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INTRODUCTION



The Commonwealth and Challenges to Media Freedom

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Introduction

The absence of the official Commonwealth from the public debates on issues around media freedom—not least the disquieting rising number of attacks on journalists in countries across the association¹—needs to be addressed.² Other multilateral organisations and agencies have taken a firm and highly visible lead, coordinating a wide range of activities and institutional frameworks to underpin the safety of journalists, government frameworks of accountability, and issues around access to information.³ In contrast to the quiescent Commonwealth, the Francophonie's work on education, structures and adjudication in this area is particularly striking.⁴ Yet Commonwealth civil society organisations have done considerable work in the past on this issue, so the official Commonwealth does not have to reinvent the wheel. The Commonwealth Expert Group publication, *Freedom of Expression, Association and Assembly*, published in 2003, set out core frameworks and areas of activity, yet this report has dropped below the horizon. Freedom of expression is one of the declared Commonwealth core values of the Latimer House Principles of 2004. One of the oldest Commonwealth civil society organisations, the Commonwealth Press Union Media Trust (CPUMT)'s work has been consistently directed to the established principles and declarations enshrining freedom of expression.⁵ The CPUMT published two seminal reports on self-regulation (*Imperfect Freedom*) in 2002, and *The Test of Democracy* on media law in 2012.⁶ Furthermore, the CW associations such as the Commonwealth Journalists Association, Public Media Alliance and Commonwealth Human Rights Initiative (CHRI) have campaigned vigorously to strengthen media freedom in member states, and continue to do so.⁷

The fate of this historic Commonwealth energy and activity on media freedom issues underlines that until and unless there is 'ownership' by a core group of governments, 'soft power' initiatives by civil society will remain largely irrelevant. There are certainly important issues around journalistic responsibilities and aspects of self-regulation. Yet, governments have been resistant to removing colonial-era repressive laws around freedom of expression from their statute books, and slow to prosecute perpetrators of violence against journalists and active social media bloggers. Furthermore, the language used in the 2013 Commonwealth Charter on freedom of speech and expression is vague, noting merely 'We are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and

strengthening democratic processes.⁸ Not many teeth there. It does not go far enough to call governments to account.

In April 2017 Secretary General Patricia Scotland welcomed the possibility of a civil society-inspired process of creating a Commonwealth model on the media and governance, on the lines of the Latimer House Principles, but as yet there has been no leadership at government level. As these articles and opinion pieces show in multiple and varied ways, more needs to be done to implement and sustain such initiatives to underpin media freedom, to develop and maintain a narrative that protects fundamental human rights—this is particularly important to the legitimacy of the Commonwealth as a claimed values based association. The challenge now is to encourage the Commonwealth to participate actively in the UN Action Plan, and to raise the issue as much as possible, ideally with a view to capturing the attention of heads of state as well as civil society.

This special issue of *The Round Table* looks at multiple aspects of the complex challenges confronting media practitioners, and media freedom more generally across the contemporary Commonwealth. It does not claim to be the definitive study nor final word on this issue. Far from it. It is a topic which has preoccupied *The Round Table* and its contributors over many years.⁹ Fighting for press freedom is a ‘battle never done.’¹⁰ This is particularly the case in the current international political climate as, like structures and practices of liberalism more generally confronted by both ‘leftist’ and ‘rightist’ populism, freedom of expression is under threat across the globe. Furthermore, the provision and platforms of media have transformed since the 1990s, a transformation which has been accompanied by new and complex challenges for states and societies.

In the first article, leading former BBC World journalists David Page and William Horsley call for new policy directions, laying out clear criteria for media and governance to be made central to the Commonwealth’s agenda. The authors underline their view of the importance of principles and mechanisms to hold governments to account, and the need for reform of colonial era laws. Indeed, criminalisation of speech remains an important colonial legacy. In their drive to control print and now electronic media, governments have resorted to old statutes on sedition, criminal libel and defamation. As the information and news landscape becomes more sophisticated and diverse, so too Commonwealth governments have resorted to increasingly diverse ways of state controlled systems of regulation and ownership. There has been far too much hype about the supposed benefits of the Commonwealth to Britain in a post-BREXIT era: the UK should also look seriously to this issue of freedom of the press, and what needs to be done to underpin this, if the UK is to re-engage with the Commonwealth in a meaningful way, as Chair-in-Office 2018–2020.¹¹

The journal includes a number of country case studies, underlining the complexities as well as communalities of challenges to media freedom. The former BBC World Africa Editor, Martin Plaut argues that the media-landscape in South Africa is facing its greatest threat since transition to black majority rule in 1994. Given the South African constitution, which ensures Parliamentary representation based on the party list system and the dominance of the ANC in national government, the media has a huge role to play in underpinning democracy and government accountability in the country. The erosion of South African media freedom has paralleled the erosion of popular support for the ANC, as the government is becoming increasingly repressive. The SABC has been transformed by state interference, and the diversion of public funds to pro-government media organisations. As the political climate

in South Africa becomes increasingly fraught, with the run up to elections, there is growing concern that print and electronic media platforms will be subject to mounting pressure.

The veteran Commonwealth journalist and civil society activist Richard Bourne looks at the media landscape in the other Commonwealth African powerhouse, Nigeria. He traces the historical relationship of the media to Nigerian nationalism and opposition to colonial rule, together with its position to military role and transitions to democracy. He underlines the well-established pattern of government attempts to control and direct print and broadcasting media. Nigeria represents an excellent case study into the extent to which technology has transformed the production, delivery and consumption of media and information, together with the problematic aspects of the fiercely competitive news environment and demands of revenue generation.

Based on his extensive field research in Kenya during the controversial 2017 elections, Seth Ouma explores the contested media landscape and its interaction with the electoral process. In their joint presentation to the Institute of Commonwealth Studies' conference on challenges to Media Freedom in April 2017, Seth Ouma and Professor Nic Cheeseman underlined that Kenyan journalists were, and are, confronted by multiple pressures: from government sources, opposition criticism, public lack of support, and from within their own media organisations, influenced by politicised ethnicity and the highly charged election campaign. Here Ouma presents a detailed picture of the impact of the interaction of these multi-directional pressures on Kenyan journalism and the country's media-scape more generally.

Kiran Hassan offers a different interpretation to the role and usage of social media in Pakistan. Rather than validating an external public perception of social media as key enabler of instability and international terrorism networks, she highlights domestic social media consumption for entertainment, fashion and gossip, particularly among the under 30s. In her view, private television channels remain the most influential media in the country; furthermore, the government plays an insidious role by funding socially conservative or religious-inspired content. While extremist networks use social media very effectively to recruit particularly among teenagers and women, she argues focusing on this aspect of social media usage presents a distorted picture. Pakistani journalists have often found themselves caught between militant extremists and the Pakistani security forces, and harassed by both the security forces and the militant groups. She concludes the blunt instruments employed by the Pakistani state to 'manage' the media landscape are ineffective and often counter-productive.

Taking a different angle to restrictions to freedom of information, Wendy Bonython and Bruce Baer Arnold highlight the fundamental discrepancy between Australia's legislation covering mandatory detention of non-citizens (on grounds of national security), and freedom of 'political communication' embedded in the Australian Constitution. They argue the criminalization of disclosure of information on the processing and treatment of asylum seekers in off-shore facilities in Papua New Guinea and Nauru, conflicts with the demands of observance of humanitarian law. They extend their analysis beyond the considerable public criticism of abuses of human rights of those being detained. They argue the issue of the ethical obligations of health care workers and others working in the detention 'regimes' has been overlooked, together with Australian civil expectations of observance of rights by the state, founded on liberal democratic principles. (The issue of the legality of off-shore processing regimes is currently before the Australian High Court.) They conclude that there

needs to be separate and independent oversight, accountable to Parliament rather than simply the executive, to ensure a minimization of harm to these non-citizens.

This issue also includes a considerable range of opinion pieces on issues around media freedom across sub-Saharan Africa, South Asia and the Caribbean. SOAS academic Seraphin Kamdem explores the particular challenges facing journalists in the fractured political, cultural and linguistic space of Cameroon. The fact that in 2017 the government in Yaounde twice imposed lengthy internet shutdowns in the North West and South Western Anglo-phone provinces, which were experiencing mass protest, largely escaped outside notice. The Institute of Commonwealth Studies' Associate Fellow, Eva Namusoke highlights the ways in which political oppression includes the media in contemporary Uganda under President Museveni. She underlines the contested media space around the Ugandan 2016 election period which was marked by physical attacks and restrictions on journalists, and the extent to which Ugandan press freedom has increasingly come under threat from government machinery.

Addressing the current media environment in Botswana, Sonny Serite (currently a correspondent for the *Gazette* and *Sunday Standard* group in Botswana) is emphatic that the popular belief that Botswana represents a 'beacon of hope' on the African continent is misplaced. Drawing on his personal experiences of harassment by the authorities, he describes a scenario of fundamental lack of access to information, minimal government press briefings, a lack of Freedom of Information (FOI) legislation and a regressive relationship between the media and the government of President Ian Khama. Gwen Lister, former editor of *The Namibian*, argues media are a vital watchdog against corruption, particularly where opposition parties are fragmented and civil society weak. It is the responsibility of Commonwealth governments to ensure and to facilitate an enabling environment for a free, pluralistic media; and for the Commonwealth as an association to lend support for ending repressive out-dated colonial legislation. In her view, 'governments should get out of media', and stresses the importance of the Windhoek Declaration of 1991.¹²

From the Commonwealth in South Asia, the long-standing analyst and columnist, Syed Badrul Ahsan emphasises the fractured political picture and associated media landscape of Bangladesh. Independent media outlets have been compromised by their collaboration with government as media advisers; self-censorship is common; and newspapers with vested interests in multinational corporations, are careful not to cover their possible involvement in corruption. Bloggers and secular writers have been targeted by Islamist fanatics, prompting many to leave the country.

Drawing on her long professional career, leading Indian journalist Nupur Basu describes the complex media scape in present day India, the Commonwealth's largest democracy. Here, under the BJP government led by Narendra Modi, ultra-nationalist politics is affecting the media. She charts historic developments and the growing polarisation of the profession, together with deeply disquieting trends of multiple attacks on journalists. While there is still a vibrant independent media across India, this is an increasingly uncomfortable and heavily politicised reporting environment. Her clear sighted view summarises the profound structural problems around the diverse Indian media landscape, together with the very real dangers to freedom of expression and the journalist profession in the Commonwealth's largest democracy. This analysis is particularly timely given the current moves to 'decentralise the Commonwealth' and for India to take a more prominent role in promoting Commonwealth-wide trade and development. Constitutional lawyer, journalist, and RTI

Commissioner Kishali Pinto- Jayawardena considers the relative progress towards freedom of information in Sri Lanka since the conclusion of the country's civil war in 2009. In her view, the Right to Information (RTI) Commission has made an encouraging start, but it remains to be seen whether this can be sustained.

The Emeritus Editor of the Press Association, Jonathan Grun points out that in the UK the free press is under pressure but from a different quarter to other Commonwealth countries: namely, pressure for state regulation rather than press self-regulation. He specifically addresses the issue of Section 40 of the Crime and Courts Act, arguing the case for press self-regulation via IPSO rather than through state regulation by royal charter (which he felt would make the press particularly vulnerable to rich bullies.) He made important points on behalf of the UK press about the proven abuses by police snooping on journalists' phone records and the perceived dangers from the new UK Espionage Act. Overall, he stressed the need for constant vigilance to protect rights of freedom of information and freedom of the press.

From his vantage point in the Caribbean, journalist and editor Peter Wickham highlights the particular challenges of freedom of information and freedom of the press in small states across the Commonwealth. In the Caribbean (as in the Pacific Commonwealth), 'size is critical' as it is directly linked to viability and critical mass. Since media is a product which requires both supply and demand, it is a question of economics. Therefore the size of population and national GDP are vital criteria influencing local media provision. This affects the possibilities—and limitations of a vibrant private market. While social media is becoming increasingly popular across the Caribbean, electronic media remains the most used, followed by newspaper circulation. Journalism suffers from increasing 'pay for play' newspaper content, as financial incentives negatively impact on journalistic integrity and independence.

All the articles and opinion pieces, either explicitly or implicitly, underline how rapidly the production and consumption of news and comment has changed in recent years the explosion of social media platforms, bloggers, news sites, "fake news" and extracts which can be read on mobiles or smart phones, in addition to more traditional forms of broadcast, print or televised media. Faced with these challenges, governments (such as Pakistan or Cameroon) have resorted to the blunt instrument of internet shutdown. But are there other avenues which Commonwealth governments could usefully pursue—such as taking a leaf out of the BBC's book with its conscious decision to reinstate funding for local impartial state-funded radio, to counteract what can be a bewildering environment of proliferation of unverifiable social media, and the rise of 'fake news'?¹³ The Commonwealth as an association could also work more actively to promote impartial national public broadcasting, and insist on requirements of impartial public interest broadcasting in for-profit independent stations and outlets.

How much influence can the Commonwealth exert, with limited resources, and a dramatically reduced organisation in the Commonwealth Secretariat, and faced with government resistance to any impingement upon state sovereignty? In these circumstances, the Director of Information, UNESCO, Guy Berger feels the Commonwealth should focus on key challenges in areas where it has a proven track record and existing strengths. The role of the media in elections is a critical aspect of practices of modern democracy,¹⁴ given the current information environment with the proliferation of news platforms, radio channels and social media sources, there are extraordinary opportunities for inaccurate or damaging

news and views. This is fertile ground for intolerant ideas. Therefore, particularly around elections, there is a pressing need for Commonwealth governments to uphold the rule of law and equality of access to information. Again, radio is particularly important as a media platform because of provision in local languages ensures its reach to large audiences, Commonwealth-wide electoral commissions need to sharpen up, and evaluate whether there are abuses or constraints on impartial political coverage in vernacular languages. Given the linguistic limitations of Commonwealth election observers, more could be done, by civil society and local groups, to track developments in between elections. More broadly, the Commonwealth's work to promote change—a classic approach of slow-burn cultural transformation, creating standards to which governments can be called to account—should not be underestimated.

Notes

1. 'Getting Away With Murder', published by the Committee to Protect Journalists (CJP), 31 October 2017, <https://cpj.org/reports/2017/10/impunity-index-getting-away-with-murder-killed-justice.php>, accessed 29 December 2017.
2. See Rita Payne, *The Round Table*, December 2017, on the significance of the brutal killing of veteran Maltese anti-corruption campaigner, Daphne Caruana Galizia.
3. UN Plan of Action on Safety of Journalists and Issues of Impunity, <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/safety-of-journalists/un-plan-of-action/>, accessed 29 December 2017.
4. http://www.unesco.org/new/en/media-services/single-view/news/unesco_and_la_franophonie_stand_together_with_countries_in/, accessed 29 December 2017.
5. <http://cpu.org.uk/principles-and-declarations/>, accessed 29 December 2017.
6. From the early 2000s to 2008, the CPU also had a very effective legal support programme which tackled media laws in various Commonwealth countries.
7. The South Asia Media Defenders network, an informal group of editors, journalists and bloggers, was recently set up, expressly 'to stand up for the rights of journalists under pressure'. <http://www.newindianexpress.com/cities/delhi/2017/sep/08/south-asia-media-defenders-network-seeks-justice-for-gauri-lankesh-1654130.html>, accessed 29 December 2017.
8. The Commonwealth Charter, March 2013, <http://thecommonwealth.org/sites/default/files/page/documents/CharteroftheCommonwealth.pdf>, accessed 29 December 2017.
9. For example, Martin Burt and Derek Ingram (2010) Media in the Commonwealth 2002: Setbacks, and some advances, on the road to freedom of expression, *The Round Table*, 91(366) pp. 467–492.
10. Mark Robinson (2010) Fighting for press freedom: a battle never done, *The Round Table*, 91(366), pp. 493–502.
11. Lord Guy Black, The Telegraph Group, Conference on challenges to Media Freedom, Institute of Commonwealth Studies, 4 April 2017.
12. The Windhoek Declaration, <http://www.europarl.europa.eu/document/activities/cont/201104/20110429ATT18422/20110429ATT18422EN.pdf>, accessed 29 December 2017.
13. <https://www.theguardian.com/media/2017/nov/08/bbc-cancels-10-m-cuts-planned-for-local-radio>, accessed 29 December 2017.
14. Guy Berger, *The Round Table* contribution, The Commonwealth and Challenges to Media Freedom, The Institute of Commonwealth Studies, London, April 2017 <https://commonwealth.sas.ac.uk/research-projects/media-freedom-commonwealth/commonwealth-and-challenges-media-freedom-conference>, accessed 29 December 2017.