News of the World

The World's Greatest Newspaper 1843-2011

16-17 February 2012
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Introduction

A record of an international conference:

**The Media World After WikiLeaks and News of the World at UNESCO Headquarters, Paris, 16-17 February 2012**


*With the support of JP-Politiken publishing group, Denmark; Open Society Foundation’s Network Media Program, London; and Nicholas B. Ottaway Foundation, New York*

With some 2 billion persons using the Internet and producing 156 million public blogs in 2011, there has been a surge of social networks, user-generated content and micro-blogging that enables all Internet users to be public communicators. After the spread of Internet, WikiLeaks' release of a mass of classified documents and its initial collaboration with traditional press outlets altered the media landscape and raised basic questions for journalism. The phone hacking by *News of the World* broached issues of privacy, media self-regulation, and press-government relations.

Following a conference organized by WPFC and WAN at UNESCO HQ on “New Media: The Press Freedom Dimension” in February 2007, the need was felt to explore further the future of traditional news media and professional journalism -- with their established practices, traditions and standards -- as challenged by emergence of new actors and approaches like WikiLeaks.

The WikiLeaks episode raised many issues related to freedom of expression, freedom of information, national security, privacy and ethics and basic questions about how journalists do their jobs. The conference aimed to explore a wide range of new questions for traditional media and journalism posed by the WikiLeaks phenomenon and the phone hacking episode:

- How can journalists deal with the explosion of primary source data on the Internet?
- Should journalists' roles and their professional and ethical standards be reconsidered?
- What is the relationship between “citizen journalism” and traditional journalism?
- What are the challenges for laws on privacy, national security, and Internet freedom?
- What are the implications of unethical practices for self-regulation and press credibility?
- What is the future of government-media relations?

**Organizing Committee**

WORLD PRESS FREEDOM COMMITTEE: Ronald Koven, European Representative Virginia Power, Associate European Representative

WORLD EDITORS FORUM: Emma Heald, WEF Senior Editor

UNESCO: Guy Berger, Director of Freedom of Expression & Media Development.

Sylvie Coudray, Chief, Freedom of Expression Section

Flavie Romer, Program Assistant, Freedom of Expression Section
Panel 1: How Professional Media Deal with the Digital Environment

WikiLeaks claims access to some 250,000 US diplomatic cables -- mountains of raw data that confront society and professional media with dilemmas on their use. This explosion of primary source data has impacted newsgathering by journalists and their relation with governments. Editors of three media outlets chosen by WikiLeaks to review the dispatches for use discuss their experiences.

Moderator: Guy Berger, UNESCO Director of Freedom of Expression & Media Development
Sylvie Kauffmann, columnist, former Editor-in-Chief, Le Monde, Paris
Ian Fisher, Associate Managing Editor, New York Times

Sample questions: Was there a “silver lining” to WikiLeaks that reaffirmed journalistic professionalism? Have there been lasting effects on newsgathering? What is the fallout from WikiLeaks’ decision to release all the materials without its original redaction of sensitive sources? What effects on relations of news media with democratic governments? Have there been changes in relations with officialdom that affect the ability of journalists to access information?

Panel 2: Professionalism and Ethics in the New Media Environment After WikiLeaks and News of the World

WikiLeaks and the illegal phone hacking scandal surrounding the News of the World have intensified public debates about journalistic practices and ethics in the Internet era. News media and journalists must come to grips with the ethical implications of dealing with information coming from many more sources and via more technologies than before.

Moderator: Alison Smale, Executive Editor, International Herald Tribune
Borja Bergareche, author, “WikiLeaks confidencial”; London correspondent, ABC, Madrid; European consultant, Committee to Protect Journalists
Guy Black, Baron of Brentwood, Executive Director, Telegraph Media Group; former Director UK Press Complaints Commission
Mikhail Fedotov, Head, Russian Presidential Human Rights Council; former Secretary, Russian Union of Journalists: former Russian Press/Information Minister: author Russian media law 1991
Charles Onyango-Obbo, Executive Editor for digital media, Nation Media group, Kenya
Aidan White, Director of Coalition for Ethical Journalism, of Global Editors Network; former
Panel 3: International Law After WikiLeaks and *News of the World*  

WikiLeaks has posed challenges of legal jurisdiction since it is not located or operating in a single country. This raises tensions between national and international law concerning the online information flow's transborder nature. Wikileaks also raised challenges for governments to protect classified information. The relation of WikiLeaks to journalism raises questions of whether laws protecting freedom of expression, press freedom and freedom of information should apply to it.

**Moderator:** Richard Winfield, Chairman, World Press Freedom Committee: former General Counsel, Associated Press  
Agnes Callamard, Executive Director, Article 19  
Michael Camilleri, senior legal advisor to the Special Rapporteur for Freedom of Expression, Organization of American States  
Jane Kirtley, Director, U. of Minnesota Journalism School Center for Study of Media Ethics & Law; former Executive Director, Reporters Committee for Freedom of the Press  
Geoffrey Robertson, QC, UK media lawyer; author of the standard text, “Media Law”; legal advisor to Julian Assange

Sample questions: Implications for protection of sources? For access to information? For governmental protection of classified data? There is pressure for new international standards and law. Are they needed? If so, how would new standards and laws be framed, by whom?

Panel 4: Government-Media Relations After WikiLeaks and *News of the World*  

WikiLeaks showed that, in the 21st Century, information tends to be free and that the power to monopolize information has been weakened. This impacts relations between journalists and government officials in terms of journalists' access information. What, if any, antidote is there to the likelihood that governments will now try to exercise more control over relations between officials and journalists?

**Moderator:** Henrikas Yushkiavitshus, former UNESCO Assistant Director General/Communication; former Vice-Chairman, Gostel Radio, Moscow  
Rohan Jayasekera, Associate Editor, Index on Censorship  
Kamel Labidi, Head, Tunisian Independent Authority for Information & Communication; former Tunisia Monitoring Group Advocacy Director/IFEX  
Justine Limpitlaw, South African media lawyer  
Jan Malinowski, Head, Media & Information Society Division, Council of Europe

Sample questions: Can democratic officialdom and investigative journalists coexist? Should their interaction be organized. If so, how? Is there now a need to redefine relations of democratic governments and news media? How to go about that?
Many actors are concerned by and seek involvement in Internet governance: NGOs, news media, Internet service providers, protectors of children, police and surveillance authorities, governments, etc. They all deal with aspects of freedom that had not appeared to be so closely related to traditional media freedoms. Freedom of expression on the Internet can be eroded as the various actors pursue such separate and potentially conflicting interests as counter-terrorism, national security, privacy, protection of intellectual property, etc. Governance and regulation of cross-border issues, have complicated protection of freedom of speech in cyberspace.

Sample questions: Does the WikiLeaks approach alter the generally established democratic view that leakers may be prosecuted for revealing state secrets but media outlets should not? Should there be special protections for online journalism? What differentiates online journalism and social networking? Are controls of social networks justifiable to protect national security and public order?

Panels 6: Professional and “Citizen” Journalism Working Together After WikiLeaks and News of the World

Description: Traditional news media are increasingly using materials contributed by non-professional “citizen journalists.” It is crucial to insure that professional standards are applied to outputs of bloggers and “citizen journalists” used by the news industry. "Citizen journalists" themselves need to understand and follow professional standards and to learn how to contextualize their outputs to make them effective, useable, and legitimate.

Sample questions: What are the professional criteria for accepting or rejecting citizen contributions for broadcast? What proportion of contributions is professionally acceptable for use? Are there contributions you regret having to turn down? Why? How can citizen journalists be taught professionalism? How often do citizen bloggers originate news, as opposed to commentary? Citizen contributions: fullfledged reporting and/or starting points for
professional journalism?

**Closing remarks**  Page 88
Summing up: **Barry James**, World Press Freedom Committee conference editor

Closing remarks: **Guy Berger**, UNESCO Director of Freedom of Expression & Media Development

**Biographical notes**  Page 90
**Introduction: Janis Karklins.** Assistant Director General/ Communication & Information, UNESCO: For organizing this event, we are grateful to the co-organizer, the World Press Freedom Committee, and to the co-sponsors, the World Association of Newspapers and News Publishers, the World Editors Forum and the International Press Institute.

We also much appreciate the support from the JP-Politiken publishing group, the Open Society Foundation’s Network Media Program and the Nicholas B. Ottaway Foundation.

I would like to set the scene by stating that this conference was not conceived by the World Press Freedom Committee or by UNESCO as a discussion about WikiLeaks or the *News of the World*. These episodes are behind us. That is a fact. But similar cases may happen again. The discussion here will be about what these developments mean going forward with a regard to both their legal implications and to the future of professional journalism.

The conference title is clear in that regard. During these two days, we will seek possible answers to such questions as: Where does all this leave professional journalism; media relations with government; freedom of information, and so forth.

It is the second time since 2007 that UNESCO has collaborated with the World Press Freedom Committee to engage in discussion on new media issues.

Over the past five years, UNESCO has been firm in promoting the principles of freedom of expression, taking into consideration press freedom in a digital media environment, including the Internet.

The challenge is how to turn these principles into practical realities. And, as we know, the devil is usually in the details. This is why we gather today to seriously explore how these newly emerged phenomena such as WikiLeaks or the *News of the World* have impacted and challenged traditional media and journalism, as well as what the social and legal implications are of these episodes in a wide range of areas such as Internet freedom, freedom of expression, international law, and government-media relations.

UNESCO is the only UN agency with a specific mandate to defend freedom of expression. It has been actively engaged in efforts to promote press freedom online and off line. It is part of UNESCO’s mandate to provide a platform for open discussion and to promote the free flow of ideas. I am confident that this conference will contribute to clarifying some of these complex challenges and will help us to formulate sound practices in promoting the freedom of expression, quality journalism and citizen participation in the digital era.
Welcome: Irina Bokova, Director-General, UNESCO: I am pleased to welcome you all to UNESCO for this conference on “The Media World after WikiLeaks and News of the World.” Times of great change are also times of great debate.

The media world is, indeed, undergoing profound change. New information and communication technologies are shaking the business of media to the core. Traditional models are showing signs of weakness, while existing legislation and regulations are pressed by the rise of new realities.

The media world is under stress from all sides and confronting new challenges every day. The developments around WikiLeaks and the News of the World show this clearly. All of this raises important questions -- questions about ethics, about regulation and security, about accountability and credibility.

I see one of the core functions of UNESCO as providing a place for open and informed debate on the key issues of the day. Our 1945 Constitution is clear: Promoting “the free flow of ideas by word and image” between peoples must lie at the heart of all efforts to build lasting peace. This requires continual dialogue and discussion.

Five years ago, UNESCO hosted a conference conceived by the same groups dedicated to defending press freedom -- the World Press Freedom Committee, the World Association of Newspapers, and the World Editors Forum. We discussed then the theme of “New Media: The Press Freedom Dimension.”

It is fitting we meet again today, to take stock of ongoing change and to address challenges that are affecting media freedoms across the world -- in new democracies as well as in older and more established democracies.

We must work every day to promote freedom of expression as the foundation for all human rights and fundamental freedoms. At a time of great change, this means working to find a balance between sometimes conflicting imperatives -- including freedom of expression, national security, and diplomacy, respect for privacy, and others. Complexity must not be a justification for curtailing legitimate freedom of expression.

In this context, the principle of ethical self-regulation for journalists must remain cardinal. We must also do far more to develop media literacy for all. Everyone should have the skills to judge critically the information to which they have access, in order to best make use of it.

These are vital issues today -- for the rule of law, for healthy societies, for good governance. I am pleased to welcome you to UNESCO to explore this landscape of change. I wish you interesting debates, and I look forward to your conclusions.
I want to provide some context to this time we are in -- the Digital Age. We look at large events such as WikiLeaks and the News of the World scandal, and they appear to encapsulate the issues and challenges faced by the mainstream media in the Internet age. But by looking back we may have a better idea of where we are going.

Imagine a story where the hero is a rogue computer hacker who frees data for public good -- an information Robin Hood, as it were -- while being chased by operatives from a dystopian surveillance state. He finds safety in a data haven, a place beyond national jurisdiction and begins to publish government secrets to the masses. This is not the story of WikiLeaks, however, but rather the plot of a science fiction book popular with hackers -- John Brunner's novel “The Shockwave Rider,” published in 1975, just after the resignation of Richard Nixon and the overthrow by military coup of Chilean President Salvador Allende by Gen. Augusto Pinochet.

The idea of running off to a free data haven or pirate utopia was common currency in science fiction and cyberpunk writings. The cyberpunk hero is the hacker who somehow manages to negotiate the power structures and use his awesome skills online to lay everything out to the general public. Certainly, most hackers have read these books. One of the most popular authors in this genre is Neal Stephenson, who in 1999 further developed the idea in his book “Cryptonomicon,” and went into great technical detail about the logistics of creating a safe harbor where information could be shared freely or hidden securely from government interference or censorship.

Data havens have thus lived in the imagination for decades, with few actual attempts at making them a physical reality. In 1967, Major Paddy Roy Bates, a British citizen, took over an old Second World War fort off the coast of Britain with the intention of broadcasting a pirate radio signal from a floating pontoon to circumvent the restrictive monopoly of Britain's state broadcaster, the BBC. It never took off. Why, though, would we need such a free haven when we have, at least in democracies, a supposedly free press?

As most in this room will know, the free press is not so free. It is confined by law, by economics, by access to people and information and, more worryingly, by the special interests of the powerful -- both government or corporate.

WikiLeaks and the News of the World scandal reveal ways in which the mainstream media can be complicit with the powerful. Instead of representing the public interest, the press is seen as representing the interests of the powerful, whether government or corporate. Rather than giving a voice to the voiceless or power to the powerless, it can be seen as giving a voice to the powerful.

The Internet, by contrast, is seen as less susceptible to this sort of influence-peddling, and so some see it as the only truly free media. Certainly, many young people believe this. And hacker collectives such as Anonymous and Lulzsec who forego working with journalists on the
information they liberate and instead dump it online. But who are these people? Can they be trusted more than, say The New York Times? We don't even know who they are. Can their claims be verified? Do they have their own unseen motivations?

In the digital age, there are a multitude of new communications outlets to rival the traditional media, but what hasn't changed are the dark arts of propaganda and media manipulation. Professional journalists and media have a reputation at stake, and there are rules and ethics, built up over time, to maintain some sort of journalistic integrity and independence. Yet the News of the World scandal showed how drastically some journalists had deviated from these by committing illegal acts, not in the public interest, but solely for public titillation; for a corporate interest. But is the new online media any better?

In the novel “1984,” George Orwell described the largest section of the Ministry of Truth's records office as the part employing people “whose duty it was to track down and collect all copies of books, newspapers, and other documents which had been superseded and were due for destruction.” This was essential if all the past versions of news were to be altered or deleted to maintain the “truth” of the present. In the digital age, the most difficult part of any censorship or propaganda operation -- that of collecting, altering or destroying the offending speech -- becomes easy. Information stored digitally on a centralized network can easily become one giant memory hole, and the way authoritarian governments rewrite history is itself being rewritten.

I opened with “The Shockwave Rider” plot to show that WikiLeaks is not actually all that new or revolutionary. The movement of radical transparency and ideas about legal arbitrage have been around for decades, since data was first digitized. Until that time, it cost money to duplicate and share information and its physical mass made its distribution easier to control. Digital information, by contrast, has almost no mass. It costs almost nothing to copy and share. The default position is now for information to flow globally and instantly, across all borders -- geographic, legal, socioeconomic.

What the megaleak did was bring all the issues of the digital age to the mainstream media’s attention, and, as a result, to public attention. There were several prototypes for WikiLeaks -- Cryptome run by John Young, and the Pirate Bay, the world's largest BitTorrent tracker. BitTorrent, invented in 2001, is a system for distributing large digital data files over the Internet between unlimited numbers of recipients. A BitTorrent tracker is a directory service, much like a card catalog in a library. It lists all the files that might be available in the system and describes their content and where they can be located. The vast majority of the files listed in the index cards of the Pirate Bay are digital copies of movies, audio recordings and computer software. The Pirate Bay has no role other than that of acting as a directory. What people choose to share with each other is up to them, and the site is rather like Google in that it is a search engine (albeit for torrents). It was originally set up in November 2003 by the Swedish anti-copyright organization Piratbyrån.org (the Piracy Bureau) but became independent in October 2004. It has been on the receiving end of numerous legal threats from music, movie and games companies, which claim the content of the torrents violates copyright laws, particularly the American Digital Millennium Copyright Act of 1988 which criminalizes copyright infringement. The Pirate Bay begged to differ, stating it was a Swedish company based in Sweden, so only Swedish law applied; and under Swedish law it was not violating copyright as it was merely acting as a host for information sharing, not uploading or storing any information itself. Here we can see how one country's law
(in this case the US Digital Millennium Copyright Act) can be used to try and suppress information globally.

At this stage, if there was an information war, it revolved around intellectual property. The previous gatekeepers of culture -- the top five movie studios and record companies -- were losing their ability to restrict access, and more importantly they were losing money. Lawyers from the big entertainment conglomerates lobbied politicians who in turn passed laws favoring those industries. Democratic institutions were subverted: the interests of a few private companies were put before the public interest. Yet, Pirate Bay is still online. That is because there remain parts of the Internet that are decentralized. All those using a BitTorrent are also part of the system, hosting their own content. It is a peer-to-peer network, the exact opposite of Facebook, Twitter or Google which are centralized and thus easier for governments to control.

Laws are national but information now flows globally. What is a country to do? The United States or the European Union lobby world trade organizations or foreign governments. Or they use their economic clout as leverage. What happened to the Pirate Bay? Could they really get away with writing letters, rude letters, to Warner Brothers’ lawyers? Eventually, the owners were prosecuted and found guilty of violating Swedish copyright law but only after the law and its enforcement were changed -- some say due to intensive political lobbying by American government officials. The US diplomatic cables do show such lobbying of various governments.

This wasn't just about rich record executives losing money, though. In 1991, a US Senate bill was going through Congress that required all companies developing communications technologies to include back doors in their products for government interception. These requirements are now coming back to haunt the West as authoritarian regimes use these Western-mandated back doors to spy and track pro-democracy protesters. A group of computer programmers and information activists saw how these back doors would be the end of any real individual privacy against the State, and they formed a loose campaign group known as the Cypherpunks.

Philip Zimmermann's solution to the totalitarian future he feared was to write his own encryption program and give it away as free software. Communication might be intercepted, but by using encryption, only the recipient could read the document. This was useful not just for activists but also for investigators, banks and anyone wanting secure communication online, including journalists. Zimmermann was a military policy analyst, anti-nuclear campaigner and computer programmer and he believed that in a democracy people have a right to communicate without government surveillance. He created PGP, which stands for Pretty Good Privacy, and it was the first encryption program available to the general public, released in June 1991.

PGP spread quickly among peace activists and then made its way around the Internet. However, at that time, the US government classed cryptographic software such as this as meriting the same regulation as munitions, like Stinger missiles, helicopter gunships or thermo-nuclear weapons, and its distribution was tightly controlled by export regulations. Even the discussions Zimmermann had had with volunteers around the world were a violation of the Arms Export Control Act. In February 1993, Zimmermann received a telephone call from Special Agent Robin Sterzer of US Customs in San Jose, California. It was the beginning of a three-year criminal investigation culminating in what became known as the “crypto wars” of the 1990s.
While Zimmermann was being investigated, a curious thing happened. Another cryptographer, Phil Karn, wanted to export a book on cryptography which included the actual code of a program. He wrote to the State Department asking for a license to bypass the Arms Export Control Act. The State Department said, “Sure, it's a book; of course you can export it. It's protected by the First Amendment.” This gave Karn an idea. A short time later, he sent another request asking for a license to export the exact same information, but this time digitized on a floppy disk. The State Department realized they were in a bind. They'd already agreed to the book; it was the same information, but, digitized, it would flow globally and instantly. They asked the National Security Agency what to do, and the NSA told them to refuse. They did, but Phil Karn subsequently brought a legal case appealing the restriction as unconstitutional. Zimmermann realized he, too, could bypass the law the same way. He found an editor from MIT Press who agreed to publish a small print run of a book with the PGP code in the back, in machine-readable text. It meant the code could be shipped abroad, scanned in, digitized and thus spread around the world. It was. The government's case crumbled, and in 2000 the controls ended.

This was the first real battle of the information war and it was a victory for free speech. Many people thought WikiLeaks would be similar, but Julian Assange was not Phil Zimmermann and he quickly lost the moral high ground, which had helped Zimmermann to solicit the broad public support that was crucial in getting the law changed.

Getting a source to deliver from the belly of the US military the so-called “collateral murder” video, the Iraq and Afghanistan war logs and the US diplomatic cables was quite a coup. But whether it was successful is less clear. Where laws are changing in the aftermath, they are for the worse: In South Africa, Britain, the US, Russia and many other countries, there are moves to enact new laws criminalizing the sharing of information, particularly from a public official or an entertainment company. South Africa delayed but ultimately passed a shocking law which is essentially an Official Secrets Act without a public interest exemption. This is not to say these laws are the fault of WikiLeaks, but the disclosures certainly prompted reactionary responses from many governments. We will be hearing more about what is happening legislatively with freedom of the press worldwide throughout the day.

Similarly, in Britain, the News of the World investigation is focusing not so much on police corruption, incompetence or abuse of power, but on the activities of journalists. And not just News of the World reporters, nor only those accused of bribing police. Those who have apparently paid a public official -- regardless of the reason -- are suspect. The public interest, the absolute crucial element of good journalism, is lost yet again.

We are in rough water. Where the press should be bold and strong, it is weak and timid. Its strength comes from public support and clarity about its role in a democratic society. But because of the press's subversion by powerful interests -- corporate or governmental -- public support is waning. The public is being persuaded that the press is not their friend.

Increasingly, people look online for their news. Yet, the Internet is beginning to look more like a great panopticon, where technology is used by the State to spy on citizens or churn out propaganda. Clearly, the Internet is a challenge to authoritarian power but whether it will usher in a new global democracy is less clear. Instead, authoritarian governments (and authoritarian parts of democratic governments such as the military and security services) are coming to understand
the value of online propaganda. As the “father of public relations,” Edward Bernays, said: “Nowadays, the successors of the rulers, those whose position or ability gives them power, can no longer do what they want without the approval of the masses; they find in propaganda a tool which is increasingly powerful in gaining that approval.”

There are few restrictions on online communication -- much less than on the printed press. There is an unprecedented number of voices challenging official doctrine. There are many instances where alternative truths reported by bloggers, tweeters, citizens have led to the exposure of corrupt powerful interests. But equally, many of these “truths” are not true. They are faked footage from the security services. They are lies, smears, rumors or disinformation. The anonymity of the Internet can make it ripe for manipulation.

We are here these two days to discuss what role professional journalists have amid this teeming mix of information and misinformation. Lies can go halfway round the world now before truth can get its boots on. I see among this cacophony a great need for people skilled in the values of good journalism -- and by that I mean first and foremost people who can represent the public against the powerful – who can figure out what is important, amid verify what is true or not, then put it into a context that is entertaining or informative so that people understand the society in which they live.

Like all industries, ours is being transformed by the digital age, and just as we couldn't predict Facebook or Twitter, so there may be new models for journalism that we haven't yet discovered. The values, however, should remain the same.

**Panel 1: How professional media deal with the digital environment**

**Sylvie Kauffmann**, columnist, former Editor-in-Chief, *Le Monde*: **Times change, values remain**

The Leveson Inquiry into the culture, practice and ethics of the press in London is a reminder that even though the way the news is spread is different today, the values and issues remain the same. These traditional press issues of paying the police for information involve mainstream tabloid newspapers. But when online media become as powerful as the tabloids, we can envisage having the same issues with them.

WikiLeaks was an original, great idea, which was to find a safe haven, a safebox where whistleblowers could leave their material so that it reaches the general public. It has been only half successful. It did not establish a safebox. Somebody is in jail and threatened with paying dearly for those huge leaks.

There have not been any new big leaks since then. Some other media outlets have tried to establish other boxes or safe places, but to my knowledge we haven't seen any big leaks left by whistleblowers on such web sites.

So far, then, it has been a one-time occurrence. But those leaked documents were extremely important. The military files about Iraq and Afghanistan and the diplomatic cables achieved something crucial in breaking the wall on official secrecy. As journalists, we learned a lot, and it...
was important for governments to see that this material could be brought to the knowledge of the
general public. A lot of it did not have to be kept secret.

The other interesting idea about WikiLeaks was the association with the mainstream media,
which, of course, grew controversial because of Julian Assange's position and his bitterness
against us. He needed us but at the same time he accused us of being too cozy with the powerful.
That spoiled things a little, but originally the association was interesting because I don't think
anyone of us alone would have got a hand on all of those documents, and WikiLeaks alone could
not do anything with those documents. So they needed our expertise and our credibility, and they
needed our audience, and I think that association was quite interesting and productive.

In France, we have a different attitude to official secrecy, compared with the English-speaking
countries. We do not have an official freedom of information act, but we have a powerful State
which protects its secrets efficiently. Some of the reaction to our publication of the diplomatic
cables was quite revealing. Many of our readers applauded it, but others were upset. They
thought it was bad to violate official secrets and that the government had a point in protecting
them, even though many of the documents had no reason to be protected, and security didn't
demand it. It says something about the French attitude to official secrecy and transparency.

Still, I think progress has been made. In December, for instance, the French government set up a
web site called \texttt{data.gouv.fr} with more than 350,000 sets of public data, 20 per cent of which had
not been previously published and had been classified.

So I think that since WikiLeaks we have been getting a little more accustomed to data journalism,
even though it is not widely used by the mainstream media. We are still only at the beginning.
We need training to take full advantage of the data and to know how to use them, and also how to
work with technicians. We have computer technicians in our newsrooms, but we don't work that
closely with them on news stories; it requires a lot of time and manpower that we do not have.

While respecting our values, we seek to progress towards transparency and the breaking of the
wall of official secrecy, But we still have strong business and manpower constraints. So we face
more of an economic than an ideological obstacle.

\textbf{Ian Fisher,} \textit{Associate Managing Editor, New York Times: Standards stay the same}

In terms of the scale and speed of information, an enormous amount has changed, but I really do
think that the values of journalism are the same. You want to sort out information, you want to
see what is true, you want to verify that it is entertaining and coherent in context.

There is less new than it might have seemed in the first place. WikiLeaks was not a matter of new
information coming out but of dealing with information that everyone was going to have. We and
other news organizations applied the same standards. We spoke to governments as we tried to
find out what was true. We looked to see what we could print because we had to be responsible in
terms of things such as fissile material in Pakistan. As long as we stay responsible, I think we'll
be in good shape.

From our point of view at The Guardian, I think the WikiLeaks exercise was a journalistic success. We were presented with this astonishing amount of information, which was considered extremely sensitive and was liable to get us all into a lot of trouble. But the group of media organizations -- Le Monde, The New York Times and The Guardian, along with WikiLeaks -- did successfully analyze and publish this material over a period of time without bad consequences.

I think the reason we were able to publish successfully without retaliation from the US government in particular was largely because of our being able to publish across jurisdictions.

The global nature of the publication by US, British and French newspapers and ultimately also by a Spanish newspaper and a German magazine meant that any moves to suppress any of those organizations was not going to work.

We on The Guardian were grateful for the fact that we had simultaneous publication with The New York Times. Although the British government is quite quick to seize weapons to suppress newspapers, in this case, it would have been futile to do so because everything was going to come out in the United States.

I rather think it was helpful to The New York Times as well that other media in Europe were publishing simultaneously because an American newspaper is vulnerable to appeals to its patriotism when material is classified by the military. Any appeals to patriotism from the White House would have been bound to fail because even if The New York Times had decided to suppress the material in the US national interest, it would have come out in Europe anyhow. That cross-border, cross-jurisdiction quality was valuable in increasing the invulnerability of the way that we all published. That was one of the big lessons I took away.

We had to learn how to deal with this data in a mountainous digital form because there were gigabytes of the stuff. We did, jointly and individually, find ways of turning digital material into a form that we could interrogate and get useful journalistic results.

We needed to present that new material in new ways, and we all worked hard, especially through our web sites, to find ways of visualizing this data. In fact, perhaps an indication of the rapid pace of change in the digital world, I learned that at The Guardian we employed a data visualizer, a job that I did not know existed.

We had to find ways of redacting this material -- of removing from it things that, as journalists, we felt it was wrong to make public, including the identities of US informants whom we thought might be harmed. It proved to have a paradoxical outcome because our difficult cooperation with WikiLeaks collapsed, and they published the diplomatic cables without any of the redactions that we had so laboriously and painstakingly negotiated.

There is little evidence, however, that individuals have been seriously harmed. In fact, the only harm, in effect, was the expulsion of the then-US ambassador to Libya, which turned out not to be a problem in the end.
So, that's the one area in which things didn't work out perfectly. I think we were lucky that there were not more serious consequences. So, broadly, for me it has been a success -- a success in demonstrating that it was possible to have a fruitful relationship with a group that had obtained an astonishing quantity of digital material. But it has been more of a demonstration, a one-off exercise. WikiLeaks does not continue to publish in the same way and people were wrong to imagine it was going to be a revolutionary alteration in the nature of information-gathering and dissemination.

**Charlie Beckett**, author: *Shock & awe in the newsroom*

Journalists are in a kind of period of shock and awe. The industry and the information world has been turned upside down. You can see how things have changed: When I first started coming to conferences like this six years ago, the hot topic was, “Are bloggers journalists ?” We have all moved on a bit since then so that now we can even accommodate Twitterers

We are in an era almost of science fiction, as Heather said. We haven't got bubble cars and jet packs, but we are in a profoundly different environment. Journalism is not a unique timeless value; it always has and always will continue to change according to its circumstances. That is why we need to pay more attention to what we see as the common values of journalism -- filtering, holding to account, trying to verify the facts, trying to explain.

WikiLeaks for me is interesting for what it signifies and represents for the future. This, plus the Leveson inquiry in Britain, for a media studies person, it’s like winning the lottery.

Suddenly, you have all these journalists who, especially in Britain, were never seen in daylight, spending hours explaining what they do and why they do it. You can see that many of them have never had to think consciously, publicly about what they do. I recognize that the *News of the World* is a particularly British institution, or it was, but the issues around it are not. They are as universal as the issues raised by WikiLeaks.

Concerning WikiLeaks, an organization that claims to be an outsider, the first problem is that of editorial identity. How can you be an outsider and challenge the orthodoxy, especially when you then end up working with mainstream media like *Le Monde*, *The New York Times* or *The Guardian*? But also how can organizations that are diffused and devolved be sustained? How can they survive if they rely, as may be the case with WikiLeaks, on one individual?

A second set of problems for these kinds of radical organizations, such as Anonymous, is their claim to a kind of moral and political superiority for their output, while at the same time being fallible and often irresponsible and prone to make mistakes. Do these new media initiatives really understand the impact of what they do, or their relationship to the real world?

Without being entirely facetious, you could ask exactly the same questions of News International about editorial identity and purpose, about ethics and ideology. So in that sense, these are common concerns. How is it possible for commercial or even public news organizations to maintain a proper critical approach to power while at the same time chasing profits and audiences, especially in the competitive environment we are in? How good are we really at holding not only power to account; how good are we actually at holding ourselves to account?
I think such questions have been posed powerfully both by the case study of WikiLeaks and the phone hacking scandal.

We are in a world where there is a surfeit of information but at the same time greater secrecy in many ways and certainly greater attempts to manipulate data by people in power -- not just politicians but also corporations, not necessarily being evil, but seeking to defend their interests.

We saw -- as when WikiLeaks worked with *The Guardian* -- that there are all sorts of possibilities for new ways to incorporate some of these kinds of novel, challenging outsider journalism techniques with the best of mainstream experience and skills.

We need the people on the margins who are prepared to take risks and to rock the boat. Often, bear in mind, the people who rock the boat or disrupt are often actually in the newsrooms. It is the British tabloid tradition for example which has a kind of irresponsibility -- sometimes a kind of cheekiness that wouldn't be tolerated perhaps in a media culture like the French. Even if we were to lose WikiLeaks or *The Sun* newspaper -- and I would regret both of those -- we have to remember that the conditions that made them possible, and indeed desirable, are still going to be there. You could argue that radical networks like Anonymous are becoming more successful at exploiting the Internet’s potential for disruption.

You have to think of how improved the product of *Le Monde* and, I would argue *The New York Times*, has become in the digital era. We can see how perhaps they are recovering some kind of confidence and perhaps, more importantly, they are rediscovering a sense of purpose.

I do not think we can go back to a stage where we are complacent, partly because of the economic background but also because we shouldn’t be. We are in for a period of painful public self-criticism. This is needed, because WikiLeaks and phone hacking are not the real issues here. They are just, if you like, symptoms of what is still a continuing massive rearrangement of the structures for topical communications.

This is enabled by new technologies and gadgetry and innovation but actually is driven by much larger social and political forces. So by all means we should be looking hard at the lessons of WikiLeaks and Rupert Murdoch, but we should also be thinking about the lessons they teach us about media and morality in the modern age.

**Discussion**

**Heather Brooke**: The great hope was that WikiLeaks was a secret box where people could drop things, but that was always a bit of mythology. It was not true that you could remain 100 percent secure and anonymous, even using WikiLeaks technology. That was also not generally how they got most of their information. WikiLeaks was publisher of last resort, and that is a really interesting idea -- the fact it could publish things that nobody else could publish. A lot of time it would get information from journalists at newspapers who for their own national legal reasons, such as injunctions in Britain or America, could not publish information. People would either send information to another jurisdiction or to WikiLeaks.
The biggest loss at the moment is that this function of WikiLeaks is not operating any more, and they are not a publisher of last resort because they have been made into a kind of physical space, which is Julian Assange, and he is in Britain. If people want to sue him for something that's on WikiLeaks, they have an entity they can go to. The beauty of WikiLeaks was that it was a kind of data haven, it was everywhere and it was nowhere. And so when Bank Julius Baer tried to sue them, it couldn’t find anybody. That was the whole point, the power of WikiLeaks.

Steven Erlanger, Paris Correspondent, The New York Times: I am a little struck, if I can be honest, by the smugness of the panel. I am not sure it’s worked out as well we think. I am not sure that the moral questions have been resolved. There has been a lot more damage done than suggested. I can think of two people who have had to leave their jobs under threats to their life because of WikiLeaks. It is not really the fault of The Guardian or The Times, but of the material that was released. …

I am always struck by how we go through all of these ethical struggles about what to print and what is decent, and then as soon as someone else publishes it, we publish it anyway. It's as if all our discussions had gone right out the window. ... That is one of the interesting effects of this new world. If it appears on Twitter, can we now publish it? It’s not just WikiLeaks; it’s the Syrian opposition. What do we know about what we are hearing on the Internet about Homs?

I work for a newspaper that's always been reluctant to work with anyone. And so I am struck by its decision to cooperate with anyone at all on how to manage and edit WikiLeaks.

Jérémie Zimmermann, La Quadrature du Net: It’s strange to hear WikiLeaks and the News of the World put in the same category. One was disclosing personal data to sell more papers and the other was disclosing government data to bring more transparency and to expose lies.

I understand Mrs. Kauffmann that you were outraged at WikiLeaks or Assange criticizing the media as being corrupt. but several of us noticed one example that comes to mind -- a diplomatic cable that was redacted by Le Monde. Those redacted paragraphs were about the deployment of the French army in Africa. When it was published in full, people could see there was nothing about protecting individuals' privacy here. So people can genuinely wonder about ethics and morals of newspapers.

Justine Limpitlaw, South African media lawyer: Bradley Manning is facing 23 charges including aiding the enemy, which actually is a capital charge in America, although the prosecutors have said they are not going to press for the death penalty. No governments have fallen because of WikiLeaks. The scale of the release of the classified information raises fundamental questions about when information should be classified. And particularly, we need to start grappling with the legal consequences of whistleblowers releasing information. Manning is 24 now and I’m not sure he is ever going to see the light of day again. There are real consequences for what happens to individuals. I think it is amazing that the press focus has been so much on Julian Assange and not on the person who allegedly did this.

David Leigh: I now feel rather embarrassed and ashamed. I spoke earlier in this smug way that no harm had been done, because, of course, a great deal of harm has been done to the whistleblower, the one person who is accused of releasing this information. Here is a young
soldier who, for whatever reason, thought it right to do this. And he certainly didn't leak information because he wanted to make money out of it. He did it because he thought it was right, for whatever reason. He is the one person who is now facing extreme punishment. I accept the point that one or two people have lost their jobs, but considering the quantity of apparently classified material that has been released, the harm has been incredibly minor. The major harm has been done to this young whistleblower. Yes, I do feel bad about that. In the struggle for the moral high ground, where WikiLeaks and fellow hackers have said they are the ones with morality, and the mainstream newspapers have said they are the ones with the professional expertise, it has been forgotten that here is a whistleblower who is about to be harshly punished.

Sylvie Kauffmann: Of course the treatment which has been given to Bradley Manning is a deterrent. It is a warning to other potential whistleblowers that this is what you can expect if you leak official documents.

To answer the question about the outrage: first, I did not express any outrage against Julian Assange. I said I disapproved of his accusations of us being corrupted.

You raised a serious point, which is basically that Le Monde censored WikiLeaks cables. This has been going around the web for a while. I take it as part of Le Monde-bashing, which is normal. Of course, I strongly reject this. Why on earth would Le Monde censor cables about French deployment in Africa? What is our interest? Why should we protect some regimes that we cover extensively and we send reporters around to dig into what is going on. There is absolutely no basis in this.

What did happen is that we redacted some cables. Some of the sources quoted were not reliable enough. We didn't only redact names of people whose security might be endangered, we sometimes left out cables that were not reliable -- for example, where even the diplomat concerned was warning his information could not be substantiated. We are a responsible medium, and it would have been irresponsible for us to publish this kind of information. To say we have censored information from those cables is just groundless.

Ian Fisher: We tried to apply the standards we apply to any information, in what is a much larger and more difficult to control media environment. I don't want to imply that our work with WikiLeaks was perfect. In fact, both Julian Assange and the information he had were basically like squirrels in a bag, absolutely and completely uncontrollable. In the end, they all got out. All our best-laid plans just completely disappeared.

I do think that, given the information out there, the harm has been minimal. Our colleague David Sanger spoke with someone from the State Department who was upset with our publication but said that in the end the impact was fairly small. In fact, in an important way, they do believe that Pakistanis are guarding their fissile material in a much better way after it came out that somebody could possibly get hold of it.

As to our decision to publish, we knew this information was coming out, and we wanted to be a part of it. It was also journalistic. We wanted to be able to take the information, vet it and present it to our readers in what we considered to be a much more responsible way than merely throwing
it all out. I apologize if that sounds smug but it was much more like business as usual for journalism.

A journalist cannot be held to account for the gigantic amounts of information out there. I think people have to choose much more what they can believe. Are hackers any more credible than the mainstream media? Smugness aside, I think we really try our best to verify, to present things correctly. We hope, in fact, we are staking our entire future on it -- that when you choose, you will choose something like the boring gray *New York Times*.

**Charlie Beckett:** Every act of journalism can do harm. It is a bit naive to worry so much about the physical effects of the WikiLeaks disclosures. They had less effect than the US military and diplomatic officials said.

We shouldn't be too pompous. We should not as journalists think of ourselves as legislators. We shouldn't think of ourselves as an executive branch of government. Quite the opposite -- we have to maintain that ours is a disruptive and, in some sense, destructive role. If we always say that we shall do no harm, then I think that, in effect, we will do no journalism.

**David Leigh:** We are journalists. It is not our task to concern ourselves with whether we are making the lives of American diplomats easier or more difficult. The lines we draw as journalists are the lines about individual harm. If we started asking ourselves whether what we are doing is going to promote or inhibit somebody's foreign policy, there would be no end to it, and it would be quite wrong. It's not our job.

**Heather Brooke:** The crucial element is whether something is in the public interest. The problem of the *News of the World* is that they were committing illegal activity, and it was not even for the public interest; it was for public titillation.

It did come to the attention of the police that this activity was going on and that there was not a public interest justification. The responsibility of the police was to take action, and they didn't. And then we get into the whole dark scenario of News International, with this strange blackmail going on and all this culture of privilege.

For me, that is the difficulty of journalism. if you do not have a statutory right to get information from people in power, you then start to get into this kind of patronage system: “I want something from you, so I'll do a favor, or I will blackmail you for what I want.”

That is why I am in favor of a Freedom of Information law that equalizes the market place of information so that as journalists we can get it without having to sell any favors or promise anything. We don’t have to start digging dirt on people and we can just forthrightly ask for what we need.

**Ronald Koven,** World Press Freedom Committee: I have the impression that the major mainstream press has missed an aspect of the WikiLeaks information that was put out there. There were a quarter of a million dispatches and a lot of them that concerned small countries. They were big news in those countries, from Azerbaijan to Lithuania, and the mainstream media
concentrated on the dispatches that concerned their countries or the important policy issues, and they ignored the fact that there was impact throughout the world in a lot of remote corners that we don't normally pay attention to unless a really big story happens. We ignored the impact of all the small local angles throughout the world of all this mass of information.

David Leigh: WikiLeaks imagined that, by opening a box that contained piles of American diplomacy all marked secret, they would be revealing a truth that would justify a certain ideological view of the world. This is all wrong because what the American cables consisted of was reporting. It was rather like journalism itself: Most of it was reporting by diplomats, quite skillfully, quite entertainingly, sometimes quite insightfully. They reported on what they saw in the countries around them. The material wasn't a revelation of secret American policy. It was similar to journalism. It was journalism, with access to more sources of information than we journalists have -- and sometimes less.

Ian Fisher: WikiLeaks confirmed what we thought we knew already -- but that confirmation made a difference. We got to see how isolated Iran was diplomatically. Yemen was important; it was a good thing to know more about it on the ground. We knew about the extent of Afghan corruption, but now we have it absolutely nailed. Knowing the extent of our reliance on Keystone Cop contractors was important, especially now that there are more contractors than soldiers in Afghanistan. Hacking by the Chinese was super-important. Most important was the nuclear aspect in Pakistan. If, in fact, it is true that the Pakistanis have beefed up their security because of it, I think that is in the public interest and to have it out is great.

Sylvie Kauffmann: I remind you that there are four grades of secrecy, and none of the WikiLeaks cables had the highest grade, which is Top Secret. This doesn't mean that there are no big secrets in the cables that diplomats send to Washington. We did not see those secrets. So, I suppose that means there is a higher level of protection. CIA cables were not included, So there is still a lot to be made public, I guess.

David Leigh: WikiLeaks springs from an attempt by the US government to increase transparency inside their own government. The State Department circulated this material to quite low levels of the US military because people wanted to do something about the way information was trapped in silos inside the US government. It was this attempt to make the workings of their government more transparent internally that led to the stuff being leaked -- because as soon as it could be copied it could be copied instantly. The immediate consequence has been the end of that practice, and now the State Department no longer circulates its cables in that way. It has got less transparent. The truth is that in this digital age, information has got far more slippery than it used to be, and you cannot change that. It will carry on being really slippery.

Sylvie Kaufmann: Has WikiLeaks pushed us to try harder at reporting? Of course, we never try hard enough, and we didn't need WikiLeaks to tell us this. We always find that we should go further, but there are things that diplomats can do and we can't. For instance, one of the interesting things in those cables was what the Saudis said about Iran. We don't have that kind of access to those leaders, or very seldom, and if we do it is extremely controlled. There are things you can express in cables that are supposed to remain confidential that are more difficult to
publish in newspapers. But I agree we should not stay satisfied with what we do, and in a way WikiLeaks helped us. Did it change the way diplomats do business? I don't think so, but it is a question that should be put to diplomats.

**Heather Brooke:** Two things are happening as states and powerful people realize how easily digital information slips through their fingers and goes across borders. One is criminalizing the sharing of information, which is the intention of the law that passed recently in South Africa. And it’s also about controlling the Internet, and there is a big battle about who controls the Internet going on now. In the UN, a raft of countries -- Russia, China, India, South Africa, even Brazil -- want to have full jurisdiction nationally over the Internet.

WikiLeaks showed that the Internet is at the moment quite global. It isn't easily controlled, but there are chokepoints -- the DNS servers, where domain names are allocated -- and, obviously, America's economic control. So that's increasingly where you see the pressure points of a free Internet.

**Charlie Beckett:** The battle around the open Internet is not occurring only between evil governments and lovely, fluffy open-expression journalists. It is also a debate within places like the State Department. Really interesting arguments are going on about how, on the one hand, they want to exploit the democratizing effects of free expression on the Internet, and, on the other, they want to protect the flows of information that are going through their structures.

You could say that Mark Zuckerberg is having a much more profound political influence on the world through Facebook than Julian Assange has got anywhere near with WikiLeaks. Think about the way people have used those kinds of social media in things like the Arab Spring, or about the imagery coming out of Syria thanks to YouTube.

Organizations such as *Le Monde*, *The Guardian* and *The New York Times* are now tapping into that and networking into the dispersed social media.

**Panel 2: Professionalism and Ethics in the New Media Environment**


Last July, when the *News of the World* scandal broke in the United Kingdom, a Spanish member of parliament asked me: Why is WikiLeaks OK and *News of the World* not OK? Why is spying on states, as WikiLeaks did, considered to be cool, and why do journalists feel so ashamed for what the *News of the World* did?

The question has an obvious answer: Liberal democracies tend to protect people's privacy, but allow for some room to access and air state secrets if "public interest" comes into the picture. But, still, the question lingers in people's minds, and I think it speaks for a certain distrust of the role of the media in this chaotic digital era.

So, yes, there is a connection between these two cases and the ethics of journalism. If there is one industry in which professionalism -- that is, carrying on your job according to the rules of your
trade -- means ethics, that is to say, journalism. The less professionally journalists act, the less ethical our profession is perceived to be.

There is no doubt that the British press has a serious ethical problem. It is quite an experience to attend sessions of the Leveson committee, with all its judicial panoply, which has become the display gallery for the excesses of the profession. The arrest of several Sun journalists has added a new dimension.

WikiLeaks has challenged our professionalism, and hence caused us to pose questions about our ethics. I do not believe WikiLeaks marks the end of an era or the beginning of a new one. But it is a great case study to reflect on the world we live in since it embodies the acceleration and expansion of the digital era.

Most of what journalists do has not changed for more than a century. WikiLeaks is a positive challenge since it forces us to acknowledge we are fighting a new fight, and we need new weapons to fight it.

Firstly, journalists need to become more numerate. This is, I think, the most obvious required transformation underlined by the handling of the WikiLeaks materials. At the moment, journalism is the last safe haven for people who are afraid of an Excel sheet. Our job is writing, our glory is literary, our business is words. That constitutes “professionalism” for most of us, together with a good Rolodex and a good nose.

But this is no longer the case. The increased availability of data bases offers a new ocean of newsworthy waters in which we need to learn to swim in order to catch the good fishes. So we can no longer be allergic to Excel. We finally have no alternative to getting our math and statistics right. All this implies that we must redefine our own professional profiles. The job description to become a journalist has changed.

WikiLeaks introduced into the newsrooms of some of the best papers in the world a new way of organizing ourselves. It has brought a new form of collaboration in which reporters and correspondents, along with developers, programmers, data visualizers and designers sit together around the table at the early stages -- before any line has been written -- to discuss which are the best ways to address a story, both in print and online.

This type of collaborative work with data-intensive stories has happened before. But it was usually on the fringes, with young, digital reporters working with techies on the systems side. Now, it is happening at the heart of the media involved, under the direct supervision of editors-in-chief.

The term journalist should no longer be exclusive to people who write. There are now also developers sensitive to the needs of journalists, graphic designers with an awareness of what our online audiences are demanding, data miners. We need these people to be seated side by side, getting exposed to our trade, becoming journalists themselves.
This is a revolution: the systems expert should no longer be a square-minded engineer coming directly from the Gutenberg era -- as they sometimes are. The role of people like Harold Frayman is now central. He is a Systems Director at The Guardian. And he is probably the first journalist who actually saw Assange’s data bases. He was a reporter his whole life, and now was on the “technical” side of things -- but with a full knowledge of what reporters need.

People like him, or Raúl Rivero, technical director at elpais.com. created the search engines for the writers to surf the material by solving a technical puzzle with the journalists needs in mind.

We need to blend literacy and numeracy into a new journalistic creature with a new profile -- with the same ethics, but with a different job.

Nicolas Kayser-Bril who works with Owni, an interesting French site of data journalism, says editors in this field “no longer have to just assign pieces, check for errors and edit texts. They have to control and supervise the work flow between the reporter, the developer, the graphic designer and all those involved in creating the information. In the digital era. They have to learn to become project managers.”

WikiLeaks has accelerated this new reality emerging in our newsrooms. But it has raised many questions. Is it a source, an editor, a publisher, or an intermediary? Is WikiLeaks a medium? Is Julian Assange the editor-in-chief of a journalistic organization?

WikiLeaks is a social movement, not journalism. It is an activist group with its own agenda, which is that powerful governments and corporations have no right to keep secrets. Assange is an activist, not an editor.

Nevertheless, WikiLeaks and Assange deserve the same legal protection that The New York Times and its editor enjoyed in publishing the State Department cables.

Ben Wizer, staff attorney at the American Civil Liberties Union, told me when I interviewed him for my book that “there is no way of criminalizing what WikiLeaks and Assange did without criminalizing what Woodward and Bernstein did.” The more they adhere to editorial standards, the more responsible they are with the material they get, the more they will deserve the type of legal protections the media get. It is up to them to earn them.

But WikiLeaks is not bound by the same ethical standards as journalists are. So we should not call them journalists. They were acting in a journalistic manner when, in partnership with several newspapers, they redacted cables that could endanger the lives of certain informants. They accepted the journalistic ethical principle by which sometimes it is good not to publish some information. But, then, last September, those ethical restrictions had disappeared when they published the whole cache of 250.000 cables. Yet, even some journalists, fascinated by the technological beast, were calling WikiLeaks a medium.

So, when WikiLeaks acts unethically, it is journalistic ethics that are called into question because of this blurring of the lines between what is and what is not a journalistic organization.
Assange is more of an intermediary than a source. He is more of a consultant than an editor. But he is, above all, a cyberactivist, a smart strategist and, as Georg Mascolo, Editor of Der Spiegel, said in Madrid, “a sort of digital entrepreneur.”

So, what is WikiLeaks? I liked the description in an article by Ethan Wilkes in Sipa News, “WikiLeaks and Westphalia”: “WL is less significant as a traditional non-state actor (like an NGO) than as a technological platform for non-state action. Destroying WL as an actor would not prevent new leaks from similar platforms, just like defeating Al Qaeda will not stop international terrorism.”

In the digital era, quantities matter and quantitative issues become ethical issues. We live in a world flooded with data. The private and public lives of individuals, states and companies are stored in 27 million servers worldwide, 30-40% are in the United States.

This is a world in which “digital secret” is a contradiction in terms, according to Simon Jenkins. It is a world in which the democratic superpower is a “secrecy monster.” The United States last year alone classified 75 million documents, or 750 million pages -- a 40 per cent increase compared to 2009. And this happened under a pro-transparency President.

Are today’s newsrooms ready for this? The question is as much existential as moral. How can we the media deal with such challenges when we are simply struggling for survival?

Guy Black, Executive Director, Telegraph Media Group, London: UK press freedom threat

I have to confess I am the least numerate person you may wish to meet, and I also share an aversion to Excel spread sheets and Power Points. I am going to talk about the situation in the United Kingdom -- not just because I think it is an important, fascinating deeply disturbing thing that is going on there but also because I have always believed that what happens in the UK has an impact across the world, particularly because of our role in the Commonwealth. We act as a magnifying glass for so many other countries, and if the winds of press repression become chilly in the United Kingdom, they can become positively frozen by the time they reach other places.

I have been involved in matters to do with press freedom and media ethics and how the two can coexist for 16 or so years. For a great deal of that time, whenever I have been to important meetings, when you start talking about subjects like this, eyes start to glaze over a bit, particularly in the United Kingdom. I think that is because for so many years we have taken our basic freedoms for granted.

There is good reason for taking them for granted because I think the last time anyone tried to pass a law which specifically regulated the press was in 1662 and that was the Licensing of the Press Act, which was intended to prevent the frequent abuses in printing seditious, treasonable and unlicensed books and pamphlets and regulating the printing presses.

That Act lapsed in 1695 and then, suddenly, 317 years later the whole idea of regulating the press to deal with seditious material or treasonable offenses is much back in fashion with WikiLeaks,
the scandal of phone hacking, the scandal of payments to police and public officials, and the issue of computer hacking. All those have propelled the issue much to the center stage.

I think that press freedom in our country is seriously in peril. But then I thought that before the News of the World scandal broke last year. It has been rumbling on for a number of years but obviously broke in a serious way last year.

The trend in the United Kingdom in terms of legislation impacting on the press -- not just the printed press but the new media as well -- had been in the direction of more and more legislative and regularity controls long before that. You have to go back really to the late 1990s, when the government introduced the Human Rights Act which introduced the European Convention on Human Rights into British law for the first time and handed the courts significant powers in relation to a privacy law which has developed in the ten years since and which Parliament never thought it was passing in the first place.

This was on top of a data protection law which sprang from the European Union Data Protection Directive, which introduced new and far-reaching controls on personal data so wide that it touches upon every aspect of journalistic activity. We also have something called the Regulation of Investigatory Powers Act, a piece of anti-terrorist legislation which was used to jail one of the first reporters caught up in the News of the World scandal seven years ago.

We have the rise of the so-called super injunction, which comes out of the Human Rights Act, stopping newspapers revealing the fact that there is an injunction in the first place.

We have the Criminal Justice Act of 2008, which includes powers to jail journalists for up to two years for breaches of the data protection legislation. And all of this, combined with a number of other pieces of legislation, means that there is now, I think, a serious chilling effect on freedom of expression.

Those real powers existed before the News of the World scandal broke, and I think were already changing the dynamic between politicians and the media.

It is important just to note that background, because of impact that this has across the world. Then, into all that, in 2010, broke WikiLeaks. Perhaps it didn't tell us much we didn't know, perhaps there is no great smoking gun, but it did do one terribly important thing, and that was, in the words of a leader in The Telegraph: “We already know that truth is the first casualty of war, but when the truth finally emerges, the reputation of nations and their leaders is often a second casualty. If this scrutiny has got one purpose, it will be to remind politicians -- who often seem to take war lightly -- of the continuing weight of their accountability.” I think that is the most important thing that The Guardian and everyone else who was involved … to remind politicians of their accountability when it comes to life and death.

Everything changed again in the summer of 2011 when the revelations about a murdered schoolgirl's phone being hacked by the News of the World brought into sharp public focus a scandal which has been brewing for many years.
What News International at first said was the work of one rogue reporter turned out to be widespread and systemic abuse by a number of different individuals, with the chain of command still much unknown.

This combination of phone hacking; high profile victims of prying, including lot of celebrities; the nexus of politician and power; alleged police corruption; and also at the time a massive takeover deal, that of BskyB which would have changed forever the face of British media, proved too much for the British government to ignore. The result was that the government didn't just condemn self-regulation through the Press Complaints Commission to extinction but appointed a huge judicial inquiry under Lord Justice Leveson into the ethics of the press, relations between the press and police, and the relationship between the press and politicians.

The point of this inquiry was concerning on two levels -- first, because we don't know what will happen. It could end up with introducing tighter restrictions on the written press and existing publishers that never existed before, at a time when the unregulated world of the Internet is transforming the rest of the media. Secondly, because it is a distraction from the real long-term structural issue facing the free press, which is that of commercial survival. It is forgotten only at our peril that press freedom depends on commercial success. Unless newspapers can produce profits, they won't survive, and that will diminish everyone's freedom of expression.

And far more important is the way that the police investigations into some journalists in the United Kingdom are now being handled. I think it is important to understand what is happening. British journalists, or those at least who are being investigated, are now subject to the biggest police operation in British criminal history -- bigger than even the investigation into the blowing up of the Pan Am jet over Lockerbie in 1988. There are now 171 police officers running three separate investigations. It was revealed that police officers had been removed from anti-terrorist work related to the Olympics in London later this year in order to drag journalists from their beds in the early hours of the morning. In a series of dawn raids, 80 police officers were involved in arresting journalists.

Even more importantly this is an open-ended investigation which could go on for a number of years. It takes the power of the state and the power of the police to the heart of the newsroom. This is important for us in the United Kingdom. It is important for people elsewhere in the world to understand quite what is going on.

**Mikhail Fedotov**, Head, Presidential Human Rights Council: *Russia’s press council*

It seems to me that the ethical basis of journalism in the new media environment doesn’t change under the influence of new technologies. It’s a big mistake to think that a lie is a truth in cyberspace and vice versa: that truth is a lie in the real world.

We have a lot of examples from different countries showing how newspaper readers, radio listeners and TV viewers became victims of official propaganda or false information by private media. And this happened without new information and communications technologies, without a digital environment, without cyberspace.
Is it not possible to publish tabloids without the Internet? The question concerning the threat posed by tabloids to media self-regulation is old. We have discussed this topic in the Russian press complaints council, a non-government entity.

The press complaints council was established in 2005, following an election in which there were more than 130 candidates for 50 seats. The council consists of two chambers, one for the media community and the other for audiences.

Members of the media community chamber include editors, professors of journalism, publishers, broadcasters, and representatives of advertising agencies. The media audience chamber includes eminent writers and lawyers, professors of philosophy or political science.

The council examines cases in which journalists and media outlets are defendants, including Internet media and bloggers. Among complainants we see politicians, public officials, members of parliament, judges, non-governmental organizations, different religious confessions, along with private individuals and companies.

A lot of the complaints against media outlets and journalists referred to violations of minority rights. Claims concerning contempt of court were all found to be well-founded, but claims of violation of election campaign rules were recognized as invalid.

Media self-regulation is preferable for journalists and editors because a plaintiff has to agree in writing that, regardless of the decision of our council, he will not take the complaint further to court or to other authorities. Media organizations agree that any complaint against the media outlet or its journalists can be examined according to the council's charter. The benefits of media self-regulation, especially when complemented by civil court regulation, are quite obvious.

People filing a complaint against a media outlet or individual journalist have an opportunity to protect their good name free of charge. openly and publicly without bureaucratic red tape, by means of a fast, simple and respectful process in front of independent professionals with impeccable reputations.

In the Russian Federation, the media self-regulation system complemented with civil courts is a means of establishing a culture of professional and honest journalism while strengthening confidence in the system and protecting professional independence and editorial freedom.

Certainly, we know the weakness of our self-regulation mechanism -- lack of legal framework, lack of funding, lack of popular support, lack of corporate solidarity among journalists, publishers and broadcasters, and the lack of consensus on the social mission of the media and the journalist in modern society.

Media self-regulation bodies develop professional standards for journalists. Tabloid reporters and editors make their own rules and cause damage to honest journalism. Adherence to professional standards should be a moral duty for any journalist or publisher. Those standards must be resolved only by the media self-regulation bodies. Nobody else should be involved.
The first step in the direction toward self-regulation in the digital environment was taken in Russia on May 27, 1966, when a national ethical code was adopted in the fields of informatics and telecommunications. Unfortunately, this code was forgotten by the next generations of Russian Internet actors, journalists and bloggers.

Today, Russia is in a highly turbulent stage of its transition. We do not know what to expect in future. For example, the Russian company Ru-Center (Russian Network Information Center) which is the registering company for domain names ending in .ru has announced that it will block and cancel any name used for an unlawful purpose. Moreover, the Center is ready to cancel domain names without a court decision or any other kind of authority. This decision has provoked a huge critical reaction of Russian online and offline media. I share the concern about this attempt to introduce unofficial censorship. By the way, censorship is prohibited by the Russian Constitution of 1993.

We are at the epicenter of a communications revolution, leading to radical shifts in mindset and the transformation of organizational structures. But neither the general public nor social institutions nor much of the business world are really ready for the new media environment. Above all, the legal instruments for regulating relations in cyberspace are either nonexistent or not universal.

For example, the Council of Europe’s Convention on Cybercrime was signed by Russia in 2005 and dismissed in 2008. I think we have to go back to discuss this question. If cyberspace is cross-border and universal, then effective regulating of its activities has to be based on international legal and ethical rules.

Aidan White, Director, Coalition for Ethical Journalism: Need for self-regulation that works

How do we get together and construct a new vision for journalism and the media of the future, which will serve democracy, which will allow people to be informed, which will be inclusive and which will do the job that we are always saying it needs to do?

This is really difficult at a time when we have got the challenges that have been posed. The questions of media convergence, the ending of the old power of the “legacy media,” as it has been called, the opening up of the newsroom to the audience, the use of social networks and new technology -- all mean that journalism is no longer what you might call the information elite, with the power to define the agenda or organize and shape the debate.

In order to address these challenges, we have to get back to basics in the way we see journalism. That means understanding what journalism is and why it is framed in a moral set of values called ethics, and then how do we get back to understanding the values of those ethics? This is profoundly important if journalism is to be able to regain its credibility with its audience, no matter which platform the information that journalists provide is delivered upon.

We have to completely alter the way journalism is organized and has been organized in the past. When we talk about ethical journalism, essentially we refer to people on the ground, people at the sharp end, in the newsroom, working journalists who are doing the best job possible in trying conditions. But, unfortunately, there has been a concentration or a fixation on the bottom of the
media pyramid without enough action being taken about the top. Unless you have a culture of
morality which stretches from the boardroom to the newsroom, unless you have a commitment to
a set of values which respects the role of journalism in a democracy, you will not be able to
deliver the sort of quality that you require at the bottom of the pyramid.

One of the great things that Rupert Murdoch has done is to open up the possibility of serious
debate about how media and journalism should be organized. What has happened at the News of
the World is not just an example of a newsroom out of control, one that is not being managed
properly. It is the natural result of a corporate culture that weighed with undue political influence
on the British political system for more than 30 years. That culture included little respect for
basic ethical values, or indeed for the traditions and notions of journalism as separate from the
seat of power. To my mind, there is a straight line between those attitudes and the fact that 15 to
20 years ago Rupert Murdoch’s corporation in the Far East was doing deals with China,
censoring the BBC, censoring who could and who could not be a part of its journalism process.

His Fox News in the United States has developed a system based on the notion of identifying
your partner, identifying your enemy, and using your journalists to isolate and target those people
you have decided are not on your political agenda. And also by making large donations to your
political friends.

There’s a direct link between all of that and what happened at the News of the World. And when
senior policemen go to see the editor of The Guardian and say we do not think you should be
following up this story, and when the Press Complaints Commission actually failed to take up the
challenge of properly investigating what was going on -- there is a direct link between all of these
things. They are an expression of real power, corporate power and they provide for the first time
a smoking gun: proof that if you have unbridled power in the media which is not subject to
restraint -- and it should be self-restraint -- then you are inevitably going to have the sort of
corruption of values that we have seen.

The Leveson Inquiry may be excessive, but it has opened up the British media newsroom to the
public for the first time. It has been absolutely riveting for people to be able to hear editors being
questioned and people who have been shadow figures in the organization and operation of media
called to account.

Opening up the media, showing how journalism works and how editors take decisions is essential
if we are to build the structure that is going to be credible for the future of journalism. We must
demand that the corporations and those in charge provide the sort of moral leadership which is
required to show that journalism can be supported and can be developed. Unfortunately, we have
seen corporations are cutting back on journalism, cutting back on the fabric of journalism. So this
has been a major problem. And we have to rebuild the notion of self-regulation; we have to take
self-regulation seriously.

I know the British system well. I was a member of the Press Council in the late 1970s. Two years
ago, a colleague of mine wrote a report for the International Federation of Journalists criticizing
the Press Complaints Commission over its failure to investigate properly what was going on at
the News of the World. This report was swatted aside by the Press Complaints Commission as
having no authority And then two years later, the Commission itself was exposed.
So how do we create structured self-regulation that is truly credible? I think that is going to be difficult. Certainly, we cannot rely on the government. We cannot rely on politicians. We need to analyze where mistakes have been made. We need to be much more transparent in journalism about who we are, where we get our money from, who owns us.

For example, I would say that had the Press Complaints Commission had legal powers, legal authority, narrowly defined, in a sort of co-regulation structure, to be able to respond when it received that famous letter from the editor of the *News of the World*, who told them: Look, you don't need to worry about this; this was a single rogue journalist; that all has been dealt with, and so on. Had they had the power to say that is not good enough, that we want more information; we want to have the background, the documentation, and, also, we want hearings to examine it ourselves, then this could have actually changed the situation.

So, I am thinking, how do we think through the consequences of protecting self-regulation but trying to create, in some perhaps narrowly defined way, some form of legal base which would allow self-regulation to work? The sadness is that we have got a long way to go to create a basis of self-regulation that does work because, unfortunately, all the examples we’ve had so far of an entirely voluntary system have not proved successful.

**Rejoinder**

**Guy Black:** Some points in reply to Aidan: First, the Murdoch bashing: I am not an employee of Rupert Murdoch, and I have no reason to pray his cause. I would just say, before corporate conspiracy theory has run away with us, actually, probably the British press probably wouldn't exist had it not been for Rupert Murdoch's actions in the 1980s. So we overlook that at our peril. Commercial prosperity is important.

Second, I am not opposed to the Leveson process. It is important in lancing the boil of so much of what has happened. I was merely making the point, how many industries like ours can stand up to that degree of remarkable scrutiny? Journalism is a rough trade. It has its jagged edges and if you put it in a witness box for week after week and you drag witnesses back (some of them for things relating to the 1980s), you are bound to get a rather one-sided impression, and the great good that the press does goes by the wayside.

On regulation, I am not going to defend the Press Complaints Commission’s phone hacking report. I wasn't there at the time. I think it was a disaster. But I am passionate about reinventing self-regulation, because this is the basis on which press freedom exists.

I would say to you before you start talking about co-regulation, be careful what you wish for. Co-regulation means self-regulation, plus statutory regulation. I will say this -- and I will fight to the death for self-regulation because the moment you introduce the State into the newsroom and into the editorial process it will never go away. We will be stuck with it forever, and the real losers will be the public's right to know and all the people that our newspapers are there to serve.
Charles Onyango-Obbo, Digital Media Editor, Nation Media Group, Kenya: Into a vacuum

One of the most revealing things about WikiLeaks is the way the American diplomatic mind works. I never knew that by looking at specific details you could tell a lot of things about a country. They look at the weather and the traffic jams in Nairobi and draw these wonderful conclusions.

But if you look at WikiLeaks in its totality, you begin to see a different picture emerging. I think that to understand WikiLeaks is to understand the vacuum that it occupies. If we had had a different kind of journalism, WikiLeaks would not have been such a hot story. It happened because a lot of media are too preoccupied with the kind of thing the News of the World was involved in.

One of the things that struck me was how much political and business leaders were willing to confide in US diplomats and not willing to talk to the media. One reason was mistrust. Even more troubling, they despise the media and when I spoke to several politicians who were mentioned, they actually said, “You guys never asked.” That is really where the rub is, because a lot of stuff in WikiLeaks was the stuff that we didn't ask for.

In Kenya, the American ambassador was organizing meetings of 3,000 youth leaders in the second biggest city. Yet no newspaper picked up on it. There are so many things there that we just missed. And I think that because of this WikiLeaks becomes more interesting than it should be.

If we are not looking for general stories, what are we looking for? We are chasing celebrities. We are going after personal information.

Kenya has an advanced open data system. You would have expected after WikiLeaks that the government would have shut it down, but instead they decided to go in the opposite direction. They opened it up and put millions of pages online. In the past year, I have only seen two stories based on that data.

The government has been smart by taking the novelty out of this thing. There are few journalists who would take the time to study this material. So, the best advice for governments is perhaps, “If you want to hide it from the journalists, just release it all, I don't think they will spend a lot of time looking at it.”

Out of curiosity, we trawled the Internet on ten specific areas in which we were interested. Interestingly, almost all of that stuff had already been covered in blogs or web sites.

The Internet represents a vote against the mainstream. A lot of our constituency has seceded to the Internet. So, we think it is important to cultivate the online community. At Nation Media Group, we are pushing journalists kicking and screaming to get on Twitter, write blogs and those kind of things -- if only because it is a rich source of tips. But a lot of the reckless things you find in the Internet didn't start there. They actually started in the mainstream media. It is important to acknowledge a little bit more our own mistakes and bring to the table a lot more humility.
Panel 3: International law after WikiLeaks and News of the World

Richard Winfield, Chairman, World Press Freedom Committee: A legal can of worms

Some seemingly real and immediate legal threats confront the media in this post-WikiLeaks environment. These threats include, for instance, imprisonment, fines, damages and censorship. The word “seemingly” is deliberate. Each country whose trove of secrets has been disclosed without authorization possesses an armory of laws and courts that were designed decades ago to censor or punish the leakers and their enablers. But have these laws lived up to their promise?

Are national laws at present incapable of censoring or punishing the WikiLeaks phenomenon? Is this as it should be? Consider this brief history of futility:

- A Swiss bank attempted to get an American federal court in California to disable WikiLeaks from posting reams of its highly confidential bank customer account documents, revealing purposeful tax evasion. The bank ultimately failed in its lawsuit, and the embarrassing bank documents remained online.
- The Obama administration did not even attempt to get an injunction to disable or censor the disclosures of WikiLeaks.
- The Obama Administration has not, to date, charged WikiLeaks or any of its principals with any crime. It has, however, begun court martial proceedings against an enlisted man who allegedly leaked classified documents and videotapes to WikiLeaks.

What are the gaps in the law that this history reveals? What accounts for this anemic response?

First, can courts obtain jurisdiction in these cases? How can governments or injured parties track down and hail into court an amorphous, remote, will-o’-the wisp-like WikiLeaks and its offspring, particularly if WikiLeaks is organized in a country like Iceland or Sweden with highly protective media laws?

Second, if a court issues a take-down order, can the court make it stick? Does redundancy and sophisticated circumvention technology -- the use of mirror sites, for instance -- render court orders futile and ineffective?

Third, consider criminal laws that punish the unauthorized possession or publication of classified national defense information. Can these laws be effectively deployed abroad against transient web masters?

Fourth, how effective are extradition treaties to bring these web masters into the dock?

Is this anemic state of affairs a healthy one? How should the answer be framed? Either this legal vacuum encourages transparency by governments and corporations; the laissez-faire status quo is better than legal countermeasures, including those by authoritarian regimes. Or, on the other hand, no, the status quo invites and rewards wholesale theft and indiscriminate disclosure of some information that needs to be guarded. The status quo gives insufficient weight to protection of legitimate secrets, however that is defined, and guarantees collateral damage.
If new laws are needed, what should they provide? How can laws be worded to avoid being overbroad and vague? Can they be drawn so that the cure is not worse than the disease? How are legitimate secrets to be defined? Should journalists be punished, as they have been in Asia, for instance, for publishing such classified information as the number of casualties following a natural disaster? Isn’t the history of governmental efforts to protect their secrets the history of overreaching, over-classification, and excess?

We may be seeing some of that excess in the actions, or overreactions, by some governments, post WikiLeaks. Consider the risks and prosecutions by the US military and the US Department of Justice of alleged whistleblowers. Consider the progress of the new secrets legislation in the Parliament of South Africa, the Protection of State Information Bill.

We should recognize that the seeming legal powerlessness is only temporary and is by no means limited to the American government and its courts. Among the countries whose confidential documents were released before the American trove are Britain, Somalia, Kenya, Switzerland, Peru and Iceland. Each has displayed similar anemic reactions to address this new kind of challenge to its sovereignty and ability to keep secrets.

There is now stalemate in legal actions against WikiLeaks and its brethren. It is not likely to last for long. The rules of engagement are only now being drafted. Some court, somewhere, will censor or punish one of these entities or their principals.

That will confront the media and the media bar with some sobering choices: First, do we assist in the defense? Second, do we intervene or file *amicus curiae* briefs in these cases and argue that defendants like WikiLeaks are entitled to the full protections for freedom of expression guaranteed by the relevant constitutions or international conventions?

It is one thing for traditional journalists to proclaim that agents of a WikiLeaks-type organization are not really journalists. It is quite another thing, however, for the traditional press and its lawyers to deny to those new agents the legal protections for freedom of expression that traditional media enjoy. Should we, by our silence, become complicit in judgment and legislation that strip these new agents of the constitutional protections they deserve?

Then, there is the issue of the newspapers, like *The New York Times* or *The Guardian*, that republished contents originally posted on one of the sites. Here, the courts have little or no difficulty in asserting jurisdiction over the newspaper and its journalists, unlike the jurisdictional near-immunity of the web sites. Do the national laws allow the Executive or the courts to censor or punish the newspaper and its staff? To those traditional defendants, how protective and effective are the guarantees of press freedom in a constitution or international conventions?

The United States presents the converse of this situation. It is true that the Obama Administration convened a Grand Jury to investigate and could conceivably indict WikiLeaks and its principals. No indictment has been issued, so far. But how could the government indict WikiLeaks without also indicting *The New York Times*? *The Times* republished much of the same classified information as did WikiLeaks.
Let us assume that no conspiracy exists between WikiLeaks and its source or sources, no aiding or abetting, no criminal solicitation. Without such proof, is it likely WikiLeaks will be indicted? No. Why? Because to indict WikiLeaks, the US government would also have to indict The New York Times. And no American journalist or news organization has ever been indicted or convicted of violating the Espionage Act or any other criminal law affecting the national security. The First Amendment of the US Constitution, to conclude on a note of irony, is the protective shield. That is to say, it is quite possible that The New York Times, in all its immunity, will be the WikiLeaks insurance policy against being indicted in the United States.

**Geoffrey Robertson,** UK media lawyer: *Great Australians*

We are here to discuss News Corp. and WikiLeaks, Rupert Murdoch and Julian Assange -- two great Australians. I happen to be a less great Australian. Rupert Murdoch is a great Australian in the sense that Attila was a great Hun and Julian Assange is certainly a great Australian in the sense that Ned Kelly was a great outlaw.

One is 80, one is 40. They both have produced issues of ethics and law that we are discussing at this conference. One, News Ltd. -- news limited by Rupert's right-wing political views, which he propagates through what he calls Fox News. And Assange, news unlimited -- news without borders (*sans frontières*).

So let us begin with what I consider to be an enormously important issue in this general area of how you protect your sources.

News-limiting News Corp. has committed, it would seem, an ongoing conspiracy to tap people's phones. A big inquiry is going on at the moment into what to do about it. The simple thing to have done about it was to prosecute, but News Ltd. was close to the police at the top, and no prosecution was made. In other words, we need not new law but new enforcement of the law.

However, this is causing great concern, and Mr. Murdoch's operation in America, which is far more lucrative now than his operation in Britain, has sent lawyers -- commercial lawyers, not human rights lawyers -- to Britain. They have set up a management committee of commercial lawyers who have been going through the journalists' e-mails to find out evidence and to hand it over to the police, whom they have invited onto the premises.

Would you believe there are actually 171 policemen investigating News Ltd. Criminality, with 20 or 30 of them actually in the offices of The Sun newspaper in Wapping (East London), where these commercial lawyers, as soon as they find an e-mail that someone has taken a policeman to lunch (or it may be a Ministry of Defense official or any kind of government official that they have had dealings with) simply hand it over to the police.

This is extraordinary because it breaches the most fundamental duty of the journalist, namely to protect those to whom he or she has promised anonymity. It is absolutely basic, isn't it? Without it, you cannot go on covering news.
This is the one area where we in Europe have better protection for our journalists than they do in America, because the First Amendment doesn't stretch to protecting journalists’ sources. In Europe we have the great case of Goodwin against the United Kingdom before the European Court of Human Rights in 1996.

Goodwin was a young member of the National Union of Journalists who fought to the end and achieved that in Europe we have qualified privilege, which has been upheld ever since. What the court said is “Protection of journalistic sources is one of the basic conditions of press freedom. Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result, the vital public watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected.”

What the commercial American lawyers who now seem to be running News Ltd. in Wapping don't understand is that the cultivation of sources is professionally essential not only for journalists but for the public they serve. It is a basic tool of their trade. It is the means by which newsworthy information is extracted from powerful corporations and government departments that want to keep wrongdoing secret or give it a particular spin.

Without the ability of journalists to promise anonymity to sources that may fear reprisals and to keep that solemn promise, there would be a lot less news and what there is would be less reliable. So, it is, it seems to me, a serious issue today.

Once upon a time, journalists could simply write the name of their source in a little black book. You could actually keep your source’s name secret. Now, they have to type in all their sources into their computer, which turns out to be the office computer, which turns out to be the property of the management.

What the Murdoch lawyers call “draining the swamp” -- but I call throwing out the baby with the bathwater -- may be to protect Rupert from the Foreign Corrupt Practices Act in the United States. Well, that may be a reason for the company to reveal its journalists' sources to the police. I don’t think it's actually tactically sensible. But there it is. You as journalist are subject to your employer's determination, which the employer makes in its interest. The media organization will make you hand over your sources to the police. This, it seems to me, is a breach of the breakthrough that we won in the Goodwin case. to have protection of a journalist’s sources seen as part of the freedom of expression guaranteed in Article 10 in the European Convention of Human Rights.

On the other hand, a media organization that discovers or thinks that a journalist has had a police officer or public servant on the payroll, creates an ethical dilemma. The corporation has a duty to investigate, to give the journalist an opportunity to explain to the editor or the executive who signed off on the payment. Journalists must be given an opportunity to explain, and this is what the committee of commercial lawyers in Wapping is not doing at all. It is just handing over raw material to the police.

Only if a corporation is satisfied on expert advice -- criminal law advice -- that it has been put in a situation of bribery should it consider handing over journalists and their sources to the police. We
need to ensure that media organizations protect the whistleblowers that have come to their journalists and not hand them over to the police unless criminality is clearly proven.

Let's move on from that particular dilemma to the issue of WikiLeaks and news unlimited. The great American democrat James Madison argued for the First Amendment to create “a nation where knowledge will forever govern ignorance and people will arm themselves with the power that knowledge brings.” Theodore Roosevelt called upon muckrakers to destroy what he called the invisible government, the corrupt links between business and politics. The US Supreme Court refused to injunct publication of the Pentagon Papers, saying that the only protection against abuse of power by the Executive is an enlightened citizenry.

Well, Julian Assange, a young man from Magnetic Island in Queensland, took seriously the philosophy that sunlight is the best disinfectant. He devised what is in effect an electronic dead letter box, where sources could send him secret documents in complete confidence that even he couldn't find out who they were. They could waterboard him for weeks, and he wouldn't say because all he could do was check the authenticity of the documents, not the sources. WikiLeaks as far as I know has never published an inauthentic document.

So, Assange became a kind of latter-day Johnny Appleseed of information, scattering it far and wide, watching it inspire revolutions, expose politicians and provoke policy debates. And, of course, it made us more knowledgeable about modern history and its context. You can hardly read a piece on the public background to a news story without the comment, “as a WikiLeaks cable revealed.”

So, he began in fact long before Bradley Manning came along -- publishing stories about the massive corruption of Daniel Arap Moi’s government in Kenya, then stuff about the Church of Scientology, in the news today for beating up some of its adherents, and tax evasion in the Cayman Islands. He exposed banking fraud in Iceland, the dangers of a nuclear accident in Iran, price-gouging by defense contractors in Iraq -- all stories of massive public interest that would not have seen the light of day otherwise.

People say that WikiLeaks is some sort of crazy left-wing organization. In fact, a lot of stories that discredited some of those climate change scientists in Essex came from WikiLeaks; so, it is not always on the side of what some people would see as progressive. It has published what it thinks people should know, and it was right that they should know that climate information was being subject to some jiggery-pokery. So, it is to that extent an honest organization.

Then, the alleged Bradley Manning stuff arrived. First of all, the “collateral murder” video recording of the Reuters journalist being killed by reckless American pilots in Iraq. As a lawyer I object to the collateral murders title -- it should be collateral manslaughter -- manslaughter by gross negligence, aerial manslaughter. But whatever you call it, it is obvious that it should come out, and that it wouldn't have come out, we would never know about it without WikiLeaks.

Next, came the Afghan war logs showing that the casualties were higher than anyone was admitting. Then Iraaqgate -- 400,000 field reports, really an amazing historical treasure trove of reality on the ground of the Iraq war. We had no protest at this time from the United States, but there were a number of countries who threatened to jail any citizen caught sending material to
WikiLeaks. What were those countries? China, Syria, North Korea, Russia, Thailand and Zimbabwe.

In December 2010, came the first bursts of hysteria from the United States over the release of diplomatic cables mediated by leading newspapers. Assange was accused of being a techno-terrorist by Joseph Biden. Rush Limbaugh said he yearned “for him to die of lead poisoning from a bullet in the brain.” Sarah Palin, shooting from the lip as usual, said he should be hunted down like Bin Laden, which I suppose would give him nine more years of freedom.

When I go to see him in Norfolk, where he is under a sort of house arrest, although it’s really mansion or manor house arrest, he warns that you have to keep a wary eye open for the US Navy Seals. He gets a lot of death threats from middle America.

There are cooler voices, of course. Defense Secretary Robert Gates said it had been an embarrassment but there had been no long-term damage. Hillary Clinton, told of The New York Times release, contacted foreign governments to warn them there would some unpleasant comments about them, and they said, “Don't worry, you should see what we say about you.”

So, the people in Tunisia and Egypt discovered facts about corruption that fueled their revolt and by now people in 90 countries have received information from WikiLeaks about misfeasance in public life.

We heard about US plans to bug diplomats at the United Nations in breach of the Vienna Convention and about begging by Saudi Arabia and the Gulf States that the US should bomb Iran to stop its nuclear weapons program.

One of the greatest surprises, one of the really shocking things about these cables was just how pragmatic and principled the US diplomats were and how insightful -- so much so that the Russian leader Vladimir Putin reacted by saying that Assange must be a CIA agent.

And what of course was propagated were the views from the State Department, sometimes correct, always in some ways insightful.

But America was upset. Its pride was injured by this pesky Australian. It couldn't, because of the First Amendment, attack The New York Times. But it did other things that betrayed its principles of freedom of speech. Bradley Manning was locked up for eight months in solitary confinement without blankets or even a pillow and woken every few minutes, charged would you believe it, with a capital offense. In other words, they charged him with something that would involve his execution in order to put pressure on him to squeal on Assange -- to say that Assange had groomed him.

When that didn't work, they put frighteners on Amazon, WikiLeaks’ domain name server in the United States, And Amazon, in a quite unconscionably cowardly fashion, gave in and refused to host the site. So, WikiLeaks simply moved the site to Iceland and Sweden, and that was no problem. But continuing is the pressure the United States is putting on PayPal, Master Card and Visa to stop receiving donations [to WikiLeaks], and that is one reason WikiLeaks needs pro
bono lawyers. You can buy Nazi uniforms or your Ku Klux Klan outfits on Master Card, but you can't donate to WikiLeaks.

On what basis? It was at first said that lives were at stake; Assange had blood on his hands. Well, there has not been one single reprisal, either from the first outburst of cables or the downloading of the lot, which wasn't initially WikiLeaks’ decision but came about in some other way.

So, all this time has passed without a single casualty other than a few ambassadors withdrawn, and, of course, the point that none of the WikiLeaks critics see is that the cables were not classified “Top Secret” like the Pentagon Papers.

“Top Secret” is where you do expect reprisals. The authors of these cables didn't expect reprisals. They were available under classification laws to 2.5 million people in the United States, including a 22-year-old discombobulated soldier. The whole allegation of lives at stake and blood on your hands was bogus.

There is a point of principle here. It is surely the responsibility of governments who put sources at risk to protect them.

I would suggest four principles in approaching this debate:

- Firstly, citizens everywhere have a democratic right to know what the government does in their name.
- Secondly, governments and their public servants bear sole responsibility for protecting properly classified information
- Thirdly, outsiders who receive or communicate confidential information should not be prosecuted unless they have obtained it by fraud, bribery, or duress.
- Fourthly, national security exceptions should be precisely defined, should protect the identity of sources at risk of reprisals, but should not stop whistleblowers from revealing human rights violations.

Bradley Manning has been committed for trial in an army court martial. Georges Clemenceau once said that military justice is to justice as military music is to music -- and I think we are going to see how far you can expect a fair trial when all the judges are signed up to the department that’s bringing the action.

In the course of having Manning committed to trial there were suggestions from the prosecutor of the Justice Department that there was contact between him and Assange, and that raises the issue of what the situation is under the Espionage Act, if there was contact electronically.

There are three situations that may apply. The first is that there is no proven contact; the document that is classified “Secret” is simply sent to a dead letter box. There seems to be absolutely no difference between receiving a document in a dead-letter box to the old position of the journalist who gets a secret document in a plain envelope through the post.
The second position is that there is contact, which seems to be what the Justice Department is alleging against Assange. The source says: “I've got information of great public importance; how can I get it to you?” And the publisher says: “Do this, press this button or that button, and get it to me this way.” This seems to be similar to the Watergate Deep Throat situation, which is a completely traditional and appropriate way and should not involve any criminal responsibility under the Espionage Act.

It is only in a third situation -- where the journalist contacts the source, persuades him to breach a duty of confidentiality, offers him money, solicits or grooms him -- that there should be any question of prosecution of a publisher.

Now, the Americans have this Grand Jury sitting in Virginia in a place where most of the jurors are related to defense contractors or work for them. There is no judge in a Grand Jury procedure. We used to have it in Britain four centuries ago and we abolished it because it was unfair. But in America they still have it and the prosecutor, only the prosecutor, calls in these people from the street and tells them to indict.

American prosecutors say a Grand Jury would indict even a ham sandwich because not only is there no judge, but there is no defense counsel in the room. So it seems to me that it may well be that there will be an indictment and that is a matter that will have to be fought.

But many newspapers now are setting up their own WikiLeaks-style sites. Imitation is the sincerest form of flattery. Even the (Murdoch-owned) Wall Street Journal has something they call “Safe House” that guarantees anonymity if you send them your secret documents. Don't send them to Wapping by the way or other parts of the Murdoch operation, where they are certainly not safe.

We are in a new environment where information will not only leak, it will go viral. We are moving into an age where electronic communication can give ordinary people -- which is a condescending phrase used by lawyers about people who are not lawyers -- the right to digital suffrage. It is what Vaclav Havel called “the power of the powerless” and that is why I suspect Google is still blocked in 25 countries in the world. You can't get YouTube in Turkey these days because someone put up a suggestion that Ataturk was gay and it’s been blanket banned.

There are situations where leaks would be wrong, for example, lists of police informants or the draft of a budget speech or so on. The custodians of these genuine secrets have a duty to keep them, and if they are negligent, they should be sued. At the same time, there should be a proper classification policy identifying and safeguarding that limited class of material where lives really are or may be at stake.

There was a wonderful TV show in Britain called “Yes, Minister” in which the civil servant would always get around the minister. When the minister suggested they have an open government campaign, the civil servant said, “Oh, but, Minister, that is a contradiction in terms. You can be open or you can have government.” And that's how many bureaucrats think.

But I think that we are now in the position of giving some power to the powerless. We must live with this fact of modern electronic life and hope it makes life a little more difficult for the
bastards of the world. We should never forget that the most virulent attack on WikiLeaks was made on Jan. 14 last year, accusing it of leading all the protesters in Tunis astray by false claims and false stories about the incorruptible President Ben Ali. And that was in a speech made in Tripoli by Col. Qaddafi.

**Agnes Callamard**, Executive Director, Article 19: *Difficulties of the case against WikiLeaks*

Right from the beginning, Article 19 took a strong stand in defense of WikiLeaks and our position has not changed one inch. We do not believe that WikiLeaks has raised a new legal issue in any fundamental or direct fashion. But it has tested our democratic governments’ commitment to openness.

Immediately after the WikiLeaks publications, there were numerous kneejerk reactions, some of them pretty nasty and slightly reminiscent of the McCarthy era and all of them have been quite disproportionate. I suspect many people who reacted at the time will feel slightly ashamed now.

There have been threats of new laws, but little has actually happened in legal terms. Reactions are based on so-called national security arsenal -- whether it’s called anti-terrorism, sedition, or espionage. It’s an old, a very old, arsenal that governments around the world -- even those from which we had been expecting better -- have relied on to curtail free speech and freedom of information. But nobody to date and to the best of my knowledge has succeeded in building a case against WikiLeaks.

While there have been calls for criminalization and possible use of the US Espionage Act against WikiLeaks, the fact that some two years later nothing of that kind has happened highlights that even the best legal brains are finding it difficult to build a strong case against WikiLeaks.

But we have witnessed corporate censorship with political pressure, such as the denial of services to WikiLeaks by PayPal and a few others. That, again, is not new. It is not a recent phenomenon linked to WikiLeaks. It is unfortunately quite a common feature of the censorship framework. I will say that is being put in place without a real strong legal justification behind it. What WikiLeaks has highlighted is the real arbitrariness and danger of what has become fairly common place. Without court order and completely in an extralegal and extrajudicial way, these corporations are preventing access to information and in essence acting as censors.

In our opinion, Internet intermediaries should not be liable for WikiLeaks activities.

A number of governments have simply relied on the traditional blocking of information to prevent their people from accessing WikiLeaks and many of those countries have been mentioned already, including China, the United Arab Emirates and Pakistan.

Another dimension, also an old one, is the imprisonment, the mistreatment and now the military trial of that fragile young man, Bradley Manning. Those who study censorship and human rights violations will find a lot of Bradley Mannings around the world. It is sad that he should be lingering in an American jail in 2012, at a time when we certainly were expecting far more from the US Administration in terms of defending civil rights and freedom of expression.
Bradley Manning has been the focus and the target and the primary victim of the inability of governments to do anything else, basically, but pick on the weakest link.

WikiLeaks demonstrates weakness of the legal arsenal that we thought was in place to protect freedom of expression and the right to information. This arsenal has proved to be quite weak in the face of what Article 19 sees as the disproportionate reaction to the WikiLeaks release.

First, whistleblowing laws and practices. There is clear evidence that these laws are misunderstood and flouted. The rights of whistleblowers are clearly being violated. WikiLeaks is not the only case. There are plenty of examples around the world demonstrating that the protection of whistleblowers is very much a weak link in our freedom of expression work and that maybe, for free speech activists, we need to do more on that front and link up with people who work on that issue.

Secondly, WikiLeaks has shown that we can handle far greater public disclosure than has been traditionally assumed. Governments still have to make the case that the release of information actually creates national security problems.

The third issue which has legal implications for us and for WikiLeaks, I think, and is definitely the weakest aspect of WikiLeaks is the question of redaction and the disclosure of information about individuals. The do-no-harm principle may have been flouted on a number of occasions—although in how many cases remains to be highlighted,

I think that is a particularly important issue as well for us. It may not be a legal issue so much as an ethical one. We could conceive of some individuals having suffered from the release of WikiLeaks bringing their cases to court. That could be quite interesting, and I think will be a challenge for all of us, certainly including WikiLeaks.

A fourth legal issue that is raised by WikiLeaks is the legal status of such enterprises. Article 19 from the start has treated it as a publication, thus having the rights and responsibilities associated with a publication. I think there is a discussion and debate to be had as to whether there is a need for a different kind of legal status for WikiLeaks. It is a whistleblowing web site, but it is not really a whistleblower. I think there are some interesting legal discussions here.

For Article 19, the real legal challenge at the moment for freedom of expression— not directly related to WikiLeaks--is the question of balancing freedom of expression with intellectual property rights.

Michael Camilleri, media law advisor, Organization of American States: Countering desacato

The present discussion, of course, is about international law after WikiLeaks, and some of the questions the panel was asked to address relate specifically to the territorial and other complex legal questions raised by the WikiLeaks case. I'd like to take a slightly different approach by speaking more broadly about the role of international law and international institutions in upholding freedom of expression, and then thinking a bit about the particular challenges that may arise from the WikiLeaks episode.
In doing so, I will speak specifically about the experience of the Inter-American human rights system and its Office of the Special Rapporteur for Freedom of Expression in historical and contemporary perspective. It is a particular type of role, one that struggles less with the question of how democracy and a free, vigorous press can peacefully coexist after WikiLeaks and News of the World, but instead assumes that they must coexist and seeks to develop and ensure basic rules of the game that allow such a coexistence to flourish.

Indeed, it is hard to imagine a truly democratic government without the freedom to scrutinize and criticize it. Perhaps this notion was best expressed by a former ambassador to France, Thomas Jefferson, who said, "If I had to choose between government without newspapers, and newspapers without government, I wouldn't hesitate to choose the latter."

So, if we all agree that a vigorous press with the freedom to investigate and criticize the government is a prerequisite for democracy, what can be done to ensure this happens, especially in a post Wiki-Leaks world in which governments may be tempted to exercise tighter control over information?

There are surely a number of answers to this question, but I will focus on one, admittedly limited, piece of the puzzle: the role of international human rights bodies, and, again, the particular experience of the Inter-American human rights system. It is an experience marked by past and present challenges but ultimately by a sense of progress in promoting domestic legal frameworks in the Americas that provide adequate guarantees for freedom of expression.

Three decades ago in the Americas, those who criticized their governments -- journalists, students, human rights defenders, religious leaders, and others -- risked being swept off the streets, disappearing into clandestine prisons and being thrown out of airplanes. Fortunately, this is no longer the case. With the exception of Cuba, the countries of the Americas are today democratic nations that enshrine freedom of expression in their laws and constitutions, and, by and large, do not engage in prior censorship. This does not mean, however, that challenges do not remain. As current events in the Arab world remind us, the end of a dictatorship does not necessarily or automatically translate into a freer press, and genuine transitions to democracy must also tear down the vestiges of authoritarianism that often survive the fall of a tyrant.

In the Americas, the Inter-American human rights system has played a fundamental supporting role in identifying and removing such remnants of authoritarianism. I will use the remainder of my time to discuss two key areas in which this work has achieved important results, but where challenges remain if we are to create the preconditions for a genuinely free press and an uninhibited marketplace of ideas.

The first area is the legal protection of speech about public interest. If a free press is to exist, laws must protect not only speech that is favorably received by public figures, but also that which shocks or offends them. In fact, speech about matters of public interest should receive heightened protection under the law. Many legal codes in Latin America traditionally did the opposite. Nefarious and antiquated desacato (contempt) laws not only made offensive speech a criminal offense, but established aggravated penalties for offending the honor of a public official. Needless to say, such laws have a deep chilling effect on freedom of expression that is incompatible with the existence of a free and vigorous press.
Beginning in 1994, the Inter-American Commission on Human Rights declared that these laws per se violate the freedom of expression guarantees of the American Convention on Human Rights. Since then, the Inter-American Court of Human Rights has ruled in a series of cases that the application of criminal sanctions to speech about matters of public interest is a disproportionate infringement on freedom of expression. In turn, many countries in Latin America have repealed their desacato laws, and in some cases they have decriminalized speech about matters of public interest altogether.

Criminal defamation laws remain in effect in a number of countries in Latin America and the Caribbean, however, and, to this day, some of these laws provide special protection to the reputations of public officials.

For example, in Ecuador, President Rafael Correa recently brought suit against a columnist and three executives of the El Universo newspaper under a law that criminalizes defamation of a public authority. The columnist and the three executives were convicted and sentenced to three years in prison, and, together with the newspaper itself, to the payment of a total of $40 million in damages.

This conviction was upheld by Ecuador's highest court. Many journalists, human rights defenders and ordinary citizens in Ecuador now rightly question whether a free press can truly exist in their country so long as the legal system permits those in power to punish their critics in this way.

As the Ecuador case highlights, government-media relations in some countries in the Americas still occur in the context of a legal framework that does not provide adequate protection for speech about public interest. There is a continuing need to examine and reform these frameworks so that such speech is not subject to criminal sanctions or disproportionate civil damages. Only then, will journalists, whether citizen or professional, online or offline, feel free to do the investigative and critical reporting necessary for a vibrant democratic society to flourish.

The second issue I'd like to discuss is the right to access to public information. Like the protection of speech about public interest, access to information is a basic prerequisite for a truly democratic relationship between the government and media. The principle that all government information should be public, subject to a limited regime of exceptions, is a fundamental requirement for scrutiny of government activities by the press and society at large.

Here again, significant progress has been made. More than half the countries in the Americas now have access to information laws, with El Salvador and Brazil adopting such laws just last year, and countries such as Mexico have become global models for the implementation of access to information policies.

Challenges remain, however, and I will focus here on one such challenge that relates directly to the WikiLeaks case: the need to provide access to government information while protecting national security.

The American Convention on Human Rights provides that the right to information can be limited in order to protect national security. Few would argue that this is sometimes necessary, but striking the correct balance is often quite challenging. The Inter-American human rights system
has developed a growing body of jurisprudence that aims to ensure that the national security exception does not swallow citizens' right to know what their governments are doing in their name.

This body of jurisprudence holds, for example, that national security must be defined from a democratic, perspective. Echoing the European Court of Human Rights, the Inter-American Commission has held that national security must refer to continuing, current threats to the national security of a democratic state. This will almost never be the case, for example, when the information refers to the secrets of a prior, authoritarian regime.

In addition, national security can never be invoked to deny information to judicial authorities about gross human rights violations, In Guatemala and Brazil, for example, prosecutors were denied information for decades about forced disappearances committed by the military governments of the 1970s and 1980s. The Inter-American system found that this constituted an impermissible abuse of the national security exception.

Finally, government whistleblowers who release information on violations of the law, serious threats to health, safety or the environment, or breaches of human rights or humanitarian law should be protected if they act in good faith. Public authorities and their staff should bear sole responsibility for protecting the confidentiality of legitimately classified information under their control. Other individuals, such as journalists and civil society representatives, who receive and disseminate information because they believe it is in the public interest, should not be subject to liability unless they committed fraud or another crime to obtain the information.

Of course, these general principles leave a lot of questions unresolved, including many of the interesting questions that have been raised here today. Is Bradley Manning a whistleblower? Should the law treat WikiLeaks as a press organization? What ethical principles should guide media organizations and how should they be enforced?

International law and international institutions must be aware of these questions and evolve with them in mind, but ultimately many of the questions are better resolved by the media themselves or democratic societies at the domestic level. The distinct role of international organizations will continue, I believe, to be that of setting the broad legal parameters that are necessary for the press to be a watchdog and citizens to be informed, and serving as an institutional check when these parameters are breached.

Jane Kirtley, Director, Media Ethics & Law Center, Minnesota: *The First’s “indeterminacy”*

We’ve heard a lot today about the First Amendment -- how protective it is of freedom of the press and free expression. Some have suggested that it is a virtually absolute bar to any kind of legal action against news organizations that publish classified information. I am not so sanguine.

That’s an awful lot of power to give to a mere 45 words, which is the length of the text of the First Amendment. In its pertinent part, it reads: “Congress shall make no law abridging . . . the freedom of speech, or of the press.”
What has been critical, of course, is how those 45 words have been interpreted by the courts.

Consider this: The great US Supreme Court Justice Hugo Black, a First Amendment “absolutist” who said that “‘no law’ means no law,” wrote, in his concurring opinion in the “Pentagon Papers” case, that: “The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security for our Republic. The Framers of the First Amendment … sought to give [the new nation] strength and security by providing that freedom of … [the] press should not be abridged.”

By contrast, 22 years earlier, another Justice, Robert Jackson, wrote that: “The choice is not between order and liberty. It is between liberty with order and anarchy without either. If the Court does not temper its doctrinaire logic with a little practical wisdom, it will convert the ... Bill of Rights into a suicide pact.”

Justice Black’s absolute approach has never commanded a majority of the Court. There has always been tension between freedom of information, freedom of the press, and national security.

In a new book by Gary Ross -- a volume in the intriguingly titled “Foreign Denial and Deception Series” published by the US National Intelligence University -- “Who Watches the Watchmen ? The Conflict Between National Security and Freedom of the Press,” the author suggests that the leaking of information is complicated, as are the motives that inspire it. For example, he says, the motives may be political or strategic; the leaker may be inspired by the need for whistleblowing, or to counter overclassification.

By the same token, organizations that publish leaks have a variety of motivations, too. They might include altruistic desires to inform the public, or to disclose problems in the system, or they may be inspired by competitive pressures, or driven by an ideological agenda.

In any event, a critical factor in all this is public opinion. How are the leakers, and the publishers of leaks, regarded ? The answer to that question will have a tremendous influence on the actions of all three branches of government: executive, legislative, and judicial.

There have always been perceptions that there are media “bad actors.” In 1917, when the Espionage Act was first considered by the US Congress, part of the impetus for the law was the actions of “disloyal papers” that had sympathies with Germany.

The Espionage Act is only one statute in the arsenal that the US government can draw upon to deal with those who gain unauthorized access to or who publish classified information. 18 USC. § 793, 794, 798 all deal with the unauthorized access and distribution of classified information. Some of those provisions require intent to harm, some do not. Other statutes prohibit the theft of government property and identification of covert agents.

Since 1946, there have been about 18 unsuccessful attempts to amend the Espionage Act to grant greater authority to the government to prosecute leakers and those who publish leaks. Perhaps the most infamous was the attempt in 2000 to enact the US equivalent of the British Official Secrets Act, which was vetoed by then-President Clinton. In 2010, the Shield Bill was an effort to
include, in Section 798, penalties for disclosure of the identities of informants and intelligence sources.

At a recent conference of media lawyers in Florida, a US attorney stated, “If you break the law, I will prosecute you” -- or rather, the attorneys’ media clients. But the reality is that prosecutors have chosen to focus on leakers, not those who receive and publish the leaks.

Before President Obama’s Administration, there were three such prosecutions. Since President Obama took office, there have been six.

I believe that the decision is a strategic one. Should the government attempt to prosecute a leak at all? After all, there are risks that, in a public trial, even more classified information will be disclosed.

If the government elects to go forward, it is best to go after those with unambiguous obligations to maintain confidentiality, by virtue of a secrecy agreement or contract, for example. The Whistleblower Protection Act actually does little to protect the rights of leakers to provide classified information to the press. Instead, it requires leakers to go through prescribed channels within their agencies or departments, or to Congress.

Earlier cases have supported this approach. The Pentagon Papers case involved prior restraint/censorship. Although the government also pursued the leaker (in a prosecution that was thrown out due to prosecutorial misconduct), it did not try to prosecute The New York Times or The Washington Post.

The case itself, of course, established the principle that a prior restraint on the press was presumed to violate the First Amendment and that only a showing that national security would be irreparably harmed would justify it.

Although the Court left open the possibility that the press could be prosecuted, it noted that a constitutional statute would be necessary to do it.

So, the government continued to focus on leakers. The 1988 case of US v. Morrison involved a Naval Intelligence analyst who, eager to get a job, provided classified photographs to Jane’s Defence Weekly, a British publication. He was prosecuted for theft of government property (this was long before digital photographs), as well as espionage. It was the first instance of an individual being successfully prosecuted for espionage, and not for giving classified information to an enemy (the US wasn’t at war with Britain), but to the press. And the government was able to avoid the tricky issue of what to do about the news organization, since Jane’s was based in the United Kingdom, not the United States, so that jurisdiction could not be established.

In 2006, in the case of US v. Rosen, the government attempted to prosecute two lobbyists working for AIPAC, the American Israel Public Affairs Committee, under the espionage laws, essentially for asking questions that led to the oral disclosure of classified information. As the many media “friends of the court” argued in amicus curiae briefs, this is precisely what
journalists do. The case collapsed when the presiding judge declined to allow the government to present its evidence in secret.

There have been only a few cases, in other words. But I believe that this is a slow but steady strategy by the Department of Justice to establish legal authority to prosecute the press for publishing classified information. The Department is in no hurry, and it does not want to risk another Pentagon Papers debacle. It will move deliberately and utilize only the best facts to make the best law, from its perspective.

Meanwhile, it has used subpoenas to try to compel journalists to reveal their confidential sources. Judith Miller of The New York Times was one example, and served many weeks in jail before her source released her from her promise of confidentiality. The US government has taken the position in an ongoing espionage case (Sterling) that journalists (in this case, The Times reporter and author, James Risen) have no constitutional privilege to refuse to disclose their sources in an espionage/leak case -- even though some 36 States have statutory reporters’ “shield laws” recognizing such a privilege. There is no such federal shield law.

Remember, though, that these issues don’t just arise in the national security context.

Yes, there is a presumption against prior restraints, presuming that the information was obtained legally. Similarly, there is a presumption against post-publication sanctions, provided the information was obtained legally and is a matter of public importance. (Bartnicki v. Vopper).

But what about the first WikiLeaks case in the US -- involving the publication of documents from the Swiss bank, Julius Baer? In that instance, where the issue was personal privacy [not a “fundamental right” in the United States], a trial judge granted an order to force Dynadot, the web host, to block the WikiLeaks site (which then had a US domain registration). The domain registration was subsequently dropped, and the court lost jurisdiction; the order was rescinded.

What about intellectual property? The Megaupload case in New Zealand, in which the web site’s domain name was seized at the behest of the US government on the basis of criminal conspiracy to commit a variety of copyright violations, was based on 18 USC § 1831-2, criminal statutes designed to protect competitive interests.

And the proposed laws SOPA and PIPA (Stop Online Piracy Act and Protect Intellectual Property Act) have rightfully raised concerns about freedom of expression and extraterritorial impacts that could arise from their enforcement.

To move on to the other topic of the conference -- the fallout from the UK News of the World phone hacking scandal -- some claim the UK law was ambiguous, but I think we all recognize that hacking phones is, and was, illegal in both the United Kingdom and the United States. I don’t anticipate a similar scandal or a US Leveson-like inquiry, because the law on hacking is unambiguous there, and also because the infamous case in 1998 involving a Cincinnati, Ohio, newspaper reporter who hacked into the voice mails of the corporate offices of Chiquita Banana not only firmly established the illegality of the conduct, but led his newspaper to “repudiate” his truthful news story because of how it was obtained.
Are American journalists just “more ethical” than their British counterparts?

On the other hand, we also have the Bartnicki case (Supreme Court 2001), which established that journalists could legally “receive” illegally recorded phone conversations, provided that they took no part in the interception and that the conversation recorded contained matters of public interest.

Would a news organization that sets up a digital “drop box” for leaked information be protected from prosecution under the Bartnicki standard? Is this the same as the proverbial “brown envelope dropped over the transom”? Or is the news organization aiding and abetting a criminal act? We don’t know.

Looking ahead -- what we were asked to do -- I have a few questions and observations.

What is the future of the delicate balance between freedom of the press and national security?

Is government dialogue with media the answer? Many news organizations in the United States have vetted their stories with the government prior to publication in the past. But is it ethical for journalists to do so? And would the government engage with “rogue” organizations like WikiLeaks?

Subpoenas may not be needed in the future. The Columbia Journalism Review recently reported that an intelligence agent told a press freedom advocate, “We don’t need you guys any more” -- in other words, covert surveillance was making it possible to uncover source identity without confronting the journalist directly.

Can “prior restraints” be accomplished in other ways? For example, pressure on PayPal and credit card companies to refuse to process donations to a WikiLeaks could cut off vital funding sources and destroy an organization.

Indeed, the press itself might engage in forms of self-censorship, such as using geo-location to block access to its material by those in certain countries.

I worry about proposals for laws that would create a “right to be forgotten” that might allow both government and private actors to regulate the collection of personal information and to purge it from data bases -- even if it was legally obtained and accurate.

Is the answer to make change in existing legislation? Some have called for greater clarity in the Espionage Act, arguing that it is vague and too broad -- characteristics that typically would make a law ripe for challenge under the First Amendment.

But I disagree. I believe that ambiguity can be a good thing. The lack of precision and clarity in the Espionage Act has protected the press for nearly 100 years. This is what some call “benign indeterminacy” -- much like the First Amendment itself.
**Discussion:**

**Heather Brooke:** Part of the initial advertisement of WikiLeaks was that it would guarantee sources’ anonymity. I found that actually it isn't true. I interviewed quite a few cryptographers and security experts to find out if it possible to remain anonymous on the Internet, because being identified is the biggest danger if you are a whistleblower.

Ben Laurie a cryptographer was on the advisory board of WikiLeaks when it was first set up. He oversaw the architecture of the technology that was being used. I asked him what he thought about WikiLeaks’ promises to protect sources’ anonymity. He said that submitting documents is not entirely secure. His advice to anyone wanting to leak would be to first be aware that secret documents are often watermarked. WikiLeaks, he said, can make a strong guarantee about anonymity, but to a large extent it is not the recipient's problem. It is the sender who identifies him or herself not the recipient.

**Jane Kirtley:** I am a staunch defender of journalists, but they are parochial in their world view. They think, what does it mean for us specifically? And they think, not much, because the reality is we got the information, we subjected it to our normal procedures, we put it up and there have been no legal consequences for us, so everything is great and we carry on business as usual.

Those of us who lawyers and are dealing with this in a broader arena recognize that there is a variety of things that are going on not just in the United States but in other countries as well that suggests that governments are not as sanguine about all this as their quiet appears. I truly think it is the calm before the storm. I don't like to be raising red flags and being hysterical. I would also say that on the national security versus freedom of press issues, the US government moves very slowly and very deliberately. There may be no prosecution coming directly out of WikiLeaks, but I would argue that the groundwork is being laid for when a better case comes along that is less ambiguous, particularly in terms of jurisdiction. So, I am not as confident as everybody else is.

**Geoffrey Robertson:** The Obama administration has gone after more whistleblowers than all the previous administrations since World War II combined. They include the guy who exposed the CIA torturers. The guys who did the waterboarding haven't been prosecuted, but he has. You should be aware of the fact that governments are finding new technical ways of collaring journalists and their sources. I don't know to what extent the electronic dead-letter boxes work or how effective are their guarantees. But Bradley Manning was picked up because he was squealed on by one of his friends. I don't think that in this technical world there is any reason for complacency especially when you see not only what is happening in America to whistleblowers, or for that matter what is happening in Wapping as sources are turned over to the police.

**Panel 4: Government-media Relations after WikiLeaks and News of the World**

**Rohan Jayasekera,** Associate Editor, *Index on Censorship: Unfulfilled promise*

Relations between journalists and government officials have changed, but not in the way perhaps that we would all have hoped, indeed even expected.
The introduction of freedom of information laws in more than 60 countries is only a start, but they remain an unfulfilled promise. To make them work, they need to be put to intensive use, tested almost to destruction, which is probably the only way for citizens’ groups to identify their weaknesses.

Before this happens we need a change of culture. Citizens need to get in the habit of demanding information; officials need to get in the habit of giving it out.

In Tunisia, officials unprepared for the expected arrival of a freedom of information law, responded by clutching hold of a draft clause that would exclude material classified ‘secret’ -- and closed off everything by giving everything the ‘secret’ classification. In fact, a lot of problems are due to this kind of unpreparedness and a perhaps not unreasonable fear of journalists -- both professional and unprofessional -- on the part of the officials themselves.

I worked in Iraq for some time from the 2003 invasion onwards, for Index on Censorship, researching the methods of media regulation being applied there, be it by the military, occupation authorities or the Iraqi government, and supporting Iraqi journalists in their demands for fair access to official information, among other pressing free expression issues. There, we found that the main issue was not so much that officials wanted to hide information, but that they lacked the training and experience to confidently manage their relations with Iraq’s highly combative media. Thus we ended up working with UNESCO, and in particular with the United Nations Development Program, training officials in just these skills.

As we heard from Borja Bergareche earlier, the United States -- which in my view has genuinely tried to address the issue of so-called “overclassification” of supposedly secret data -- is still a monster of classification.

There will always be officials we just can’t reach or those who will not listen. Information is still classified unnecessarily, despite the calls for declassification. People like this are trying to buck a trend going the other way, and not just due to the legacy of the WikiLeaks revelations.

As we’ve heard repeatedly today, information tends to be free. The power to monopolize information has been weakened, and we’ve seen the ability of individuals and activists to disrupt agendas in the way the media more or less exclusively were able to do.

We’ve seen the transformative effect of rapid information sharing, from citizen journalist on mobile phone to mainstream media on satellite and back again. And we’ve seen the Internet provide more and more varied means for journalists to access information, and essentially, also to verify it.

As journalists of all kinds get better at processing information, citizens get better at demanding it and activists better at digging for it, the information landscape will change permanently.

This is the point I think where governments will want to permanently change the terms of engagement and try to exercise more control over media relations.
There are many ways of doing that, by law, everywhere. You heard earlier of the scale of the police investigation into the News of the World phone hacking charges in the United Kingdom, and a raft of new laws that can theoretically put a British journalist in jail just for doing his or her job, and the risk of a chilling effect on legitimate investigative journalism.

You’ve also heard how the Obama administration is going after more whistleblowers that ever before. Jane Kirtley warned how the US government has been slowly, but strategically, crafting a legal framework that will allow them to target whistleblowers or activists supporting them. Elsewhere, the core principle of self-regulation of the media is under challenge from governments, who are demanding “responsibility” from WikiLeaks or tabloid journalists alike.

The WPFC’s own Rony Koven wrote an excellent article for Index on Censorship a few years ago highlighting this bad habit; those who shout loudest for responsibility in the media include the people most determined to silence it, such as Zimbabwe’s Robert Mugabe.

But I find the US military’s approach to the problem most instructive and worrying; the way they look at the virtual information sphere as terrain -- an area to be captured, held and defended from enemy counterattack. The US military theaters of operation cover air, land and sea, space and, now, cyberspace.

This strategy involves more than blocking viruses. Hillary Clinton has shared her view that the United States is losing the so-called Information War to alternative media. To restore the balance, we are seeing tremendous US investment in strategic communications -- old-school cultural diplomacy upgraded for an online world. This communications empire in the making is bumping up against an equally large investment in so-called Information Operations, the use of news and information for military purposes.

I leave you with that thought, as a question: What will happen when governments get to be good or at least as innovative, in running information in the public sphere as WikiLeaks and the News of the World used to be?

Justine Limpitlaw, media lawyer: Mixed judgment on South African secrets law

In the children's story about Doctor Doolittle, there is an animal called the “pushmi pullyu,” a gazelle-unicorn cross with a head at each end of its body that is in constant internal conflict about which direction to move in.

This mythical beast comes readily to mind when considering the South African government's approach to the media and security issues at the moment. There is both forward and backward momentum.

Evidence of forward momentum is the fact that the government committed itself to considering all Apartheid-era security legislation and to amending or repealing such legislation to ensure that its security laws were in conformity with our progressive constitution, which contains an impressive Bill of Rights.
From a media point of view, the rights that are of particular importance include the Promotion of Access to Information Act 2000; the Protected Disclosures Act 2000, the preamble of which aims to make provision for procedures in terms of which employees in both the private and public sectors may disclose information regarding unlawful or irregular conduct by their employers or other employees; and repeal of the 1982 Protection of Information Act, a particularly pernicious piece of security legislation that gave vast powers to the President to exercise a subjective discretion and in so doing preventing the reporting on or publication of an array of different security-related information.

This last action is a move that is to be welcomed. Unfortunately, the continent is not known for updating repressive security laws. The rhetoric of anti-colonialism that is so popular among governments that have fought for national liberation masks a deep-seated attachment to colonial-era security laws that, oddly, seldom seem to be repealed after liberation. Robert Mugabe's use of the Rhodesian regime's emergency powers is not an isolated example. There are many others, for example, the Zambian Penal Code of 1930, Lesotho's Sedition Proclamation of 1938, and Malawi's Official Secrets Act of 1913.

These predate the UN Declaration of Human Rights and the International Covenant on Civil and Political Rights and are, obviously, entirely out of step with fundamental human rights, particularly the right to free expression, which are recognized in, amongst others, a host of African Union treaties, charters, conventions and declarations.

Consequently, there are a number of real positives about the proposed Protection of State Information Bill in South Africa, to replace the 1982 Protection of Information Act. The Bill has been passed by the National Assembly, and hearings are currently being held by the other house of Parliament, the National Council of Provinces.

In brief the positives include:

- Regular reviews (every ten years) of all classified information.
- Providing that secrecy is justifiable only when necessary to protect national security.
- Establishing different categories of classification -- confidential, secret or top secret, based on the potential effects of disclosure upon national security.
- Setting up a classification review panel made up of public nominees recommended by the National Assembly.
- Making it an offense to classify improperly state information in order to conceal breaches of the law; to prevent embarrassment to any person, organization or agency; or to give undue advantage to anyone in a competitive bidding process.

These proposed changes reflect a rights-based sea change in attitude when compared with Apartheid-era security laws. But the Bill currently provides that it takes precedence over the Promotion of Access to Information Act and that the Act's provisions have no application to information classified under the Bill. And in certain key clauses, no mention is made of the Protected Disclosures Act, leaving whistleblowers vulnerable for publicizing official wrongdoing if this includes publicizing classified information. Also there is an effective blanket ban on the media's ability to disclose classified information without there being any public interest override.
or protections for journalists. The potential penalties are severe, including imprisonment for between ten and 15 years.

Nevertheless, there is no doubt that, coupled with the Promotion of Access to Information Act and the Protected Disclosures Act, much of the Protection of State Information Bill would assist in ensuring that only limited amounts of information are classified and that whistleblowers and the media are sufficiently protected.

But this is where the “pullyu” aspect of the State's approach to security laws comes in.

While the Protection of State Information Bill represents, in many respects, forward motion in terms of progressive security legislation (to the extent that the very concept is not a paradox), in a number of respects it simultaneously represents backward motion in terms of media freedom and sets a poor example for other African countries considering embarking on a similar legislative review.

Not since the end of Apartheid have we seen the kind of political and pundit commentary and general protests against the so-called "Secrecy Bill." It is also by no means clear that the ruling party is united around the bill and indeed many party stalwarts have publicly criticized later versions of the bill for straying so far from its original vision and intention.

The current hearings before the National Council of Provinces are a last chance for civil society and the media to force Parliament to enact significant amendments to the bill before it becomes law.

While I have focused on the Protection of State Information Bill, it is important to note another clear backward motion on the part of the ruling party, and that is the constant reference to a proposed Media Appeals Tribunal, to be established in order to "oversee" the media in the face of the perceived failure of self-regulation.

Sadly, the News of the World saga has given this notion a shot in the arm as even established democracies engage in handwringing over a tabloid press seemingly out of control and the apparent inability of self-regulatory bodies to deal with this phenomenon.

South Africa is currently a key battleground in the fight over legitimate and illegitimate security laws. The role it plays on the African continent means that the implications of this fight are likely to have international consequences.

However, I think it is also worthwhile to consider that notwithstanding the inconsistent and incoherent forward and backward motion by the South African government on secrecy laws, one of the huge lessons of the WikiLeaks saga is that it is becoming harder and harder for governments to hide behind any secrecy law, progressive or not.

The Internet and, specifically, the rise of the smart phone give ordinary people the power to be the investigative reporters of their own realities and to record and film their lives in ways that can easily be used by the mainstream media.
Time and time again information is leaked to the media and, in my view, governments are fighting a losing battle over unwarranted secrecy laws. It is clear that popular sentiment is not in favor of secrecy, particularly illegitimate secrecy.

Jan Malinowski, Head, Media Division, Council of Europe: Support for whistleblowers

I will be talking about certain standards that have been agreed to by 47 member states represented by their ministries of foreign affairs in the Council of Europe.

In December 2010, the Committee of Ministers expressed concern over “the gravity of violations of 10 and 11 which might result from politically motivated pressure exerted on privately operated Internet platforms and online service providers and other attacks against web sites of independent media, human rights defenders, dissidents, whistleblowers and media and new media actors.”

Articles 10 and 11 of the European Human Rights Convention concern freedom of expression and the right to access information, as well as the right to freedom of assembly and association.

The ministers had in mind specifically that certain companies hosting services are not immune to undue interference and that their decisions sometimes stem from direct political pressure or from politically motivated economic compulsion.

This morning, for example, you were heard how PayPal or Visa can have a bearing on the functioning of certain media actors or certain disseminators of information. One interesting point which is perhaps not sufficiently stressed, but which the inter-governmental committees in the Council of Europe have put on record, is the fact that regulation in itself is a form of interference. and according to our Article 10 on freedom of expression, any interference has to be necessary in a democratic society, it has to respond to a “pressing social need,” in the words of the European Court of Human Rights, and it has to be proportionate.

Proportionate means that the interference has to pursue a legitimate aim and the interference has to deliver on that front. If there is an interference that may well pursue a legitimate aim but doesn't deliver, it will not be proportionate and consequently if you go back to the starting principle, “necessary in a democratic society,” it will fail that.

This applies to any interference with freedom of expression and freedom of the media, but it applies even, according to the experts of the Council of Europe, to the mere fact of regulation. When we are confronted with situations like the News of the World, the immediate reaction is, “Let’s regulate.” We've seen it all along. Whenever there is a particularly visible crime out there, immediately there is a drive to adopt new legislation to punish the perpetrators even more harshly.

In the case of the News of the World, do we need more regulation ? I wonder. Would it satisfy the test of necessity and proportionality in a democratic society ? Perhaps the previous legislation would suffice. So, in that context, maybe we need to step back a bit and ask what needs to be put in its place.
We heard this morning about the notion of self-regulation, and I think someone said we should reinvent self-regulation, reinvent media journalistic ethics. Perhaps that is something that one has to consider a bit more closely at this stage. And this also applies in the context of this situation of data abundance that we have now. It is about ethics, it is not about regulation. Let the media deal with it unless it is absolutely necessary to take action in a democratic society and one can make a strong case for it, because at the end of the day, it may be subject to the Court of Human Rights in Strasbourg.

An interesting thing is that a few months ago that court applied or extended the application of Article 10 on the right of freedom of expression to whistleblowing. It was not a WikiLeaks-type case. It didn't involve state secrets or arguable national defense issues. It was a straightforward case of a lady working in an old people’s home who disclosed information about malpractices and was dismissed. The court said this is about the right to whistleblowing. I wonder how it would extend that notion to other cases that we have been considering here today.

In the past, the court has considered that in the case of journalists who disseminated information about state secrets or in violation of state secrecy laws, and who had subsequently been sanctioned for that, there had not been a violation of Article 10. But decisions of the court are delivered on a case-by-case basis. It is not cast in stone, and it may be that the law will evolve, and in many respects it has evolved.

Investigative journalism is about freedom of expression; it is about democracy; it is about contrast. If officialdom goes against that, then it goes against democracy, and I think the answer is straightforward. We have to put officialdom aside and get on with journalism.

In 2007, the Council of Europe adopted a political statement by the 47 member states in support of investigative journalism and asked member states to respect it, protect it and promote it. And in a declaration on freedom of expression and the right to information in the context of the fight against terrorism in 2005, the Committee of Ministers said states should refrain from creating obstacles to journalists’ access to information, that they should provide information to journalists, and respect their editorial independence.

I think that although this was specific to a particular situation, it applies to everything you have discussed. I suspect that the Council of Ministers would apply the same criteria in other situations where journalists aspire to have access to information. Indeed, ministers have adopted several other documents to this effect.

In September last year, ministers adopted a recommendation on a new notion of media, including criteria identifying what are and what are not information media.

Another interesting document which is relevant to what you have been discussing today is a recommendation on the protection of sources. Certain countries in Europe are developing or enacting laws to this effect.

I take away from your discussions the conclusion that states should have fewer secrets. The onus is on the states to guard them better and when that fails, they should not hold journalists
responsible. Events like WikiLeaks or the *News of the World* should be a trigger for additional and reinforced action to reassert freedom of expression.

**Kamel Labidi**, Head, Tunisian Information Authority: *Freedom of speech in the Arab Spring*

The WikiLeaks and the *News of the World* scandals came as reminders that tensions between politicians and journalists are not expected to abate even in democratic countries and that threats to limit press freedom will not vanish. They also came at a time when the circle of countries protecting the right to access information was widening.

As a journalist from a country which 13 months ago this week managed to get rid of one of the top “Enemies in the World” of independent journalism and the Internet, I would prefer to talk about a different context -- that of the so-called “Arab Spring,” where governments are still exerting tight control over relations between officials and journalists, despite the fact that the press has never been so free in a country like Tunisia, for instance.

But first, I would like to seize this opportunity to briefly mention that WikiLeaks did not take Tunisians by surprise when it made public what US Ambassador Robert Gode wrote in 2009 about the autocratic, arrogant and opulent lifestyle of former President Ben Ali and the public loathing of his wife and corrupt in-laws. What really surprised them was the accurate and unflattering evaluation of Ben Ali’s police and corrupt state by a US embassy, whose government for more than two decades publicly praised Ben Ali’s leadership skills and achievements and rarely publicly criticized his declining human rights record and rising attacks on journalists.

Relations between the government and the media need to be redefined on a different level, in the wake of the collapse of the autocratic rule of Tunisia’s “Architect of Change,” who ironically was granted, seven years ago, the privilege of hosting and opening in Tunis the UN World Summit of the Information Society (WSIS).

Tunisian journalists, who accepted to take part in the huge task of redefining the role of the media in their society, knew that for decades Tunisians did not trust the state-controlled media. And that the only way to gradually build bridges of trust and reconciliation between the media and the Tunisian people would be through bringing the country’s media into conformity with international standards for freedom of expression.

Since its establishment in March 2011, the National Commission to Reform Information and Communication, known as INRIC, has been holding workshops and meetings with local journalists, academics, and media experts from international rights groups and different democratic countries, particularly those that evolved from similar plights a few decades ago.

Among the outcome of these meetings was the passing of three decrees. The first was in May 2011, regarding access to administrative documents. It was welcomed by many, including Article 19, which with other international groups, has been of great support to Tunisia’s current democratic transition.
The second and third decrees, which were passed in November 2011, respectively provided the print media with a protective legal framework and the broadcasting media with an independent regulator, known as the Higher Independent Authority of Audio-Visual Communication. Unfortunately, the democratically elected coalition government, which is largely dominated by the Islamist Ennahda Movement, is currently turning its back on those decrees, particularly the one establishing an independent media broadcasting regulator. And this occurred only a few days after Prime Minister Hamadi Jebali promised to implement this decree. Some of his advisers are now claiming that the decrees have been drafted and passed in haste and without sufficient consultation.

The same advisers led him in early January 2012 to appoint individuals who were propagandists under Ben Ali and those who never earned a reputation for caring about independent journalism, as heads of the three existing public media outlets, including the national TV.

These advisers were also behind the Prime Minister’s shocking decision to appoint editors for two public dailies and the national TV, which provoked on Jan. 9, 2012 the most important demonstration of journalists since the country’s independence from France in 1956. This demonstration, which was organized by the National Syndicate of Tunisian Journalists, was seen by many as a healthy sign of the determination of independent journalists and rights activists to intensify their resistance to attempts to stifle new-found press freedom.

Also, among the accomplishments of the current media reform efforts not so popular among many journalists and media outlet directors close to Ben Ali is the licensing, following a fair and transparent process, of 12 new radio and five TV stations, in a country where you previously had to be a member of Ben Ali’s family or one of his cronies to get a radio or TV license.

Radio and TV broadcasters who got their licenses during the country’s dark era of repression have been lobbying the interim government headed by Beji Caid Essebsi in order to prevent the issuance of new TV licenses before the country’s first democratic elections. These privileged broadcasters, who were tools of propaganda and called on Ben Ali in 2009 to run for President in 2014, are campaigning today against the implementation of the new decree establishing a media broadcasting regulator. Ironically, the government is using this campaign, often based on disinformation, as an excuse not to abide by international standards for media broadcasting regulation.

Another outcome of the media reform process is the mushrooming of journalism training sessions. Tunisian journalists, who have been prevented from doing their jobs professionally and ethically are aware that they urgently need training to be better journalists and to help their country make significant steps toward genuine democratic rule.

My colleagues and I at the National Commission to Reform Information and Communication hope that the report and recommendations we intend to make public in March will help the Tunisian media on the thorny road to independence and will support efforts to turn Tunisia into the first democratic country in the Arab world.

But I doubt efforts can be successful without the support of all those in the international community who genuinely support press freedom and democracy. Attacks on human rights and
Freedom of Expression did not end when Ben Ali fled the country. True democracy in Tunisia will require vigilance by all who live in and care about its future.

**Discussion**

**Jan Malinowski:** The European Court of Human Rights, when it has been seized in respect of situations where journalists have been imprisoned as a result of their professional work, has never upheld imprisonment. So that is clear. However cases come to the court necessarily according to the rules after the exhaustion of domestic remedies and that can take a certain time. Perhaps there is something to do there and some exploratory work could be conducted. But what is clear is that the court has not considered that imprisonment of a journalist is a reasonable sanction in respect of professional conduct of whatever kind.

**Kamel Labidi:** International pressure can work. I don’t think we will see rulers in different parts of the world refrain from jailing journalists, but the best thing to do and the most efficient is to intensify pressure. You have seen in many countries, particular autocratic countries, how pressure works and how many journalists were released before the end of their jail term as a result.

**Justine Limpitlaw:** My sense is that this is an ongoing political fight between democrats and those who wield power. One of the key things we have to do is to support people power and movements like those that emerged in the Arab Spring. Having grown up in Apartheid South Africa and going through all that, I believe that among the great mass of humankind there is a prompting toward truth and reality that wins in the end. It is about contesting a culture of transparency and accountability against a culture of secrecy and impunity. That is the great battle of our time, and it is one that all democrats are called to enjoin. And there is no guarantee of victory. It is a constant contest.

**Jan Malinowski:** A few years ago, a declaration was adopted by the Committee of Ministers in respect of the risks to democratic processes which are posed by media concentration. In that political declaration, the Committee said that there should be a clear separation between the economic decision makers of media establishments and the editorial decision makers and the journalists. The Committee said media concentration should be monitored and if it reaches a dangerous level, then appropriate deconcentration measures should be taken.

Another element mentioned by the Committee is to have a fully independent and vibrant public service media that can compensate and counterbalance the commercial media when it reaches a concentration level that could be risky to society. The Committee also paid tribute to the value of community and local media. The question of media concentration has been on the agenda of the Council of Europe for a long time. It has also delivered some texts in respect of ownership and transparency of ownership, along with documents on the independent functioning of regulatory authorities in respect of broadcast media.

**Justine Limpitlaw:** There is no doubt that South Africa is sensitive to international condemnation, particularly around the issue of the Protection of Information Bill. But I have been personally horrified at the poor quality of journalism on reporting about the Bill. I have yet to meet a journalist who has read it, and this seriously is just unacceptable. It’s not quantum
physics; it is written in English, and it is capable of being distilled even by people who are not lawyers.

I have grudgingly a certain amount of sympathy with government officials who say journalists are not looking at any of the good things. My own feeling is that the bad currently outweighs the good. Nevertheless, there is an awful lot in the bill that represents a great change from the kind of secrecy laws we had under the Apartheid regime. The lack of a sophisticated and nuanced critique frankly makes it easy for government to shrug off international commentary. What has been particularly helpful is support from UNESCO or organizations like Freedom House. I particularly want to applaud Article 19 and also the Council of Europe for setting standards.

It is absolutely essential for lawyers and activists working in this area to be able to say that when you are regulating relations on national security interests, there are internationally accepted good practices. I would argue that practices that take particular notice of developing country conditions obviously have a lot more legitimacy and sway. Certainly, from my experience of the African continent, it is crucially vital work.

Panel 5: Internet Freedom after WikiLeaks and News of the World

Cynthia Wong, Director, Internet Freedom Project, Center for Democracy & Technology:

Privatization of the public square

The Internet can be used for both bad and good -- what happens on the Internet reflects the motives and will of those that use it. So while the Internet has enabled human rights, increased transparency, and brought about new forms of citizen journalism, it can also be used for activities that governments and other powerful interests may oppose. Examples might include copyright infringement, terrorist recruitment, defamation, and violations of personal privacy. Governments are increasingly regulating the Internet to address both perceived and legitimate social problems. And governments are doing so by imposing national regulation on a medium that was designed to promote cross-border information flow.

What WikiLeaks makes clear is that print and broadcast media organizations are no longer the primary mediators of information between citizens and governments. Many of the tools we use online are actually owned and operated by intermediaries -- search engines, Facebook, YouTube, Twitter, Blogger, web hosting companies, and even Wikipedia. Many of these intermediaries are owned by private corporations. Rebecca MacKinnon and others have described this trend as the privatization of the public square, where non-democratically accountable actors are increasingly in control of the tools for public discourse.

This structure becomes a problem when such entities become targets of government pressure or regulation because they are chokepoints on the flow of information online. We certainly saw this in the case of WikiLeaks, when a number of companies stopped doing business with WikiLeaks. And, notably, these intermediaries often hold a great deal of information about the users of their service. If governments ask companies for user data, then that has implications for journalists’ ability to protect sources and other sensitive information.
A main theme I hope we can explore is: In what ways can Internet regulation impact press freedom, given how journalism is conducted and how media is disseminated in the digital age? What are the biggest threats and challenges as journalism moves online? When a government regulates for a legitimate end, what role should intermediaries play? And a corollary: When a company is pressed to help with illegitimate censorship and surveillance, what responsibility does the company have to its users?

**Frank La Rue**, UN Freedom of Expression Rapporteur: *The Internet supports people power*

When the events developed in Tunisia and Egypt, people began talking about the “Internet revolution” and I immediately said the Internet does not make revolutions. These were the revolutions of the people of Tunisia, especially young people, and the revolution of the people of Egypt, using the Internet.

Clearly, the Internet made a difference and it was important, but it is a mistake to give technology the role of an actor, when really the actor is the people demanding rights or opposing a more than 30-year-old dictatorship.

And this made us reflect on how important the Internet had become. No one was challenging its importance, but I think it made it clear how Internet would play in the political field, not only as an instrument for freedom of expression but also a main instrument for citizen and political participation. It could actually be used to convene peaceful assemblies and peaceful demonstrations and mobilizations and could eventually topple dictatorships.

This was a wonderful discovery because now we talk about Internet facilitating access to political issues. Democracies are defined as government of the people by the people. But we do not always facilitate that participation. Internet made the difference. All of a sudden, everyone in the society could express their opinions, but, more importantly, everyone could relate to each other and could respond.

Every time there was a technological leap, from Gutenberg's printing press in the 15th Century to Internet, the speed of communication grew and became more effective. But the big difference is the fact that the Internet is not only communicating in one direction, which is how we used to communicate in the past, whether by written means or audio-visual broadcast or in any form. The Internet has brought interactive forms of communication in real time. One person could communicate with 3 million, but those 3 million immediately could also respond and interact with each other or respond to the initial message. So, this has given a tremendous dimension to the Internet -- a thing we still don't manage to appreciate in terms of citizen participation and in terms of the political effect.

But it has also generated fear. I believe that all governments, even democratic governments and political leaders in democratic societies, are scared. It is not the same thing to criticize someone and you have a little column in a newspaper and you know that that newspaper has 50,000 to 100,000 subscribers, as it is to put criticism online, where no one really knows how many people are going to read it. So, immediately the political leaders began to feel the threat. And obviously, the Internet has a tremendous strength but also has tremendous problems and pitfalls that we have to look at as well.
Governments’ immediate solution was to begin monitoring and filtering and blocking and different methods of limitation, and this goes directly to what we are discussing during these two days.

I strongly believe that when you look at freedom of expression from a human rights perspective, you are also looking at the limitations of that expression. Freedom of opinion is an absolute right but freedom of expression is not, and it can actually provoke harm in some cases.

There are legitimate limitations of expressions, sometimes because they damage the exercise of human rights of others, like incitement to hatred and hostility and violence on the basis of race, nationality or religion. Oftentimes they can actually generate situations of violence, like child pornography which is normally leading to child trafficking and child prostitution.

I also believe, and this is a big discussion in all states, that the struggle against terrorism and the security of the State is one of the most important functions of the State. Any responsible leader of any democracy wants to guarantee safety to innocent civilian populations. So, combatting terrorism is legitimate and so is guaranteeing national security or combatting organized crime, like in Latin America where the biggest concern is how to struggle against the drug lords.

But all of that has to be done within the boundaries of human rights and this is the catch, because otherwise these same excuses can be used to limit freedom of expression. Here is where I think we are in the process of trying to define those limitations clearly. Some limitations are actually written into human rights instruments. You have the Optional Protocol of the Convention on the Rights of the Child against child pornography and trafficking; and you have the Convention on the Prevention of Genocide, which obviously prohibits incitement to genocide.

I find, however, that there is a tendency to monitor, filter and block excessively and abusively, not for legitimate reasons but illegitimate aims and scope, for example where governments are trying to also use these controls to limit criticism.

The importance of the Internet is that it provides, as we say in Spanish, a plaza publica, a public space, like the town square where people, meet, mingle, relate, interact, debate, discuss and talk. It only works if it is public, if no one is excluded, and people can circulate freely with no limitations. This is the point on which we have to insist -- the general rule is openness. And the legitimate exceptions are precisely exceptions. They have to be defined by clear and unambiguous law for a higher interest: the protection of other rights for individuals. And, especially, they have to be necessary and proportionate.

How many bloggers are in jail today around the world? Here, this brings me to believe that there is increasing use of criminal law on the use of the Internet, the re-criminalization of expression, as I call it. Defamation law is being used in a wider way than it ever was before. In Thailand with its lèse majesté law, the issue is an old man who posted four messages saying there should not be a king in Thailand. They gave him five years, the maximum, per message. He got 20 years in jail. Where is the proportionality? Where is the law?

Expression is being criminalized, and the question this poses is: How are states doing this? In many cases they are doing it with the cooperation of intermediaries. The intermediaries play an
important role, and I think we should strengthen them. They should not be liable for third party content. They should also be able to act freely because if intermediaries start to respond to the political demands of the State, then there is a problem.

I do believe the State has the right to apply the law but they should apply it through the judiciary. Of course, there can be a criminal investigation and they can go into a particular account on the Internet. But if it is a criminal investigation, there should be a warrant from a judge. It should never be an easy administrative political decision. Normally, I would never allow a criminal lawsuit for something related to freedom of expression, but different treatment should be given to the person who actually leaks the information than to the medium that carries that information. In other words, don't kill the messenger.

WikiLeaks was a legitimate publication. There may have been tons of useless information, and some of it was more interesting than we thought. It actually made us reflect that huge amounts of information can now be made available for the broad public. Before, this would only have been accessible to those in investigative journalism and a small élite of journalists. Today, it is out there for everyone to look at, and I think this is good for democracy, even though it was a big embarrassment in terms of the amount of information. We didn't believe there was any national security problem – embarrassment, yes, but national embarrassment is not a national security problem.

As for the examples of WikiLeaks and Rupert Murdoch, I don't like the comparison. I think they are two different phenomena. The Murdoch press did violate the law and violated the rights of victims and the families of victims -- the soldiers in Iraq and others. It was not leaking information; it was stealing information, violating privacy, and offending the victims and the dead.

By the way, Murdoch reminds us that there should never be huge conglomerates of media that have a monopolistic tendency because the consolidation and monopolization of mass media also brings the consolidation of political power, and that is not democratic.

**Dunja Mijatovic, OSCE Media Freedom Representative: The need to think differently**

I think we are not exaggerating if we say that we are standing at a crossroads in the future of the Internet. What I see globally is fear and lack of knowledge when it comes to everything we see in cyberspace.

There are 40 governments around the world censoring the Internet. There were four in 2002. We have published a book online in which you can see the landscape of regulation of the Internet in 56 OSCE participating states, including the United States, Canada, Russia, Europe and Central Asia.

Governments are afraid of critical voices, of citizens discussing issues. This leads to over-regulation, and the most basic problem we see in so many countries is of actually putting people behind bars for the words they have written in blogs, for the words they have spoken.
More and more young people are facing these problems -- bloggers, Facebook activists, social media activists. I have visited many of them behind bars. Some of them are free now. They are continuing their important work talking about their communities, telling the truth about everything that is happening in their communities.

My office is working with other organizations in order to exchange information and collectively raise our voice in favor of a free and safe Internet for future generations.

We have several times mentioned the book by Rebecca MacKinnon, “Consent of the Networked: The Worldwide Struggle for Internet Freedom,” which should be a trigger for us to start thinking in different ways. She argues that we should start fighting for our rights, which are being sold, legislated, programmed and engineered away by corporations whose decisions we are not aware of. Those decisions affect our freedoms -- but without our consent.

It is clear we should address the urgent question on how technology should be governed to support rights and liberties of users around the world. We should also be more concerned about what will happen to freedom of the Internet if the laws being drafted by the world’s oldest democracies are adopted. Here, I will mention SOPA, PIPA, ACTA [Anti-Counterfeiting Trade Agreement]. I am sure you are all aware of these abbreviations.

My office has warned governments they should take into account the impact these kinds of laws can have on future generations and the future of the Internet. What the liberal democracies are trying to do does not send a good message to parts of the world where people are fighting for basic rights that are, of course, connected to Internet rights.

Journalists do not have a monopoly on using technologies to speak truth and give a voice to communities. That role also belongs to bloggers, Facebook activists and social media activists. I think this is something that will become a topic for discussion for all international organizations and NGOs.

I urge all of us to seize this opportunity to work together to share information because if we look at phenomena like WikiLeaks or the News of the World without taking into account what is happening to people using the Internet as a tool that has transformed lives in some faraway parts of the world, I do not think we are going in the right direction.

**Jérémie Zimmermann**, co-founder, *La Quadrature du Net: Triple threat to a free Internet*

I must say I am quite shocked by the title of this conference. I see no relation at all between the News of the World and WikiLeaks. The News of the World was about disclosing personal data to sell more papers for a purely private purpose and was in the end a local phenomenon, And if you look at it Rupert Murdoch’s empire, it is still up and running, quite well actually.

WikiLeaks is about producing public good, and it did so long before Cablegate. It published documents about Trafalgar, or the first draft version of ACTA. Yet WikiLeaks has been under a financial blockade for more than a year. Visa, Mastercard and PayPal still provide funding for the
Ku Klux Klan, but cut funding for WikiLeaks as the result of an administrative order by the US Administration.

What WikiLeaks brought to the citizens of the world is still here today, despite the will of the US government and some corporations to silence it. It has demonstrated that information is power, that exposing lies is a powerful tool for change and that all citizens are empowered to change things with a free Internet.

Some established media outlets or journalists felt threatened by this, as did some political powers and institutions, but that is a manifestation of the conflict between old and new, which we have seen in the past and see every day.

This free Internet -- which enables so much, which empowers people and brings better economies, better societies and better culture -- is under heavy threat from three directions.

First is the obvious political angle. 40 governments censor the Internet for political purposes. Even in our Western democracies, we are beginning to use the tools of censorship, first for child pornography. Well, everyone agrees that banning child pornography is good, but is it good to ban the Internet as well ? Next, there will be prohibitions on online gambling. In France, the Minister of the Interior has ordered the banning of the Copwatch site, which exposes misbehavior by police officers.

Then, there is a technical and economic threat by telecoms operators themselves to harm net neutrality, guaranteeing access to all content services and applications on the Internet. By hurting this capability, the operators themselves are building walled gardens, they are building a censored version, a sub-Internet. This is not tolerable in a democratic society.

My third point is the war on sharing. In the name of an obsolete copyright regime that for the last 15 years has been turned as weapon against the public, which it wasn't designed for in the first place, the powerful entertainment industries are now driving policies all around the world. They are bypassing international organizations such as WIPO [World Intellectual Property Organization] with ACTA. They are bypassing democracies and public opinion to impose measures that will force private companies into policing and censoring the networks.

This is intolerable in a democratic society and should be opposed at all costs. The outrage you are witnessing, with protests all over the 27 states of the European Union, with hundreds of thousands of citizens spontaneously taking to the streets against ACTA, is a true and genuine expression of the political empowerment of individuals enabled by the Internet. This is what we must protect at all costs.

It is not a matter of protecting the obsolete business model of some smallish industry, whether it’s music, movies, telecoms or even the news industry. It’s about building a better future and it’s about enabling the next generation to be able to build a new future and address the global issues that are at stake.
One may ask why a free Internet is not yet recognized by UNESCO as part of the world heritage, as a common immaterial good that is being built every day.

**Mark Stephens**, UK media lawyer: *Keeping too many state secrets too long*

We each and every one of us have a covenant with our governments that they can keep secrets from us so that they may better rule in our collective interests. That is why we have the Official Secrets Act. But it is important that we ensure that official secrecy is only about that which is necessary, and that really is where the tension is.

It’s for governments to keep the secrets and for the media and the Fourth Estate, among which I would include NGOs, bloggers and social media, to ensure that the State does not overreach and is only keeping secrets as necessary and for as long as necessary.

I think it is clear that governments have been overclassifying for some considerable time. There has been an exponential increase in the classification of documents. The State needs to keep some secrets but not as many as you think, and not for as long as you would think.

I use as an example the Bay of Pigs. The National Security Agency of America refused on the 50th anniversary in April 2011 to declassify the official NSA history on the Bay of Pigs disaster. Now, assuming that a soldier was 20 at the time that he went to the Bay of Pigs, he would now be 70. What possible secret issue can there still be or purpose in not declassifying that information? It is that kind of treatment of national security which brings governments into disrepute.

I hope we can look at the increase in the number of jailed bloggers, the criminalization of speech and particularly the way in which NGOs are being targeted. Increasingly, traditional news organizations don’t have the resources that NGOs have to go into a country and do research. In my professional practice, I am more and more defending NGOs that are being prosecuted for information about their sources in the same way that journalists used to be, and also sued for libel in order to chill down criticism of the targets of their investigations.

Another issue which has come to the fore is the denial-of-service attacks, which I don't have to explain to this audience. We are seeing large numbers of these attacks, increasingly, I would venture to suggest, by states. Take the example of NGOs working in West Papua that tried to put up videos showing alleged torture and human rights abuses by the Indonesian army. Both of the NGOs concerned were the subject of denial of service attacks. You have then got to ask in whose interest was it to attack those sites? I think the answer is clear if not provable.

Lack of accountability is another problem. In the olden days, if you wanted the State to tap somebody's phone, instal a wiretap or perform some form of censorship, you needed a court order. It had to go through the transparent due process of the law. What we now have is a completely unaccountable process which is not subject to due process or judicial scrutiny, and puts governments outside the law.

I think we should also look at this issue in relation to different countries and the way different source protections are used. We are now seeing sophisticated claimants arbitraging between
different jurisdictions to attack speech and get at sources. The current trend is to attack the source. The source is seen to be the most vulnerable approach, and this in the current environment creates an enormous challenge for people. How do you protect your source if you are having any form of electronic communications, whether it’s by mobile phone or the Internet?

Journalists and NGOs may provide covenants or undertakings of confidentiality, but what if the source can be identified by other means? The source has committed maybe a criminal act, certainly a breach of fiduciary duty or fidelity to an employer. In such circumstances, what happens to the source? He is hung out to dry, and that is a real concern.

What I am advising journalists, social media activists and ordinary reporters is to copy the experience of drug dealers and go back to old-fashioned face-to-face meetings. Electronic communications inevitably leave some kind of trail that will ultimately identify who the source is.

**Doudou Ye**, journalist, *Caixin* Media Group, Beijing: *Microblog challenges in China*

To be frank, I never had access to WikiLeaks. Today, a new Great Wall has been built to block people from accessing Internet information, including WikiLeaks, Facebook and the like.

However, within our borders, the Internet is playing a more and more crucial role in our lives. According to the report of the China Internet Network Information Center (CNNIC), by the end of 2011, there were 513 million Internet users in China. A Twitter-like microblog is flourishing. We call it "Weibo" and, like Twitter, it allows users to send short messages of 140 characters or fewer to their followers.

Since the first post appeared three years ago, the total number of Weibo users rose to 250 million by the end of last year. A famous actress, Yao Chen, boasts more than 16 million followers (competing with Lady Gaga). When she says something on Weibo, the number of readers may be higher than some leading newspapers in the world. As many as 85 million microblog posts are currently uploaded each day on *Sina Weibo*, one of the most popular microblog providers.

Microblogs report on things that traditional media are not allowed to do. For example, 2011 was the year of county and town-level elections. One brave citizen announced that he would run for the election independently instead of following the dictates of the government, and hundreds of people echoed him by declaring solidarity in their own microblogs. They reported their activities, and their sufferings from police and the local officials. Reporting such is seldom seen in the traditional media.

Microblogs are also connected with anti-corruption. One case concerns the Red Cross Society of China, the biggest philanthropy organization sponsored by the government. The microblog posts on *Sina Weibo* showed Guo Meimei, a 20-year-old woman living a lavish lifestyle with luxury sports car and numerous designer bags. The title of "Commercial General Manager" for the "China Red Cross Chamber of Commerce" with which Guo referred to herself on her own blog raised the eyebrows of other netizens. They soon dug out Guo's social connections and found some management problems at the Red Cross Society. Though no concrete proof of fund abuses was found, public confidence in the Red Cross Society had dropped so low that not a single yuan
of private donations was given for a whole month. The crisis of the charity organization has led to its reorganization.

The Internet, especially Weibo, provides a petri dish for public opinion, creating a platform that often exposes the darker sides of society and the underbelly of injustice.

Microblogs can be speedier than traditional media in imparting information. When a rail accident that claimed the lives of 40 people and injured more took place on a rainy Saturday evening in East China last year, microblogs were an important platform for sharing information. Minutes after the accident, an SOS message from the scene was posted by a netizen and was soon forwarded more than 112,000 times at the Sina Weibo web site. Within no more than 24 hours, the number of messages about the train crash had reached 4 million.

After the accident was confirmed, journalists, media organizations and local government officials used the blogging platforms to release to the public the latest information, such as the number of dead and injured passengers, details of the rescue work and of the investigation of the cause of the accident. That contrasts sharply with earlier disasters, when people could only pick up meager scraps of information from the official media, and the number of the dead and injured was usually concealed.

For many journalists, Internet has become an important source. For me, the first thing after breakfast is reading Weibo, and the last thing before I go to bed is reading Weibo.

However, the Internet is a two-edged sword. While it provides convenience and pleasure, it also brings numerous detrimental side effects.

In one case, a man who had an affair and was thought to be responsible for his wife's suicide, was threatened and shamed after his identity was exposed on the Internet He accused several web site operators of infringing on his right of privacy and got the support of the court. The defendants were ordered to delete the offending blog posts and compensate the man.

In another case, the supposed 22-year-old author of a "prostitute’s diary" was found to be a male editor in the real world. He confessed that he took cues from foreign literature to attract attention. Many felt that they had been cheated by the false microblog, and the perpetrator was fined.

As a result of such cases, many people appeal to the government to regulate the Internet, and the government seems have various reasons to do so. Here are some of the more controversial measures it has adopted:

- Information blocked: We are not talking only about WikiLeaks, which is blocked by the great Chinese firewall. Google search will fail if sensitive information is entered.
- Web site shutdown: Web sites, blogs or microblogs may be shut down if they violate the law or stray into some sensitive area.
- Sensitive words filter. The government requires the web site provider to filter information based on sensitive key words.
• Real-name registration: At the end of last year, authorities in Beijing, Guangzhou and Shenzhen launched an Internet supervision measure requiring local microblog operators to implement real-name registration requirements for users. As of March 1, people cannot chat with others or publish messages without registering their real identities.

• Illegal content: The new regulation bans users from posting and duplicating illegal content, including information about state secrets, or that damages national security interests, and instigates ethnic resentment or discrimination and disrupts the social order.

The move was said to be designed to curb online rumors and enhance social credibility. But some worry that the government is tightening its control over Internet and that people will be scared of being punished for exposing scandals.

I cannot tell for the moment what consequences may ensue from these measures. But one thing is certain -- the tide of information cannot be totally blocked through any measures, by any government.

**Paula Schriefer**, Vice President, Freedom House: *The spreading net of state control*

If I were to describe to you a country in which:

• Only 9 per cent of the population had ever used the Internet at least once in their lives,
• In which it takes approval from six different government agencies to open an Internet cafe and then requires the owners to keep copies of users’ photo IDs and logs of all web sites visited,
• In which the government engages in extensive surveillance of online communications without prior judicial approval and all Internet Service Providers must sign an agreement to hand over user information to the government when asked,
• In which the government can force ISPs to entirely block access to web sites for a wide range of content that individuals may find offensive, including content that is "disparaging, harmful, blasphemous, that encourages gambling, or that threatens the unity, integrity, defense, security, or sovereignty of the state, including friendly relations with other states, or public order" -- all without any review or appeals process or requirement to communicate what content is being blocked or why,

you would probably guess that I am describing a relatively authoritarian government, possibly in the Middle East or the Horn of Africa, but in fact I am describing India, an established democracy and a country that Freedom House ranks as free in our annual survey of political rights and civil liberties -- but that we only rank as partly free in both our freedom of the press and freedom on the net surveys.

I don't raise this to pick on India, but to illustrate how complex issues of Internet freedom and governance and regulation are, even in democracies.

Freedom House has been measuring declines in levels of press freedom and freedom of expression for nearly a decade, and we have seen these declines in all regions of the world and in a range of countries from autocracies to democracies, from the fully not free to the free.
Given that the Internet and other forms of digital communication are increasingly the means through which people share information, express their ideas and mobilize one another around common causes, the concept of Internet freedom has taken on immense significance for the enjoyment of a range of fundamental human rights – obviously, expression and press freedom, but also freedom of association and assembly.

Three years ago, Freedom House developed a new methodology that looks at not only how media are able to operate online, but how all individuals are able to communicate and share information digitally, both on the Internet and through mobile devices, whether through web sites, blogs, SMS's, and social networking sites. We look at a range of issues that deal with three broad areas: obstacles to access, content restrictions and the violation of user rights.

When we did our first freedom of the Internet survey in 2009, we were only able to look at 15 countries, but in those countries, we noted in almost all cases a more open environment for online expression, including formal media outlets, than in the press and traditional forms of communication.

When we conducted our survey last year, expanding it to 37 countries, we saw that gap continued to exist among countries in the middle range but was narrowing or closing for countries at the bottom of our not free ratings. So, we see repression catching up to the digital age. In fact, we found:

- Nine of the 15 countries with previous data declined.
- Qualitative analysis of newly added countries points to negative trajectory in half of them.
- In democratic countries, legal harassment, opaque censorship procedures, expanding surveillance.
- In 15 of the 37 countries we studied, we saw substantial censorship of political and social issues and we found it not only in the most repressive environments where you might expect it (Bahrain, Belarus, Burma, China, Cuba, Ethiopia, Iran, Kazakhstan, Pakistan, Saudi Arabia, Tunisia, and Vietnam), but we saw it in typically better performing countries, such as Thailand and even in consolidated democracies, such as South Korea and Turkey.

Surprisingly, Turkey was one of 12 countries to institute blanket blocks on YouTube, Facebook, Twitter, blog-hosting platforms or similar services.

While means of repression and restrictions of freedom of expression online have moved relatively quickly to catch up to traditional means of repressing speech, democracies have struggled and in many cases failed to provide at least equally strong protections for online speech as they do for traditional speech.

My opinion about the impact of WikiLeaks and News of the World is that they have contributed to -- although they clearly did not create -- instincts among democratic policymakers to generate policy and regulatory solutions to complex Internet challenges that are excessive, unnecessary and certainly do not follow the golden rule of freedom of expression limitations that they should be the least restrictive measures necessary to address the problem.
I already mentioned the Indian case, and there has been a lot of mention of some of the measures attempted and in some cases adopted by the United States, both in response to security concerns and in response to pressure from the entertainment industry to protect copyright and intellectual property. However, the US government generally does not prosecute individuals for posting information on the Internet.

But in democracies, the battles over Internet governance and regulation are often public and contested. Even in India, where I mentioned some of the negative aspects, some government proposals, such as requiring social networking sites to pre-screen information and delete content ahead of time, received strong pushback not only from Facebook and Google, but from the public, and as a result, no such rules have been introduced.

The highly publicized case of the US government asking Research in Motion to provide the government with a way to decrypt the information sent on Blackberries or face a shutdown, was resolved in such a way that RIM will not comply but instead will only agree to decode messages for named individuals on the condition that the government provides a legal order citing legitimate reasons for the surveillance.

US courts have consistently held that federal and state constitutional prohibitions against government regulation of speech apply to material published on the Internet.

However in authoritarian countries, restrictions on content, government censorship and violations of user rights are done without the ability of citizens to contest them and, even more dangerously, often without the ability of citizens to even know the extent to which their access to information is limited and to which online expression and discussion are manipulated by the State or non-state actors at the encouragement or acquiescence by the State.

In many countries, not only does the government control what users are able to post and view on the Internet via both technical and intermediary-enforced content controls, but also pro-actively manipulate the digital sphere by encouraging and even paying for private citizens, often youth, to engage in online conversations, attacking perceived enemies of the State and promoting positive propaganda about the State. China's 50-Cent Party is well known but similar activities are taking place in Iran, Russia, and Bahrain.

While the Internet has so far remained a far freer space for discussion and has been used effectively by human rights defenders and democracy activists around the world to mobilize citizens, threats to Internet freedom are growing and becoming more complex. Openness online can't be taken for granted, and needs to be actively protected in democracies and non-democracies alike.

**Discussion**

**Tom Haley**, SIPA Press, Paris: I am concerned about the freedom of the press and how the Internet is being used. I think it is exciting, but what worries me is the lack of any kind of economic model. And I'd like to say that I have about as much confidence in a citizen journalist as I would in a citizen dentist or surgeon.
There are hundreds and thousands of people around the world who are reporting events that professional journalists are unable to cover, and their testimony is absolutely essential. But I don't believe that they have the impact of a professional journalist reporting for old world kinds of models like *The New York Times* or *Le Monde* or *El País*. We need these kinds of organisms with their business models, because this is where people go who have to adhere to professional standards that we don't expect of citizen journalists.

**Mark Stephens:** As for photographer Tom, who some in the room will think of as neolithic Tom, I understand your point about citizen neurologists or neurosurgeons, but the point is that society has changed. No longer do we get information from monopolistic suppliers who buy ink by the barrel and electricity by the substation. What we have now is much more a diaspora of information. Society has adapted and changed. As a result of that, we look at information we receive and we place different values on it. You are right that citizen journalism may rank lower down the scale than *The New York Times* or *The Guardian* or the BBC but it does seem to me that we are able to make distinctions about different values that we place on information. And if you believe in the innate good sense of crowds, as I do, then if you receive all shapes and colors of opinion, most of us will make the right choices about what is the right information. But a diaspora of information is critical for us to receive in a modern era.

**Frank La Rue:** Let me begin with the issue that photographer Tom has raised. There is a lot of controversy even around the term “citizen journalist.” I think citizens have the right to inform, like anyone else, and some people will inform effectively and well and some will not be so effective. But you can say the same thing about a professional journalist.

I don't think that professional journalism will disappear. I think there will always be the need for someone who is an expert on research, how to find information, how to look at the detail, how to get a leak or an informant and how to analyze that information and then how to systematize it and make it accessible and easy to understand by a broad sector of the public who are not experts on the subject. That will always be necessary.

But journalism does have one thing different from being a dentist, a doctor or an architect. It is that there should never be any conditions or any limitations on accessing this profession. I think it should have high standards of professionalism. But if a State decides that you need a title or a degree or that you need to register, or you need to be a member of an association, then effectively the State is limiting the freedom of that profession. That is the decision of the Inter-American Human Rights Court of Human Rights, which said journalism should be the freest of all professions, with no conditions applied. This means effectively that anyone can practice journalism. I think this is good, and it will be the public who will decide who is a good journalist or not.

**Mark Stephens:** Information is being limited on the web because of the privatization of the public space. The people who originated the web were committed to free speech, to an open web. Now, we have the whole organization, particularly the large Internet service providers being run by men in suits, and you have got the bean counters behaving without public accountability, behaving in their own private corporate interests, so they can switch you on or switch you off as they wish.
This is an issue I confronted years ago and I declare an interest -- I was the founding chair of the Internet Watch Foundation. We said there is only one thing we would allow Internet service providers to censor and that was child pornography, which it was illegal to possess. If you had it on your computer, you were guilty of a crime. That was unique set of circumstances, and we were at great pains not to expand it beyond that limited sphere, despite pressure from government. I am concerned that now people are quite happy for these Internet companies to slide information across to the government in an unaccountable way.

**Jérémie Zimmermann:** You have dozens of examples where so-called citizen journalists -- and I don't like this expression at all -- have revealed cases that make the news. Let's not talk only about WikiLeaks. For example, a small French blog called *Reflets.info* talked about the French company Amesys selling spying technology to Libya before *The Wall Street Journal* picked up the story.

We must face it that established professional journalists also make mistakes. Do you remember the allegation that emanated straight from the Department of Defense in the United States that the names of 200 Afghan informants were exposed by WikiLeaks. All the world’s media picked it up. How irresponsible was WikiLeaks, with “blood on their hands” and so on! One year later, people from the same Department of Defense said publicly that nobody was recorded as being killed as a result of the publication of the logs. Do you remember any professional news outfit doing a mea culpa about this? No? Me neither.

**Dunja Mijatovic:** When we discussing Internet freedom and freedom in general we complicate our lives by trying to define who is a journalist and who is not a journalist. The public will decide. Of course, journalism has changed with the digital age. I think journalists have to adapt by fighting for more investigative and quality journalism. It is better to fight for people to freely express themselves than try to establish who is a journalist.

**Panel 6: Professional and "citizen" journalism working together**

**Alison Bethel MacKenzie,** Executive Director, International Press Institute: *Who's a journalist*

I am a longtime print journalist in the United States and I have also worked as an editor in the Caribbean and as a media trainer in West Africa before joining the IPI. This is important for you to know this because we are discussing something that makes my blood pressure rise, and that is citizen journalists.

I never met a journalist in my career who doesn't know who a journalist is and who cannot define for you the difference between a citizen supplying information or a source. My mother does not profess to be a journalist, even though she has a blog and is always calling *The Miami Herald* with a tip. So we know the difference. But I think that society is slightly confused about the difference between a journalist and a source. Sources can become journalists. To be honest, the media industry has gone through a crisis and is continuing to go through a crisis, so we don't have correspondents planted all over the world like we once had. That is why we are relying on people on the ground to provide information about what they see or hear.
It is important that we explain that media professionals follow a code of ethics. We agree that while we fight for press freedom, we also fight for freedom of expression, which means we fight for anyone to put anything they want on a blog or on the Internet.

It is also important to figure out how professional journalists and people who contribute information, or even in some cases go out and perform the duties of a journalist, can work together and make sure that the information is ethical, and true.

Riyaad Minty, Head, Social Media, Al Jazeera: Working with citizen media in the Arab world

The term “citizen journalist” doesn't really do justice to what is out there right now. We had this debate in the new media department at Al Jazeera about five years ago when we are asked to predict what the media would look like in the future and how we would be able to engage with it.

At that time, the term floating around was “user-generated content,” and we were not sure whether we should use that or not. You couldn’t mention “citizen journalism” in the newsroom at all because you would be banned. Today, it has become a lot more acceptable, especially after what happened in Iran in 2009 and the Arab Spring last year.

I prefer the term “citizen media” a lot more than “citizen journalism,” because journalism entails a lot more work in terms of verification and adding context. If you happen to be somewhere when an event happens and pull out your phone to take a photo, you can be can be said to have captured a moment in time. You haven’t conducted any analysis, you haven’t provided context, you haven't explained why this event happened, what its causes are, and what are the potential after-effects.

That’s where journalism comes in. Mostly at conferences at which I speak, I am surrounded by media professionals who are always so scared that citizen journalists are coming to take over their jobs. What are we going to do? Is our job going just to be curators of content, pulling together tweets? The answer is no.

This is a relationship that needs to emerge between both mainstream media and ordinary people trying to tell their story. I think that the emergence of this whole new movement of people sharing and telling stories is not only about people being more connected. It is also about the failure of mainstream journalism.

The UN meeting devoted to Syria, and the Russian and Chinese vetoes were not mentioned on Twitter. It wasn’t trending at all. What was trending was celebrity news, and mainstream media organizations play to this a lot. I always feel disheartened when I am watching a news channel and all of a sudden something about Justin Bieber or Lady Gaga will pop up. News of the death of Whitney Houston was more important than 6,000 people killed in Syria. How can you equate the two?

As a result of this big disconnect between the entertainment culture and news, we've seen people just getting completely upset with the system and saying, “If you are not going to tell the story for me, I am going to go out and tell it myself.”
As I am sitting here, I have my screen open to someone in Syria who has posted what is happening right now, and I can watch first hand what is going on there, completely unfiltered. I am halfway across the world in a conference, and I can connect immediately with an event that is happening in real time. People are going to be shot at. There will be snipers. There will be tanks, and I don’t have to turn on Al Jazeera to get the news. I don’t have to go anywhere to get it. I can immediately get it first hand.

There is a whole trust relationship that comes up between people and media organizations. We need to be able to build trust with the audience, and often people trust people first before they trust an organization, and that’s the bottom line. I think that even with social media, within news organizations we find people are more willing to trust a person or correspondent with whom they can identify.

Even though I work for Al Jazeera, the first thing I did when Osama Bin Laden was killed was to call Twitter on my i-phone to see what my friends were saying, because I knew that they would be able to direct me to the most credible sources of news and the most accurate information. There was a guy who happened to be in Abbatobad at the same time, tweeting the entire event. We were able within a few hours to get hold of him through Twitter and get him onto TV. So, on one side we had the mainstream reports, on the other hand we had someone who was there, who saw the helicopter raid coming in and was able to live tweet it.

This is an example of the relationship between the citizen media and the mainstream. You pull the two together to tell an authentic story.

Last year was a real defining moment for Al Jazeera and citizen media. It really helped that in Tunisia we were banned as a news organization. We were banned in Libya. We were kicked out of Syria in the early days and our reporters arrested. We were kicked out of Bahrain, and we relied almost entirely on people on the ground who submitted stories to us.

We happened to have the first video of Mohamed Bouazizi when he went out and set himself on fire in Tunisia. Someone had posted it on Facebook. Had people not recorded that and had we not been able to access and broadcast it, everything we saw happening may not have happened in such a short space of time.

Eventually, this went completely viral to the point where we have our own citizen media platform called Sharek. We had about 60,000 videos sent to us directly from people on the ground during the Egyptian revolution, including 16,000 videos in the space of 11 days.

As a media organization, we can’t have people everywhere and often citizens are the first on the ground and able to report. How do you verify the information? We have been working with our journalists quite extensively since 2010 to try to come up with a model that works.

If I compare with what is happening in Syria to what happened in Bahrain or Egypt, the way in which we receive information now is completely different. The first thing we need to understand is that we need to be incredibly flexible with the rules. We need to understand the context of the people. We need to understand what they are trying to do and to build relationships early with
people on the ground. You should be proactive not reactive as a news organization. You cannot wait for something to start trending on Twitter before you report on it.

When Tunisia happened, the first thing we were asked to do was to start looking in all the other countries across the Arab world to start building relationships with influential people on the ground, so that we could trust them and verify the information. So, if we get something from a town near Homs we knew people in the town whom we can immediately call up on the phone and say, “We just got this video have you heard about what is going on?”

The same rules of journalism still apply. But getting in early and building these relationships was absolutely pivotal to what we have done, and today if I look at our Sharek platform, stuff still comes through, but it has diminished quite a bit and that is because we have built such good relations with people now they send footage directly through to us by e-mail.

Language is important. When people send us footage from Syria, we have people who understand the language, who can say: “Hang on that is not a Syrian accent – that’s an Iraqi accent.” We have people who can identify landmarks in the videos from Syria. I rely a lot on the crowd, too. I tweet out with a bit of a description, and people help us verify this content or warn us off fakes. Engaging the audience in this way has been successful for us.

You need to have a variety of sources, and you cannot just rely on one video. Of 60,000 videos, I would say that not more than 300 or 400 made it to our TV screens in the space of a year. Some of it is just so horrific that if you follow normal journalistic standards, you would never think about broadcasting it, and we cannot even put it online, it is so terrible.

When you are dealing with wars, army tanks shelling people, those who are first on the scene send the kind of stuff that keeps you up at night. Some of the videos I’ve seen, really they haunt you, but that is the reality of the world we live in.

Citizen journalists are valuable in that they are able to go beyond what we may or may not tell and provide that first hand accurate view. We will try to get as many sources as possible. So, if we get horrific video, we might not show that, but we will talk about the event, and we will reach various people within a town and see what they are saying.

Building relations with people is important. You follow leads. If someone says something has happened in Tahrir Square, automatically you find four or five other people to talk about it. If it is only one source, we will not report on it.

We are moving forward as a media organization. Previously, our top stories came from the news wire. But now on top stories, the images are from citizen media. One of the most beautiful things I’ve seen in my time working within media is the way people have become empowered to tell their stories. It’s our job as a media organization to work with them to publish the stories and put them in context. But with more and more people putting content on line, how do you filter through the noise? In the 2009 Iranian elections, there were at one point 200,000-odd tweets. Yet, we were only able to identify six people in Tehran who were tweeting.
In addition, governments are getting smarter. They are hiring people to blog on their behalf. The Bahraini government is doing it. The Israeli government is doing it. It is happening in Venezuela. The US government is doing it, too. They have a team of people at the State Department engaging with people online in these discussions. So, with governments entering this field pretending to be citizens, how do you engage? How do you differentiate between them and ordinary citizens?

Syria is a good example. The government kept the Internet up initially so they could check who was putting stuff on online. Once activists found out, they started burning videos onto DVDs, which they threw over the border into Jordan. Their friends on the other side would pick up the DVDs and bring them to us.

How do you protect identities? You may get an amazing scoop from Mohamed in Homs, who is on a street corner filing information right now. But the government is listening, too, and what is it for them to get Mohamed with a sniper, or go after his family? Protecting the identities of our citizen journalists, just as we would any other source, and filtering through the noise, are going to be major challenges, and ones that should be discussed between media organizations.

**Sankarshan Thakur**, Roving Editor, *The Telegraph*, New Delhi: *Bad marks for rumors*

I remain conflicted and confused about what we call “new media” and “citizen journalism.” I don’t think I have been able to reach any final conclusions about the phenomenon, but confused is a nice place to be.

Christopher Hitchens, who we unfortunately lost a while ago, used to say that he became a journalist so that he did not have to get his facts from newspapers. I think it is a fair taunt and a good reminder of how fallible we can be as journalists.

We journalists need to constantly remind ourselves that we are not the final frontiers of the truth or even, dare I say, of rectitude. We have proved this to ourselves and to our consumers time and time again, and we haven't even kept anything hidden. We are constantly front-paging our foibles.

We are given to misreporting, misjudgment, and misrepresentation. By default or design, we often miss a key piece of the whole picture, a required text, often the other side, often key tenets of what we are still quarreling about, which is our ethics. I have to say I am not a great fan of ourselves.

I am even less of a fan of citizen journalism. But we cannot afford to turn our noses up at the phenomenon any more. Citizen journalism is nothing to wish away, even less to ignore, especially in places were news and information are suppressed or hard to come by. It has become a critical instrument -- not merely of communication but of subversion. Nevertheless, it does no harm to be skeptical about some of its aspects and its impact on our rapidly changing lives.

Someone said, and probably rightly, that information is like ammunition. It can hurt, and it can hurt often unjustly. The modern newsroom is no longer a self-contained construct of traditional
editorial disciplines. It is constantly bombarded by external stimuli from all manner of sources that we have now come to call the new media. In my experience, much of this requires to be put to a test before it qualifies to become what we know to be news. But, unfortunately, because of the speed and spread of our technology, it has already become news before it passes that test.

Four years ago, one blogger took a cue from an erroneous piece of reporting from the sidelines of the terror attack on Mumbai and moved entire divisions of combat-ready Indian troops to the border with Pakistan. You have to understand that we are cantankerous neighbors. We have had four wars over the last 50 years. We can be quick on the draw, and we are both nuclear powers. Fortunately, the preponderance of news to the contrary quickly snuffed that dangerous lie.

Two stories I have had to cover in the past year -- the Tahrir Square revolt in Egypt and the stirring anti-corruption campaign led by civil rights groups in India -- gave further disturbing examples of how easily citizen journalism can introduce distortion into volatile crucibles.

On the third or fourth day in Cairo, as the various rebellions swelled, I began to take notice of some Egyptian bloggers and tweeters, one of whom had turned remarkably pro-active. I shan’t name him because he isn't here to defend himself, but he was dropping bits of information that, as a journalist just parachuted into a situation, I couldn’t afford to ignore. For example, Mohamed el Baradei, former head of the International Atomic Energy Agency was brokering a secret deal with the Muslim Brotherhood; the Brotherhood was plotting a coup with army generals; Mubarak was planning a Tienanmen Square-like assault on Tahrir Square; the army was splitting on sectarian lines. The stuff of rumor, all of it, but in such a situation of ferment and uncertainty, nothing seemed impossible, and, as a journalist, I felt compelled to follow these leads.

So, I e-mailed this blogger, and I asked what sources he was relying on, what sense he made of the events, and also if it would be possible for me to meet him somewhere. I did eventually receive a reply after I had returned to India. It turned out that the blogger was an expatriate Egyptian living on the West Coast of the United States, and he was passing on what he said he had heard from friends. Well, I think we should recognize loose chat as loose chat and not as information. What this person was doing was floating kites in the inflamed Egyptian skies.

The anti-corruption campaign broke out in India last March soon after I had returned home from Egypt. Two days into the sit-in by activists in the center of Delhi, we found it suddenly christened as India's Tahrir Square, which was the work of some smart journalist. This led to the skewed logic that the government should be overthrown and be given to the people. Whoever called the Delhi sit-in India's Tahrir Square had not the faintest notion of what was happening in Egypt.

In fact, it was a huge insult, considering what the people of Egypt had undergone for decades and decades under Mubarak. It was also a total misunderstanding of the situation in India because India, regardless of what Freedom House will tell you, is free. The media gets away with slaughter there. The government is hugely hobbled by a series of financial scandals, but governments in India simply don't get thrown out by street demonstrations, and the sit-in succeed in overthrowing nothing but the good sense of some people who thought they had dragged the Arab Spring to India.
Another example of citizen journalism was a story from Kashmir last year about the discovery of hundreds of unmarked graves on mountainsides towards the north. It became a big story, but almost immediately got hijacked and, I would say perverted, by a counter-story on social media about “Hindu graves,” which blew up tensions with the Muslim community.

I do not think people need degrees or titles to become journalists. Nevertheless, journalism has to be attached to a process of learning. Between pig and pork there has to be a process. You don't get pork without doing things to the pig. Journalism is not merely a craft of keyboards and touch pads. There has to be context in stories, there has to be rigor in fact checking.

I constantly have the sense that what is resumed in the new media comes without any of that rigor, and, to my mind, this is dangerous. I wouldn’t keep my job after announcing to the whole subcontinent if not the world, with nothing to back me, that Indian troops were being marched to the frontier with Pakistan. But there are those who get away with much worse. To such journalism let me leave you with the pleasure of quoting utterly out of context, the late Mr. Hitchens: “That which can be asserted without evidence can also be dismissed without evidence.”

Lance Guma, Zimbabwe exile radio journalist: Citizen journalism unbalances authorities

In September of 2000, Zimbabwe's Supreme Court made a landmark ruling nullifying a law that gave the state-controlled Zimbabwe Broadcasting Authority a monopoly over the air waves. This development followed a court challenge by Capital Radio. Armed with this ruling, Zimbabwe's first private broadcaster began broadcasting from the Monomotapa Hotel in Harare.

In the six days that Capital Radio tried to set up, test equipment and begin broadcasting, Robert Mugabe used his controversial presidential powers to nullify the Supreme Court ruling. Within one hour of the presidential decree armed paramilitary units surrounded the station and seized the equipment.

The woman behind this project, Gerry Jackson, later left Zimbabwe and set up SW Radio Africa in London. The station is staffed by a group of exiled journalists and everyday broadcasts news and current affairs programs back to Zimbabwe on short wave and on the Internet. This project has been running for ten years, and I have been a member of this team for seven years.

Because we broadcast from exile, our listeners are an essential component of both our newsgathering and content. As journalists, we aim to provide them with an alternative news source that is independent of state control and bias. They in turn also use our platform to articulate issues close to their heart.

To quote an often abused African saying: "When a hyena wants to eat its children, it starts by accusing them of smelling like goats." SW Radio Africa has been called all sorts of names by the government, and all of that was meant to justify their targeting of our operations.

Our signals on short wave have been occasionally jammed, especially toward election time. Other threats and measures have been directed our way, including a policy that no one from the ruling
party at the time was to grant us interviews. This was deliberately designed to make us appear biased.

The theme of this panel discussion "Professional and citizen journalism working together after WikiLeaks" has special relevance for us at SW Radio Africa. We share a lot of similarities with WikiLeaks.

In June last year, we leaked and published a previously confidential list of all the state security agents working for the Central Intelligence Organization (CIO) in Zimbabwe. Described as the "Internal Directory of the President's Office," the list contained the names, home addresses, national ID numbers and employee numbers of 481 operatives.

Additionally, it showed which agents were deployed in the various provinces and districts and the office buildings they used for their 'work,' including room and telephone numbers. A second list containing all the properties owned and administered by this agency was also sent to us.

So, while the rest of the world was abuzz with the WikiLeaks exposures, Zimbabwe was plunged into its own ZikiLeaks, as some called it. While I obviously cannot disclose the source of the leak, the development did pose the dilemma for our team on how we were supposed to use such information.

An intelligence agency is meant to serve national security. In Zimbabwe, however, this organization has allowed itself to become an appendage of a repressive regime. For years, its agents have relied on their secret identities to carry out abductions, torture and the murder of opposition activists.

We decided to serialize the publication of this list over six weeks and accompanied each publication with a story exposing what each of the agents on the list had done in terms of human rights abuses.

Ours was a determination to bring transparency and accountability to an organization notorious for gross human rights violations. In the nearly 32 years of Mugabe's rule, the majority of abuses -- especially to do with abductions, torture and murder -- have been committed by members of the CIO. If the release of classified information could help unmask the veil of secrecy that allowed them to act with impunity, so be it, was our approach.

We deliberately serialized the publication of the list and the accompanying articles over six weeks to allow many Zimbabweans the chance to contribute and expose what some of the people on the list had done in terms of abuses. People from all walks of life -- bloggers, academics, students, politicians and even ordinary listeners -- e-mailed, sent text messages, wrote on Facebook, sent Twitter messages. Some called the station directly to supply information.

While the most common criticism of such “citizen' journalism” is that it is too subjective and amateurish, our view was that it is the job of professional journalists to sift through such contributions and ensure that the end product meets the basic principles of truthfulness, accuracy, objectivity, impartiality, fairness and public accountability.
Our series exposing Zimbabwe's spy agency developed momentum from citizen contributions, and by the time we finished, fellow journalists in other media houses could have harvested thousands of stories from the exposé.

Unfortunately, none of the media operating in the country could even contemplate covering the story, given the repressive environment and the almost certain consequences of violating the Official Secrets Acts in Zimbabwe. It became a story only the exiled media outlets could do.

While we cannot claim to have stopped the continued abduction, torture and even murder of opposition activists by CIO agents, what we know for sure is that any member of this organization intent on committing more abuses will think carefully because information on their identities is not secret anymore.

So, not only did we engage in a WikiLeaks of sorts, the success of the series was made possible by citizen journalists in Zimbabwe. I want to use this platform to thank all Zimbabweans who took risks to contribute and supply information.

Even though we were criticized by the usual regime elements, the opinion of ordinary citizens to us was more important. As media practitioners we obviously need to vaccinate ourselves against the irresponsible use of leaked information. The bottom line, as various speakers have said here is, "Is it in the public interest?" If it is, you have won half the war.

The people who listen to us, provide feedback, news tips and sometimes commentary on important stories. Our web site also allows people to comment on stories.

I often find reader comments below a story can sometimes be more captivating than the story itself. People who are familiar with an area or a person in a story can often add value by adding new angles and dimensions.

While I wouldn't say there is an explosion of bloggers in or outside Zimbabwe, the use of Facebook and Twitter has seen phenomenal growth. The decision by the Zimbabwe government to waive import duty on information and computer technology products has seen the cost of SIM cards, mobile phones, computers and modems go down significantly.

Facebook and Twitter have provided a platform for anyone to become a citizen journalist by virtue of being able to reach a large number of people and the viral effect of the interconnectedness online.

Even as I speak, there are three relatively unknown Zimbabwean bloggers who are prominent on Facebook and Twitter who have decided they want to run for President. I suppose that is the next level for citizen journalists: "If you can't beat them, join them" by going into politics.

Only a few months ago, I was able to cover an incident concerning political violence in a remote part of Zimbabwe. A witness who had a mobile phone and could access Facebook sent me a message via chat, telling me what was happening. Not only did I get his number, call him and
interview him, I was able to check up on the story and verify what had happened through various other sources.

Every Wednesday, I produce a program called Question Time and because we are in exile and can’t get an audience in the studio to participate, we have asked our listeners to take part via Facebook, Twitter, e-mail, Skype and SMS [Short Message Service], and they send their questions in advance of the interviews we do with cabinet ministers and other prominent personalities.

While citizen journalism in Africa has often been criticized for relying too much on expensive technology, traditional media have a role to play in complementing the work of citizen journalists and giving them a voice on platforms like radio that can be accessed by the majority.

Repressive regimes all over the world probably prefer to deal with the professional media than the citizen journalists. Professional media adhere to rules, and most governments know how to play the game and work within those rules. Citizen journalists, on the other hand, bring an edge and unpredictability that unnerves authority. The average person can capture news and distribute it globally, and governments don’t like that which they cannot control. Traditional media are much easier for them to deal with.

My fear is that if we try to pressure citizen journalists to become more like the professional journalists, they will lose the enigma that has allowed them to impact the media as they have. This is not to gloss over issues of quality and content which attract criticism generally.

The ideal scenario for the media in the future is for both professional and citizen journalists to build a symbiotic relationship in which we complement each other.

**Pierre Haski**, founder, Rue89 news web site, Paris: *Discovering the power of the citizen*

I’ll speak of the French or Western context in which the news is not suppressed by censorship but is felt to be suppressed by the media system.

In many ways we have a trend here which can be seen in many Western countries where the legitimacy or the credibility of journalists is weakening year after year. In France, we have had for the past 25 years an opinion poll run by a newspaper about how French citizens judge their journalists, and for the past 25 years it has been going down and down.

What we have tried to do with Rue89, which was launched almost five years ago, in 2007, was to answer two crises of the press. One was the change of model and the rise of new technologies; the other was the moral crisis or the crisis of legitimacy of the media. I think both crises are separate, but they run together and they weaken our industry in a big way.

When we started the Rue89 web site in 2007 -- four journalists from the daily newspaper *Libération* -- we encountered what seems banal today, the power of the reader, who is a simple abstraction when you work in a print newspaper. We developed a concept that we called
participative or collaborative journalism, rather than use the phrase “citizen journalism.” which we do not really like.

There was a sharp contrast between the professional web sites emanating from existing media, which equated journalism with possession of a press card, and citizen-run sites, which said everyone can express themselves without the cooperation of journalists.

We felt that both sides were wrong. It is true that the technology has given the possibility to anyone to express themselves, and citizens will express themselves with or without the journalists. So, not taking that into account was a mistake.

On the other hand, thinking that journalism can just disappear and be replaced by spontaneous news generation was a threat to the quality of news because journalism is a set of professional and ethical rules, which should apply online as they apply elsewhere.

Based on those reflections, we developed what we call information with three voices -- with a collaboration among journalists, experts and citizens.

Today, we are a team of 15 staff reporters plus a few freelancers. We have 2 million single visitors and about one third of our content comes from this collaborative relationship with our contributors. We have a group of about 25 readers who have access to our web site who correct our spelling mistakes.

I can tell you that as a result the web site is clean, which is not the case of every news web site that I know of. The important thing is that through this process, we have been able to generate a flow of information in various forms from our contributors while maintaining the quality of news because nothing is put online without having been validated by a professional journalist.

When we started, we feared that maybe people would ask why journalists were still in control. Why do they have the final say, the final cut, as they say in the cinema? We feared people would not accept that system.

Exactly the opposite happened. People felt reassured by the fact that we apply professional rules and that we treat content from whichever source, whether it is from journalists or non-journalists in the same way. I think this is key because people come to our web site knowing that this not the kingdom of rumors or manipulation but is guided by professional rules that are transparent and visible.

The most creative part of this citizen contribution is giving the floor to what is going on in our society in the midst of the crisis. We are in an economic and social crisis that is deep and probably of historical proportions. A lot of what goes on in people’s lives isn’t being reported because journalists aren’t digging hard enough. All of a sudden, we see emerging from this community of readers, stories about their own lives that are relevant and meaningful. We have created a section called “your purse through X-rays,” where people open up about their income and their expenses, with every fact being checked by a journalist.
This is not French. You don't talk about money here. We are not Americans.

At first, we had difficulty to persuade people not only to give the facts but also their names and pictures. But now we are in a situation where we receive about two offers a day from people wanting to take part, and we have had dozens and dozens of stories where people compare themselves and see how they stand in the society. How does someone in one part of the country with such and such a degree and job live in comparison with someone with a similar background in a different part of the country? All this is discussed in a dynamic way.

We are in the middle of an election campaign in France, and all of a sudden we received a story from one of our readers which was long, and well-written saying, “I am 25. I have been interested in politics since I was 15. Here is how my political consciousness developed and why I have decided to vote for François Bayrou.”

We checked a few things and we published it. A couple of days later, we received a second story, from someone explaining why they were going to vote for Jean-Luc Mélenchon. And this morning we published a third story by someone voting for the Green candidate, Eva Joly.

You open a door and suddenly you have a flow of people who really want to go through it because it has opened something in their minds. They express themselves in their own way and not in a way that would have been profiled by a professional journalist. That is a meaningful contribution to public debate at the moment, and in a society like ours, it is not irrelevant.

This only works if it is complemented by a team of journalists who are doing their job. Our journalists are breaking stories, investigating and covering the breaking news. At the same time, they read the comments under their stories, they answer their readers, and they work with the community to develop stories. In the end, this produces a web site which has a different type of news than most news web sites in the country and maybe helps in restoring some of the legitimacy that journalism has lost in the past two decades.

**Discussion**

**Alison Bethel MacKenzie:** Most of the people I’ve worked with over the past 27 years or so are no longer practicing journalists. Nevertheless, there is a strong belief -- or maybe just wishful thinking -- that newspapers will not immediately go away. What is happening is that there are fewer journalists doing more work. So, not only are they writing the stories but also sometimes taking the photographs. I think that the model in the United States with these huge papers like *The Dallas Morning News* with 27 bureaus around the world is gone. So you do more community news, less international news, which is where citizen journalists come in, because they can be on the ground in Egypt or Tunisia and Syria and what-not.

**Pierre Haski:** We started without any investment, without a pension fund or any media group behind us. We knew there was no economic model. We started on a journalist’s intuition rather than as an economic project. Five years later, there is still no economic model, to be frank. We agreed at the end of last year to join a media group, the *Nouvel Observateur*, which is a left-wing media group in France that was lagging behind in its digital development and thought that with us
they could leapfrog a little bit. This has provided us with the independence upon which we insisted. For the moment, the relation is harmonious, because we are completely independent within the group and we have the guarantees that we will remain so. At the same time, we are integrated in a group that is still profitable. We are hiring people and we have increased salaries, which is an abnormal situation nowadays in the French media.

**Aidan White:** A lot of this conference has been focused on the potentially dangerous impact of government influence on the media and particularly related to online developments. It seems to me we are getting back to a common problem. In the end, the question is related to the economic model. How do we pay for the journalism, the quality information that is required to allow a democracy to function? If the private sector cannot deliver it, doesn't this surely mean that we have to re-examine our relationship with the State, with public institutions, with notions of public funding to restore viability to the notion of public service value in media? Unless that is done, there is a real danger of a democratic deficit.

So, this is posing the question: How do we channel public support, public funds into areas where democratic pluralism needs good media without compromising editorial independence, which is, of course, the major concern for all journalists? That is the critical question that needs to be answered if we are to find a viable future for journalism.

**Sankarshan Thakur:** I am opposed to the idea of government coming in or of public money coming in and funding journalistic enterprises because it always has strings attached. I don't think any money is pure, but I am definitely convinced for myself that I don’t want public money coming in to fund independent journalism.

**Riyaad Minty:** Egypt is a good example of how the failure of journalism led to the rise of social media coming up and how people embraced it in order to get democracy to function. In many cases within Egypt or across the Middle East, media would get funding and advertising only if they toed the State line. If you went against the State you wouldn't get any advertising and there would be no hope of funds. This is where citizen media came up. This definitely does pose a challenge to media organizations of how to stay relevant.

We are open with our content. During the Egypt uprising, we had our live-streaming available across YouTube, Facebook and Twitter and we saw an increase of 2,500 per cent in traffic to our web site. We had 350 million views on our YouTube channel. If you go through the standard YouTube advertising system you can make decent money out of that.

It all comes back to trust. If your audience trusts you, they will come to you. If you have the numbers, that's ultimately where you will get advertising.

**Frank La Rue:** We had an interesting exercise recently in Geneva with some of the highest level editorial directors of some of the big news services around the world. One of the cases we discussed was how this crazy pastor in Florida who wanted to burn the Koran became worldwide news when he was really not news. All the news services there, including news agencies, were self-critical. They said they all fell into the trap because this was something that would incite reactions. But clearly, a pastor with 50 followers or fewer who wants to do something crazy just to get on the news should have not been covered.
So, I question the idea that commercial journalism is good journalism and sustainable, while non-commercial journalism is not as good and is not sustainable. I would not make such a distinction. In Europe, not only the example of the BBC but Radio Netherlands, Radio France International and other media that are State-sponsored but independent have been very good and have good effects. There is National Public Radio in the United States, which is not funded by the State but is non-commercial and offers high-level quality journalism.

**Summing up**

**Barry James,** conference publication editor: Despite the title of this conference, it has never been about WikiLeaks or the *News of the World* per se -- rather about how these unrelated phenomena, one about leaking information and the other about stealing information, as someone put it, have impacted on the modern Internet-driven media world. We have heard how these phenomena have brought out as many challenges to press freedom and freedom of expression as they have opportunities.

When the WikiLeaks story broke, it seemed like a massive blow against state secrecy. It seemed like an era of opening on the Internet was dawning. No secrets seemed safe anymore. But as many of the participants of this conference have made clear, WikiLeaks has produced a counter-reaction that has some nefarious omens for the future of freedom of information. Add to this the fuss about the *News of the World* phone hacking scandal in Britain, where there is debate about putting news organizations under some kind of state fetters, however benignly worded, and we can see that freedom of the press is under some threat, even in firmly established democracies. I think the jury is still out on both of these questions.

Clearly, the Internet is a challenge to authoritarian regimes but also to democratic governments that want to keep their secrets. It is also becoming a tool to spy on citizens and to control information.

It is still hard to assess the importance of WikiLeaks. So far, as Sylvie Kauffmann said yesterday, the massive leaking of government cables has been a one-time occurrence. It has not opened up a massive assault on government secrecy. Newspapers that published the information that came from WikiLeaks have not suffered any consequences. In fact, the only person who has suffered big consequences is the young soldier who allegedly gave away the information in the first place. But it has brought up profound moral questions for the press.

Richard Winfield said yesterday, and I think quite rightly, that this apparent stalemate over WikiLeaks is not likely to last forever. At some stage, a government is going to prosecute a WikiLeaks-like type of organization and then we will be faced with a dilemma. Will we treat it as a journalistic organization and treat the editor as a journalist? And if you sue a WikiLeaks-type organization, what do you do about the newspapers that print the news that comes from that organization? It really does produce an enormous number of practical and moral problems.

Coming back to the *News of the World,* I don’t think the hacking revelations came as a surprise, given what we know of the British tabloid press. I remembered an old poem, not a very good one, which I’ll read to you:
You cannot hope to bribe or twist. Thank God, the British journalist. But seeing what the man will do, un bribed. There’s really no reason to.

There have certainly been illegalities and excesses, but are there not excesses on the other side? 171 policemen investigating a single news organization! That is incredible. Commercial lawyers handing over the names of sources! This is breaking a cardinal rule of journalism.

I’m not going to go over what we’ve heard today because it’s fresh in your minds. I rather agree with Alison MacKenzie. I happen to be an old-fashioned journalist, and I kind of have my doubts about citizen journalism. I thought the last discussion was tremendously interesting about how it can be combined with professional journalism.

I realize my model of journalism is changing. It may be on the way out. I hope not. I think one thing is clear: that no matter how you change the media landscape you are always going to need journalists.

Years ago, the editor-in-chief of the wire service for which I used to work, United Press International, sent a message to journalists. He said, “Remember we are not paying you only for what you put on the wire. We are paying you also for what you do not put on the wire.” In other words, select, choose, use discrimination. I think all that is badly lacking in much of what we see on the Internet today. And I think that is where journalism is going to come into its true strength, by bringing journalist values and ethics to the online world.

**Closing Remarks**

Guy Berger, UNESCO Director of Freedom of Expression and Media Development: It remains to me to close the deliberations. Running through this conference was the theme that the mass media are supposed to have very high and noble ideals. They do not always live up to them, just as civil society does not always live up to our expectations. And UNESCO, of course, has very noble goals as well and not all member states live up to what has been agreed. But I think everyone would like to say that there should be a generalized striving for human rights and in particular, from a UNESCO point of view, for freedom of expression, for freedom of the media, for pluralism and for independence, which are values agreed by the entire international community at the UN General Assembly and at the UNESCO General Conference.

So, what we have been doing is looking at the media institutions in this deepening digital era against this background of human rights, freedom, pluralism and independence.

Economically, of course, there are a lot of challenges. Journalistically things also are challenging but not in a negative way. We should remember that it was the *News of the World* which exploited new technologies to hack into a huge amount of private data, but it was another newspaper which exposed that. I think that that incident shows us that ideals of journalism persist along with some practices that are very good.

The demise of the ancients is not immediately imminent. I think that ideals of journalism are now undeniably facing forward on a range of matters, such as dealing with a fast and massive flow of
data, verification, international law and relations with intermediaries like Facebook and Google. There is also, as Riyaad Minty said, the question of trust in this new digital era.

I think these deliberations have been fruitful, and they have helped us understand the new environment. It has given us insights into how to keep the best of an enriched journalism working according to the highest ideals. I hope that the UNESCO member states who attended this meeting also understand this issue and that they react by helping the media to do their best, and also, that the media do their best to remind them to do their best.
Biographical Notes


Borja Bergareche, London correspondent, ABC, Madrid. Led his newspaper’s digital transformation and redesign of its web site in 2009-2011 as Digital Editor. He is the European Consultant for the Committee to Protect Journalists (CPJ), and author of "Wikileaks Confidencial," a journalistic analysis of the implications of Wikileaks for journalism and diplomacy. He has also worked for El País (Madrid), El Correo (Bilbao) and La Nación (Buenos Aires). He worked for three years in Brussels at the European Commission and the European Parliament. He has a Spanish law degree and earned an MA in international relations from Columbia University as a Fulbright Scholar.

Guy Berger, UNESCO Director for Freedom of Expression & Media Development. Has published almost 50 books, monographs and/or book chapters on media issues and made more than 200 public presentations, including 13 keynote addresses. Berger led the School of Journalism & Media Studies of Rhodes University, South Africa, 1994-2010. He has been a columnist for South Africa’s leading independent paper, the Mail & Guardian, and has worked in a variety of publications and as a media trainer.

Guy Black, Lord Black of Brentwood, Executive Director, Telegraph Media Group. Executive Director of the Telegraph Media Group since 2005, was previously Director of the Press Complaints Commission under Lord Wakeham, 1996-2003, and then Director of Communications for the UK Conservative Party under Michael Howard, 2003-2005. He is Chairman of the Press Standards Board of Finance (PressBof), that funds the PCC, and since 2009 has been Chairman of the Commonwealth Press Union Media Trust, which promotes press freedom in the Commonwealth. He became a Life Peer in 2010.

Heather Brooke, freelance journalist, information freedom advocate. A US political and crime reporter before moving to Britain, her investigation of expense accounts at the UK Parliament led to a major clearing out of implicated MPs and the first forced resignation of the Speaker of the House in 300 years. She writes for major British newspapers and has published three books: “Your Right to Know,” “The Silent State” and “The Revolution Will Be Digitised” on information warfare and WikiLeaks. She is a visiting journalism professor at London’s City University.
Agnes Callamard, Executive Director, Article 19. Founded and headed HAP International (the Humanitarian Accountability Partnership), overseeing field trials in Afghanistan, Cambodia and Sierra Leone and created the first self-regulatory body for humanitarian agencies to strengthen their accountability to recipient populations. She was chief of staff of Amnesty International. As Amnesty’s Research Policy Coordinator, she led work on women’s human rights. She worked at the Center for Refugee Studies in Toronto. She has written extensively on human rights, women’s rights, refugee movements and accountability. She has a PhD from the New School for Social Research, New York.


Mikhail Fedotov, Chairman, Russian Presidential Council for Civil Society Development & Human Rights. Born in Moscow to a family of lawyers, Fedotov graduated from Moscow State U. A correspondent for several newspapers, he taught at the All-Union Correspondence Law institute. In the 1990s, he was Deputy Minister of Press & Mass Media of Russia, Director General of the Russian intellectual property agency, and Russia Information Minister. He was Russian Ambassador to UNESCO. He was Vice President of the regional public foundation Information for Democracy (INDEM ) and most recently, a Secretary of the Russian Union of Journalists.

Ian Fisher, Associate Managing Editor, New York Times. He is a day editor of The Times' web site. He was a Times foreign correspondent for ten years, filing from more than 50 countries, including Iraq, Afghanistan and Israel. He started as a clerk at The Times in 1990. Until January 2012, he worked for three years as Deputy Foreign Editor, helping oversee publication of the Iraq and diplomatic WikiLeaks documents.

Lance Guma, Producer/Presenter, SW Radio African, London. Since 2005, he has been at SW Radio Africa, an exile media beamed to Zimbabwe. He holds a Masters in Media Studies (Thames Valley U., London), did a dissertation on the impact of “New Media in Opening up Democratic Space in Zimbabwe.” and has a Diploma in Mass Communication from Harare Polytechnic. At SW Radio, he has produced several programs, including Question Time, with audience participation via e-mail, text messages and social media like Facebook and Twitter. He has been in exile in Britain since 2003.

Barry James, World Press Freedom Committee conference editor. He began his news career on a British provincial weekly and moved to Argentina, where he was a reporter and assistant night editor at the Buenos Aires Herald and a stringer for the New York Herald Tribune, which he joined as a foreign desk copy editor. When it closed over a strike, James moved to the New York foreign desk of United Press International and became a UPI correspondent in Madrid, Rome, Moscow, Brussels and London. He joined the International Herald Tribune as a reporter. After its acquisition by the New York Times, he joined the English and news graphics desks of Agence France-presse. He recently earned an MA in musicology.

Rohan Jayasekera, Deputy CEO, Index on Censorship. He is Associate Editor of Index, where he has worked for over a decade. A UK-born journalist and editor of British and Sri Lankan descent, he is an ex-Fleet Street reporter and sub-editor and former Managing Editor of the Institute for War & Peace Reporting. He has reported from many datelines, from Baghdad and Kabul to Sarajevo and Jerusalem. He chaired the Tunisia Monitoring Group of freedom of expression NGOs.

Sylvie Kauffmann, Editor at Large, columnist, Le Monde. Editor-in-Chief of Le Monde until June 2011. She joined the paper in 1987 as Moscow correspondent. From 1988-1993, she was its East and Central Europe correspondent and a correspondent from Washington and New York, 1996-2006. Back in Paris, she was successively reporter-at-large, head of the paper’s in-depth reporting section, and deputy editor. She became its senior writer in Asia, from Singapore. Before Le Monde, she worked for Agence France-presse as a correspondent, in London, New Caledonia, Warsaw and Moscow. She graduated the Law School of the U. of Aix-en-Provence and its political science institute. She has a degree in Spanish from Deusto U. in Bilbao and graduated the Centre de Formation des Journalistes, Paris.

Janis Karklins, UNESCO Assistant Director General, Communication & Information. Previously Latvia’s Ambassador to France and UNESCO after serving as Latvia’s Permanent Representative to the UN in Geneva. There, he was 1st Vice-Chairman and later Chairman of the
Council of the International Organization for Migration and held several elected posts in the World Intellectual Property Organization and UN Commission of Science & Technology for Development. He was Vice President of the Preparatory Committee of the Geneva Phase of the World Summit on the Information Society (WSIS) and chaired the Preparatory Committee of WSIS’s Tunis Phase. Kārkliņš represented Latvia in the Governmental Advisory Committee of ICANN and chaired it, 2007-2010. He was Under Secretary of State in Latvia and Counselor at Latvian embassies in France and Finland. He has an engineering degree from Latvia’s Riga Technical U.

Jane E. Kirtley, Silha Prof. of Media Ethics & Law, School of Journalism & Mass Communication, U. of Minnesota. Has written many articles on media law, freedom of information, and ethics. In 2010, her “Media Law Handbook” was published by the US State Department and has been translated into several languages, including Arabic, Azeri and Chinese. Before joining the U. of Minnesota faculty in 1999, Prof. Kirtley was Executive Director of The Reporters Committee for Freedom of the Press for 14 years; practiced law in New York and Washington DC; and was a newspaper reporter in Indiana and Tennessee.

Frank La Rue, UN Special Rapporteur on Promotion and Protection of the Right to Freedom of Opinion and Expression. He argued before the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights and taught university programs in human rights research and public policy. He became Special Rapporteur in 2008. Since 2006, he has presided the Board of Directors, Institutio Centroamericano de Estudios para la Democracia Social, Guatemala, an NGO to promote democracy and support youth, women and indigenous populations. Previously, he was Human Rights Advisor, Guatemalan Foreign Ministry; Presidential Commissioner on Human Rights, and Executive Director, Center for Human Rights Legal Action (Washington DC, Guatemala). He is a professional broadcaster and contributes to Guatemala’s daily Prensa Libre.

Kamel Labidi, President, National Commission to Reform Information and Communication (INRIC), Tunisia. Formerly a consultant to the International Freedom of Expression Exchange (IFEX) and represented the Committee to Protect Journalists for the Middle East and North Africa. He was also Amnesty International’s Beirut-based MENA region Human Rights Education Coordinator; an Amnesty field officer in Palestine, and headed the Tunisian branch of Amnesty International. In the mid-1990s, he was a Tunisia correspondent for United Press International (UPI) and researcher for Reporters Sans Frontieres. He was the French daily La Croix’s Tunis correspondent, 1988-94, and a contributor to Le Monde since the 1970s. He has degrees from the U. of Paris and the U. of Tunis.

David Leigh, Investigations Executive Editor, The Guardian, London. One of Britain’s best-known investigative journalists, he has received numerous UK journalism awards, including twice Investigative Journalist of the Year and the Transparency International Integrity Award,
2008, for exposing corrupt arms sales. He organized *The Guardian*’s publication of Wikileaks diplomatic cables; revealed £1 billion paid to Saudi Prince Bandar by arms company BAE; exposed secret payments to the Prime Minister’s son, Mark Thatcher; and UK intelligence vetting of BBC journalists. He is Anthony Sampson Professor of Reporting at London’s City University and trustee, of its Centre for Investigative Journalism. In 1980, he was the first Laurence Stern Fellow at *The Washington Post*. He has worked at *The Times of London*, *The Scotsman*, Edinburgh, and as a documentary filmmaker at Granada and Thames TV. He co-authored “Wikileaks: inside Julian Assange’s war on secrecy.” Other books: “Frontiers of Secrecy: Closed Government in Britain,” “Chernobyl,” and “Sleaze: the corruption of Parliament.”

**Justine Limpitlaw, communications law consultant, South Africa.** Specializes in media, broadcasting, telecommunications, space and satellite law. She holds a law degree from Yale and has lectured on communications-law issues at a number of universities, including Witwatersrand, Pretoria, Columbia and Oxford. She has been a director of the South African law firms of Edward Nathan Friedland and Mkhabela Huntley Adekeye. She is writing the second edition of “Southern African Media Law Handbook,” published by the Konrad Adenauer Stiftung. Advance chapters at [http://www.kas.de/medienafrika/en/publications/23503/](http://www.kas.de/medienafrika/en/publications/23503/).

**Jan Malinowski, Head, Media Division, Council of Europe.** A lawyer, qualified in Spain and England. After eight years’ practice in Barcelona and London in civil, family, criminal and commercial law, he joined the Council of Europe (CoE) where he worked 11 years with the anti-torture watchdog, supervising treatment of persons deprived of liberty. He has headed the CoE Media Division since 2005 and been responsible for supporting its standard-setting on media, freedom of expression and Internet governance. The standard-setting has resulted in adoption by the 47 CoE member states of a number of texts including on human rights and Internet filters, ISPs, Internet freedom and its public service value.

**Dunja Mijatovic, OSCE Representative on Freedom of the Media.** Named to her post at the Organization for Security and Cooperation in Europe in March 2010. In 1998, as a founder of the Communications Regulatory Agency of Bosnia-Herzegovina, she took part in creating a legal/regulatory/policy framework for the media. She helped create Bosnia’s self-regulatory Press Council and the first Free Media Helpline in South East Europe. In 2007, She was elected Chair of the European Platform of Regulatory Agencies -- the first non-EU representative and first woman in the job. She also chaired the Council of Europe's Group of Specialists on freedom of expression and information in times of crisis. She has worked on media legislation for Armenia, Austria, Iraq, Jordan, Montenegro, Serbia, Slovenia, Morocco and Britain. She has degrees from the Universities of Sarajevo, Bologna and Sussex and the London School of Economics.

**Riyaad Minty, Head of social media, Al Jazeera Network.** He insures *Al Jazeera* presence and participation on Facebook, Twitter and other social media. Riyaad was in the team that produced *Al Jazeera English’s* Emmy-nominated coverage of the 2008 US presidential election

Charles Onyango-Obbo, Nation Media Group’s Executive Editor for the Africa & Digital Media Division, Nairobi, Kenya. Named to the post in March 2008. A Ugandan, he was Managing Editor of The Monitor in Uganda, which he helped found. In December 2002, he moved to Nairobi for NMG after it acquired the leading independent Ugandan newspaper. He is a columnist for the Daily Nation, The East African, The Monitor, Uganda, and The Citizen, Tanzania, focusing on African democratic transitions, political economy of new technologies, and social trends. He has written three books: “Uganda’s Poorly Kept Secrets,” “Inside the Soul of a Nation and Its People,” and “It Never Happened: The Story of the Last Days of Idi Amin.” He has a BA from Makerere U., Uganda, and a journalism MA from American U., Cairo, and was a Nieman Fellow at Harvard.

Geoffrey Robertson QC, British media lawyer. Robertson has argued a number of landmark media law cases before courts across the Commonwealth and at the European Human Rights Court, including the leading case on protection of journalists’ sources, Godwin v, UK. An Australian-born Rhodes Scholar, he has authored numerous books, including “People Against the Press,” “Freedom, the Individual and the Law” and co-authored “Media Law,” the standard British reference. Until 2007, he was an appeals judge on the UN special court for Sierra Leone, where he authored the leading ruling on rights of journalists and human rights monitors in war crimes courts. He founded and heads the Doughty Street Chambers law firm in London and is on boards of numerous NGOs. He has represented The Guardian, The New York Times and The Wall Street Journal, Salman Rushdie, Julian Assange and Mike Tyson. He got the 2011 New York Bar Assn. Award for Outstanding Achievement in International Law, and was named by UN Secretary General Ban Ki-moon as a “distinguished jurist” member of the UN Justice Council.

Paula Schriefer, former Vice Pres. for Global Programs, Freedom House. She became US Deputy Assistant Secretary of State for Human Rights, Humanitarian and Social Affairs in May 2012. She oversaw Freedom House global programs, including freedom of expression and advocacy at the UN. From 2006-2011, she was Freedom House’s Director of Advocacy, including coordination with international organizations. She joined Freedom House in 1997 when it merged with the National Forum Foundation. She worked earlier at the National Endowment for Democracy, in 1994. She has a BA in Russian Area Studies from the U. of Denver and completed the Russian & East European Studies MA curriculum at George Washington U.

Alison Smale, Executive Editor, International Herald Tribune, Paris. Organizes the IHT’s daily news report, plans future coverage and is involved in mapping global strategy of the IHT’s parent New York Times Media Group. She joined the IHT from The Times, where she was Deputy Foreign Editor from March 2002. She joined The Times in July 1998 as Weekend Foreign Editor.
As the Associated Press Vienna Bureau Chief for Eastern Europe, Smale covered the fall of communism in the region, the rise of Slobodan Milosevic and Serbian nationalism and the 1990s Balkan wars. In Moscow, where she was posted from 1983-87, she chronicled the Soviet leadership transitions from Andropov to Gorbachev. She organized much of The Times’ prize-winning coverage of the wars in Afghanistan and Iraq.

Mark Stephens, chief, international/media section of London law firm Finers Stephens Innocent. A solicitor specialized in international comparative media law, including constitutional, human rights, intellectual property, privacy, art and cultural property, data protection and freedom of information. He has litigated numerous high profile cases in Britain and abroad. He was appointed by the UK Foreign Secretary to the Foreign and Commonwealth Office’s Free Expression advisory board and by the Lord Chancellor as a Champion for the Community Legal Service. He is also a broadcaster, writer and lecturer. He has been retained as an advisor by a number of governments and to represent their interests, including Cyprus, Jamaica, Libya, Mauritius and Russia. He chairs a number of institutions, including the Contemporary Art Society, the University of East London, the Management Committee of the Program in Comparative Media Law & Policy at Wolfson College, Oxford Centre for Socio Legal Studies. He is on the boards of Index on Censorship, Bianca Jagger Human Rights Foundation, Commonwealth Lawyers Association and Human Rights Council of the International Bar Assn.

Sankarshan Thakur, Roving Editor, The Telegraph, New Delhi. Has reported politics and conflict from many datelines in a 28-year career. His reporting has included leftist insurgency in the Indian heartland, the Kashmir conflict and the Indian-Pakistani rivalry that degenerated into a third war in summer 1999, and the terror assault in Mumbai ten years later. Thakur covered Egypt’s Tahrir Square revolution in 2011, and the anti-corruption drive in India, both of which sparked controversy over the role of new social media. He was Executive Editor of the Indian online newspaper Tehelka and Associate Editor of The Indian Express.


Cynthia Wong, Director, Global Internet Freedom Project, Center for Democracy & Technology, Washington DC. Trained as an attorney, Wong conducts much of CDT's work promoting global Internet freedom, focused on freedom of expression. She is also co-chair of the Policy & Learning Committee of the Global Network Initiative (GNI), a multi-stakeholder group
for corporate responsibility for human rights in communication technology. Before CDT, she was Robert L. Bernstein International Human Rights Fellow at Human Rights in China, where she worked on business, human rights and Internet freedom issues.

**Aidan White, former General Secretary, Intl. Federation of Journalists.** Led the IFJ for 24 years and originated its Ethical Journalism Initiative. He joined the newly formed Global Editors Network in 2011. He heads the Coalition for Ethical Journalism, launched in Hong Kong in November 2011, bringing together journalists and media leaders from all regions, to build a culture of professionalism and professional responsibility in news organizations across all platforms. White is also an editor for Media Diversity Institute, London. He led an international press freedom mission to Hungary in November 2011.

**Doudou Ye, legal affairs writer, Caixin Media Group, Beijing.** Became a journalist in late 2004, after working as a legal assistant in a law firm. In January 2009, Ye was one of the 80 per cent of the staff who followed the founder of Caijing Magazine, Hu Shuli, when she left to found the Caixin Media Group after disagreeing with the publisher on business and editorial policy. The new company publishes two magazines and books, runs a web site and produces TV programs. In the Chinese context, Caixin Media gained renown for its freedom of approach, stressing business and economic news, fields that enjoy relative journalistic independence. Ye writes on law and politics, including such sensitive topics as a series on the Sanlu milk powder scandal and numerous reports on judicial independence. Since Internet media regulation is relatively loose, Caixin can go online with stories on Caixin Web before topics are declared off limits.

**Henrikas Yushkiavitshus, Vice President, Eurasian TV & Radio Academy.** Trained as a broadcast engineer, he headed the Lithuanian Technological Department, 1958-1966; was Director of the International Television & Radio Organization in Prague, 1966-1971; Vice Chairman of Gostelradio, the USSR State Committee for TV & Radio, implementing Glasnost, with ministerial rank, 1971-1990; UNESCO Assistant Director General/Communication, 1990-2001; and, since 2001, Consultant to UNESCO’s Director General.

**Jérémie Zimmermann, co-founder, La Quadrature du Net.** Spokesperson for the advocacy group, founded in 2008 to defend rights of citizens on the Internet. It advocates modification of French and European legislation to respect the founding principles of the Internet, notably free flow of information and knowledge. La Quadrature du Net engages in public debate on freedom of expression, copyright, regulation of communications and online privacy.