



Younes Mjahed
President

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Inquiry into press freedom

Australian Senate Environment and Communications References Committee

The **International Federation of Journalists** – the global voice of journalists representing 600,000 media professionals in 187 national journalists' organisations in 141 countries thanks the Environment and Communications References Committee for the opportunity to contribute to your Inquiry into press freedom.

- **The Global Context**

For journalism context is everything.

We write this in the week in which we mark the one-year anniversary of the brutal murder of Saudi journalist Jamal Khashoggi.

Khashoggi's killing rightly made headlines across the world – but Jamal was not even the only journalist killed that week. That same month 7 more of our colleagues were murdered. Last year more than 100 journalists were killed. Hundreds were jailed. Thousands were attacked and harassed. Worldwide, more than 90% of cases of crimes against journalists go unpunished.

If murder is the most extreme form of censorship, it is not the only form being practised – and it is happening not just in far-flung dictatorships but in democratic states too.

Last year the Council of Europe published a study - *Journalists under Pressure* - which documented physical attacks, intimidation, judicial harassment, imprisonment, smear campaigns, forced media and website closures, bans and the abuse of financial measures to silence journalists.

In the digital age, surveillance, attempts to circumvent protection of sources and attacks on anonymity and encryption all increase the variety of threats facing journalists. Those working in digital media face censure, shutdowns and stigmatisation as foreign agents. In 2018 there were more than 50 countries which carried out internet shutdowns. This year so far more



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than 30 countries have taken such action, including a complete communications blackout imposed in Kashmir and Jammu.

Part of that context is also the increasing tendency of governments around the world to criminalise, stigmatise and target journalists and independent media.

Today it is not just dictators and despots who attack journalists and use laws to stifle dissent or threaten journalists.

Democratic governments increasingly hide behind anti-terror legislation or use security as a way of undermining and curbing independent journalism.

Every time democratic governments do so, anti-democratic forces seize on such actions to justify their own clampdown on the rights of journalists and the freedom of the media.

It is in this context that we must consider recent events in Australia which threaten to damage the standing of the government and raise serious questions about its longstanding commitment to media freedom in the eyes of the international media community. More worryingly it can be seen to give a green light to other non-democratic governments to attack media and journalists' rights.

Indeed Human rights lawyer Amal Clooney, at the Global Conference for Media Freedom, in London on July 11 2019 said: "What happens in a country like Australia or the UK or the US will be looked at by every other leader in the world and potentially be used as an excuse to clamp down even further on journalists. Journalists all around the world are less safe if the rhetoric, or even policies or laws, of states that are supposed to be free are actually a threat to journalists in those countries." <https://www.theaustralian.com.au/nation/politics/peter-dutton-rejects-appeal-to-drop-action-against-journos/news-story/eeefd345e109de05d5442d274439e554>

- **Australia's recent record**

The Australian Parliament has passed [82 national security laws since the September 11 2001](#) terrorist attacks. Because of the political need to be seen to be protecting the nation's national security, these laws have been passed with bipartisan support from the major political parties, with little amendment, despite many frequent concerns raised by journalists and civil society groups.

Over time, these laws have criminalised legitimate journalism and are being used to pursue and prosecute whistleblowers who expose misconduct. This has had a chilling effect on public interest journalism.



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- **Raids on journalists and media**

In the case of the June 4 and June 5 Australian Federal Police raided a Canberra journalist's home and the offices of the Australian Broadcasting Corporation (ABC). The stories which led to those raids, published between 12 months and 2 years earlier, were clearly in the national interest and could not be classed as constituting classified information. Worse still, the warrant used during the raid on the ABC allowed police to "add, copy, delete or alter" material in the ABC's computers.

The IFJ fully endorses the reaction of MEAA chief executive Paul Murphy on June 9 2019 when he said "I think our parliament has failed. They've been caught up around this rhetoric of national security and its over application across far too broad an area. I think there is no doubt that the very public nature of these raids in combination with the deluge of legislation we've seen in recent years will succeed in intimidating whistleblowers from coming forward with information in the public interest and without the bravery of whistleblowers coming forward, investigative journalism becomes impossible in many aspects."

<https://www.abc.net.au/mediawatch/episodes/raids/11195404>

10 News First national political editor Hugh Riminton on June 5 2019 said: "In two days the two biggest news organisations in the country have been sent a message : if anyone wants to leak information about questionable practices anywhere in our national security apparatus, the federal police will go after them and the reporters they speak to."

<https://iview.abc.net.au/show/media-watch>

Around the world the Australian authorities came in for strong criticism from civil liberties and press freedom groups – and independent media.

News Corp's Michael Miller told The Australian: "It was an affront to press freedom and demonstrated an alarming escalation to silence those who publish truths the government does not want made public." - The Australian, 6 June, 2019

The *New York Times* reported that: "Even among its peers, Australia stands out. No other developed democracy holds as tight to its secrets, experts say, and the raids are just the latest example of how far the country's conservative government will go to scare officials and reporters into submission. 'To be perfectly frank, this is an absolute international embarrassment,' said Johan Lidberg, an associate professor of journalism at Monash University in Melbourne who works with the United Nations on global press freedom. 'You've got a mature liberal democracy that pursues and hunts down whistle-blowers and tries to kill the messenger.' The symptoms of what Mr. Lidberg describes as a national illness go beyond the latest investigations, and the causes are rooted in Australia's history, law and public complacency. Australia does not have an explicit constitutional protection for freedom of speech akin to the First Amendment. But its criminal code does have Section 70, which makes it a crime for any public official to share information without 'lawful authority



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or excuse.' That 'secrecy foundation' — the law cited in the warrant against the Australian Broadcasting Corporation, the target of Wednesday's raids — essentially states that no one in government can share information without a supervisor's permission. It has been on the books since 1914, just after the outbreak of World War I, and is modelled on Britain's draconian *Official Secrets Act of 1911*."

<https://www.nytimes.com/2019/06/05/world/australia/journalist-raids.html>

From Al Jazeera to BBC to France 24 and CNN the raids – and the reasons for them and justification of them - were strongly, and rightly, condemned as helping to legitimize the actions of dictatorial governments and discourage journalists.

Recommendations and conclusions

- We fully support the call by the Right to Know group to review relevant laws <https://www.mcaa.org/mediaroom/australias-right-to-know-submission-to-the-senate-inquiry-into-press-freedom-190903/> and decriminalise journalism. Criminal penalties including jail terms and convictions should be removed from the statute books. Only authoritarian regimes punish journalists for doing their job.
- Journalists should be exempt from having to reveal their sources under shield laws that acknowledge a public interest defence and protect journalistic privilege.
- Added protections should be given to whistleblowers who should be encouraged, promoted and protected and should have access to a robust public interest and truth defence. Whistleblowers are crucial to the proper functioning of the media's role of holding power to account.
- Journalist Information Warrants should be abandoned. Accessing the telecommunications data of journalists or media organisations under the pretext of identifying a journalist's confidential sources should be prohibited. Such a practice risks undermining legitimate journalistic activity and will have a chilling effect on journalistic investigations. Where there is an overwhelming reason to access telecommunications data on national security grounds or to identify criminal activity, a detailed warrant must be presented in writing and with notice.
- The anti-encryption law should be abolished.
- The onus must be on government agencies to prove what and why information should be classified to stop governments from declaring "secret" or "top secret" embarrassing or ordinary information that cannot be justified as needing to be classified. All information not classified secret under fair procedures should be assumed to be of public interest. Regular reviews should be held on the status of information that has been classified.
- National Security laws should not undermine the rights of journalists and independent media. Regular reviews of laws should be conducted with the right of civil society organisations to make submissions.

Ends