Matilda*, November 17) and The Communist Party of Australia's *Guardian-Worker's Weekly* (via *New Internationalist*/November 12). As this project is part of my academic research work, I did not seek payment for the article from the publications' freelance budgets; as a result, no editors sought or claimed exclusive rights.

In conclusion, this exercise in creating a publishable media content about a topic with little conventional 'newsworthiness' can be considered successful because it is cosmopolitan 'social bridging' as described by Ward (2010). The feature article format made it possible for the story to challenge a demeaning stereotype that Pratt (1986) and Tyler (1986) described as rooted in the eighteenth century but still currently active, by highlighting the agency and professionalism of the Solomon Islanders involved. This stereotyping is reinforced by the mainstream media's habit of giving preference to stories about uprisings and natural disasters that portray Pacific people as being in disarray, rather than empowered and competent. While the cited ethnographer's statements are now a little dated, there is still such bafflingly unbalanced reporting of similar events in Western and developing nations that there is clearly more going on in decision-making about newsworthiness than simply the availability of footage (Why did the world ignore?, 2015; Loto *et al* 2006). In addition, rejection of the article by six editors, including the editors from the parts of News Ltd and Fairfax most likely to run long feature articles, gives credence to Ward's (2010) assertion that many media organisations have not yet grasped the importance of taking a global ethical stance and promoting 'social bridging' between nations. His argument is that we need 'to practice a journalism that helps different groups understand each other better ... to make sure we don't withdraw into insular ethnocentrism as a response to the confusing, pluralistic world around us' (p. 160). The publication of the article by outlets such as *New Internationalist, New Matilda*, and *Scoop* and *Pacific Scoop,* however, shows that there are editors and audiences engaged in the evolution of the field of discourse about Pacific Islanders and their interests.

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Figure 1: 'Cloud forest': Mt Rano from the crater rim near Mt Veve on Kolombangara Island. Image: Andrew Cox/*Pacific Scoop*

Part 2: The article

SAVING THE CLOUD FOREST

The cloud forest is in danger and logging companies are part of the problem but, in this case, the fight's moved on. Now the Solomon Islands government is facing legal questions and work is underway on the real challenge of getting people with genuine developing world needs to find consensus; and that costs money. ***By Kayt Davies***

KOLOMBANGARA is just one of many thousands of islands in the South Pacific. Dazed by the beauty of the whole archipelago that is the Solomon Islands, this one may not immediately seem remarkable, but its own people care deeply and the progress they are making in protecting it is slow but groundbreaking.

These are not spear-wielding noble savages holding logging trucks at bay. They are a collective of Indigenous landowners who formed an association that is testing the strength of the fledgling nation's environmental law and taking their own national government to court over alleged irregularities in the way it gave the green light to a logging company.

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Viewed from above, Kolombangara is almost perfectly round and about 30km across. From ground level it towers dark green over 1770m high, with its peak hiding shyly in a veil of cloud.

Only a few intrepid travelers visit. Hikers who tackle the mud and vines find that the vegetation changes at about 400m above sea level, beyond that point they are engulfed by the 'cloud forest'—a biodiverse wonderland that is home to several species of birds and frogs found nowhere else in the world. The forest is also home to a network of 'Tambu' sites—places important to the history and culture of the people who have lived on the island for more generations than anyone can remember.

Most of the 6000 or so people of Kolombangara live in huts made of timber and leaves hacked from the bush with chainsaws or enormous bush knives. If they have light at night, it comes from kerosene or solar lamps, or the few diesel generators in the larger towns. Most homes have no plumbing, but water is easy to access from the many streams that course down the steep sides of the towering old volcano.

Conversations take place in Nduke, the island's local language, Roviana, a language shared with nearby islands or Solomon Pidgin. English is reserved for talking to visitors. Most children go to school and most people go to church.

There are about 90 small villages scattered around the outskirts of the volcano, and a few larger settlements. The most developed town, Ringgi owes much of its infrastructure to Kolombangara Forests Products Limited (KFPL), a timber company that has had Forest Stewardship Council (FSC) certification since 1998.

Stewardship in action

KFPL was 100 percent owned by the Solomon Islands government until April 2011 when a Taiwanese firm called Nien Made Enterprise bought 60 percent, declaring as it did that it was keen to keep the FSC status, that requires it to meet environment and social standards.

While KFPL's 75-year lease covers about 70% percent of the island and extends up to the crater rim, it restricts its commercial activities to the part of that land below the 400m above sea level mark and allows traditional owners to access and co-manage the cloud forest portion of the land.

It also provides vital infrastructure support to the Kolombangara Island Biodiversity Conservation Association (KIBCA), a community organisation established in 2008 to 'protect Kolombangara Island's rich marine and forest biodiversity and to educate, promote and encourage sustainable management of natural resources through viable economic and social ventures'. It is KIBCA that is pursuing a judicial review of decisions by key government officials to sign approvals for Success Company Ltd to log an area that includes some of the cloud forest.

Fighting law with law

The legal framework that the people of Kolombangara are trying to work within is the product of the nation's long political history.

Customary law is the term now given to the rules that evolved over millennia to govern island life, such as land and water rights, marriages and settling disputes. While

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Image: Andrew Cox/Scoop

Figure 2: Local guides Mofat, Sese, Ashley and Boe leading a walking party through the mossy cloud forests near the Kolombangara Island crater, Patu Kolo, rim.

ancient in its origins, customary law is still alive and well in the Solomons and it governs the lives of many, especially in remote areas.

The first Europeans to visit the Solomons came in 1568. Not much changed immediately after their visit but by the 1800s whalers, traders and missionaries were arriving. By the end of the century, contention over British and German control over various Pacific islands was resolved under a treaty that gave Germany more of Samoa and the UK control of all nine of the major island groups in the Solomons.

During the British period a big priority was ending the practice of head hunting that was a common means for settling disputes between villages. Missionaries did a lot of this work and Christianity is now widespread. While head hunting doesn't happen anymore, this transition was damaging to traditional tribal structures and empowering to the government. Schools were established during this time and logging saw swathes of forests cleared. In some places, such as Kolombangara, plantations were established.

The UK granted the Solomons independence in 1978 and the young nation's 50-member house of parliament started drafting legislation, with the safety net of British law still applying unless it's overridden by the Constitution, an Act of Parliament, Customary Law or a judicial decision that declares it to be inappropriate.

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Other quirks in the new constitution included a provision that, in general, only a Solomon Islander or certain groups, such as companies majority-owned by locals, can own land; and a provision that recognises Customary Law as a source of law.

The key logging law is the Forest Resources and Timber Utilisation Act (1969) that requires logging companies to do three things before they can start felling trees: to enter into an agreement with landowners; to obtain a licence from the Commissioner for Forests (who is appointed by the Minister for Forests); and to get extra permission for logging over 400m above sea level.

In addition, the Environment Act (1998) requires logging companies to conduct an Environmental Impact Assessment and to obtain a 'development consent' or to get an exemption from the Director of the Environment and Conservation Division.

On paper this seems to be geared towards empowering local communities to protect resources in order to make their villages sustainable. But in reality the Solomons have been logged unsustainably for decades, in many cases with few benefits flowing back to the local communities. What is remarkable about KIBCA's action is rather than being defeated by the complexity of the laws and the lax way they are sometimes administered, they are using the courts to argue for the rights enshrined in the legislation.

The first court case

It all started in 2009 when Success rolled in its trucks and started logging an area known as Lot 1. KIBCA investigated and found that while Success had a licence; it hadn't done an 'Environmental Impact Assessment' and it hadn't obtained the 'Development Consent' required by the Environment Act. It also had not obtained permission for logging over 400m required by the Forest Resources and Timber Utilisation Act.

So in July 2010, KIBCA took the bold move of filing an application in the High Court of the Solomon Islands seeking to restrain Success and its contractor from logging. In August 2010 Justice Chetwynd agreed to hear the matter and granted a temporary injunction that stopped the trucks and chainsaws.

According to Stephanie Price, an Australian lawyer who worked on the case, one of KIBCA's most significant victories so far was gaining recognition of its right to bring that legal action. In the 2010 case, Success claimed that KIBCA 'lacked standing' to make a claim because it was a group representing landowners and not a landowner, in itself. The High Court rejected this argument and Price said: 'This was important because it paves the way for other landowner and environmental groups to challenge decisions that are contrary to environmental laws.' Without this recognition by the judge, KIBCA would have been required to get official permission from the Attorney-General before it could 'seek enforcement of public rights', and its request for this permission had been knocked back.

In November 2010 KIBCA was back in court making its case about the lack of proper permissions and it won. Justice Chetwynd upheld his injunction against logging, pending the granting of the proper approvals.

Yes, Minister

But in the background other things had been happening. In August 2010, Heinz Horst Bodo Dettke, who owns two-thirds of the shares in Success, was elected as a Member

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of Parliament and also appointed as the Minister for Forests.

In September 2010, the Commissioner for Forests (who works under the Minister for Forests) granted approval for logging above 400m.

Then in March 2011, the Director (from the Ministry of Environment) granted Success a 'development consent'. According to the Act, Success needed to conduct an Environmental Impact Assessment before getting a development consent, and so Success had hired a consultant to do one. The consultant spent just one day on the island making the assessment.

KIBCA was told nothing about these approvals though, and in June 2011 it welcomed then-Prime Minister Danny Phillips to its shores and celebrated when he dedicated all of the 20,000 hectares above 400m on Kolombangara as a special area for conservation. The feel-good declaration, however, lacked any legal clout and may have just been pretty words.

Andrew Cox is an Australian who was at the Kolombangara festival in June 2011. He was working as a volunteer with KIBCA and said that when the KIBCA board heard rumours that the approvals had been granted and that no one had bothered telling them, they were exasperated and suspected that it was 'a sign of the same old practices that they were sick of, involving corrupt logging approval processes'.

In the following weeks Cox travelled to the capital, Honiara, to find out what had happened and he provided KIBCA with confirmation that the approvals had been granted.

KIBCA was furious and in July 2011 it filed an appeal to the 'Environmental Advisory Committee' against the Director's decision to grant the development consent. That appeal is still languishing in a queue, waiting for the attention of the Committee, which has drifted apart and isn't holding meetings.

The second court case

Undeterred, in November 2011 KIBCA applied to the High Court for a judicial review and the quashing of both the Commissioner's approval for logging over 400m and the Director's Development Consent.

Among other things, KIBCA is claiming that the Environmental Impact Assessment doesn't meet the requirements in the Environmental Act and that the Director took into account "an irrelevant consideration" which was that the Commissioner had given logging over 400m the go-ahead.

In August 2012 the Attorney-General, representing the Commissioner and Director, filed a defence denying any wrongdoing.

The wheels of justice are turning painfully slowly. In June 2014 the parties met to put before the court the agreed facts, and according to Martha Manaka, senior legal officer with the Solomon Islands government's Landowners' Advocacy and Legal Support Unit, there's a chance that the court date may be set before the end 2014.

Manaka stressed the importance of the case, saying that it 'sets a precedent in terms of how companies deal with gaining "development consents" for logging and other activities'.

But while she and KIBCA are hoping for success, winning the court case does not guarantee long-term protection.

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As Price points out: 'Even if the case succeeds and the High Court declares that the existing Development Consent and 400m approval are invalid, the Director of Environment and the Commissioner of Forests could just grant those consents again.'

A more permanent fix

Ferguson Vaghi, the co-ordinator of KIBCA, is frustrated but tenacious.

Despairing at the grinding slowness of the case he said: 'If the court cases were fast and the companies were punished for not following the law then the system would work. But that's not how it is. 'But looking on the brighter side he added: 'The good thing about the case is that it has slowed down the logging activities and it has given us time to work on more permanent solutions. 'KIBCA's new plan of action is to get the area above 400m designated as a National Park under the Protected Areas Act 2010, which would make it illegal for the Director and Commissioner to grant approvals for logging.

This is a long process though, because it requires all of the landowners to consent, and there are some Kolombangara people who see 'locking up forests' as akin to giving them away for no return.

As Vaghi explains: 'It's a local mentality that can be overcome by doing what we are doing. We are used to depending on the forest for almost everything, so if we are going to stop people from making money from the forest we have to find incentives and offer alternatives. 'He elaborates that this means finding other ways of monetising the forest, such as eco-tourism, agro-forestry, honey production and other sustainable industries.

While this sounds good, Dr Ian Scales, whose PhD focussed on logging and land politics on Kolombangara, is concerned that the process of gaining approval from all the landowners will be difficult because there is an undertide of power politics, an attitude of elitism among the 'big men' and a reluctance to cede power.

He said: 'The competing narratives will make it hard.'

Elaborating he explained that the nation's current PM Gordon Darcy Lilo, who hails from Kolombangara, is a big player who made part of his fortune from logging, that included some above the 400m mark. According to Dr Scales, Gordon Darcy Lilo is keen to take the decisions about logging out of the hands of local chiefs and to have the decisions made in Honiara. Competing against this perspective are the views of other influential people, such as Luma Darcy, who are keen for Kolombangara to maintain its independence.

Despite these gloomy predictions, Vaghi seems pragmatically optimistic. He said: 'It's not difficult, it's just that money talks. When we can offer money, we get agreement. It's taking time but we have money coming soon from the United Nations Development Programme and when that comes we will make more progress. It's the way forward as far as I can see. 'In the meantime, Manaka in the Landowners' Advocacy and Legal Support Unit office is getting her papers in order and preparing for a court battle in the next few months.

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Published versions

This is the version of the article that was sent to eleven editors in all. It was published with minor edits on these sites:
newint.org/features/web-exclusive/2014/11/06/solomons-cloud-forest/
newmatilda.com/2014/11/11/saving-kolombangaras-cloud-forest
www.scoop.co.nz/stories/HL1411/S00068/saving-the-cloud-forest.htm
pacific.scoop.co.nz/2014/12/saving-the-kolombangara-cloud-forest-in-the-lawcourts/
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www.solomonstarnews.com/news/national/4962-saving-kolombangara-s-cloud-forest
And with more substantial edits here:
www.abc.net.au/news/2015-02-16/solomon-islands-landowners-challenge-logging-approval-kolombanga/6091994
In addition, a short version was published in the Agenda section of the September 2014 hard copy edition of *New Internationalist* magazine newint.org/issues/2014/09/01/

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