

# COMMUNITY, DEMAGOGUES AND THE SOUTH PACIFIC NEWS MEDIA

## ABSTRACT

On 19 October 1995, the Governor-General of Papua New Guinea issued the terms of reference for a Constitutional Review Committee's (CRC) Subcommittee on Media Accountability: to examine 'whether changes need to be made to ensure that, while freedom of the press is maintained, owners, editors and journalists of all elements of the media are accountable and that persons aggrieved by media abuses have reasonable redress'. The CRC held a public seminar in January 1996 to explore the issues and the Media Council of Papua New Guinea held a 'freedom at the crossroads' seminar the following month. Public responses were overwhelmingly in favour of the traditional 'free' press in Papua New Guinea, as guaranteed under Section 46 of the Constitution. The report of the Subcommittee on Media Accountability to Parliament in June 1996 essentially came to the same conclusion. However, the CRC introduced three draft media laws in November which introduced a controversial system involving a Media Commission, registration of journalists, licensing of media organisations and serious penalties for transgressors. The proposed legislation was widely condemned and was eventually shelved in February 1997. A general view is that the media debate was manipulated by a small group of politicians out of self-interest. This paper examines the developments in the context of the erosion of the news media and free expression in the South Pacific generally.

Columnist James Pinder of *The Independent*, or his alter ego Paul Cox, is arguably the most outspoken commentator in the Papua New Guinea press. Castigating the country's 109 Members of Parliament for being paid 'outrageous' salaries, he has also rebuked them for thinking the country's news media organisations need 'the mark of Zorro' gagging their journalism.

Last week was certainly not one about which the media in Papua New Guinea would want to write home to mother as once again a couple of politicians took umbrage at a television program and what was written about them.

First of all Minister for Forests Andrew Baing tried to do a Paulias Matane by appointing himself as Chief Censor and trying to prevent EMTV from screening a documentary on Bougainville, *The Ultimatum*, claiming EMTV had failed to clear the program with the Secretary of the Prime Minister's Department which, according to EMTV news editor Titi Gabi, is utter rubbish as a tape of the same had been sent to the department a week earlier and no reply received. God help us if the day is coming when we have to submit what we write or want to print to some self-appointed censor. (Pinder, 1996)

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Many would argue that Pinder was rather prophetic. Zorro could certainly have had a hand in the harsh draft media laws tabled in Parliament at the close of 1996. 'Registration' for journalists and news media organisations, with stiff fines and 'deregistration' for offenders, was among the provisions (Robie, 1996a).

In spite of a strong tradition of a free news media for most of the two decades since independence, Papua New Guinea's news media have faced an increasingly difficult time since 1987. Until then, the country had boasted what was arguably the most vigorous and certainly the most independent press in the South Pacific region. The media proudly referred to itself as a 'free press — probably the only one in a developing country, apart from India' (Phinney, 1985). However, a commissioned report prepared by Australian barrister and ABC's *Media Watch* commentator Stuart Littlemore in 1986 for the then Minister of Communications, Gabriel Ramoi, caused an uproar.

Based on the Littlemore report, Ramoi's Mass Media Tribunal Bill sought to unilaterally impose national development objectives on the news media (Henshall, 1988). The licensing provisions for controlling editorial content and curbing foreign ownership provoked a polarised response. Eventually the bill was shelved and the ex-minister himself served a two-year gaol sentence for misappropriating public funds (Robie, 1995: 80).

Following this, pressure on the South Pacific media shifted for a time to Polynesia, where severe new legislation in Western Samoa and legal manoeuvres in Tonga designed to force journalists to reveal sources jeopardised press freedom in the early 1990s. A cartoon in the *Cook Islands News* daily newspaper on freedom of speech prompted a harsh reaction from Parliament. The climax came with an unprecedented gaoling of journalists in Tonga twice in nine months, with one deputy editor being arrested three times.

Meanwhile, in Papua New Guinea, the second Paias Wingti government embarked on developing a new media strategy by adopting a National Information and Communication Policy (NICP). The late Information and Communication Minister, Martin Thompson, soothed media unease about the policy by declaring that 'the people of Papua New Guinea should not be unduly concerned about the Government legislating to control the media' (*Post-Courier*, 1993). While stressing that freedom of expression and the media were guaranteed under the Constitution, Thompson added that it was up to the policy committee to decide whether to impose any restrictions on the media. The Cook Islands, Samoan and Tongan experiences were a salutary warning for Papua New Guinea press freedoms.

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Now the issue has turned full circle. In spite of those assurances almost five years ago — and less than two months after two editors and a commoner member of Parliament were illegally gaoled in Tonga for contempt of Parliament, and the *Cook Islands News* editor was again grilled over contempt of Parliament because of another 'offensive' cartoon — Papua New Guinea's National Parliament in early 1997 prepared to debate controversial draft laws imposing accountability on arguably the most professional news media of the South Pacific. The proposed legislation is the Media Commission Bill, which seeks to govern the conduct of journalists; the National Information and Communication Authority Bill, which would formalise the NICP policy and govern news media organisations; and the Freedom of Information Bill, which some see as restricting information rather than strengthening the constitutional right (Millett, 1996; Togarewa, 1996a). A general election was due in mid-1997 and commentators such as Chief Ombudsman Simon Pentanu questioned the haste and 'thinly disguised political agenda' over the draft legislation (Togarewa, 1996b).

Accountability already exists with defamation and contempt of court laws similar to those in Australia, and a Press Council that has recently been remodelled as the Media Council of Papua New Guinea with wider terms of reference and a healthy self-regulatory process. In fact, if the news media had indeed been performing irresponsibly or unprofessionally, it is rather remarkable that there have been only three defamation cases involving damages — the highest amount being A\$10,000 — being awarded by a court against a news media company. Moreover, no serious complaints have been filed before the Press Council since independence.

An editorial in *The Independent*, a quality weekly newspaper owned by the churches of Papua New Guinea, described the moves toward tampering with the freedom of the media as 'dangerous' (*The Independent*, 1996). The paper said:

One must question whether the main players and initiators of this exercise are motivated more by personal experiences of alleged abuse by the media than the genuine concern for the majority of Papua New Guineans? The chairman of the Constitutional Review Commission, Ben Micah, was asked by this newspaper to list three instances which justify such a move. He listed only two and both involved himself. (*The Independent*, 1996)

In fact, throughout the region, the assault on the news media is being led by either demigods or demagogues — demigods in the sense of the King of Tonga's near divine and autocratic rule; demagogues, as one unkind lawyer branded them in early 1996 at a constitutional review seminar in Port Moresby (Gawi, 1996), in the sense of self-serving politicians with scant

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regard for the community interests of their nations or the public right to know. According to lawyer John Gawi, the constitutional media inquiry has been an attempt by politicians to curb the exposure of 'crooked dealings' such as a series of recent questionable commercial agreements by government and politicians.

As far as we ordinary people are concerned, we don't view 'press freedom' as a problem. Rather, our problem right now is crooked politicians.

If you politicians are worried about defamation of your 'character' then we ask you: What character are we talking about — the *ideal personality* that you would like to project to the public but cannot live up to, or are we talking about your *active personality* characterised by greed, lust and aggression?

We the members of the public are very suspicious about this little constitutional review exercise. Why is it that among the present seven terms of reference, the only substantive one is that of press freedom and accountability? It seems more probable than not that this is a sinister political move to erode press freedom. (Gawi, 1996)

Several case studies in the region put the trend into perspective.

## THE COOK ISLANDS CARTOON AFFAIR

In October 1993, the publisher, editor and journalist/cartoonist of the *Cook Islands News* were summoned before the Parliamentary Privileges Committee over a mild cartoon poking fun over freedom of speech. Parliament forced the newspaper to apologise. Management and staff of the newspaper were interrogated for three days over the alleged contempt. According to government parliamentarians, the cartoon was a 'scurrilous attack on the integrity and dignity of Parliament and its 25 members' (*Islands Business Pacific*, 1993). With Prime Minister Sir Geoffrey Henry's ruling Cook Islands Party facing a general election six months later, the timing of the cartoon was regarded as significant. The election would be the first covered by the *Cook Islands News* as an independent privately owned paper. Observed one news magazine: 'Some election strategists thought it would be a good idea to give the newspaper a fright, a warning.' (*Islands Business Pacific*, 1993)

Although cartoonist Jason Brown, known under his pen name of Pantaim — a play on a pun and the 'Phantom', who is now publisher of the new weekly paper *Cook Islands Press*, apologised at the time, he withdrew his apology early in 1996 (Sword, 1996).

Now a parliamentary privileges committee has found another cartoon published in the *Cook Islands News* that constitutes contempt. Drawn by an anonymous cartoonist using the name of Kata, which means 'laugh' in Cook



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Islands Maori, it implied that there were people of unsound mind in Parliament. The motion to investigate the cartoon, published almost 12 months earlier, was moved by the Education Minister, Ngereteina Puna (Sword, 1996).

## THE WESTERN SAMOAN DEFAMATION LAWS

In Western Samoa, until 1993, the country's existing laws on the media had provided ample safeguards against defamation. This was demonstrated by the award of A\$20 000 in damages against a newspaper (*Pacific Islands Monthly*, 1993). However, politicians have increasingly become concerned over the public questioning of policies by the news media and particularly by exposés or allegations in the letters to the editor columns.

The government argues, probably with some justification, that many of the letters contain 'character assassinations made behind the protection of false names'. However, Samoan newspaper editors insist that in small and traditional societies such as theirs (Western Samoa has a population of 160 000), ordinary people can only express their complaints through the protection of anonymity. Such letters have often alerted the nation to wrongdoing (Robie, 1995: 94).

At the beginning of February 1993, Western Samoan Prime Minister Tofilau Eti Alesana introduced the *Newspapers and Printers Act* 1992/1993, requiring the disclosure of sources of information in defamation cases. Following two days of parliamentary debate, the legislation was passed into law on 3 February. Penalties for breaching the new law involve a fine of up to A\$5000 — equivalent to a year's wage for some Samoan workers — or a three-month gaol term. Later the same month, a new *Defamation Act*, making it an offence to publish defamatory statements about a third party in court proceedings, was also passed. No public submissions were allowed for the newspaper law, although the Journalists' Association of Western Samoa (JAWS) was able to make submissions on the defamation law.

However, as the implications of the legislation became clear, international journalist organisations protested vigorously. The national secretary of New Zealand's Journalists and Graphic Process Union (JAGPRO), Tony Wilton, who was also Oceania adviser of the International Federation of Journalists (IFJ), said the laws were 'a serious blow to the free flow of information in the Pacific, and could harm the development of democratic institutions' (Wilton, 1993). He endorsed protests by the Pacific Journalists' Association (PJA) and the IFJ. The Pacific Islands News Association (PINA) also condemned the legislation, with its president, Monica Miller, describing it as 'a form of censorship' (Miller, 1993).

Under the new legislation, Prime Minister Tofilau Eti Alesana filed a writ of defamation seeking record damages of A\$263 000 against the *Sunday*

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*Samoan*, published by the Observer Ltd, the largest newspaper publisher in Western Samoa. Tofilau alleged the paper had published an article on 8 December 1996 in which his 'political and personal reputation has been seriously injured and has been exposed to ridicule and contempt' (*The Independent*, 1997). Chief Justice Tiavaasue Falefatu Sapolu rejected a defence petition seeking further particulars on the 12-point statement of claim, raising questions about how a newspaper can fairly defend itself against a politician's allegations.

## THE TONGAN JOURNALIST GAOLINGS

Tonga is governed by an hereditary monarch, King Taufa'ahau Tupou IV, who appoints and chairs a Privy Council consisting of seven ministers appointed for life — including an executive prime minister — and the governors of Ha'apai and Vava'u. A unicameral Legislative Assembly of 30 members meets annually, but only nine of its places are filled by elected representatives of the commoners. Samuela 'Akilisi Pohiva and other commoner MPs currently lead the people's representatives.

Article 7 of the Constitution guarantees freedom of the press 'for ever', but traditionally criticism has been 'strongly discouraged by the social need for compliance' (Pohiva, 1995: 200). Gags, threats and defamation proceedings from the political establishment with the threat of bankruptcy and vilification are nothing new to Pohiva. The pro-democracy movement leader has been a broadcaster and publishes a best-selling 'muckraking' newsletter.

On 19 September 1996, the imprisonment of commoner MP Pohiva and two journalists for 30 days in September 1966 for contempt of Parliament shocked media and human rights circles in the Pacific and internationally. Pohiva, arguably the best-known whistleblower in the region, had waged a decade-long campaign for open government and he exposed the notorious Tongan passports-for-sale scandal in his newsletter, *Kele'a*. In this affair, the Tongan government had sold passports to thousands of Asian citizens for A\$10 000 or more each — including to abdicated President Marcos of the Philippines — and ministers were alleged to have skimmed the proceeds.

The men, *Tongan Times* editor 'Eakalafi Moala and deputy editor Filokalafi 'Akau'ola, had been gaoled after their weekly newspaper published a leaked and untabled impeachment notice against Justice Minister Tevita Tupou. The motion was tabled the following week alleging that the minister had gone to the Atlanta Olympic Games on full parliamentary allowances and privileges without authorisation. King Taufa'ahau used his powers as absolute monarch to close the House after it had voted to impeach Justice Minister Tupou. Tonga's Legislative Assembly is dominated by the unelected representatives of the kingdom's noble families.

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Many media commentators see the gaolings in Tonga as the most serious threat to media freedom in the South Pacific since the Fiji coups in 1987. But coup leader Sitiveni Rabuka, now Fiji's elected prime minister, regards the harsh move as a lesson for journalists. Other critics, including one spokesperson for the Commonwealth Journalists Association, regard the issue as one of a need for 'greater professionalism'. However, the CJA spokesman had been 'guided' by an editor of the official pro-government newspaper and later defined the issue as one of press freedom.

Feuding between some media organisations over the support campaign for the gaolied three also added a curious twist to the affair. Although Australian news media largely ignored the gaolings, in spite of a parallel with five journalists having faced gaol or fines in recent contempt of court cases, several organisations treated the issue seriously — including the Australian Centre for Independent Journalism which established a 'Tongan gaolings update' on its Online Journalism Website (<http://acij.uts.edu.au/>).

One of the gaolied men, 'Akau'ola, had earlier been detained for 26 hours in February 1996 after his newspaper published a letter criticising the Police Minister, Clive Edwards. An Auckland-based Agence France-Presse correspondent, Michael Field, who has reported Tongan affairs closely, was barred from entering the kingdom for the PINA convention in August because of alleged critical writing.

The three men were released on 14 October after serving just 26 days of their sentence when the Tongan Supreme Court found that the three had not been covered by the normal safeguards for a trial provided under the constitution. Therefore the court came to the conclusion that they were being illegally detained. They now plan to sue the government.

According to their New Zealand civil rights lawyer, Barry Wilson, their release was encouraging for emerging democratic freedoms in the kingdom. Wilson successfully filed a writ of habeas corpus on 11 October after two earlier attempts had failed. Amnesty International declared the three men political prisoners and international media freedom groups and human rights movements mounted several appeals for their release.

In November 1996, Pohiva, another commoner MP, and 'Akau'ola were again briefly arrested, this time over allegations of sedition arising out of a newspaper article calling for democracy.

## **PNG MOVES TO LIMIT THE NEWS MEDIA**

Like Tonga, Papua New Guinea's constitution guarantees freedom of speech. Although PNG has in the past rarely figured on the Reporters Sans Frontières lists of transgressing nations over violations of press freedom, it has now been twice cited for gagging the National Broadcasting Commission and

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also cited over draft legislation designed to restrict media freedom (Reporters Sans Frontières, 1997).

One of the most significant cases in the past few years was when then Forests Minister Tim Neville alleged on talkback radio that death threats had been made against him and his family. The major logging company Rimbunan Hijau sued Radio Kalang for defamation and it was settled out of court with the radio station making full-page apologies in the newspapers. While this case appeared to be a private action against the minister and the media, on closer examination Rimbunan Hijau is the publisher of one of the country's two national daily newspapers, *The National*, and has marked political and economic influence over the government. It has also had considerable impact on national forestry policies.

Professor David Flint, chairman of the Australian Press Council, said at a media freedom seminar in Port Moresby in February 1996: 'One of the disadvantages for Australians in not having to fight for their freedom — as the Americans did — is that you always don't appreciate how precious it is. That's why the Americans in their famous First Amendment guaranteed the freedom of the press. They ensured that the press would be accountable to the public and no one else.' (Flint, 1996)

In effect, the First Amendment not only prevents Congress from making laws abridging freedom of speech, it also prohibits laws abridging freedom of the press. Professor Flint highlighted the safeguards within Papua New Guinea's own constitution. In the preamble, for example, are the words:

We, the people of Papua New Guinea by virtue of our inherent right as ancient, free and independent peoples do now establish this sovereign nation and declare ourselves, under the guiding hand of God, to be the independent State of Papua New Guinea.

And we assert, by virtue of that authority, that all power belongs to the people — acting through other duly elected representatives.

Under Section 46, every person in Papua New Guinea has the right to freedom of expression and freedom of the press.

How inalienable is that right? According to Chief Justice Sir Arnold Amet, the right is restricted. As he says:

The first fundamental principle [about constitutional rights] is that there is absolutely no right in life that is absolute. This is a profound truth that is so often overlooked and ignored in many deliberations and debates and assertions of rights (Amet, 1996).



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The Chief Justice gave the right to life being curtailed by capital punishment as an example. However, John Momis, one of the fathers of the Constitution, insists that the objective of Section 46 was to be a 'formal guarantee' and a 'formal protection of the citizen's innate rights and freedoms' (Momis, 1996). He recalls that the provision was founded on 'one of the great principles on which democracy rests [that] is the right to differ on any topic of discussion, be it social, economic, political, cultural or religious'.

People view any issue in different ways. We in the Constitutional Planning Committee believed firmly that they should have the right to express their own views, within very broad limits, on any particular matter, and that in principle every citizen should be free to criticise the policies of the government of the day.

The media has a particular responsibility in this regard, as unless those who wish to express independent opinions are reported in the media, their effectiveness is likely to be much reduced, and the opportunity for meaningful debate on important public issues may be lost. The formation and expression of public opinion is vital to the kind of participatory democracy we believed our people wanted. (Momis, 1996)

Momis added that the framers of the Constitution made particular reference to the freedom of the press which, of course, did not mean freedom without responsibility. 'In an emerging nation such as Papua New Guinea, we believed the media had a very important responsibility to report news accurately — and to give equal opportunities and facilities for the expression by the citizens of opposing or differing views,' he said. Closely related to Section 46 of the Constitution is Section 51 which says:

every citizen has the right to reasonable access to official documents, subject only to the need for such secrecy as is reasonably justifiable in a democratic society in respect of matters relating to national security, defence or international relations, records of meetings and decisions of the National Executive Council and other elected bodies as are prescribed by an Organic Law or an Act of Parliament.

If the government were to truly honour this constitutional provision, a genuine Freedom of Information Act should be legislated in keeping with the vision of the Constitutional Planning Committee.

## **MEDIA FREEDOM DEFINED**

What is meant by 'freedom of the press'? According to the International Federation of Journalists, the major international working journalists' organisation, the phrase means freedom in the collection of information, freedom of opinion and comment, freedom from interference by public

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authority — in accordance with the United Nations (Article 19) and European Declarations of Human Rights — including the freedom to criticise and oppose governments and political bodies and freedom in the dissemination of news by all forms of news media. (International Federation of Journalists, 1996).

Of the 28 'official' speakers at the 'Freedom at the Crossroads' seminar organised in February 1996 by the new Media Council of Papua New Guinea, a body hastily established by the country's news media organisations to convince politicians and the public that they had an effective self-regulation process in place, only one could be truly described as a working journalist — a senior journalist who did not have an editorial managerial role: Neville Togarewa, of the *Post-Courier*.

No rank-and-file Papua New Guinean journalists or student journalists were invited by the organisers to give their perspective, although some did raise their concerns from the floor. Neither was a member of the interim executive of the PNG Journalists' Association given an opportunity to discuss the fate of this organisation, or the reasons why Papua New Guinea has not been able to establish a viable journalists' union protecting the profession's industrial and ethical foundations as in other developing countries. (Although the setting up of the Pacific Journalists' Association was supported by the IFJ in 1989, only the Fiji Journalists' Association has become established as a union.)<sup>1</sup> In the circumstances, critics could be forgiven if they regard the seminar as being more concerned with the 'freedom of the owners of the press' rather than the freedom of the press and the public's right to know per se.

However, Neville Togarewa made several crucial points in his address. He summed up the government's decision to press for a new media law using the Constitutional Review Commission's directives as window dressing as 'rash, ill-conceived and without justification — a knee-jerk reaction based on the Government's misconceptions of the role and operations of the media' (Togarewa, 1996c). His explanation for this was that the media directive had undoubtedly been forced on the government by its 'failure to financially support its own information and communication services to better serve government and the public' (1996c). He was apparently referring to the collapse of the government-run newspaper *Hiri Nius*, ill-fated plans to establish a national Papua New Guinea News Agency and cost-cutting that crippled the Information Department.

Togarewa's perception is that the government is mostly concerned about the 'selection and placement' or emphasis of stories. He suggests this is a matter best addressed by editorial managements adopting guidelines to assist news selection and layout rather than leaving 'obviously important editorial decisions to a select few who have their own biases and prejudices'.

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But he insists that editorial decisions should remain the preserve of editorial committees, as is currently the case. The government concerns, in his view, do not call for a government-sponsored legislative initiative, nor do they warrant a bipartisan-supported constitutional reform of the news media.

Togarewa, reflecting a widely held view among Papua New Guinean journalists, supports calls for a Freedom of Information Act to 'ensure transparency' in government decision-making. He also refers to criticisms that the news media is allegedly 'trying to play, or take over, the role of the elected government in setting [a] national agenda — or even running the country'. He goes on to say:

I don't agree with this criticism. A Government is made up of supposedly like-minded elected representatives with common philosophies and programs, working in unison to achieve their objectives.

Journalists, on the other hand, are very individualistic, rarely agreeing with each other and collectively; they are very disorganised. This is why the [old] PNG Press Council is defunct, the PNG Journalists' Association is defunct, and the PNG Press Club is in hibernation. (Togarewa, 1996c)

During the weeks leading up to the tabling of the draft media laws in Parliament, there were a number of incidents infringing traditional press freedom such as a gag on the reporting of the Ombudsman Commission's report on a controversial water supply deal in the capital of Port Moresby, a threat to bring the editor of the country's leading daily newspaper before Parliament, and attempts by a minister to gag a television documentary about Bougainville.

## THE MALAYSIAN WATER DEAL GAG

On 8 October, the Ombudsman Commission's controversial report on the Port Moresby water supply project scandal was tabled in Parliament and the National Court promptly barred its publication by the country's newspapers. Judge Maurice Sheehan restrained the newspapers from publishing the findings of the commission's investigation following an injunction sought by three businessmen — one of them related to the Prime Minister (*The National*, 1996a).

The Ombudsman recommended that all contracts be terminated with a Malaysian consortium, JC-KRTA, to build and operate Port Moresby's water and sewerage system on a 22-year BOT (build-operate-and-transfer) basis and that the project be let for tender following normal procedures. The report also strongly criticised the roles of the businessmen and the Deputy Prime Minister, Chris Haiveta, who holds the finance portfolio. The

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Ombudsman also gave a 30-day deadline for the government to take action over the report.

The businessmen were Foong Chin Cheah, Tony Chan and Sir Hugo Berghuser. They argued that a judicial review challenging the validity of the report was pending and it would be unfair for it to be published in the meantime. Foong, a Malaysian citizen, and a Papua New Guinean, John Kaisapwalova, also involved in the water deal, were implicated in the Barnett Commission of Inquiry into corruption in the PNG forest industry (*The Independent*, 1996b).

Several newspapers protested in editorials, pointing out that while the PNG press were prevented from publishing the facts, it was a paradox that news agencies, newspapers abroad and even the local EMTV could broadcast the news with impunity (*The National*, 1996b). As *The National* said:

Even more bizarre, overseas media organisations with PNG-based representatives such as the ABC and AAP are at perfect liberty to transmit the story around the world, so that it is possible that a Sydney-sider reading his *Herald* or *Telegraph* this morning will know much more about PNG events than newspaper readers in this country. (1996b)

A day later, Judge Sheehan lifted the injunction by consent following agreement by the opposing counsel that Parliament was the supreme authority and that anything put before the House was a public matter.

In another incident, the news media were banned in mid-October from attending an official Commission of Inquiry into a Porgera gold mine explosion which killed six Papua New Guineans and five Australians. On 1 October, Forests Minister Andrew Baing telephoned EMTV four times in an unsuccessful attempt to prevent the channel from broadcasting a documentary called *The Ultimatum* about the civil war on Bougainville. The program was 'not in good taste', he explained (Reporters Sans Frontières, 1997).

Two days later, Prime Minister Sir Julius Chan called on the Speaker, Sir Rabbie Namaliu, to refer *Post-Courier* editor Oseah Philemon to the Parliamentary Privileges Committee. This was over an editorial about a controversial mini-budget calling on the Deputy Prime Minister Chris Haiveta to resign because of the Prime Minister's alleged 'ulterior motives'. The Prime Minister's remarks immediately caused an uproar in the House, with Opposition MPs booing him. Stephen Pokawin, the Governor of Manus, said political leaders should not get caught up in a mentality that their actions were 'always right' (*The National*, 1996c).



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## CONSTITUTIONAL REPORT AND DRAFT LAWS

When the report of the Constitutional Review Committee's media subcommittee was tabled in Parliament in June 1996, the report generally reflected the committee's findings during its six-month consultative process. Its recommendations were:

Existing legislation on the media are [sic] sufficient and government should not propose new restrictive laws.

An Information and Communications Authority be established under an Act of Parliament and vested with the authority to monitor and regulate the entire information and communication sector.

This body, including an Independent Media Commission, would review the entire sector to set in place a media industry which will effectively play its role.

Membership of the Media Commission would be drawn from the PNG Media Council, the PNG Journalists' Association, the PNG Law Society, the Judiciary, PNG Trade Union Congress, the PNG Council of Churches, and women and church groups

The objectives of the Media Commission would be to:

- (a) Cooperate and work closely with the PNG Media Council, the PNG Journalists' Association, and other industry organisations and government bodies to protect and promote the interest of the media.
- (b) Act as a watchdog against abuses of freedom on complaints and freedom of the press.
- (c) Receive, adjudicate and hand down decisions on complaints by individuals or groups against media organisations.
- (d) Ensure that journalists abide by their Code of Ethics at all times.
- (e) Ensure that media organisations, owners, publishers, editors, chief executives, journalists and other employers adhere at all times to whatever self-regulatory measures that are in place.
- (f) Undertake any such tasks that the government directs it to carry out from time to time.

The *Defamation Act* be reviewed and amended to take account of current trends and practices.

The current censorship laws be reviewed and, where applicable, revised to 'return the original conceived authority to the Chief Censor of Papua New Guinea, to act in the equitable interests of the media in PNG for the betterment of the majority of Papua New Guineans' ...

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Parliament enact a *Freedom of Information Act*.

Parliament enact a copyright law to protect PNG culture, artists, writers and inventors.

The Martin Thompson White Paper on Information and Communication be adopted as official policy.

Government support the acquisition of controlling equity participation, by nationals of the media industry — especially print media.

The recommendations were quite wide-ranging, but the real agenda, perhaps, was hinted at in the Foreword, which was more in line with the CRC chairman Ben Micah and Prime Minister Chan's personal view than the findings of the subcommittee. The foreword, signed by Commissioner John Paska, who is also head of the PNG Trade Union Council, argued for an authoritarian Asian model, such as in Malaysia or Indonesia, and suggested the desirability of publishing licences.<sup>2</sup>

If it is deemed necessary for our commission to recommend a ... provision like this for our government to have the power to issue publishing licences, it should only be put in, more as a deterrent so that the media organisations can be ever-effective in applying their in-house processes of regulation and control and not be complacent in effectively redressing the grievances of those aggrieved.

It has often been noted that the media organisations, if left to themselves to self-regulate or take appropriate measure to redress those aggrieved, tend to be self-serving, and posturisingly [sic] become complacent. This power of issuing or revoking printing, publishing or broadcasting licences must be and should only be vested in a collective, independent body with stringent rules as to when and how it may be applied.

One cannot help drawing parallels between the republic of Indonesia's experiences on this issue of mass media ... In this healthy partnership approach of the Indonesian government and the mass media, the role of the media has always been understood as that of disseminating objective information, exercising and exerting of constructive social control, channelling people's aspirations, and bridging communication between the Government and the public at large, and of course, in engendering the community's participation in the process of nation building.

The Papua New Guinea National Constitution and its government share similar historical and political experiences having emerged also from the womb of colonialism, and born to face the daunting challenges with a burning hope to remould ourselves into a tribe of one people. We have likewise formulated our National Constitution,

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home grown so we claimed, and are filled with so many ideals, hopes and aspirations. (CRC Report, 1996)

The draft laws were made public in November 1996, and were immediately condemned by the Papua New Guinea news media and several commentators. Likened by National Institute of Affairs director John Millett to 'the sword of Damocles', the Media Commission Bill effectively would have given the government, through a largely appointed Media Commission, the power to direct the media to register and deregister journalists (Millett, 1996). Failure of a journalist to comply with an 'order or direction' could bring a fine of up to A\$2000. Any news organisation editor or manager employing an unregistered journalist could face four years in gaol. Section 28 makes it mandatory for the Commission to withdraw a certificate of registration from a journalist, writer, announcer, compere or presenter whom the Commission finds to be 'guilty of a serious offence which is detrimental to the interest of the public'. Another body, the National Information and Communication Authority, would have the task of 'regulating' and 'monitoring' the granting of licences to television, radio and press companies, and could even force journalists to broadcast or publish a news item, threatening a fine if they refused.

In spite of promises to the public, the drafters of the legislation have adopted, in the words of Millett (1996), 'the heavy-handed approach, imposing unacceptable risks on society'. Praising the media's performance, saying the politicians are lucky that it is not more probing like in Australia, *The National* said 'there is neither the need, nor the excuse for any regulatory action to be imposed by our Government'. The *Post-Courier* asked why there was such a rush to get this legislation in place while the rest of the six subcommittees' work was still unfinished.

Anna Solomon, chairperson of the Media Council of Papua New Guinea, complained: 'With the national elections [during 1997], one would expect priority to be given to the directive on "integrity of political parties and candidates".' She argued that funds should be given immediately to review and amend the law on defamation, instead of wasting funds on drafting new media legislation.

Letters to the editor columns also drew many comments challenging the draft laws. According to one correspondent in *The National*, 'the recent media bills designed by Ben Micah and his committee, if passed by Parliament, will see the start of a dictatorship in our country'. The media, he added, was 'the watchdog' and needed to be 'given neutrality, impartiality and the right to unbiased reporting so it can serve the country. And it must be the media's responsibility to uphold its own integrity.' Micah is perceived to be one of the political 'demagogues' obsessed with the notion of the gagging of the media.

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Faced with the intense criticism and a critical resolution adopted by the Commonwealth Journalists' Association conference in Hong Kong in late January 1997, the CRC Subcommittee on the Media finally recommended shelving the legislation, at least in its present form (*Post-Courier*, 1997). Chairman Paska said the subcommittee was overwhelmingly in favour of self-regulation by the media industry. But the committee also called for:

An independent review at the end of five years of the self-regulation process.

Respect for freedom of expression and freedom of the press 'as essential elements of a free and democratic society'.

Appointments to any commission, board or authority responsible for self-regulation to be made by the Governor-General.

## CONCLUSION

In spite of the pressure from Ben Micah and a handful of key advisers close to Prime Minister Chan to push an 'Asian model' of media controls regardless of the public opposition, the media consultative subcommittee did a commendable job. The recommendations were sensible and should ensure a more vigorous yet responsible media which will become more accountable to the public over its role. As the *Post-Courier* noted in an editorial: 'The media has now been given responsibility to draw up the mechanisms that will ensure greater accountability — it is a challenge the media should welcome and embrace.'

Describing the easing of pressure on the Papua New Guinean news media as being 'back from the brink of all-out repression', the *CPU News*, monthly newspaper of the Commonwealth Press Union, noted that the move to self-regulation 'removes an enormous weight from the shoulders of Papua New Guinea's media professionals' (*CPU News*, 1997). But this is an overly optimistic view. Few media commentators are convinced that this is by any means the end of the draft legislation. The proposed media laws are a refinement of the Ramoi media bill in 1987. There have been several attempts to curb the Papua New Guinea media in the past, and there are very likely to be others in future. It would not be surprising, should Sir Julius Chan retain his leadership as Prime Minister after the mid-year general election, that the onslaught will resume, particularly in view of Chan's frustration with media coverage of the controversial Sandline mercenary contract. The deal involved hiring South African-based mercenary 'trainers' to mount a strike against the rebel leadership on Bougainville and reopen the Panguna copper mine.

According to one senior newspaper executive:



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Papua New Guinea is facing grave threats to its democratic foundations. There is ample evidence: draft 'media muzzling' legislation which would strike at the very heart of citizens' constitutional rights still lies on the table at Waigani; corruption is rife among politicians and public servants; citizens are dying through lack of basic medical care while the nation's rich resources are squandered or stolen.

The developments in Papua New Guinea may reflect a phase common to the Pacific and to other areas of the developing world. Political leaders in the Pacific have belatedly caught on to post-colonial opposition to a Western-style free press, best represented by the Third World move to adopt a New World Information and Communications Order (NIWICO) in the 1970s. Although the global strategy for licensing journalists and placing controls, as well as establishing government agencies to monopolise the flow of news long ago collapsed, many Pacific politicians believe the good news 'development' model can be revived in their region. Traditionally uncomfortable with public scrutiny, the politicians believe that they alone should define national interest and development priorities.

Unfortunately for them, many of the region's news media have already weathered this debate and now strengthened their diversity and plurality. They have no intention of allowing politicians to impose the mark of Zorro.

## NOTES

- 1 No general meeting or election of officers has been held since the interim executive was established in 1990. Early in 1996, the PNGJA was publicly listed by the Industrial Registrar as a trade union 'defaulter' and asked to show cause why it should not be deregistered. (*The National*, 18 January 1996: 21). The interim executive was: president Frank Senge Kolma, currently editor of *The National* (formerly press secretary to Prime Minister Pias Wingti), vice-president Sorariba Nash, lecturer in journalism, University of Papua New Guinea; treasurer Neville Togarewa, senior reporter *Post-Courier*; and secretary Ambie Bulum, a press officer for Prime Minister Sir Julius Chan. However, on 9 November 1996, the PNGJA held a meeting to revive the association. Togarewa was elected interim president; the other interim executives: Abby Yadi (*The Independent*), vice-president; Cletus Ngaffkin (*The National*), secretary; Ambie Bulum (Media Department, Prime Minister's Office), treasurer. Shortly afterwards it made a submission to the CRC.
- 2 CRC chairman Ben Micah and some members of the media working group had earlier organised a study trip to China, Indonesia, Malaysia and Singapore — none of the countries being 'havens of press freedom'. The Philippines and Hong Kong, which enjoy a vigorous free press, were pointedly ignored.

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*Note:* This is a revised and updated version of a paper presented at the 'Talking Journalism' series of seminars of the Australian Centre for Independent Journalism, University of Technology Sydney on 31 October 1996.

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