

Scandal!

News International and the Rights of Journalism

John Lloyd



RISJ CHALLENGES

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News Corporation CEO Rupert Murdoch is driven into the News International headquarters in London July 10, 2011.

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Executive Summary

The exposure in mid-2011 of a culture of phone hacking in the *News of the World* and, more widely, of the political intimidation in which News International titles indulged, and of the alleged corruption of police officers revealed a serious and fundamental breach of journalistic ethics. Rupert Murdoch, chairman of News Corporation – parent company of the UK newspaper company News International – has invested heavily in journalism, some of which is of high quality. But the depth of the betrayal of journalism undertaken by the (late) *News of the World*, the statements given repeatedly by News International executives which lack all credibility, and the thuggery offered to elected politicians cancel out the merits.

In the past few decades, the tabloid press and the celebrity magazines, among other media, have interpreted much of their mission as making the exposure of private life – particularly sexual affairs – their journalistic mission and their business model. This has meant an ever-sharper struggle with the law on privacy – a struggle through which the invasion of privacy has been moderated, though not halted. For many in the news media, barriers to protect private life are barriers which must be breached in order to prove journalistic credibility.

The freedom to publish is one of the great liberalising struggles of the past three or four centuries, one which has closely linked press freedom to democracy, at least in democratic states. In authoritarian states, the model used by those journalists who oppose the restrictions and threats under which they work appeals to a Western model of independent journalism – one which is sullied by the practice of the kind of journalism revealed in News International tabloids, which proclaim freedom of the press only to use it to destroy people's lives.

The Net is held by many to be the clearest proof that privacy cannot now be effectively protected. The Gawker family of websites, based in New York, underpins this view: its existence is to discover and publish gossip and scandal,

based on the frank view that this is what interests the public, though it has no public interest as commonly defined. That claim is demonstrably true: very large numbers of people now take significant pleasure in being informed of the private lives of others, especially famous others. The Net greatly extends that available information.

One of journalism's centuries-long struggles has been to escape from the tyranny of the official version of events in order to produce a view which draws from a number of sources as well as the official one. The Net greatly assists this: it opens up huge numbers of sources for journalism and makes available armies of witnesses who are willing, even avid, to share their pictures, stories, and impressions. This expansion of sources – and perhaps of understanding – is a large gain for journalism.

The social media were held to be important in the gathering rebellions in Egypt and Tunisia (and to a lesser extent elsewhere in the Middle East) in the first half of 2011. They carried news, images, and information which allowed the protestors to develop common aims and organise their demonstrations. In some versions, the demonstrations were seen as 'Facebook revolutions'. However, scepticism expressed as to the centrality of the media to the revolts has a real basis; and the destructive riots in the UK in August 2011, organised by social media and mobile phone messaging services, showed that these media can be bent to any use.

The publication, in a number of mainstream newspapers, of large amounts of documents relating to the wars in Iraq and Afghanistan, and drawn from hundreds of thousands of US diplomatic cables, established Wikileaks as a new journalistic phenomenon. It has also spawned a number of imitators, 'leak' sites which advertise themselves as secure depositories for confidential information. A debate now rages as to how far Wikileaks material should be encouraged, how dangerous it could be, what the role of the mainstream media should be, and for what purpose the material is being published.

Within the last few years, the scope and range of journalism has hugely increased, under pressure above all from the huge growth of the Net, but also from the increasing encroachment of journalism into areas of life once guarded as private, from the availability of troves of documents through leaks, and the use of social and other media in various forms of protest. These developments have laid to rest the fears of mainstream journalists that the Net might have a uniformly malign effect on 'proper' reporting; but they have raised new concerns as to the proper limits of journalism, the asocial effects of the social media, and above all the continuing clash between the demand for exposure and the rights of citizens to privacy.

The central rationale for journalism – to make a connection between citizens and the public life they have been instrumental, through their votes and their activities, in creating – remains unchanged.

1. What Rupert Did

The crisis at the *News of the World* broke in July 2011. It had been gathering for five years, since the first public intimations surfaced in 2006 of a culture of using private investigators to hack into the mobile phones of those the newspaper wished to investigate. Two ‘rotten apples’ were thrown out by News International, the parent company: these were Glen Mulcaire, the private investigator employed by a number of papers to find out secrets of the objects of their investigations; and Clive Goodman, the *News of the World* (*NotW*) reporter who covered the royal family and whose stories had used material gleaned by Mulcaire from interceptions of the royal princes’ phones. The rest of the barrel, the paper and the company said, was unblemished: as evidence of purity of soul, the then editor, Andy Coulson, resigned, disavowing all knowledge of the hacking but shouldering responsibility as the one on whose watch this had happened. A few months later, he was employed as director of communications by David Cameron, the leader of the Conservative Party and of the opposition; when Cameron moved, in May 2010, into Number 10 as prime minister, Coulson retained his post and moved with him. It was reported that several of those who met Cameron at this time warned him against employing Coulson. The latter’s claim, that he had not asked a senior reporter about the source of stories which would be among the most important published in any given week, astonished those who had any acquaintance with journalism. However, Cameron said he accepted his word, that Coulson deserved a ‘second chance’ and that he had skills which the leader of the opposition needed.

From these quite modest beginnings grew a scandal whose revelations have laid bare journalistic practices which were not confined to phone hacking, nor to the *NotW*, and involved issues even more serious: the assumption by leading journalists working for the most widely read section of the British press that the private lives of anyone in whom they wished to take an interest should be open to their gaze and use; increasing subordination of the political class to tabloid pressure; and the possible (as yet unproven) corruption of

officers of the Metropolitan Police.

This is written as the News International scandal, and others associated with it, rolls on. The issue is sufficiently mature, however, for there to have appeared a substantial minority of voices which dissent from the chorus of condemnation which has attended these revelations, and assert that, even if the scandal is shocking, it has been grossly overblown – as a *Wall Street Journal* editorial¹ had it, overblown because of left-wing hostility to right-wing newspapers. These voices point out that more important matters face the world; and that, even if Rupert Murdoch, chairman of News Corporation (whose UK subsidiary News International is, and which also owns Dow Jones, parent company of the *Wall Street Journal*) presided over an organisation in which such things were winked at, he has also been a force for good in the newspaper trade. He smashed the anarchic Fleet Street print unions which were a barrier to development and growth, invested mightily in an industry from which others were and still are exiting, kept alive (among other titles) *The Times* at a large loss, provided millions of readers in three Anglophone countries – Australia, the UK and to a lesser extent the USA – with newspapers which they freely and often chose to buy, and ran an efficient and entrepreneurial company. More, as Ros Wynne-Jones argued in the *Independent*,² at times his tabloids did revelatory and campaigning journalism on issues that mattered to a working-class readership: ‘holiday rip-offs, the loan shark thugs, the tawdry parasitical underclass that preys on the poor and elderly’. One could add to her list an appetite for exposing racial extremists: the *Sun*³ vividly reported on leading members of the British National Party, which had sought to give a more moderate image of itself, giving Nazi salutes and glorying in racial hatred.

Be careful what you wish for, is the collective message. And given the record, these arguments have force. So we should assert here the importance of what happened, which must be set against these assertions.

First, the *News of the World* (*NotW*), for many years the highest-circulation newspaper in Britain, systemically hacked into the phones of politicians, celebrities, and people in the news – including murder victims and their relatives – in order to produce exclusives. Their journalists also bribed policemen, both with petty cash and – allegedly – with large payments: an early estimate was that News International (NI) had spent £100,000 on such bribes, though as this is written there is no definite evidence. They found out about the private sins of people in public life – and where they did not print details, they held the results of the investigations over their heads. The Liberal Democrats, the junior party since May 2010 in Britain’s governing coalition, alleged that senior

1 Wall Street Journal, 18 July 2011.

2 Independent, 22 July 2011.

3 Sun, 3 August 2011.

officials had been told that News International papers would ‘do them in’ if they did not press for the government to allow Murdoch to take full control of the highly profitable UK satellite broadcaster BSkyB; he already owns 39 per cent, and his son James was and remains chairman. This was threatened, it is alleged, at the time when Vince Cable, the Liberal Democrat business secretary, had the responsibility of deciding on the bid. He was relieved of that when, in a sting organised by the *Daily Telegraph* in December 2010, he told two journalists who were posing as his constituents, that he was ‘at war’ with Murdoch. The responsibility passed from his department to Jeremy Hunt, the culture secretary – who was on course to approve it until the revelations came, and the deal was lost. In late July, several journalists who had worked for other tabloids – such as the *Daily* and *Sunday Mirror* – alleged that phone hacking was common in these newsrooms, under the editorship of Piers Morgan (1995–2004) and perhaps before and after. It rapidly appeared likely that the *NotW* was not alone in accessing messages to obtain salacious gossip. In September last year, the *New York Times Magazine*, in a major exposé of the News International affair, quoted a former *NotW* reporter, Sharon Marshall, as saying that ‘it was an industry wide thing. Talk to any tabloid journalist in the United Kingdom, and they can tell you each phone company’s four-digit codes. Every hack on every newspaper knew this was done.’⁴

The News International tabloids were the market leaders in a casual cruelty to their victims in which their most active spirits revelled. ‘That is what we do: we go out and destroy people’s lives,’⁵ Greg Miskiw, the former news editor of the *News of the World*, is reported to have said to one of his reporters. British tabloids live(d) by the disclosure of private details, however obtained, and may die for the lack of it (if matters really do change). Scandal, mainly sexual scandal, became their business model and their journalistic mission, one which drew assent even from those journalists who did not share their methods. Paul Dacre, editor in chief of the *Daily Mail* and *Mail on Sunday*, told a committee of Lords and MPs examining the draft Defamation Bill that ‘I personally wouldn’t have it (the *NotW*) in the house but I would die in a ditch to defend its right to publish.’ Publishing meant to continue what was, at its root, a theatre of cruelty.⁶

Second, many political figures have felt bound to confess they had sought to placate and woo Rupert Murdoch. In one of the debates on the issue in the House of Commons, David Cameron made the humiliating comment that ‘your bins are gone through by some media organisation, but you hold back from dealing with it because you want good relations with the media.’⁷ Peter

4 New York Times Magazine, 1 September 2010.

5 Peter Burden, *News of the World: Fake Sheikh and Royal Trappings* (London: Eye Books, 2009).

6 Evidence to Select Committee on Law Reform, 1 September 2010.

7 House of Commons, Prime Minister’s Questions, 13 July 2011.

(Lord) Mandelson, in an interview in mid-July, said that all politicians avoided confrontation with the press 'because we were too fearful'.⁸ In a reflection on the affair in the *New Yorker*, the journalist and dean of the Columbia School of Journalism, Nicholas Lemann, wrote of the mafia-like ecosystem supporting *News of the World*-style journalism, in which even the highest politicians feel that they will suffer grave personal consequences if they fail to feed the hungry monster.⁹

The honest among them, having expressed dismay at the scale of the criminality, turned the question back: what would you have us do? Politics requires power; to keep it requires some measure of public support; the only large-scale vehicle for communication and the attraction of public attention, given the decay of political parties and their capacity to enthuse and attract large-scale movements of the left or the right, are the news media. Here was a news media company with vast power over public opinion, with a proven record of diminishing politicians. To scorn it and its owner was to invite the treatment meted out to Neil Kinnock, leader of the Labour Party (1983–92), who did scorn it and never won an election; or John Major, Conservative prime minister (1992–97), who had NI's (and most other newspapers') support when he won, and had their contempt when he lost. Wooing, as dignified as possible, seemed the best tactic. But it meant that an Australian with American citizenship exercised huge influence over the style and content of British politics, and that British prime ministers, party leaders, and the ambitious of all parties quickly learned the wisdom of attracting his journalists' favorable attention.

Third, now that this bubble has burst, it seems we 'knew' that these things happened. We – really the political and media people – 'knew' that phones were hacked, policemen were paid off, and politicians were exposed, or threatened with exposure, if they felt like attacking News International. We 'knew' all this – and yet the revelations, generally prompted by the *Guardian's* dogged digging in the story over years, burst like a bomb – as if on a wholly unaware society. Disclosure of what we 'know' changes the way in which we know: it supplies details rather than rumours, and replaces the pseudo-sophisticated cynicism with which most insiders dealt with what they 'knew' with a context in which outrage could – indeed must – be expressed, a reaction which only a few, such as the Labour MPs Tom Watson and Chris Bryant, had dared to show before. As with the Wikileaks' revelations (see Chapter 7), 'knowing' becomes knowing only when detail, context, and impact are combined. We 'knew', for example, that Saudi Arabia feared Iran (or, again, the political/policy/media circle 'knew'). But we knew the scale of it and depth of it only

8 Guardian, 11 July 2011.

9 'Bad Press', *New Yorker*, 1 August 2011.

when a diplomatic cable exposed by Wikileaks quoted members of the Saudi ruling house asking the USA to ‘cut off the head of the snake.’¹⁰

Disclosure, when it is well founded, is knowledge without quotation marks. The News International revelations meant that, after them, we knew that the tactics of the tabloids – which could have been seen as either comic (of the *Front Page* sort), or in the public interest, or, since it affects only those who live by publicity and thus must occasionally be wounded or die by it, harmless – were in fact harmful, threatening intrusions into what were the most intimate, even tragic, moments of private life. With that knowledge has come resistance, not just to the methods of tabloid journalism but to the combination of threats and arrogance which the News International papers and their executives displayed. The future of newspapers, the news business, British (and other) journalism, and also a significant part of the quality of civic life depends substantially on how far this resistance will remain, and how far a new spirit can effect a deep change.

Fourth, the News International titles, in common with all newspapers and especially tabloid newspapers, had huge reservoirs of indignation ready to be poured over governments (especially), corporations, and other institutions which lie, cover up, disguise, obfuscate, and spin. Yet here is another thing we ‘knew’: that, though the news media relentlessly promoted transparency and accountability, they are of all institutions the least likely to live by their rules – indeed, they reject these rules in the name of freedom. The now-classic critique is that of Onora O’Neill, who argued that

the media, in particular the print media – while deeply preoccupied with others’ untrustworthiness – have escaped demands for accountability ... outstanding reporting and accurate writing mingle with editing and reporting that smears, sneers and jeers, names, shames and blames. Some reporting ‘covers’ (or should I say ‘uncovers’?) dementing amounts of trivia, some misrepresents, some denigrates, some teeters on the brink of defamation... Above all there is no requirement to make evidence accessible to readers.¹¹

O’Neill ‘knew’ that by observation; but she, and we, did not know how right she was – or rather, how only partially right she was, since to the smears, sneers and jeers, the names, shames, and blames have to be added the driven, ruthless hacking into the private lives of the powerful and the powerless; the contempt the senior levels of News International expressed for those

10 ‘Saudi King Asks US to Attack Iran’, Reuters, 28 November 2010.

11 Onora O’Neill, Reith Lecture 5, 2002.

politicians who sought to call them to account (and even more for those who did not); and the ways in which they lied, again and again, about what they knew, when they knew it, what they had done, and what they had allowed to be done. When tasked about the public interest in exposing a public figure's affair, a standard rationale from tabloid journalists and executives was that the errant figure was 'hypocritical' in endorsing, implicitly or explicitly, one set of moral standards and living by another. Few such figures, however, could compare with that hypocrisy by which News International lived: an example widely copied.

Fifth, journalism has been at the heart of a generally optimistic narrative of freedom and openness over the past three decades, as communism collapsed in central and eastern Europe, apartheid ended in South Africa, media deregulation in India saw an explosion of news media in both broadcasting and print, and partial privatisation and the granting of a measure of editorial freedom was allowed to the news media in China, which has elevated the struggle for a journalism of accountability to one of the major elements of a wider push for democratic change. At least until recently, it has been assumed that the world was getting freer, and in getting freer was becoming more open; and that this was due, in considerable part, to the globalisation, and liberating effects, of independent news media and their democratic ethic.

The assumptions and methods of, especially, US journalism have spread around the world, and have been adopted by journalists almost everywhere. At the core of the American way of journalism is disclosure – the people's right to know: and with that, a distrust of the state and of other institutions of great power, as potential or actual centres of control and suppression. Yet most places in the world are not the USA nor the other liberal democracies which, in the main, protect and nourish combative media. In most places, where journalists wish to practice a journalism of disclosure of facts deemed by the powers that be as inconvenient to be published, they must risk censorship and must practice some subterfuge. Yet the fact that what liberals regard as 'true' journalism – journalism which, in Timothy Garton Ash's phrase,¹² is factual and can thus be subversive of everything from bureaucratic obstructiveness to systematic state oppression or corporate criminality – is what active and idealistic journalists everywhere now aspire to, was a huge step.

The British news media had been among the leaders in celebrating these developments, yet simultaneously some of them were busily undermining freedom at home, by spying on the private affairs of a wide group of people and by using media power to cow elected politicians. The subsequent round of abject apologies by everyone involved – Rupert and James Murdoch, and Rebekah Brooks, former chief executive of News International – were

12 In *Facts Are Subversive* (London: Atlantic Books, 2009).

of course part of a public relations strategy aimed at rehabilitation and the limitation of damage to the mother company, News Corporation. Apologies were necessary, but missed the larger point.

Though the journalism of the Murdoch British titles can be accurate and revelatory in its reporting, analytically sharp, at times investigative and with commentators who are among the most readable in journalism, they and journalism as a whole have been badly damaged by some of their News International colleagues and by the company's senior executives. They betrayed what all of the News Corporation's many newspapers and networks insist is their prime function: to hold power to account. They did so by smashing into what people assumed were their private communications; and by interpreting their watchdog function as one of political bullying, the explicit or implicit threat of blackmail, and the assassination of characters and institutions they did not like.

The newspapers wielded a power which only, in the end, became accountable because of the revelations of their criminality and abuse. Journalism's honour was, in the end, salvaged by the fact that the main sources of the revelations were, in the first and main place, the *Guardian* and in the second, the *New York Times*, the latter of which gave the story global validation by promoting it as a major event. Both were derided by News International executives as acting solely from the motive of dragging down the opposition. Rebekah Brooks, when still chief executive of News International, claimed that the *Guardian's* investigation 'substantially and likely deliberately misled the British public'¹³; and Bill Akass, managing editor of the *NotW*, said that the *New York Times* investigation 'was motivated, at least in part, by the desire to harm a competitor'¹⁴ (the competitor being the *Wall Street Journal*, which had added a New York supplement to its weekend edition). All of these statements, and much else, were burned up in a bonfire of their, and others', vanity that the British press had a robust, anti-establishment, irrepressible popular press, an example to the world. That part of it which could answer reasonably to that description has been comprehensively tainted by the theatre of cruelty staging its shows in another part of the building.

The last consideration is of the future. The right to privacy was at the core of the News International affair, and it will benefit in the short run. The quite unrelated case won by the Formula One chairman Max Mosley against the *News of the World* in 2009, some time before the scandal fully broke, punished the paper for revealing that he took part in and paid for a sado-masochistic evening with a number of prostitutes dressed in skimpy Wehrmacht 'uniforms'. Mosley took the money, but refused to run away from further publicity and

13 Economist, 14 July 2011.

14 Ibid.

mockery: instead, he became a campaigner against sex-scandal revelatory journalism, arguing for a provision in the law which would force newspapers to approach the object of their exposure with details of the story before it was published – a proposal which was rejected by the European Court of Human Rights in May 2011. The Mosley/*NotW* judgment itself, bitterly resented by the tabloids, established an area in which private behaviour which was legal and harmed no-one could, whatever its content, be protected from salacious discovery. Mosley became a campaigner – with the actor Hugh Grant, who had had a brief liaison with a prostitute, Divine Brown, in Los Angeles publicised in 1995 – against the tabloid culture: both men joined the campaign Hacked Off, founded by Martin Moore of the Media Standards Trust. The assumption by the tabloids had been that those who were exposed in this fashion would be so ashamed, so terrified of further exposure, or required good relations with the mass media so much (the Cameron/Mandelson position), that they would skulk away and cause no trouble: Grant and Mosley showed considerable courage in defying that logic. Privacy, and the right to it, won a round.

But not the fight. One of those who argued that the *NotW* had done no fundamental wrong was John Cook, of the Gawker family of websites which specialise in gossip and revelation of private lives. He wrote that

*all sorts of good stories require sleazy, gross, 'risible' behavior that falls short of outright criminality, and the last thing England [sic] needs is a cowed press corps worried about bringing down sanctions for coloring outside the journalistic lines. And the last people you want writing the playbook for acceptable journalistic behavior are the politicians you are supposed to be covering.*¹⁵

Gawker is an important phenomenon, and there is more on it below (see Chapter 4); here we should note that it has been able to grow and to flourish because of a very large public appetite for what it sells: gossip, celebrity news, and sexual revelation. The columnist Nick Cohen wrote that the '*News of the World* routinely humiliated and taunted its targets because of their sex lives. Far from throwing the paper aside in disgust, the *News of the World's* audience wanted more of the same.'¹⁶

The humbling of News International, welcome as it was and is, actually runs against the grain of the times: privacy is shrinking. It may provoke a recoil long-lasting enough to give the laws against interception of messages some force, and thus to diminish the practice. It may encourage politicians to cease

15 'In Defence of the Sleazy Press', 13 July 2011; gawker.com.

16 Observer, 24 July 2011.

to regard the tabloids as capricious deities which must be constantly placated with the sacrifice of principles – at least for a time. But the engines put into motion by the demands of an insatiable curiosity will find new routes.

2. The Forward March of the Public Interest Halted: the Invasion of Private Life

The popular, or tabloid, press, especially in the UK but also in Australia, Germany, South Africa, and Sweden, has always existed in a state of tension with the upmarket press. Formally and rhetorically, they share the same mission: to hold power to account, to make the significant interesting, to give their readers a workable and coherent picture of their society and the world. In fact, the tabloids – especially the British tabloids – have for many years ceased to do that in any consistent way that would be recognised as conforming to the ethical standards and proclaimed democratic mission of journalism.

Until the past three or four decades, the tabloids may have carried more entertainment than the upmarket press, but they covered the same waterfront of stories – even serious foreign stories (many had a small network of foreign correspondents). However, led by the *Sun* after its purchase by NI, they turned more and more to what they believed their readers preferred: entertainment, scandal, and sex, together with a more aggressively consumerist bent, which the upmarket press shared. After all, it was argued, most people got their basic agenda of news from television: popular newspapers had to turn to subjects and treatments not offered (then) by television. Where the tabloid editors had been, as in the upmarket papers, recruited from the ranks of political and foreign correspondents, or news and feature editors, they increasingly were drawn from the growing pool of show business writers. One such was Piers Morgan, now a presenter of the main interview show on CNN long commanded by Larry King, who laid out in his diaries,¹⁷ with great frankness, the criteria which he employed when editing the *Daily Mirror*; by far the most important story, and his most important relationship (even if occasional), was

17 The Insider (London: Ebury Press, 2005).

that with Diana, Princess of Wales, in the last years of her life the biggest celebrity story in the world. He treated leading politicians as rather more boring celebrities – and with contempt, which they, fearfully, could not return.

Because tabloids and the burgeoning numbers of celebrity magazines have come to depend increasingly on sex and scandal, there has been an increasing focus on how far it is 'legitimate' to breach privacy in order to produce revelations. This has been sharpened by the provisions in the European Declaration of Human Rights – now incorporated into individual European Union member states' legislation – because the declaration proposes two rights which are increasingly seen to be in conflict. Article 8 protects private life:

Everyone has the right to respect for his private and family life, his home and his correspondence...

while article 10 protects freedom of expression and publication:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

There are important exceptions to these in the full version of the two clauses, but the contest between the core of their provisions is keen, and leaves judges – where there is no law on privacy, as there is, for example, in France but not in England – with the responsibility to balance between them.

Because private life thus enjoys a measure of protection, and because judges have been willing to grant injunctions against future publication, or damages against past publication, to those who apply to them, it has emerged as an increasingly scarred battleground. And because private life is so central to the financial health of the British press, most of this discussion is about the situation there – though the broad principles apply elsewhere and the battles are worldwide, if to differing intensities and on differing grounds.

Private life is seen as a threat both to journalism's self-appointed role as a guardian of the public interest, and to its commercial interests – especially to the latter. There are three main arguments against private life made by journalists. Two are best made by Paul Dacre, editor-in-chief of the *Daily Mail* and *Mail on Sunday*; one is best made by David Leigh, investigations editor of the *Guardian*, and with Nick Davies one of the leaders in the skewering of the *News of the World*.

Dacre's arguments are contained in a speech – one of the most important made about British journalism in recent years – to the Society of Editors

in 2009.¹⁸ In it, he gave two reasons why private behaviour – which usually means private sexual behaviour – should be open to journalistic exposure. First, there is the commercial/pluralist reason. Tabloid readers expect to see in their papers fairly frequent revelations about the private lives of the rich and famous – and occasionally of people who are neither, but whose scandals skilful journalists can make of consuming interest. Dacre's view is that unless this is delivered, tabloid newspapers will decline and close, thus decreasing the number of newspapers and with that, the diversity of the British press: 'if the *News of the World* can't carry such stories as the Mosley orgy, then it, and its political reportage and analysis, will eventually probably die.' Second, there is the moral reason. Dacre believes that revelations of the sins of (especially) the mighty, the rich, and the influential, reduce the commission of these sins. People who live in fear of exposure do not err so much. The tabloids play the role of moral police: they keep people in line. If – this is implicit in what he says rather than explicit – the newspapers cannot extirpate sinful thoughts, they can curb sinful behaviour: 'now some revile a moralising media. Others, such as myself, believe it is the duty of the media to take an ethical stand.'

The 'Mosley orgy' is a perfect illustration of Dacre's point. In March 2008, the *NotW* printed pages of text and photographs, and released video footage, of Max Mosley, president of the Fédération Internationale de l'Automobile, the governing body for Formula 1 racing, engaged in sado-masochistic sexual acts with five sex workers, simulating (according to the paper) Nazi fantasies. This had wide resonance, since Mosley's father, Sir Oswald Mosley, had been the pre-war head of the British Union of Fascists, and a keen supporter of Adolf Hitler. Mosley denied the Nazi theme. In July 2008 Mosley won a High Court legal case against the *News of the World* for invasion of privacy. The presiding judge, Justice Eady, said that 'I see no genuine basis at all for the suggestion that the participants mocked the victims of the Holocaust.'¹⁹

The episode demonstrated both Dacre's financial and moral points. The *NotW* depends on such revelations: for the paper, this was a grade A story, with hot buttons of prostitution, sado-masochism, and Nazism strongly pressed. Mosley was (and remained: motions for his resignation as head of the FIA were defeated, though he later retired in late 2009) a public figure, albeit well known largely within the world of motor racing. He had paid for what is still widely regarded as 'perverted' sex, and thus shown himself to be a poor role model.

Third, there is the investigative reason. David Leigh of the *Guardian* believes that privacy and private spaces often mask activities and policies which can become public in a malign fashion. For the powerful, he believes, the division

18 Society of Editors conference, Bristol, 2008.

19 Lord Justice Eady, judgment in case of *Max Mosley v. News of the World*, High Court, 24 July 2008.

between public and private is often non-existent; and thus to stop at, say, the bedroom door is as potentially disempowering of a thorough investigation as stopping at the boardroom door.

People are entitled to know whom Peter Mandelson (the former Labour Cabinet Minister and European Trade Commissioner) is sleeping with, if only on the grounds of pillow talk – just as you should know who a heterosexual person is married to, so that you can see if they are getting preferential treatment because of who their partner is.²⁰

He also points to the need for investigation of sexual affairs, especially of politicians. It is in the public interest to know if the sexual partner is of the same political view as the politician; and if the affair may lead to public malfeasance.

The classic was David Blunkett [former Labour Home Secretary] carrying on with Kimberley Fortier where the first reaction in the Guardian was – ‘oh, this isn’t in the public interest; who he has sex with is his business’. This turned out to be wrong; not only was he sleeping with someone of violently different political persuasion – which raises questions of hypocrisy – but he was allegedly doing favours for her nanny and whatever because he was smitten with her. Then there was a whole set of issues over whether he had fathered her child. So the first impulse to say ‘leave it alone’ was wrong.²¹

These are all serious reasons, and all have serious foundations. The fewer revelations of the private lives of the rich, famous, and celebrated, the fewer copies the tabloids – already declining, with the rest of the press in most developed states – will likely sell. And the more revelations there are, and the more skilled and subtle the investigators who concoct these revelations, the more public men and women are likely to fear them, and the more careful they will be about private sins – possibly to the point, in some cases, of not committing them.

And it must be true that public actions and decisions do not stop at the door of the private retreat. An illicit sexual liaison is still, as it has long been, open to the possibility of blackmail; and blackmail may often entail a breach of public

20 Stephen Whittle and Glenda Cooper, *Privacy, Probity and Public Interest* (Oxford: Reuters Institute for the Study of Journalism, Challenge Series: 2008), p. 23.

21 *Ibid.*, p. 24.

duty or public trust to be bought off, as Leigh says. Even if – indeed, because – the president or prime minister is uxorious, s/he may, in the seclusion of private quarters, be persuaded by his or her partner on a course of action which has very large, perhaps dire, consequences for the country. If, therefore, it were well known that a president's or a prime minister's partner were influential on the thought and actions of the country's chief executive – and many have been, as might be expected – would it not be in the public interest to somehow obtain the secrets of these private, intimate conversations? And if the president or prime minister were given to pray to an Almighty – as some have been – and sought guidance from that Being, and believed s/he had received it, would it not be in the direct and urgent public interest to understand the nature of that supernatural relationship, and what it meant for the decisions later publicly announced? There are very few parts of private life not amenable to closer scrutiny in the public interest.

It could be seriously argued that the so-called private lives of heads of state and government, and a range of other powerful people, should be of *more* interest to a responsible journalism than their public lives: since much of the public is usually relatively easily accessed, and increasingly so by non-journalists willing to spend much time on the Net. The investigation of private life, by contrast, demands a good deal of journalistic skill and experience, of the kind shown by Mazher Mahmood, the 'fake sheikh' investigative reporter of the *NotW*, who has in the course of a 20-year career with the newspaper claimed to uncover more than 250 crimes or crime rings. He has also been the prime mover in exposés which include Jerry Springer's use of prostitutes before doing a programme condemning prostitution, the desperate efforts to raise money on the part of members of the royal family – such as the Duke and Duchess of Kent; Sophie, Countess of Wessex, wife of Prince Edward, the Queen's youngest son; and of course Sarah, Duchess of York, revealed by Mahmood as asking for £500,000 for access to her former husband, who was also the trade ambassador of the UK. Mahmood also elicited, under the guise of a billionaire Arab angling for a world-class football manager, the private thoughts and greeds of famous football managers, including the then boss of the England football team, Sven-Göran Eriksson.

When you consider Mahmood's achievements, you get some sense of what a public interest haul a cavalier attitude to private life can turn up. It is in the public interest to know that members of the extended royal family, some of whose lifestyles the taxpayer subsidises, are seeking to raise money in underhand, close to criminal, ways; it is in the public interest to have criminals – in one case a murderer – exposed; it is in the public interest to know that an influential talk show host who takes a particular moral stance behaves, in private, in the ways in which he condemns. If one defines the public interest as what citizens should know in order to assist them to make decisions, then

the 'fake sheikh' is a real asset.

This is the case for privacy being a barrier to, indeed an enemy of, journalism – an enemy of media pluralism, of wide diffusion of newspapers, of journalism's ability to deter sin, of the deepest investigations. We should recognise that not only does the case against preserving privacy have powerful defenders, it also is a powerful case. Investigative journalism *is* more difficult when it has to worry about privacy. The most popular papers – the ones that most of our fellow citizens read – *would* be hobbled, perhaps condemned to death under a tough privacy regime. The fear of exposure *will*, in some cases, stop desire becoming action. Reporters like Mazher Mahmood *would* be forced out of business, or at least to the margins.

The best recent example of David Leigh's contention was provided, not by his own paper, but by the *Daily Telegraph*, with its revelations on Vince Cable's private thoughts about Rupert Murdoch, then bidding for total control of BSkyB.²² These revelations were undeniably interesting, but so was the means of getting them, gained as they were by two young women reporters posing as constituents, who encouraged Cable's boastful statements. Their journalism invaded a space assumed to be largely private – that occupied by MPs and their constituents.

Journalists have used undercover disguises before – the BBC did so in 2003, sending a reporter pretending to be a police recruit to uncover racism in Manchester's police force: the result was a series of suspensions and resignations. The 'fake sheikh' is so called because Mahmood usually posed as a wealthy (and naïve) Arab businessman. But the disguised intervention into the relationship between a member of parliament and his constituents pushes these tactics deep into the relationships politicians must have with their electorate, an area into which Mahmood never went. It posed a question to politicians more insistently than ever before: with whom can I say what I think?

The newspaper, and others, argued that to know a senior government member's private views is in the public interest, since it allows citizens to understand what the real tensions and strains are within the government that they elected and pay for. Increasingly, for politicians, the private space has shrunk to a few defensible areas, such as family grief, though even then cameras intrude – sometimes invited and encouraged by the public relations people working for politicians, anxious to gain some sympathy and thus support. The *Telegraph's* coup was an innovation; editors and political writers have understood and accommodated some wriggle room between the public statement and the private sigh: not now. The implication of the *Telegraph's* journalism is that having its reporters lie about their identity is justifiable where it reveals that a politician's statements which he assumed were private

22 Daily Telegraph, 21 December 2010.

clash with those he makes in public. The further implication is that private doubts, boasts, and assurances ought always to accord exactly with public ones, and that when they do not it is shocking enough to require exposure with the aid of deceit. This definition of the public interest would hold that we – the public – should know as much as possible about as many facets as possible of our representatives, because nothing which is private could not be shown, under some conditions, to have some public consequence.

In one view, this would, if it became the norm, encourage a more truthful public sphere. We – and especially our leaders – would, conscious that all was potentially transparent, develop into Houyhnhnms, the race of super-rational horses discovered by the hero in Swift's *Gulliver's Travels*. These creatures were so uncomprehending of the notion of mendacity that Gulliver had to describe a lie as 'saying the thing that is not'. In this world, politicians would give the whole range of their thoughts on every subject, whether in support of their party or government or not; officials would make public their policies and plans at every stage; diplomats would reveal all conversations, unofficial agreements, and proposals and everyone would reveal all aspects of their personal lives on demand from anyone – while the public would have the maturity to understand and take no unfair advantage of these disclosures. That would, it could be argued, be a far better world than the murk of falsity in which we have to accustom ourselves to live, even in comparatively open societies.

That is one part of what you must put to yourself if you wish to argue for the protection of private life from the depredations of a manically curious popular – and sometimes, too, unpopular – press. But there is more.

The popular newspapers of the UK have retained a mass – if relatively shrunken – readership, by using sex as a major part of their content. Vicars and their affairs were once a staple; now, it is film and television stars, sports people (especially footballers), politicians in high office, other prominent public figures (including business people), and the now large group of men and women who are connected in some way to the media world and court publicity, in part through their private lives.

For millions of men and women, this is a significant component of their regular reading. The enjoyment gained is that which most people get from gossip: the delight in others' misfortunes and discomfort. This is true at all levels of most societies; and since most people in developed states no longer live in village or other communities where there is a communal pool both of gossip and of moral approval and disapproval, then gossip and moral disapproval, explicit or implicit, come from the media.

The tabloid media were, until some 30 years ago, largely left wing. They are presently largely right wing: the *Sun*, the *Daily Star* (the only UK newspaper to show growth in the past 2–3 years), the mid-market *Daily Express* and *Daily Mail* (with Sunday editions) have a combined circulation of 6–7 million

copies a day, and a readership of at least twice that. On Sundays, before its closure, the *News of the World*, also on the right politically, easily outsold all others. The position of these newspapers is best described as populist-aspirational: they make sure they support causes which appeal to working and lower-middle class readers, such as, in recent years, strong support for better conditions for and recognition of the military. Though pro-Conservative, they are alert to anything which can be represented as 'snobbish'. One of the reasons Andy Coulson, former editor of the *NotW*, was employed as director of communications by David Cameron was to guard against any hint of that becoming obvious – a necessary precaution in one as socially privileged as Cameron, with wealth and titles in his and his wife's family trees

The care politicians must take to appear ordinary is because the popular press in Britain is alert to the satisfaction which the humbling or fall of the mighty can give to their lower-class readers. The irritation which those in power and/or with wealth cause to those who have neither can be very large, even when passive: exposure is some redress. This readers' *Schadenfreude* is, of course, not a right enshrined in law, but it is one strongly guarded, nevertheless. In the past few decades, the choice of leisure and entertainment available to nearly everyone has hugely increased. The once relatively restricted media of all kinds available to working-class people, described in different ways by George Orwell and Richard Hoggart, has now expanded to a huge choice, especially of television. Thus the media which rely on revelations of what they claim are deviant private lives have the strongest defender of all – the reading public, who choose these products in much larger numbers than do their fellow citizens who read the upmarket press. And that is before one comes to the publishers, who have a very strong financial interest. These latter include, in the UK, News Corporation, with *The Times* and *Sunday Times*, *Sun* and (formerly) *NotW* and some magazines; Associated Newspapers, which publishes the *Daily Mail* and the *Mail on Sunday* as well as a chain of regional papers; Trinity Mirror, which publishes the *Daily Mirror*, *Sunday Mirror*, and *Sunday People* and also has a chain of regional papers; and Northern and Shell, which publishes the *Daily* and *Sunday Express* and the *Daily Star*, as well as magazines, of which the largest in circulation is *OK*, a gossip magazine with a global franchise and a claimed readership of 30 million. These companies are strongly opposed both to the use of injunctions, and to a privacy law – which has now (mid-2011) been mooted as a possibility by the prime minister, David Cameron. For some – especially in their different ways News International, the Mirror Group, and Northern and Shell – a strong privacy regime successfully preventing revelations which, however much they interested the public, were deemed to have no public interest as commonly defined – would be a financial disaster.

3. In Freedom's Vanguard Still?

The argument above is that the News International scandal was the logical, even inevitable, conclusion of a culture which, in its relentless hunt for the mother lodes of private information, ignored the solemn ethics which governed the practice of journalism and trampled on the law itself – all the while continuing, as long as the denizens of this culture felt themselves able, to express contempt for whichever level of authority attracted their bile: and called it accountability. The damage this has done to journalism in the UK, and perhaps elsewhere, still has to be reckoned. Certainly, the often repeated view that British journalism was the finest in the world – this made usually by people who did not or could not understand any other journalism than the Anglophone – has had its life curtailed in all but the mouths of the most determinedly jingoistic. But the pleasure that foreigners, especially foreign journalists, took in the humbling of the often-arrogant and careless British press has to be tempered with a reflection on their own journalistic cultures. Few would survive a careful scrutiny of their value to society unscathed.

Such scrutinies would be useful, even essential – for the news media has basked for many decades in a satisfied appreciation of their own basic goodness – with some justice. The approach of transparency, disclosure, exposure, and openness has become, over centuries, increasingly accepted in those parts of the world where the political structures became more democratic. Indeed, disclosure and transparency were and are seen as an integral part of democratic rule and of a civil society. By the second half of the 20th century, what had been a halting progress became something of a flood, in both the democratic and the non-democratic world. It is because that is so – because we had been able to erect a narrative which put the workings of independent media at or near the centre of the expansion of democracy – that the betrayal of all ethical standards in the UK tabloids is so damaging.

Journalism in print, broadcast, and on the Net – from the slave state/party media of North Korea to the almost entirely non-state journalism of the USA – provides a version of current events: indeed, tells us what current events are.

In the case of North Korea, now rare in its extreme subordination, it exists to give the population the views of the state and the ruling party, and to educate them in what the party believes is the proper duty to the state and to itself. In free societies, the democratic purpose of the media (which, as we have seen, can be at once proclaimed and betrayed) is to hold power to account, by making the significant interesting and thus providing for the citizenry a range of information and analysis which allows them to understand the world in which they live, and to make informed decisions about the public choices they make.

Behind the latter development stands centuries of struggle and debate, which gave independent journalism the freedom it now enjoys in democratic societies and the prestige it has among would-be independent journalists in authoritarian ones. A quick roll-call of the founding texts: the poet and political activist John Milton's *Areopagitica* (1644) is among the first, with its belief that if freedom is given to publication, truth will drive out falsehood – this based on the comment of Christ (John 8: 31–2) to his disciples: 'if ye continue in my word, then are ye my disciples indeed. And ye shall know the truth, and the truth shall make you free'. Milton believed that truth lay, above all, within the boundaries of Protestant Christianity: a severely restricted space by present lights, but a start.

Much more profane was John Wilkes, a polemical and conflictual figure, first elected to the UK parliament in 1757, and in 1763 charged with seditious libel for attacking in his newspaper, the *North Briton*, a speech by his sovereign, George III. In an early invocation of parliamentary privilege, Wilkes won the case and resumed his seat – creating a precedent which allowed the reporting of parliament, enshrined in law in 1771.

The political philosopher John Stuart Mill, a century later in his essay *On Liberty* (1859), secularised Milton's argument, arguing that human liberty

comprises, first, the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions [is] almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it... No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified. The only freedom which deserves the name, is that of pursuing our own good in our own way,

*so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.*²³

Much less well known – though more immediately influential in his own country – was the Finnish–Swedish writer and naturalist Peter Forsskål, whose *Thoughts on Civil Liberty* (1759), published exactly a century before Mill's essay, has recently been translated into English for the first time.²⁴ Forsskål, who retained some of Milton's belief that free discussion would take people into the path of (religious) truth, looked forward to the Millian 19th-century conception of its usefulness – even if he framed his argument for free speech in social-patriotic, rather than individualist terms:

it is also an important right in a free society to be freely allowed to contribute to society's well being. However, if that is to occur, it must be possible for society's state of affairs to become known to everyone, and it must be possible for everyone to speak his mind about it. Where this is lacking, liberty is not worth its name. Matters of war and some foreign negotiations need to be concealed for some time, and not become known by many, but not on account of proper citizens but because of the enemies. Much less should peacetime matters and that which concerns domestic wellbeing be withheld from inhabitants' eyes...when the whole country is known, at least the observant do see what benefits or harms, and disclose it to everybody, where there is freedom of the written word. Only then can public deliberations be steered by truth and love for the fatherland, on whose common weal each and everyone depends.

Forsskål's argument, though deeply contentious (the book was suppressed after printing, and most of the copies destroyed), was a major influence on the passing of the 1766 Printing Press Act in Sweden, which abolished prior censorship (as had happened in England 70 years before) but, more importantly, gave Swedish citizens the right of public access to official documents, such as decisions of law courts, of the government and the Rikdag (parliament). Though absolutism was re-imposed soon after the Act, and its measures were for some decades a dead letter (to be re-codified in an Act of 1810, it was not repealed and was revived in the postwar act of 1949). The right of access is not absolute, and there remains – as in the many national acts on freedom of

23 J.S. Mill, *On Liberty* (Harmondsworth: Penguin Books, 1982).

24 Peter Forsskål, *Thoughts on Civil Liberty* (1759), ed. Peter Goldberg et al. (Stockholm: Atlantis, 2009).

information – a list of exceptions, where access may be denied; but it became part of the Swedish mindset, and ‘whistle blowing’ by government officials and others is generally protected in a way in which it is not in most other states. The central importance of the legislation was its prodigious embrace of the concept that citizens had the right to see the fundamental decisions of their state – until then, assumed to be for the eyes of the elites only. Nearly two-and-a-half centuries ago, the idea that state documents should be public property was put into the water.

These arguments – religious, social, and individualist – were developed further in the 20th century, to become an established assumption: that one of the fundamental bases of a democratic and civil society was freedom of expression and (a different matter) freedom of publication. In the USA, in the course of their fundamental debate in the 1930s on the responsibilities of journalism, the journalist Walter Lippman and the philosopher Thomas Dewey differed on the importance and status of journalists. Lippman believed their job was to transmit the views of experts so that at least some people might understand the world better; Dewey, that they were an integral part of general citizens’ engagement with the politics and issues of their society; but both assumed freedom to publish, and that the press had a crucial role to play in a democracy.²⁵ The Hutchins Commission, reporting in 1947, at a time when, exceptionally, the benign effect of the US state could still be uncontroversially assumed, at least by the professors who almost wholly made up the commission, nevertheless concentrated on recommending that the press rather than the government take the lead itself, grasp its democratic duties fully, and

*assume the responsibility of providing the quantity, quality and variety of information and discussion this country needs. This seems to us largely a question of how the press looks at itself. We suggest that the press looks upon itself as performing a public service of a professional kind. Whatever may be thought of the conduct of individual members of the older, established professions, like law and medicine, each of these professions as a whole accepts a responsibility for the service rendered by the profession as a whole, and there are some things which a truly professional man will not do for money.*²⁶

25 Michael Schudson, “The ‘Lippman-Dewey Debate’”, *International Journal of Communication* 2 (2008), pp. 1031–42.

26 Commission on the Freedom of the Press, *A Free and Responsible Press* (Chicago: University of Chicago Press, 1947).

What counts is what journalism did with these ideals; and in the 20th and 21st centuries, it has done and still does a great deal. The 20th century saw, in the democratic states, a commitment, led by the BBC, to public service broadcasting, ideally (an ideal rarely wholly observed beyond the UK, and on occasion not there) independent of political pressure; a growing practice of detailed investigative work in newspapers, magazines, and also in some broadcast channels; a less deferential attitude to power of most kinds (except that of media company proprietors); and an understanding by most ruling classes that the exposures and investigations of independent journalism could not be suppressed, even when (most of all when) embarrassing, or worse.

The prestige which the ideals of liberal journalism (as against the practice of everyday journalism) still command has been assisted by a major political initiative, which has crossed many borders. Freedom of information (FoI) laws have been passed in many countries; and though some are badly and obstructively administered, they have introduced a very large amount of information into the public arena which previously authorities had ritually refused to release. A study by Jeremy Hayes for the Reuters Institute argues – though with reservations – that

*on the criterion of [the use of FoI] across the board, taking in the full spectrum of inquiries it has permitted ... the results are highly positive. For many journalists the volume of new information has proved considerable and productive ... after four years in Britain it is hard to imagine FOI legislation being reversed.*²⁷

The same judgment will hold in most other states in which such laws have been introduced.

But it was in the authoritarian states where journalism has played a more transformational role: and still does.

In the Soviet Union, in the late 1980s, a revolution was in part based on journalism. Mikhail Gorbachev, Soviet Communist Party general secretary, later Soviet president, decreed a policy of *glasnost* – a word often translated as ‘openness’, but defined in pre-Gorbachev Russian dictionaries as ‘publicity’. The second meaning is that which Gorbachev had wished: that the media should air themes and proposals – certainly, refreshingly reformist ones – which he and his fellow communist leaders wished to inject into the Soviet bloodstream. But soon, publicity morphed into openness: those most seized with the desire to reform a system over which they had long despaired pushed and tugged at the expanded limits till they expanded more – pushed to have

27 Jeremy Hayes, *A Shock to the System* (Oxford: Reuters Institute for the Study of Journalism, 2009).

more and more banned writers published, to open up forbidden subjects, from the icy camps of Kolyma to the ice pick in the head of Leon Trotsky in Mexico, to allow reporters to use their own judgment rather than pass everything through an external, or internal, censor. It seemed, then and in the 1990s after the Soviet Union and the Communist Party had collapsed, that this kind of journalism was not just possible, but had won; and if the new *Izvestiya* was not exactly the *New York Times*, nor *Kommersant* the *Financial Times*, still the thought was there, an aspiration, once the cobwebs of the Soviet Union had blown away and new generations of reporters came along, to subject the new post-Soviet world to the rigours of a journalism which would hold up the events, the leaders, and the institutions to the light, so that citizens could see their natures, actions and workings.

That has not, of course, exactly happened. The cobwebs of the old Soviet Union have proved tougher than gossamer, and much stickier; and the new generations are proving, in significant part, much less liberal than nationalist, less open than authoritarian. Much of journalism, especially that practiced by television, has conformed to the line of the Kremlin: not in the robotic manner of the Soviet Union – instead with lively reporting and flashing graphics and contemporary production values – but with the same end as Soviet news: the bolstering of central power.

Yet the ideal of liberal journalism remains, as an aspiration for many and as a practice of some, mainly in newspapers. *Novaya Gazeta* is the best known, a paper which has suffered the loss of several of its reporters through assassinations; but others, less high profile, seek to make their journalism more than an obeisance to power. A sort of dual mentality reigns in the attitudes of many post-Soviet journalists, especially those working in the provinces where the local power, composed of the political and the commercial classes, ensures that, day-by-day, the media serve their purposes. The day-by-day mentality is that which works within the system imposed by these powers; the aspiration is for a journalism of free inquiry into significant events and abuses, in the interests of accountability and civic information.

In China, as the journalist and scholar Haiyan Wang writes, the 1980s reforms in the media – commercialising much of the press and the broadcast media, withdrawing state subsidies from them – led to Chinese journalists ‘having to serve two masters’: the party and the market, or in other words, to adhere simultaneously to ‘the Party line’ and ‘the bottom line’. Facing such a dilemma, Chinese journalism is subject to a number of conflicting pressures, and the space for doing journalism is constantly fluctuating.²⁸

Chinese journalists work in three zones. The black zone, an understanding of which is key for all journalists (since transgression is dangerous to one’s

28 Haiyan Wang, speech to Axxess conference, Stockholm, September 2010.

career, even freedom) is the forbidden area, where issues like the Tienanmen Square massacre, the Dalai Lama and Tibet, Taiwan, dissidents like Liu Xiaobo and Wei Wei, together with criticism of the Communist Party and of senior politicians, are all off limits. Either these subjects and individuals cannot be mentioned, or they must be addressed in a carefully approved manner.

On the other hand, in the white zone, the media are perfectly free to eulogise the Party and its accomplishments; to report on successes in the economy, society, and elsewhere; to do human interest stories in which humble individuals become successful, and rich; and even to air criticisms with which the Party is comfortable, or even wishes to see discussed. 'Soft' news on fashion, music, television, and celebrities is – within quite wide limits – fine (some conservatives within the Communist Party deprecate too much consumption and display). News about other countries is carefully monitored; but once the party line is followed, news about other states can be quite full.

The area of struggle is the grey zone, where the right to report has to be negotiated – where probing reports, and facts which may be embarrassing to one or other layer of power, can be published, broadcast or, increasingly, put on line. Wang says that

*it is in this area that emerges what people call 'professional journalism', 'critical journalism', or even more ambitiously 'investigative journalism'. Whatever terms may be used, it implies that this is the place where China's most vibrant journalism inhabits.*²⁹

In the world's most populous country, the practices and beliefs of liberal journalism are locked in a struggle with the Party and the state. It's a complex one, which requires experienced manoeuvring between layers of authority, often playing one off against the other. But the aim is an independent journalism based on liberal principles: as Haiyan Wang says, it is in these interstices in the system that an independent journalism can emerge.

Both Russia and China are, in differing degrees, authoritarian societies. As we have been reminded in the UK, journalism in liberal democratic societies can go rotten, too, with the connivance of the political class; though there, the instruments of correction, of which inquiring news media were one, are available and are usually mobilised sooner or later. When such scandals are exposed, the implicit or explicit basis of the critique is always the liberal model of journalism – an ideal of independent judgment, sceptical probing, and freedom to publish all facts.

The inheritance of journalism in free societies is one which, in its Sunday

29 Ibid.

best, celebrates the right to pursue the facts and the freedom to express and have published all opinions. Many have suffered and died for these, and many continue to do so. Yet freedom of publication must have a commercial side – for even where publication may be free, it is not cheap. The professors in the Hutchins Commission naturally thought of the ‘professional men’ in medicine and the law, whose lives were strictly regulated by their peers and who tended to gain status and income, the more ethical and professional they were (assuming a non-corrupt and independent judiciary). In these activities, they believed, ‘there are some things which a truly professional man will not do for money’³⁰ – a posture which is possible because lawyers and, still more, doctors practise a profession which people need at critical times in their lives, but which they generally do not understand. The practitioners of these professions could thus set strict conditions to the practice of these professions, since they know that, in advanced societies, people demand well-qualified doctors and honest lawyers and must trust professional bodies to certificate them as such. But most people *do* understand popular journalism – because it deals with their lives or with lives of those whom their experience has allowed them to recognise and judge – and importantly, with their fantasies, prejudices, loves, and hatreds. They make a very large market for a journalism which serves these desires. Long before the Internet, this market existed for journalism which did *not* see itself, as Professor Hutchins and his commission colleagues saw it, as ‘performing a public service of a professional kind’³¹ – not, at least, as they would define it.

30 Commission on the Freedom of the Press, op. cit.

31 Ibid.

4. The Net 1: Destroyer of Privacy, Wrecker of Decency

In strongest support of all arguments against the maintenance of privacy is the existence of the World Wide Web, or Net. It is generally believed that the Net renders more or less everything transparent, sooner or later. The culture secretary, Jeremy Hunt, is one such believer: it is, he believes, 'a very powerful force that you can't buck'. If the Chinese can't fully control the forbidden material which their citizens put on the Net – and they have a communist party, 40,000 Net censors, and millions of people who voluntarily report seditious stuff on the net – then how can we?

As an index of how powerful the Net is in this field, consider one of its most remarkable products: a web-based publication which is one of the greatest threats to privacy, because it so proudly argues that it is *not* in the public interest, and justifies itself so overtly as providing that which interests the public. The family of websites which go under the name of Gawker – created by the British journalist Nick Denton, and based in New York – specialises in scandal, sex, and revelation, and does nothing else; and in doing nothing else, Gawker claims that the sites have 32 million unique visitors each month – twice as many as the *Washington Post*, the same as the *New York Times*.

Denton breaks a new barrier because, while he has not wholly left behind the public interest defence for intrusion into private life, he is determined to do so: he sees it as a retrograde tic of which he has not quite rid himself. The US journalist James Fallows, writing about the new media,³² went to see him in his New York loft-office, where some 50 employees pump out the material (few leave the screen: as Fallows writes, the 'reporting' is nearly all online, following links to get to juicy material). Denton talked of a recent story in which Gawker paid a young man for pictures of a one-night stand he had had with Christine O'Donnell, who was running for the US senate in Delaware,

32 James Fallows, 'Learning to Love the (Shallow, Divisive, Unreliable) New Media', Atlantic, April 2011.

and had taken a strongly moralistic stance on sexual issues, advocating abstinence, including from masturbation. Denton said that in response to criticism, he mounted a public interest defence – that O'Donnell's private life was in such flagrant contrast to her public positions that exposing her was the right thing to do. But he regretted doing it. Fallows writes:

*'I don't believe we should have done that defense,' Denton told me when I spoke with him at Gawker HQ on Elizabeth Street in Lower Manhattan early this year. 'It's helpful when someone is a hypocrite, but we should have just said that our interest is voyeuristic. "We did this story because we thought you would like it. We thought it was funny, so we thought you'd think it was funny, too." And there was a tidal wave of traffic and attention.'*³³

Denton believes that his system – where Gawker stories are graded and displayed on a board by how many unique visitors they attract – should be copied by the mainstream media.

*'If I were running The New York Times,' Denton said, 'the first thing I would do is put numbers next to every story, as Gawker does on its home page – not just include a most-e-mailed list but fully embrace the concept of giving readers more of what they want.' If he felt compelled to do 'good' for the world, Denton said, he would set up 'offshore Gawkers' serving capitals where speech is limited, like Riyadh, Beijing, Tehran. 'Zero political content – you don't want to be seen as a "democracy advocate" at all,' he said. 'Just good, juicy, scurrilous gossip stories about nepotism and corruption and mistresses and Swiss bank accounts. Pictures of their houses! You would want to be seen as having wicked fun. And if you did that for 20 years ...'*³⁴

The logic of Denton's position, which he fully realises, is that sex and scandal journalism is what will save journalism, while the 'serious' matter – politics, international relations, the economy, security issues – are only for a policy elite, of little interest to the vast majority, who may try to them grasp occasionally, or from a sense of guilt, but are (and should be) guilt free about their refusal to be mired in tedium. Fallows writes:

33 Ibid.

34 Ibid.

In my first ‘interview’ with him for this story, conducted over the course of nearly an hour through an instant-message exchange, he said that a market-minded approach like his would solve the business problem of journalism—but only for ‘a certain kind of journalism.’ It worked perfectly, he said, for topics like those his sites covered: gossip, technology, sex talk, and so on. And then, as an aside: ‘But not the worthy topics. Nobody wants to eat the boring vegetables. Nor does anyone want to pay [via advertising] to encourage people to eat their vegetables.’³⁵

Gawker has encouraged, and benefits from, citizens’ journalism: in its case, promoting a celebrity watch, where readers of the site text or send in photographs of celebrities they have spotted in cafes or on the street. As far as possible, Denton wants the private world to be open to his organisation’s gaze; and that is best done, not by sending his staff out to do ‘proper reporting’ of the kind present-day journalists are chided for not doing because they are chained to their screen, but by chaining them to their screens, into which most, if not all, information sooner or later flows.

Gawker is the logic of sex and celebrity taken to a bold extreme: not just a bold, but an acute reading of the trends of *The Times*. Private life is now often destroyed, not by the news media, but by the person who lives the life. In his essay ‘Privacy, Secrecy, Intimacy – and Other Collateral Casualties of Liquid Modernity’, the sociologist Zygmunt Baumann credits his fellow social investigator, the French scholar Alain Ehrenberg, with pinpointing the date of birth of the ‘late modern cultural revolution’ from the time when, in the 1980s, a young woman named Vivienne declared, on a television talk show, that she had never had an orgasm in her married life because her husband had premature ejaculation. Baumann writes:

In doing so she erased a boundary – it became clear that the true significance of the event was the effacing of the once sacrosanct division between the private and the public spheres of human bodily and spiritual life. Privacy invaded, conquered and colonized the public realm, but at the expense of losing its autonomy, its defining trait and its most cherished and hotly defended privilege.³⁶

35 Ibid.

36 Zygmunt Baumann, ‘Privacy, Secrecy, Intimacy – and Other Collateral Casualties of Liquid Modernity’, in *Collateral Damage* (Cambridge: Polity, 2011).

That 'once sacrosanct division' is now used for commercial gain in the complex and often mutually profitable games celebrities play with the media which cover them – to the point where it is impossible for the person unversed in the manoeuvres of that world to know what is going on, what is true and false, what is a genuine revelation and what an arranged one. Hollywood was the factory, not just of dreams but of the carefully calibrated and manicured slices of 'private life' which would be sent out via press agents to the world. Now, while the celebrities (or their bosses) may have less control than they did under the Hollywood system, the media are hungrier for any kind of personal detail, real or ersatz; and thus a branch of the press relations industry has developed which commodifies the private lives of celebrities, and which makes of their (sometimes real) emotional crises a lucrative sideline to their show business career. For some, the private life *is* their show business career; for others, such as Amy Winehouse, the mixing of fame with privacy is fatal. Show business writers will often cite this facet of their trade, arguing that where the individuals in question conspire to invade their own privacy, they can scarcely be blamed for following them into the 'forbidden' area.

More relevant to the public agenda is the experience of Silvio Berlusconi, three times prime minister of Italy and the owner of a media corporation which includes three (of four) commercial broadcast television channels, the largest publishing house with a stable of magazines as well as books, the largest advertising agency, and a major newspaper (*Il Giornale*). The media scholar Paolo Mancini has written recently of the ability Berlusconi has to erase the difference between the private worlds of everyday life and the public stage of politics – and to become popular by doing so. In disclosing the details of his life, including his love of women, he attracts that part of the electorate who see him as a role model, or at least a comprehensible and even sympathetic figure – as against the remote rationalisms of politics. This style is, Mancini believes, not confined to Italy (even if Italy, for diverse reasons, lends itself to it more than most western states).

The French sociologist Pierre Musso has talked about 'Sarkoberlusconisme', to stress the many similarities existing between the figure of Sarkozy and that of Berlusconi, in their political decisions, their policies but also in the ways in which they construct their relationship to citizens. (Le Sarkoberlusconisme, Editions de l'Aube, 2008). The place that private life takes in Sarkozy's experience is very similar to the continuous references that Berlusconi makes to everyday language and experiences. Everyday life is in Sarkozy's divorce, in his images, hand in hand with Carla Bruni in front of Cairo's pyramids. And of course Sarkozy's marriage

with the famous singer/model/beautiful woman demonstrates how politics overlap with spectacle and with movie/show stars. Both Berlusconi and Sarkozy can be defined as expressions of audience democracy.³⁷

The greatest engine – it should be stressed again – is that of human curiosity. We want to know about others' lives, which means there is a market in the satisfying of that curiosity. As Nick Denton insists: why be pious about this? He, and others less open about their motives, serve a market with a commodity, gossip, which has less obviously harmful effects than tobacco, alcohol, and weaponry, all of which are major, legal industries. The writer Simon Leys (the *nom de plume* of the Belgian Pierre Ryckmans), writing of a recent collection of the letters of George Orwell, comments that the editor, Peter Davison, had included many details about Orwell's awkward relationships with women, in spite of the writer's 'hostility to the very concept of biography'. Leys asks, rhetorically,

Do biographers, however serious and scrupulous, have the right to explore and disclose such intimate details? Yet we still read them. Is it right for us to do so? I honestly do not know the answer.³⁸

Denton does know the answer. It is right, because we like it.

37 Paolo Mancini, *Berlusconi: between Commodification and Lifestyle Politics* (Oxford: Reuters Institute for the Study of Journalism, Challenges series, forthcoming).

38 Simon Leys, 'The Intimate Orwell', *New York Review of Books*, 26 May 2011.

5. The Net 2: Journalism Is Everybody

The Net began its rapid expansion in the 1980s, and intersected with one of the most optimistic periods in the postwar years. Not only was the Soviet Union collapsing, so was apartheid in South Africa; not only was China opening out, at least economically, so too were the tormented countries of Indo China beginning to recover from war, mass murders, and starvation-level poverty. In the West, the winner in the Cold War, the narrative was one of unrestrained optimism for freer lives. In western Europe, former authoritarian states (Greece, Portugal, and Spain) were at least a decade into democratic rule. In the USA, a socially liberal Democrat, Bill Clinton, was a surprise replacement for the Republican George Bush, who though no reactionary was no poster boy for sexual and racial emancipation either. The Net was born under a liberal star, and its unsupervised, private-sector growth intensified that *Geist*, to the point where the enthusiasts who set the scene came to regard any barriers to its freedom as wholly inadmissible.

It is reasonable to assume that the Net can be an agent of democracy. At an extreme, it is held by libertarians to be the means by which their ideal of a state-less world can come into being – as enabled, networked citizens progressively take back the responsibilities of self-rule from the government usurpers. Even on a mild view, the enhanced ability to share material, send messages to a few or to many, access vast banks of information very rapidly, and check on officials' and politicians' policies and actions appears, *prima facie*, to do much for citizens' autonomy and independence.

The mainstream media regarded the Net at first with condescension, and then with fear. The condescension stemmed from the appearance of would-be journalists – mainly, would-be commentators – in the shape of bloggers. What, the professionals demanded, did they bring to the table of journalistic enquiry except unsourced gush and a torrent of prejudice – much of it put out under a *nom de plume*? (The question is still a good one of much that appears on the Net, but that is beside the point). The fear stems from the realisation, which came quite quickly, that in various ways the Net was ruining

an already fading business model for most newspapers, many magazines, and other publications, since the ethos of the Net, into which news publishers had unwisely or at least prematurely bought, dictated that the content of the newspapers should be free.

These attitudes – especially the fear – remain, but the 2000s have brought a change which benefits journalism and its mission to disclose, whatever the content of the disclosure. The Net will be the carrier, and the key definer, of both the form and content of journalism in the future.

In journalism, the battle between mainstream and new media has now subsided, in large part because both sides have tacitly accepted many of the others' contentions. Journalism is a discipline best done by those who have acquired some training and experience (and who have the status and power a large organisation can give: effective journalism does require power); but it is woefully dumb to condemn as 'not journalism' what is produced in blogs, from camera phones, on Facebook, and on Twitter. At all times, the profusion of blogs greatly increases the practical ability of men and women to give vent to their feelings, to test out their intellectual and verbal abilities, to make contacts, to have fun. The more ambitious construct websites that contain news, information, revelations, and campaigns – the latter being usually their *raison d'être*. And at certain times, as after the disastrous earthquake in Haiti in January 2010, the Net, especially the social networks, is the only source of journalism (there was just one active wire service journalist on the island at the time).

The value of the Twitter, Facebook, and other self-generated feeds in the immediate aftermath of the Haitian disaster highlights a common limitation in early thinking (i.e. 4–5 years ago) about this form of journalism. Taken together with the material which came out of the three man-made and natural disasters of 2005 – the Asian tsunami in 2004/5, the attacks on the London public transport system in July 2005, and Hurricane Katrina's destructive loosing on New Orleans in August 2005 – assumption grew that citizens' journalism worked only in such extreme situations, where information was urgently needed and no journalists were present. But that is proving to be false, both because journalism will increasingly turn to crowd-sourced material to flesh out its narratives, and because the consumers of journalism will increasingly wish to have a part in its creation.

Nicola Bruno, who created the Effecinqe new media agency in Bologna and writes widely about new media's relationship with mainstream media, argues that

traditional reporting based only on field correspondents is no longer a sustainable model. The sharp news-cycle acceleration, particularly in the online world, is forcing

*mainstream news outlets to adopt a networked journalism strategy, with the on-going integration between traditional reporting and real-time coverage provided by the social media.*³⁹

John Kelly, a *Washington Post* columnist, was a sceptic on citizens' journalism. In a study he did on the movement in 2007, he noted that

*Overall the percentages of people who contribute user-generated content are very low, arguably much lower than the furore over the whole issue would seem to warrant - but continued - the impulses underlying the rise of citizen journalist are here to stay...the question 'Should there be citizen journalism?' is beside the point. Journalists must accept that the dynamic has changed. They must see the public as more than an inert, monolithic audience. Mainstream news outlets that neglect to allow their readers to participate will risk losing those readers.*⁴⁰

In the vanguard of those editors trying to work out an 'on-going integration between traditional reporting and real-time coverage' is Alan Rusbridger of the *Guardian*. In his 2010 Cudlipp Lecture, Rusbridger introduced to a wider audience an approach which he had urged upon his colleagues for some months, and which he calls mutualism. He illustrated the new technique with the example of stories his newspaper had done on Trafigura, the major commodity trader, which had dumped a large amount of toxic waste in the Ivory Coast, and then faced a class action on behalf of 30,000 Africans. The company secured a superinjunction to stop publication (a superinjunction is an injunction which bans not just the reporting of the subject covered, but any mention of the one who took the injunction). Indeed, the Trafigura injunction was so comprehensive that it attempted to stop the press reporting any mention of the company in parliament – a move which stirred the bones of John Wilkes, and proved a suppression too far.

One tweet and that legal edifice crumbled ... within 12 hours of my tweeting a suitably gnomic post saying we had been gagged, Trafigura became the most popular subject on Twitter in Europe... Within hours Trafigura had thrown in the towel on the injunction and dropped any pretence that

39 Nicola Bruno, *Tweet First Verify Later?*, (Oxford: Reuters Institute for the Study of Journalism journalist fellow's paper, 2011).

40 John Kelly, *Red Kayaks and Hidden Gold* (Oxford: Reuters Institute for the Study of Journalism, 2009).

they could enforce a ban on parliamentary reporting. The mass collaboration of strangers had achieved something it would have taken huge amounts of time and money to achieve through conventional journalism or law. These examples show how – so long as it is open to the rest of the web – a mainstream news organisation can harness something of the web's power. It is not about replacing the skills and knowledge of journalists with (that ugly phrase) user generated content. It is about experimenting with the balance of what we know, what we can do, with what they know, what they can do.⁴¹

It was an approach which would yield the *Guardian* another large story – when the New York businessman Christopher La Jaunie handed to the *Guardian* footage which he had taken of a newspaper vendor, Ian Tomlinson, being felled by a policeman during the G20 protests in London in April 2009 – a film which resulted, over a year later, in a manslaughter charge being brought against PC Simon Harwood.

One of the world's best guides to the changes and challenges journalism is undergoing is Jay Rosen, a professor of journalism at New York University. In an entry⁴² to his blog, *Pressthink*, in April 2011, Rosen reflected that he had been teaching journalism at the university for 25 years and had come to know four big things, two of which were about citizens' journalism, growing out of the perception that people now can and should and do make their own news. First,

the more people involved in flying the airplane, or moving the surgeon's scalpel during a brain operation, the worse off we are. But this is not true in journalism. It benefits from participation... if sources won't participate, there often is no story. Witnesses contribute when they pull out their cameras and record what is happening in front of them. The news system is stronger for it... According to the internet's one percent rule, a very small portion of the users will become serious contributors, which is still a lot of people. Let's say you're a beat reporter who has a niche blog on the local public schools ... with a loyal user base of 10,000. If the one percent rule is accurate, 100 of those loyal users are likely to become heavy contributors if given the chance. They should be given that chance. It will strengthen the site.

41 Alan Rusbridger, *Cudlipp Lecture*, 2010.

42 pressthink.org/2011/04.

Second,

routines drive what happens in journalism, and...these routines ultimately served the demands of a particular production cycle: the daily newspaper, the 6 p.m. broadcast, the monthly magazine. Ideas about what journalism is – and even what it can be – get frozen within these routines as they become second nature to the people who have mastered them... But that was during the era of heavy industry. The lighter, cheaper, and less restrictive publishing tools that we have today can free the news system from its production gods. The new gods are the users themselves, and what they find useful for staying informed and participating in public life – you know, getting things done. Which is why I've said that the simplest way to add value in journalism is to save the user time.

If these writers are correct, at least part of journalism is moving towards the integrated model, where different types of publication will seek different kinds of citizens – from those public spirited enough to record a piece of casual police brutality to those avid for celebrity sightings – and of course, those caught in the midst of a war, or a riot, or a suppressed demonstration, or a natural disaster, who wish, in the absence of journalists, to inform the world so that aid might be mobilised – or simply to bear witness.

In a 2009 essay on social media, the former head of future media for BBC journalism, Nic Newman, wrote that

Social media and UGC are fundamentally changing the nature of breaking news. They are contributing to the compression of the 'news cycle' and putting more pressure on editors over what to report and when. News organisations are already abandoning attempts to be first for breaking news, focusing instead on being the best at verifying and curating it... Social media, blogs and UGC are not replacing journalism, but they are creating an important extra layer of information and diverse opinion. Most people are still happy to rely on mainstream news organisations to sort fact from fiction and serve up a filtered view, but they are increasingly engaged by this information, particularly when recommended by friends or another trusted source.⁴³

43 Nic Newman, *The Rise of Social Media and Its Impact on Mainstream Journalism* (Oxford: Reuters Institute for the Study of Journalism working paper, 2009).

Myra McDonald, the Thomson Reuters desk editor for the Middle East, says she now uses Twitter constantly – especially on such fraught occasions as the killing of Osama Bin Laden on 2 May 2011, by US Navy Seals. The first intimation of this came from a tweet sent by a near neighbour to the Bin Laden compound in Abbottabad, in northern Pakistan. Sohaib Athar – who described himself as an IT consultant ‘taking a break from the rat-race by hiding in the mountains with his laptops’ – tweeted, at around 1.30 a.m. local time: ‘Helicopter circling above Abbottabad at 1.00am. Is a rare event’.

Shortly after, Athar, whose Twitter stream is @ReallyVirtual, unknowingly tweeted about the US special forces attack: ‘A huge window-shaking bang here in Abbottabad. I hope its not the start of something nasty :-S’.

Athar’s tweets continued to describe what he was hearing in Abbottabad. He was not the only one reporting on the news: Mohcin Shah, who lists his location as Rawalpindi, Pakistan, tweeted that ‘just talked to family in Abbottabad. They heard three blasts one after another. Don’t really know what happened.’ Others began joining in – with at least one analyst, in a Washington think-tank, making the educated guess that this was an attempt to capture, or kill, Bin Laden. McDonald, who had slept through the initial tweets which came in the middle of the European night, woke to a tweetosphere already filled with speculation – which soon turned harder when it was announced that President Obama would make an important announcement, and then that the attack really was on Bin Laden’s hideout. Thereafter, McDonald used the network to keep in touch with the news and analysis from a range of experts whom she followed – while she herself contributed to the flow. Without Twitter and/or the Net, news from Abbottabad – a small city in which there were no reporters accustomed to file beyond their own region – would have come out only when either the US or the Pakistani authorities released it. Now, the presence of a twitterer or blogger is enough.

This is a very large increase in independence for journalists, because of their ability to use material generated by social media users. One of journalism’s centuries-long struggles has been to escape from the tyranny of the official version of events in order to produce a view which draws from a number of sources as well as the official one (arguably, so much which enters the news media presently is created by public relations that a soft tyranny remains powerful). Now, journalism has potential allies everywhere, though, as Newman writes, the prime task is to verify and curate the information.

6. The Net 3: News Becomes Activism and Activism, News

The democratic potential of the Net seems to have been most convincingly displayed in the 'Arab Spring' – the series of revolts in Tunisia, Egypt, Bahrain, Yemen, Libya, and Syria, where demonstrators used Facebook and Twitter to spread news, express solidarity, mock their regimes, and above all organise demonstrations and meetings – which had the secondary effect of providing a rich base of information to those media covering the revolts.

The main immediate gains – there is no certainty, as this is written (August 2011) that these will be in any degree irreversible – are the removal from power of President Hosni Mubarak of Egypt and President Zine al-Abidine Ben Ali of Tunisia, both having featured on the 'media predators' list of Reporters Sans Frontières, the Paris-based NGO (though others on the list, including the leaders of Bahrain, Libya, Syria, and Yemen remain in power). The RSF secretary general warned on 3 May – Press Freedom Day – that 'there is a real risk of a return to censorship in Tunisia', while prophylactic clampdowns on media and other freedoms were evident in China and Azerbaijan, among other states.

In Egypt, limited relaxation of media rules by the Mubarak administration and an active, if limited, Net culture gave a platform – or better, many platforms – to the protestors. The death by police beating of the young Khaled Said in June 2010 was used as a Net rallying point: a facebook page with the title 'we are all Khaled Said' was created, in Arabic, by the Google executive Wael Ghonim – whose brief imprisonment made him a movement hero. Wael used his freedom and fame to call for a protest demonstration on January 25 – the date becoming famous as a Twitter hashtag, #Jan25, an innovation copied by other protest movements.

In Tunisia, the self-immolation of Mohamed Bouazizi, and the key role it played in stimulating the Tunisian, and other, revolts, shows well the interaction between the instant myth, the encapsulation of harassment of the

powerless which Bouazizi's life demonstrated, and the instantaneity of the social networks which spread the story. Bouazizi, who sold produce from a wheelbarrow in the city of Sidi Bouzid, had been harassed by the police on the morning of 16 December 2010, and – he claimed – been slapped by a woman police officer (a particular cause of shame) and beaten by her associates. His scales were confiscated. He ran to the governor's office to plead for the return of his livelihood – but was refused an audience, even though he reportedly threatened to kill himself if he were not seen. He then bought a can of petrol at a garage, stood in the street before the governor's office and – less than two hours after the initial brush with the police – he set himself alight, and died. The Twitter hashtag #SidiBouzid became the rallying point for the net protests.

In Libya, Yemen, and Syria – in much more difficult, and diverse, circumstances – Facebook and Twitter have been important in spreading news, countering the official propaganda and spreading information on the progress of the revolts abroad, including to the diasporas and the foreign media.

The future of media in the states which appear to have won a precarious liberation – Tunisia and Egypt – is at the centre of their politics. The journalists in these countries, with the exception of the dissidents (whether active in opposition or withdrawn into 'internal exile' of the kind familiar to Communist-era dissidents), had been drawn into collaboration of varying intensities with the former regimes. Now, many are trying to rebrand themselves as liberals. The journalist Shashanak Bengali highlighted the case of Zyed Krichen, who became a 'vocal champion' of the Tunisian revolution but was previously, at least in print, an ardent supporter of Ben Ali,⁴⁴ a position that many prominent journalists adopted.

There is no question that, at a minimum, the social media have assisted the revolts by spreading organisational information more rapidly. No question, either, that they have provided news likely to be more accurate than the bombastic propaganda which the official media spread. But an important debate rages over the effect of the new and social media in liberation struggles – important, since it speaks to the efficacy and future of movements for freedom which see the Net as their ally. Led by Yevgenny Morozov, a young Belarusian now based in the USA, and Malcolm Gladwell, a *New Yorker* writer, a strong movement of scepticism about the role of the Net, and in particular social media, now commands attention.

Gladwell, instancing the lunch counter protests which four black students mounted against discrimination in Greensboro, South Carolina in 1960 – the four refused to leave the section of the counter reserved for whites – writes

44 Miami Herald, 29 May 2011.

that the students were *real* friends: they had close ties, in some cases from school, and had discussed their protest for almost a month. Ezell Smith, the student who asked for a cup of coffee in the white section of the counter, was flanked by two former school friends, and his roommate. Gladwell writes that

The kind of activism associated with social media isn't like this at all. The platforms of social media are built around weak ties. Twitter is a way of following (or being followed by) people you may never have met. Facebook is a tool for efficiently managing your acquaintances, for keeping up with the people you would not otherwise be able to stay in touch with. That's why you can have a thousand 'friends' on Facebook, as you never could in real life...you can get thousands of people to sign up for a donor registry, because doing so is pretty easy. You have to send in a cheek swab and—in the highly unlikely event that your bone marrow is a good match for someone in need—spend a few hours at the hospital. Donating bone marrow isn't a trivial matter. But it doesn't involve financial or personal risk; it doesn't mean spending a summer being chased by armed men in pickup trucks. It doesn't require that you confront socially entrenched norms and practices. In fact, it's the kind of commitment that will bring only social acknowledgment and praise.⁴⁵

Morozov, whom Gladwell cites approvingly, put the case at greater length, in his book, *The Net Delusion*.⁴⁶ His case there, and in his many lectures and articles, is that, in the first place, revolutions require widespread opposition, human catalysts, and organisation – in which the new media can at best be an aid, never a cause; second, that the use by protestors of social media, particularly in repressive Iran, hands to the authorities a tool of intelligence and repression; and third, Westerners (largely) are stupidly starry-eyed about the capacity of the new media (Hillary Clinton, the US secretary of state, is a particular target, for her major speeches on the liberating effects of new media). In an article which condenses his main thesis, Morozov writes that

most cyber-utopians nurture a deep-seated belief in an inherent cosmopolitanism of the Internet. They imagine that 'digital natives' – those who have grown up surrounded by technology and the Internet – will choose the outward path

45 Malcolm Gladwell, 'Small Change: Why the Revolution Will Not Be Tweeted', New Yorker, 4 October 2010.

46 The Net Delusion (London: Allen Lane, 2010).

and become harbingers of democracy, American-style. This logic has permeated virtually all major institutions tasked with promoting democracy abroad, including the State Department ... Without their investments in blogs, blog aggregators, and video blogs in far-away but geopolitically important places, the online voices of the West's favorite secular and democratic forces would not carry much weight. Yet, investing in new media infrastructure might also embolden the conservatives, nationalists, and extremists, posing an even greater challenge to democratization. A brief look at the emerging cyber-nationalism in Russia and China provides a taste of things to come.⁴⁷

The work of Gladwell and Morozov is an important challenge to what has been – and remains – an officially strongly sanctioned wave of approval and support for the spread of the new media, coupled with demands for its unfettered freedom, and a belief – now wavering a little – that its basic direction is towards liberty. They make two separate points. One is that the Net, especially the social media, may accelerate protests but provides no new content: revolts and revolutions have erupted and spread before most people could read; martyrs – such as Jan Palach in the Prague spring, who also burned himself alive in January 1969, to protest against the Soviet invasion – gain arguably as much traction from word of mouth and crude leaflets as from a Facebook page. The other is that the Net is indifferent as to what it carries; had it been operative in 1930s Germany, the dominant theme – even before the coming to power of the Nazi Party – would have been rabid nationalism, demands for an overturning of the Versailles Treaty, and anti-semitism. As this is written, a Norwegian neo-Nazi, said to be an avid consumer of the content of anti-Muslim, extreme-right websites, has been arrested on a charge of killing, by bomb or bullet, more than 70 people, mainly young; an incident which gives grim underpinning to Morozov's final point.

I think that Morozov underestimates the difference which a rapid spread of images and information can make to inspiring, organising, and informing masses of people; and I think that both he and Gladwell underplay what might be called the liberal coating which the Net still carries, which tips it away from a pre-Net, print-based propaganda model, in which the Leader or the Party or the Movement blasted a message one way only – and insofar as they touched popular chords and could present themselves as charismatic and determined, gathered legions about them. The Net's two-way traffic, openness

47 Yevgenny Morozov, "Texting towards Utopia: Does the Internet Spread Revolution?", Boston Review, March/April 2009.

to challenge and to cross-cutting argument, together with its resolute defiance of censorship of any kind, means that oppressive and hateful strands of argument must depend on a super-liberal dispensation in order to exist. It is not just much easier to dissent on the Net – it is part of the Net's ethos that dissent should be only seconds behind any proposition. Further, as well as being ultra-liberal in its founding ideology, the Web really is world wide. Thus curiosity as to the rest of the world, which in oppressive societies would have been hard to satisfy, is (censorship permitting) easily and comprehensively serviced.

The argument that the Net, and particularly social media, cannot stimulate a liberation movement on otherwise stony ground is right, as is the warning that its use in dictatorships hands the dictator a large advantage. But the arguments of Gladwell and Morozov are too narrowly drawn, and should not act as an inhibition on the promotion of the new media in authoritarian states. The journalist Roger Cohen, a witness to Iranian, Egyptian, and Tunisian protests, who concedes Morozov's brilliance but thinks him 'dead wrong', wrote that

*organization, networking, exposure to suppressed ideas and information, the habits of debate and self-empowerment in a culture of humiliation and conspiracy: these are some of the gifts social media is bestowing on overwhelmingly young populations across the Arab world.*⁴⁸

My own experience with Russian journalists points to a marked increase, from 2008, in the importance of the Net in Russia – as a place where news and debate, satire and polemic can exist and circulate. It is true, as Morozov writes, that the Kremlin seeks to swamp these sites with well-fashioned, attractive pro-regime sites of its own, put up by some of the smartest people in Moscow. It is true that the audience is relatively small, certainly compared with the vast audience for television, by far the most important medium in Russia as elsewhere. But the free Internet grows, in conditions of semi-freedom, and with it, civil society.

Yet Gladwell provides a welcome puncturing of the falsity of the social media, in their equating the difficult act of friendship with that of an acquaintance who has left an email address, and in seeing the signing of a web petition in the same light as active opposition to oppression. And Morozov is right that the Net is as much open to web-savvy authoritarians as to libertarians, and more attractive and satisfying to obsessives looking for causes for hatred and prompts to action other than *Mein Kampf* or *The State and Revolution*.

48 Roger Cohen, 'Revolutionary Arab Geeks', New York Times, 27 January 2011.

In the August 2011 riots in London and other UK cities, rioters were organised by Twitter and by the free messaging service on Blackberry mobile phones: the scale of the riots and the speed with which different groups were assembled in parts of the capital miles apart testified to the power of the social media for destructive purposes. It was a graphic instance of the arguments made by Gladwell and especially by Morozov. The riots, arson, and widespread looting were organised by nameless – and faceless – people on Blackberries (the messaging service of which was hard to penetrate by outsiders), by Twitter, and by Facebook. The information sent round the circles of youths many miles apart was designed to cause huge damage, spread fear, and allow vast theft. This was a quite different, asocial, anti-democratic exercise in ‘self empowerment in a culture of humiliation’, to quote Roger Cohen’s phrase, used sometimes in almost so many words as a rationale for the crimes – a shaming of a country in which, as many immigrants (some of whom lost their hard-won businesses) sadly testified, ‘such things don’t happen’. The organisation of the flash riots and the information on where best to loot were spread on the same message networks as those used by democracy activists in Egypt, Tunisia, and elsewhere.

There are many different ways of being ‘social’ on the media – one of which is to be asocial. And openness is, in the end, anybody’s.

7. The Net 4: The Leak as a Means of Knowing – or Destroying – Government

In November 2010 the Wikileaks website, which had earlier in the year revealed huge troves of documents on the wars in Iraq and Afghanistan, published its latest glut of revelations: many thousands of diplomatic cables sent by US diplomats from around the world. Wikileaks is not journalism, but it works under the rubric of journalism – of free speech, of the benign effects of revelation, of holding power to account – and it depends on established journalist institutions for publication of its material. In the case of the diplomatic cables, this was the *Guardian* in the UK, *Le Monde* in France, the *New York Times* in the USA, *El País* in Spain, and *Der Spiegel* in Germany. The material provided fascinating glimpses into the views of both US diplomats and of those on whom they reported.

The ideology that inspires this not-for-profit ‘media organisation’, developed by its founder, Julian Assange, also claims the highest ground of the public interest, holding that governments are essentially (as Assange believes) inimical to serving this. Officials and politicians, he wrote in a kind of manifesto in note form as he was preparing to launch Wikileaks, work ‘in collaborative secrecy to the detriment of the population’⁴⁹: the weapon with which to fight them is exposure. In the case of the diplomatic cables, the revelations blew apart the convention that some diplomacy must be secret because – for example – it pursues ends that cannot be spelled out until all actors are marshalled separately and secretly into the possibility of an agreement. As Michael Fullilove, the Australian foreign policy commentator and head of Sydney’s Lowy Institute put it,

49 Quoted in Raffi Khatchadourian, ‘No Secrets: Julian Assange’s Mission for Total Transparency’, *New Yorker*, 7 June 2010.

*with this dump WikiLeaks is not uncovering a particular secret; it is outlawing secrets altogether... Would the world be safer, saner or more pleasant if nothing could be held in confidence? How could wars be averted in such a world? How could peace negotiations take place? Would news sources talk to journalists?*⁵⁰

That last question is more than rhetorical: mainstream journalism depends on a web of private comments, understandings, and leaks. Without these, news becomes less well informed.

Assange, seen as a revolutionary by his supporters (and by his detractors), finds himself in the same trenches as the News International tabloid editors and reporters. He, like them, does not believe that private life should be protected. In July 2009, before Wikileaks became famous for its document dumps, he wrote that the opposition to the *News of the World's* phone hacking constituted 'sanctimonious hand-wringing over the "privacy rights" of the British elite'. He continued, 'the real scandal is not that some British papers used private investigators to find out what the public wants to know. It is that more did not.'⁵¹

Further, a global mechanism described as a journalistic tool now publishes confidential information on the grounds that government is a conspiracy, and that publication redresses the balance in favour of the public. By its sheer volume, however, it reduces investigative journalists to bit players, redacting the output and setting it in context. More, it arrogates to itself the right to decide what might, or might not, be dangerous for the individuals named or identifiable in the revealed documents: itself a perilous power to have.

In a long article in his paper's weekend magazine mixing reportage with reflection, Bill Keller, then editor of the *New York Times*, tried to both explain his policy when offered the Wikileaks cables, and his assessment of the organisation's effect; it is the lengthiest published engagement of a serving prince of the mainstream news media with the new world of Net revelatory journalism.⁵² He started with a certain wariness towards the organisation, noting that its 'biggest coup to that point' had been a video, shot in 2007 by the US army, which showed soldiers firing from a two helicopters into a crowd in Baghdad, with some 18 dead: a horrifically shocking clip. As Keller noted, however, 'in its zeal to make the video a work of antiwar propaganda, WikiLeaks also released a version that didn't call attention to an Iraqi who

50 Drum website, 16 December 2010.

51 Wikileaks press release, 12 July 2009.

52 Bill Keller, 'Dealing with Assange and the WikiLeaks Secrets', *New York Times Magazine*, 26 January 2011.

was toting a rocket-propelled grenade, and packaged the manipulated version under the tendentious rubric, 'Collateral Murder'. (Wikileaks later released an unedited version.)

Keller, like the other editors, checked the legal up- and downsides of publication; in the highly speech-protected environment of the USA, he was advised he faced few legal issues, but

*the law aside, we felt an enormous moral and ethical obligation to use the material responsibly. While we assumed we had little or no ability to influence what WikiLeaks did, let alone what would happen once this material was loosed in the echo chamber of the blogosphere, that did not free us from the need to exercise care in our own journalism. From the beginning, we agreed that in our articles and in any documents we published from the secret archive, we would excise material that could put lives at risk.*⁵³

As Keller's relationship with Assange deteriorated – Assange was angered by a *New York Times* profile of Bradley Manning, the US army private who had provided Wikileaks with Iraqi and Afghan logs and the diplomatic cables, and by a profile of the Wikileaks founder himself, which noted his 'imperious management style' – the *NY Times* editor became more and more concerned that he and his colleagues should take the care, which Assange did not, to disguise the names of informants to US diplomats and security agents. This had been a concern shared by the *Guardian* journalists detailed by the *Guardian's* Rusbridger to deal with Assange. An epiphany in their differences (which, as at the *NY Times*, grew very large) was an occasion when, during a meal in a Moroccan restaurant, investigations editor David Leigh said they wished to disguise the identities of Afghans who had provided information to the US authorities. Assange replied, 'well, they're informants, so, if they get killed, they've got it coming to them. They deserve it.'⁵⁴

It was an index of how far apart the two papers and the leaker were. With some foreboding, Keller notes that

as for the risks posed by these releases, they are real. WikiLeaks' first data dump, the publication of the Afghanistan War Logs, included the names of scores of Afghans that The Times and other news organizations had carefully purged from our own coverage. Several news

53 Ibid.

54 Ibid.

*organizations, including ours, reported this dangerous lapse, and months later a Taliban spokesman claimed that Afghan insurgents had been perusing the WikiLeaks site and making a list. I anticipate, with dread, the day we learn that someone identified in those documents has been killed.*⁵⁵

Keller went much further than the *Guardian* (he chided it, in his article, for over-stating civilian casualties in Afghanistan and using the leaks to bolster its ‘openly left-leaning’ stance). The *NY Times* editor willingly entered into negotiations on the publication of the cables with representatives of the administration and the security services. He recounts how his colleagues, led by the *NY Times*’ Washington bureau chief, Dean Baquet, spoke at length to representatives of the White House, the State Department, and a number of the intelligence agencies at a gathering in the State Department to discuss the concerns of the administration (where, according to Scott Shane, a reporter who participated in the meeting and reported on it to Keller, there was ‘an undertone of suppressed outrage and frustration’).

The objections, according to Keller, fell into three categories.

First was the importance of protecting individuals who had spoken candidly to American diplomats in oppressive countries. We almost always agreed on those and were grateful to the government for pointing out some we overlooked. ‘We were all aware of dire stakes for some of the people named in the cables if we failed to obscure their identities,’ Shane wrote to me later, recalling the nature of the meetings. Like many of us, Shane has worked in countries where dissent can mean prison or worse. ‘That sometimes meant not just removing the name but also references to institutions that might give a clue to an identity and sometimes even the dates of conversations, which might be compared with surveillance tapes of an American Embassy to reveal who was visiting the diplomats that day.’

The second category included sensitive American programs, usually related to intelligence. We agreed to withhold some of this information, like a cable describing an intelligence-sharing program that took years to arrange and might be lost if exposed. In other cases, we went away convinced that publication would cause some embarrassment but no real harm.

55 Ibid.

The third category consisted of cables that disclosed candid comments by and about foreign officials, including heads of state. The State Department feared publication would strain relations with those countries. We were mostly unconvinced.

The embassy cables were a different kind of treasure from the War Logs. For one thing, they covered the entire globe – virtually every embassy, consulate and interest section that the United States maintains. They contained the makings of many dozens of stories: candid American appraisals of foreign leaders, narratives of complicated negotiations, allegations of corruption and duplicity, countless behind-the-scenes insights. Some of the material was of narrow local interest; some of it had global implications. Some provided authoritative versions of events not previously fully understood. Some consisted of rumor and flimsy speculation... Even more than the military logs, the diplomatic cables called for context and analysis.⁵⁶

Wikileaks ran into a series of problems after the publication of the diplomatic cables. Assange was charged with rape in Sweden: a British judge ruled for his extradition, a judgment the Wikileaks founder is now appealing while on bail with restricted travel rights in the UK. His closest collaborator, Daniel Domscheit-Berg, had broken with him and was fired by Assange: in his *Inside Wikileaks*,⁵⁷ marked by the haste of its composition and his burning resentment of his one-time friend, he rages against Assange's increasingly autocratic and capricious behaviour. His book has an inevitable tone of self-justification, but from it we learn how tiny and disorganised was the organisation: a tribute, though he does not say so, to the power of the basic idea – that of serving as a conduit-cum-publisher of fascinating secrets. The publications which worked most closely with Assange, the *Guardian*, the *New York Times*, and *Der Spiegel*, all came to distrust him.

But the effect of Wikileaks is more eloquent. A number of leak sites are now planned – *Open Leaks*, from Domscheit-Berg, who promises more responsibility towards sources than Wikileaks showed; and more surprisingly, from News Corporation's conservative-inclined *Wall Street Journal*, the development in early May of a leak site, *SafeHouse*, which, when it was launched, was judged by Net experts as less than safe because the algorithms

56 Ibid.

57 Daniel Domscheit-Berg, *Inside Wikileaks* (Carlton North, Melbourne: Shire, 2011).

used to protect the site were not sufficiently robust to withstand attack, but which has since secured better reviews. If these mechanisms succeed in producing revelations of the order of those produced in late 2010 by Wikileaks – and if Wikileaks returns to the fray itself – then the effect will have been profound.

It will have been profound because it will prompt a new dynamic within journalism, in the creation of conduits, more or less well known, for the dumping of material to which people within an organisation have access and to which they believe the public should have unrestricted access. In future, should this be so, those who run the websites will not need the revolutionary anarchism of an Assange, nor have the troubled relationship to his organisation – the US army – which seems to have been the burden carried by Private Bradley Manning, the leaker. The existence of leak sites developed by mainline publications will allow people who see themselves as principled whistleblowers to act in the public interest, as they judge it. Each person will be his or her own John Wilkes, with this large difference: that Wilkes campaigned to have the debates in the fledgling legislature made public because, like Forsskål, he thought that it must be possible for society's affairs to become known, and it must be possible for everyone to speak his mind about it. But a newly empowered leaker scorns the restraints of a collective: by its nature, leaking is subject only to private moral criteria, which may or may not reflect the public interest.

8. What Do We Want?

A merit of the *News of the World* affair is that it has forced both those who produce journalism and those who consume it to make an account of what journalism is and what its roles and limits should be.

The Western political philosophical tradition has, over time, come to see freedom of expression and of publication as a democratic and liberal good, indeed, a main pillar of a liberal democratic polity. From at least the 17th century, there has been an argument for freedom to debate and to dissent; from the 18th, an argument that the documents of the state should, with reservations, be open to the citizens of that state; and developing in the 19th and 20th centuries, the conviction that news should be truthful and objective, that it is essential for citizens – if they are to enjoy the full exercise of their citizenship rights and duties – to be well informed about the world about them, through responsible journalism in the public interest.

In the latter part of the 20th century, journalism began to throw off the inhibitions of more deferential periods and, using the much greater resources which it then commanded, embarked on proactive investigations, often powered by a strong social conscience or a fiery indignation over a state of affairs. Journalism is indispensable, both because it attempts to make instant sense of the world, and because it seeks to be an agora, a space in which ideas and proposals, criticisms and reformist projects circulate. That has not changed, nor the need diminished. But there have arisen – in most cases very recently at the end of the first decade of the 21st century – a series of challenges with which journalism must deal, even as it wrestles with the destruction of its business model and makes efforts to discover a new one. These challenges, very diverse in form, are presented as extending journalism's duty to expose, comment, and hold to account – and they are often also presented as an explicit antidote to the flaccid or exhausted practice of the existing mainstream media.

Agitate, educate, and organise

The first of these challenges is advocacy journalism. As became evident in the discussions on Wikileaks and the Arab Spring, the most successful new media projects and television channels are usually those which express or play into a strong point of view. Indeed, it is advocacy news broadcasting which is in some states the dominant model.

This isn't new. In most states in the first half of last century, governments saw their radio stations as organs of propaganda; they were used with devastating effect in Fascist Italy, Nazi Germany, and Communist states everywhere. Even after the Second World War, in democratic states, many newspapers were published by political parties, which reflected the party line closely. The USA kept (and still keeps) broadcasting channels out of state hands; but in the 1930s, Father Charles Coughlin became hugely popular for a weekly radio harangue which began as supportive of President Roosevelt's New Deal but soon developed into angry and anti-Semitic jeremiads. In his 2004 novel, *The Plot against America*,⁵⁸ Philip Roth locates Coughlin as one of the main influences on a USA which, in the novel's dystopia, impel the country towards fascism – a tribute to the presumed power of unrestrained demagoguery.

In the UK, the BBC was one of the few exceptions to the European trend, for though it was from its inception in 1926 respectful to government, it traded on the kudos it gathered during the 1939–45 war to develop, especially since the 1960s, a critically independent model which became increasingly influential abroad. But the model hasn't swept the board. Those who now seek to defend it must concede that it has, at best, only very partially succeeded in building a wall between broadcast news and political bias.

Italy, not the USA, is the outlier in this matter among democratic states: it already was before the present prime minister, Silvio Berlusconi, came on the scene for the first time as prime minister in 1994. In 1974, the Constitutional Court judged that the state broadcasting monopoly Radiotelevisione Italiana (RAI), very much under the influence of the long-ruling Christian Democrats, did not sufficiently reflect the plurality of political views. Thus, over the next few years, RAI's three television channels were politically balkanised. RAI 1 went to the Christian Democrats, or the then government; RAI 2 to the 'second party', the socialists, often themselves in coalition governments with the Christian Democrats; and RAI 3 to the communists, then a permanent opposition. This unique system remains to this day largely unchanged, though the parties have: RAI 1 is presently in the possession of Berlusconi's People of Liberty party; RAI 2 is strongly influenced by its main coalition partner, the Northern League; and RAI 3 belongs to the Democratic Party, the descendant of the PCI (Communist Party of Italy) – a descent symbolically marked by

58 Philip Roth, *The Plot Against America* (London: Cape, 2004).

the head of its news and current affairs division, Bianca Berlinguer, eldest child of one of the PCI's most prominent leaders, Enrico Berlinguer. Since Berlusconi, the bias and conflict of interest inherent in the country's greatest media mogul occupying the supreme political post three times in 15 years has greatly increased this trend away from any consistent effort to provide reliable and balanced news and analysis, in favour of increased, and increasingly bitter, polemics.

The broadcasting systems of France, Spain, and Greece all have a milder version of this. Raymond Kuhn, a professor at Queen Mary College in the University of London and an expert on the media of France, argued that President Nicolas Sarkozy of France had developed an 'exchange [of favours] style relationship with owners of private media, whereas in respect of public media he has used more traditional methods of political control' – with the result, at least when he was a candidate for the presidency and in its early period, of achieving sympathetic coverage.⁵⁹ In conversation, however, Kuhn also stresses that a milder form of Italian-style balkanisation exists: 'much more is known about the political orientation of broadcasters, whether they're pro or anti Sarkozy. And in the case of TF1 [the main private channel, owned by the Bouygues construction and communications group whose chairman, Martin Bouygues, is a close friend of Sarkozy and a witness to the president's first marriage to Cécilia Ciganer-Albéniz in 1996], it is seen as consistently on the right: that's more or less obvious.'⁶⁰

The European Union's biggest state, Germany, has broadcasters – both publicly and privately owned – which produce news and current affairs recognised as broadly objective and balanced. But government and party pressure can be strong and broadcasters are often open about their party affiliation since, among other reasons, it can benefit their careers. Last August, the popular broadcaster Steffen Seibert became head of the centre-right government's information agency and main spokesman for Chancellor Angela Merkel. Tina Mendelsohn, who presents the public broadcaster ZDF's weekly arts show *Kulturzeit*, says that her channel, and others, now seek to emphasise strong – but broadly balanced – opinions. 'You can be quite opinionated, especially in the cultural field. I do it in my programme – in the way of criticising people and productions.'⁶¹ Mendelsohn believes the balancing act will remain for some time, though she concedes that opinions, both subterranean and overt, are becoming more important and less inhibited.

Arguably the freest, and most polemically energetic, media market in the world is now in its second largest country, India, where, from possessing one state-owned television station 20 years ago, deregulation has permitted

59 Raymond Kuhn, 'Les médias, c'est moi', *French Politics*, 8: 4, 255–76 (December 2010).

60 Quoted in John Lloyd, 'Prepare to Be Shocked', *Financial Times Magazine*, 29 April 2011.

61 Ibid.

the blossoming of more than 500 television channels, of which 80 are news channels. Daya Thussu, head of the India Media Centre at the University of Westminster in London, says:

the news channels are highly, highly opinionated. The news is Bollywoodised: in the war of television news, competing for an increasingly lucrative advertising market, they go for sensation, crime, personality. Soft news displaces what matters in public discourse: critical controversies and educational programmes lose out. Only about ten per cent of the channels – catering for the elite – attempt any kind of neutrality or objectivity.⁶²

The largest fact in international broadcasting over the past decade has been the rise and success of Al Jazeera, the Qatar-based channel broadcasting in Arabic and English. It has introduced a large dose of pluralism into an Arab media culture dominated by dully obedient state stations and, especially in its Arabic service, been a consistent critic of US policies, taking a line strongly supportive of the protestors in Egypt, Tunisia, and Libya. At the same time, it will not criticise the domestic or foreign policies of Qatar, whose government funds it. In a book published last year, the Lebanese-American scholar Warid Phares wrote that 'its ideological mentor' is Sheikh Yussuf Al-Qaradawi, based in Qatar, often described as the spiritual advisor to the Muslim Brotherhood.⁶³

In the West, it is Fox News – another product of the fertile brain of Rupert Murdoch – which attracts most attention, and on the left, most odium (much more than its share of US viewing, less than 5 per cent, would seem to warrant). Its most famed talkshow host, Glenn Beck (who left Fox at the end of June 2011), built his already considerable fame at Fox through such views as that President Barrack Obama nurses a hatred for white people, and is a racist: Beck later apologised. Though very popular on the right, he became toxic to advertisers. In a profile in the *New York Times Magazine*, Mark Leibovich wrote that 'Beck's show is known in the television sales world as 'empty calories', meaning he draws great ratings but is toxic for ad sales'.⁶⁴ This looked like a setback for Fox and may prove to be one for Beck (though most of his estimated \$35 million a year earnings come from books, appearances, and talk radio: Fox paid him a mere \$2.5 million). But it may also show the strength of a product, polemical broadcasting, which it surely did not invent, but with which it has become most identified. Besides Beck, Fox has presenters – such as Gretchen Carlsson, Sean Hannity, and Bill O'Reilly –

62 Ibid.

63 Warid Phares, *The Coming Revolution* (New York: Threshold Editions, 2010).

64 Mark Leibovich, *New York Times Magazine*, 25 May 2011.

who provoke their audience into getting mad about the US administration's policies, and about the weight which they believe liberals, and especially the liberal media, disproportionately carry in society. Rush Limbaugh, not a Fox presenter but with his own radio network, is the guru: unfailingly passionate, rasping, populist, contemptuous, witty, and never, ever, at a loss for words. He did not invent, but gave the highest of profiles to, the figure of the broadcast polemicist of the right.

Liberals, aware that the right dominates polemical broadcasting, have for some years sought to fight back with figures of their own – many appearing on the MSNBC channel, which takes a strongly liberal line and is the third most popular news channel, after Fox and CNN. Their main figures are or were Al Franken (now junior senator for Minnesota); Keith Olbermann, who has recently left the MSNBC channel where he was a constant goad to the right, to become chief news officer and programme host on Al Gore's Current TV channel; and Rachel Maddow, now often credited with being the leading liberal broadcast voice, who has a nightly talk show on MSNBC. Maddow likes to present herself as a Fox News nightmare. She is highly educated (at Stanford and Oxford universities: exactly the same educational path, oddly, as Fox's Gretchen Carlsson, though the latter is often accused of playing dumb). Furthermore, she is openly lesbian.

She is also a strong supporter of opinionated channels. Giving, in November 2010 at Harvard, the Theodore H. White annual lecture, she acknowledged that attack journalism was 'the closest thing I know of as a way to goose my own ratings'. She stressed that she was working a 'gold mine', and the news media needed to attach itself to the mother lode.

*Opinion driven media makes the money that politically neutral media lose. Now, lament, lament, gnashing of teeth, rending of garments. ...I understand the consternation. The other way to see it, though, is hey, wow, somebody is making a ton of money in the news. And that can, in a way, be seen as great for the news business.*⁶⁵

Maddow stressed to me that

screed sells – it always has. And news can be delivered through the lens of a person delivering opinion. The left-right balance can be a fake. I believe in incivility: in very robust argument. My issue with Fox is not about hard polemical arguments: it is about their misuse of the facts. You explain

65 Quoted in John Lloyd, 'Prepare to Be Shocked', op. cit.

*what's going on in a clearly opinionated way, so everyone knows where you're coming from: but you tell it straight.*⁶⁶

Though her criticism of Fox is strong and deep, Maddow and her colleagues on the left do not just concede, they celebrate the polemically charged ground on which it bases itself. And because of its success – it long since surpassed the once-dominant CNN in cable news – Fox has become the global exemplar.

Fox and Al Jazeera, among others, are available almost everywhere – including in states, like many in Europe, which have strong rules about objectivity in broadcasting. These rules have been particularly closely policed in the UK, where the public broadcaster, the BBC, has sought to maintain independence from the government of the day. Yet the separation of politics from broadcast media in democracies is something of a polite fiction – and becoming less polite and more fictional by the month. Political parties, with many fewer members and no mass movements to sustain them, live and die courtesy of, and thus strive more strenuously to influence, television. Broadcasters chafe more and more against imposed restrictions on their views. The wind is with the 'opinionaters'.

Yet it was still something of a shock when, in December 2010, Mark Thompson, the director general of the world's flagship public broadcaster, told a small audience at the Institute of Government in London that impartial broadcasters should lose their monopoly over the airwaves. 'Why shouldn't the public be able to see and hear, as well as read, a range of opinionated journalism and then make up their own mind? Why not entire polemical channels? I find the argument persuasive.'⁶⁷ He stressed that, for the BBC, 'impartiality is sovereign', but wanted to let polemical flowers bloom elsewhere.

Thompson's apparently off-the-cuff remarks – they had not been the subject of structured discussions with his colleagues – did cause lament, gnashing of teeth, and rending of garments within the corporation. For many, the retention of a culture of within British broadcasting (that is, not just the BBC) was an index of a civilised country, one which recognised that while broadcasting provided the space for the most passionate of views, it was itself passionate only in its objectivity. But the Thompson question – why, in a country of free men and women, should they not have the right to see and hear channels which speak to their point of view, in an engaged and engaging manner? – remains hanging, unanswered.

Thompson is right: there is no good democratic-cum-market reason. In a state where choice has been elevated to a right, this choice should not be denied. There is no sensible basis for it, except this: that in polemicising the

⁶⁶ Ibid.

⁶⁷ 'Britain Needs a Channel Like Fox News', Guardian, 17 December 2010.

airwaves, you create – as has been the case in the USA and in Italy – a sphere which those ambitious for political fame and influence will prefer to politics, one where high emotion, powerful charges and unfulfillable promises may be made, without the grounding of responsibility which any politician in, or aspiring to, office must have. It will likely – again, the USA and Italy are the cases in point – further weaken the already increasingly marginalised place of the legislature and the elected representatives. In a commentary in the *FT Weekend Magazine*, Gillian Tett wrote that

*[American] TV has become more tribalised... Americans increasingly assume that information should be 'customised', and as media companies rush to offer these bespoke services, it becomes easier to retreat into an intellectual silo.*⁶⁸

Thus the arguments for and against are more finely balanced than Thompson, in his brief foray into controversy, allowed. What is right is that it is a present challenge which can no longer be set aside but which must be a subject for debate, so that we can begin to know what we might think of it. The questions reasonably asked of polemical broadcasting are: does it disclose more facts, provide more understanding, by attracting people to hot debate? By making partisans more partisan, does it spur them, and their opponents, to learn more about their instinctive beliefs? It would be worth finding out: the answers are not obvious.

Leaking towards democracy

Investigative reporting has been one of the strongest developments of postwar journalism, illuminating crucial areas of government deceit, corporate fraud, corruption, and criminal activity. The reporting of Bob Woodward and Carl Bernstein for the *Washington Post* on the undercover and criminal efforts to destabilise the Democratic Party undertaken from within the Nixon White House remains the famed apogee, but there is a long roll of honour of examples in many countries, many of which produced huge effects in public revulsion or alarm, and resulted in government reforms. Now, a global mechanism – described as a journalistic tool – publishes confidential information on the grounds that government is a conspiracy, and that publication redresses the balance in favour of the public. Yet it arrogates to itself the right to decide what might, or might not, be dangerous for the individuals named or identifiable in the revealed documents, itself a perilous power to have. It also sets a high bar for ordinary journalism, tempting it to shock and awe through more intimate revelation.

68 FT Weekend Magazine, 6–7 August 2011.

The Wikileaks phenomenon shifts power to whistleblowers, to the leaking organisations and to the news media which collaborate with them. Much of what the mainstream media published of these leaks was squarely in the public interest: from the diplomatic bag haul, the revelations of the deep hostility within the Saudi ruling family to Iran, the insouciance with which the Chinese authorities regard the collapse of the North Korean regime, and the clear-eyed analysis the diplomats have of the governments of Silvio Berlusconi, Vladimir Putin, and the former Tunisian president Ben Ali.

But the damage leaks could do – to fragile plans for peace, to informants, to security measures, to negotiations on the future of governments – are real. Julian Assange took a fundamentalist view of governments: that they are a conspiracy against the people, and thus their activities should as far as possible be disrupted by leaks. Liberal media cannot afford the same luxury. Their continued existence depends on the continued working of a liberal state.

And, unless one takes the view of Julian Assange, that modern democratic government is a conspiracy against the citizen – a nightmare vision – the facts and trends in the relationship between the state and the news media seem generally encouraging. The practice of free speech and freedom to publish is, in its basic principles, uncontentious in stable democratic states, and has tended to spread – as, for example, in Latin America and in former communist central Europe. There remain important and difficult arguments to be had over issues such as the limits of confidentiality; and the reclassifying by Freedom House of Italy as possessing ‘partially free’ media, is worrying, since the Berlusconi example is (even if the man himself is in political decline) a compelling and oppressive one for leaders elsewhere, especially in rawly new semi-democracies. But elsewhere in the democratic world, governments embrace, more than rhetorically, the need for responsible journalism – not just in narrow self-interested ways, but in a fashion most journalists would recognise as their own. Courts tend to uphold the right of publication when a public interest can plausibly be shown. The Wikileaks dumps of Iraq, Afghanistan, and diplomatic documents were certainly excoriated by, above all, the US administration, which suffered most from them; but – apart from the harsh treatment meted out to the leaker, Private Bradley Manning, and his probable lengthy sentence – no other action is likely.

Journalists have to engage with the issues of the limits of proper confidentiality. To address secrecy-creep, the Harvard political scientist and former US assistant defense secretary in the Clinton administration, Joe Nye, argued that

we should learn from more advanced approaches, in banks and other companies, to develop systems that classify less and protect data better. Better procedures should also be

developed for dealing with things that are likely to be leaked, and how in turn this relates to our laws and to principles we are trying to establish for the Internet.⁶⁹

The historian/journalist Timothy Garton Ash, in a similar vein, suggested:

two guiding principles. First, be open about your grounds for secrecy, transparent about your non-transparency. Have clear criteria and be ready to defend them. They should be able to withstand the following, somewhat paradoxical test: if this piece of information became public, could you credibly explain why it should not have become public?... My second guiding principle is: protect less, but protect it better. ... decide what you really do need to keep secret, on consistent, defensible criteria, and then do your damndest to keep it secret. Don't, for example, upload it to a database accessible to hundreds of thousands of people.⁷⁰

This advice applies to both bureaucracies and journalists. For the latter, the care taken by Bill Keller and his colleagues at the *New York Times* to ensure that revelations do no harm to the innocent is a model which must be followed. The challenge of floods of material through leaks may or may not materialise, but if it does, the news media have to rise to a responsibility to explain – and to censor, as they already have when dealing with the Wikileaks trove – that which endangers. And they must be at least as worried as Keller that they will miss something, and in doing so, consign courageous people to imprisonment or worse.

Mutualisation

The verities of the mainstream news media have been and are being challenged, but they remain. They are famously and admirably expressed, by Bill Kovach and Tom Rosenstiel, as nine commandments:

1. *Journalism's first obligation is to the truth.*
2. *Its first loyalty is to citizens.*
3. *Its essence is a discipline of verification.*
4. *Its practitioners must maintain an independence from those they cover.*
5. *It must serve as an independent monitor of power.*

69 Financial Times, 8 March 2011.

70 'Wikileaks Has Altered the Leaking Game for Good', Guardian, 30 March 2011.

6. *It must provide a forum for public criticism and compromise.*
7. *It must strive to make the significant interesting and relevant.*
8. *It must keep the news comprehensive and proportional.*
9. *Its practitioners must be allowed to exercise their personal conscience.⁷¹*

Nothing which has happened in the past decade of rapid and massive technological change makes any of these less important than they were then in 2001. Journalism which aspires to be a record of significant events, undertaken as a civic practice, needs these guides. Charlie Beckett, who created and runs the Polis centre at the London School of Economics and is an enthusiast for the new media's ability – as he once put it – to save the world, underscored this point in a recent lecture, arguing that

if you want to be trusted – and trust is the way to attention in networked communications – then you have to accept the responsibilities as well as the rights of being a journalist or communicator...you are expected to tell the truth, to be factual and accurate. In return you have the right to free expression...show your sources – link to them and to other points of view; allow me to interact or comment; facilitate media literacy – be intelligible, usable.⁷²

But the huge access and interactivity which the Net has allowed changes the nature, if not the ethics, of journalism. Much, though not all, reporting now must become more and more mutual. The audience demands active engagement, and the possibility of better, fuller, more accurate journalism is proffered by the ability to bring in the expertise and insights of the public in whose interest this is done.

Mutualisation of the kind Rusbridger at the *Guardian* hopes to pioneer will call for more than openness to an audience. The power of Onora O'Neill's strictures – that news organisations have avoided calls for transparency – should gain our attention. The News International case was (we should hope) an extreme of semi-secret dirty practice. But no media organisation willingly exposes its inner workings, however legal and proper they are. In this, media organisations lag behind growing corporate practice: a number of corporations – largely American – have now embraced a practice of openness

71 Bill Kovach and Tom Rosenstiel, *Elements of Journalism* (New York: Three Rivers Press, 2001).

72 'Profiting from the Web: The Ethics of the New Media Environment', talk to the Royal Society, 22 May 2011.

whose forms vary but are at least ideally aimed at drawing out the thoughts, fears, and ideas of the staff, and some of which reveal profiles and salaries of the staff, non-private information on clients, project plans, and sales data. Project Scope, a research project – ‘Confidentiality, Privacy and Transparency in the Age of Wikileaks’ – initiated by the Computer Sciences Corporation (CSC), found that the organisations which have begun to embrace openness ‘have moved far beyond the era in which the corporate PR department carefully shaped and controlled how every piece of significant information about the company was revealed.’⁷³

To be sure, this is far too rosy a picture. Reporting on Microsoft for *Wired Magazine*, the reporter Fred Vogelstein discovered that the company – which has presented itself as newly transparent – had a large dossier on him, had appraised his character and style, and produced a precise brief for the executives who talked to him. ‘One thing about transparency is clear,’ Vogelstein wrote. ‘It’s harder than it looks.’⁷⁴ Indeed, for a corporation like Microsoft, or even one much smaller, it is simply impossible to contemplate dropping a public relations shield. It would be a great deal harder for media organisations, which face hourly competitive pressures but which, on the other hand, also face crises of trust.

Yet what could be made open to their audience could include – without obvious harm – statements of editorial principles and aims, practical descriptions of how stories, analyses, and comment are arrived at, encouragement of maximum feedback on items, profiles of staff members and descriptions of their training, experience, and responsibilities. More difficult would be such information as salary levels, or full explanations of mistakes and misjudgments made. More radical still would be information about daily judgments on news and other coverage, and on the treatments developed for the coverage. This list would horrify most news executives and reporters. But the benefits of discussing how practical their application would be, and the decision to introduce all or some of them, is likely to increase trust in the organisation doing so and to attract new generations of journalists to those making the experiment. The examples studied by the CSC project found that

*openness can attract more top-notch employees who are excited by what they read about the company and know that the company’s high profile will (over time) raise their profiles too. A sprit of openness can spur teamwork both inside and outside the organisation.*⁷⁵

73 lef.csc.com/projects/97.

74 *Wired Magazine*, 29 March 2007.

75 lef.csc.com/projects/97.

Mutualisation cannot properly be engaged in by largely opaque institutions. The challenge here is to create a platform of equality between the professional and the engaged audience or, at least, one in which the relative weights are admitted, and the boundaries of what each can offer the other made clear. That done, it is a path which offers huge possibilities. Those of us who make a living from newspapers can only hope that one of these – a profitable business model – would appear soon.

Not an estate, yet

In the authoritarian world, battles which can at times be a matter of life and death, freedom or imprisonment, are waged daily over the right to publish. In the former Soviet states, especially Russia, in China, in South East Asia, in the Middle East, and in much of Africa, the ideals and practice of the liberal democratic news media are envied, adapted, and used where pioneering journalists find it possible, or squashed when inconvenient to the powers that be. The space for this depends on the policies and attitudes of the regimes in those states. Periods of relative liberalisation are followed – as, in mid-2011, in China – with periods of harshness. In many of the states in these regions, the ruling parties or groups cannot see news media as other than subordinate to their policies and programmes. The idea that they should have independence to report what they wish and to comment as they see fit is seen as an idea not just dangerous to their rule but as the product of hostile forces, funded in many cases by foreign powers, particularly the USA, and by wealthy and hostile individuals, such as George Soros.

The organisation, forces, and journalists within these authoritarian societies who strive, 'in' or 'out' of the system, to widen the area of freedom, bear witness to the view that independent journalism – like civil and human rights generally – is not simply confined to 'Western' societies. It is the resort of all who wish to produce, or to possess, a medium through which significant events can be reported, decisions and policies and debates of the ruling groups made open, and debate permitted to be free and diverse.

At a recent Reuters Institute seminar in the Media and Politics series, initiated over half a century ago by the political scientist and pioneer psephologist David Butler, the former head of BBC Global News, Richard Sambrook, responded to a question of balance in the BBC's coverage of the Arab countries' revolts by saying, with humorous exasperation, that 'we wouldn't want to give equal time to Ghadaffi!' This is not only an uncontentious position within the BBC; it could be expected to have the same response from news executives in all non-authoritarian states. Whether inclining to the right or the left in their coverage, mainstream news media values are ineluctably liberal/democratic, and are willingly imprisoned within what the political scientist Daniel Ritter calls 'the iron cage of liberalism'. Writing of the Arab revolts, Ritter says that

the reason why the United States cannot back Mr Mubarak any longer [is because it is] constrained by the American master narrative of democracy and human rights, Mr Obama finds himself caught in an 'iron cage of liberalism.' Trapped by the type of rhetoric that has long defined the office of the American president, Mr Obama must side with the protesters in order to maintain his credibility and avoid appearing ridiculously hypocritical.⁷⁶

The news media, with much lower stakes and much more willingly, are similarly 'trapped', since they too have fully embraced the 'master narrative of democracy and human rights'. And while their proprietors can set sometimes irksome limits on coverage, they too are trapped. Rupert Murdoch's newspapers in the UK had to cover the News International scandal in some detail. The basis of the mainstream media in democratic states, which they claim should be globally relevant (as civil and human rights themselves), is liberal democratic pluralism, an allegiance which deepened in the latter part of the 20th century and into the 21st. This gives journalism its moral force, as an upholder of ideals within democratic states, and as their flag bearer in authoritarian ones.

Opposition to authoritarian suppression and censorship has been the great cause of the liberal media – based on the right to question, to debate, to reveal, and to criticise. It is only fitfully recognised, by journalists in comfortable circumstances in liberal states, that it has become the cause of all those who wish to give an account of their societies – particularly, of the power structures of these societies – but are barred from doing so. That speaks to a responsibility not just to honour, as we do through such associations as the International Press Institute, Reporters Sans Frontières, Freedom House, and others, the bold among our colleagues in oppressive societies, but to practise a journalism which takes seriously its pretensions to be a democratic necessity.

Journalists in the new democracies are, more often than not, constrained to work for owners who take the same view, and often pursue it with less subtlety and flexibility. These are the people who require an example of journalism in the public interest. The example set by the two huge figures who sought most actively to conflate the worlds of politics and journalism within democratic states – Rupert Murdoch and Silvio Berlusconi – needs to be surpassed for journalism to present a model of understanding societies.

76 'Obama, Mubarak, and the Iron Cage of Liberalism', OpenDemocracy website, 10 April 2011.

The private interest

By the end of the 20th and into the 21st century, one of the greatest demands from within journalism was not for responsibility – that was increasingly seen as over-accommodating, even cowardly – but for the legitimacy of *invasive* journalism, as a de facto right for citizens, based on the right to free speech together with various other rationalisations ranging from Paul Dacre's moral guardianship to Nick Denton's pure market demand principle.

Human rights legislation poses two rights now jousting with each other hour by hour. One is the right to privacy, the other, the right to free expression. For the media in free societies, the latter came to be seen as the licence to invade private space; so efficient were they in doing so, so much power did they derive from that, that senior politicians and nearly all commentators saw it as absurd that anyone – judge, legislator, individual – should seek to challenge it. The News International scandal may have changed, or at least modified, that.

Privacy has, in the recent past, been most obviously hated by tyrants: to assert a private life was a direct threat to Stalinist and Maoist regimes. We now face a tyranny by tabloid and by Internet that is not murderous but has large dangers. Most of all, it threatens that space which people – whether public men and women or private ones – must have to sort out their thoughts, fantasies, intimate and close relationships, private financial and other affairs.

The powerful and celebrated, the major users of injunctions, are bad champions of privacy, because they are easily represented as self serving and rich, able to pay to thwart popular curiosity. But champions they are, all the same, of a right to private space in which we must be free to do what the law allows, and take – or escape – the consequences. Another unintended and possibly benign consequence of the News International scandal, the fact that the mobile phones of *non*-celebrities were treated as grossly as those of celebrities – indeed more grossly, since they were, and were known to be, either mourning or in fearful anxiety, means that privacy is now seen as under sustained attack in a way it was not before.

The engines of scandal – above all the avid desire to know private details, coupled with a fundamentalist reading of the right to free expression, a highly developed and well-served market for sexual revelation, and a world wide web which cannot be restrained by national law – mean that effective legal barriers are now often deemed futile. Whether or not they succeed, it is important to decouple journalism which seeks credibility because it seeks the moral right to analyse, reveal, and comment freely and radically from journalism whose business model is based on scandal.

The claim of *Daily Mail* editor Paul Dacre that scandal derived from a knowledge of matters people usually wish to keep secret is essential to the continued existence of the tabloid press is probably right; but his posing of their revelations as a moral force in the world is less convincing. Not because some

public men and women will not be deterred from extramarital relationships from fear: some probably will. But a deterrent effect is not a moral one; and the moral status of most tabloids is not high enough to claim the status of a pulpit. The claim of the *Guardian's* David Leigh, that an examination of private life is necessary for a full understanding of public actions, is undoubtedly right, but the loss outweighs the gain. Public figures need a private and protected space more than non-public figures – not just on human rights grounds (though they have these) but because without it, they are progressively shorn of the psychic resources which would allow them to do their job.

Through the revving up of the engines of curiosity, through the skilful, determined, resourceful, well-funded, burgeoning industry for the production of scandal, through the enlistment of the resources of the Net (which also means citizen journalists avid to provide, as well as ingest, details of celebrities), through the spread of celebrity culture to ordinary men and women who seek at least a short period in that dazzling and wealthy world of television reality shows and other means, through the globalisation of this culture in magazines, the film industry, television shows and platforms and political manipulation of 'private' lives, through the diffusion of personal details of millions of (largely non-celebrity) people on the Net, contemporary popular culture depends increasingly on the commodification of private life – to the point where its protection now seems, to many, impossible.

An awesome example of just how impossible came in May 2011, when the Manchester United footballer Ryan Giggs took out a superinjunction – which not only prevents, at least temporarily, the publication of a story but also prohibits the initiator of the injunction being named. He did so as other such superinjunctions had become a matter for public controversy, one taken out by the journalist Andrew Marr, another by the former head of the Royal Bank of Scotland, Sir Fred Goodwin, in each case (as in Giggs') to prevent revelations of their affairs. Marr broke his own superinjunction, and said he was wrong to take it out. The other two were outed in a flood of Tweets: when they were named in the House of Commons by MPs enjoying the right of parliamentary immunity, millions of people, worldwide, already knew that Giggs, married, had had an affair with Imogen Thomas, a model and *Big Brother* contestant.

Writing in the *London Review of Books*, the former Appeal Court Judge, Sir Stephen Sedley, was clear about the consequences of both newspaper publication and this use of parliamentary privilege: it damaged the twin pillars of British democracy and the rule of law – the sovereignty of parliament as the final source of the law, and of the law itself as the sovereign interpreter of that law. The MPs, under the banner of freedom of speech, breached a 'simple constitutional principle'. Superinjunctions, he wrote, are crude and illiberal instruments, but their use became inevitable because

some newspapers would name the claimant and hint unmistakably at what was being alleged. When the courts in consequence began to suppress the name of the claimant, the papers would instead spell out the allegations and sometimes run adjacent stories or pictures which made it not too hard to guess who the claimant was. Hence the super-injunction forbidding both, which is anathema not only to the press but to any system of open justice, but was forced on the courts by the repeated undermining of their orders.⁷⁷

He went on:

the tabloids' self-justification, advanced in the name of press freedom, mirrors that of the authoritarian state. The Sun columnist Jane Moore admonishes errant public figures: 'If you don't want your private life splashed all over the papers, then behave yourselves.' Or, as it was once put, if you have nothing to hide you have nothing to fear... It can be credibly said that the fourth estate is close to being a state within the state, unregulated except to the modest extent that it chooses to regulate itself and alternately feared and pandered to by public figures. Its merchandising of voyeurism might be worth debating if that were the way it was promoted; but the eye at the keyhole is presented as that of the public moralist: because stars are role models, it is argued with a straight face, the exposure of their promiscuous sex lives will appropriately harm their image and deflate the young's perception of them.⁷⁸

Sedley's account demonstrates the moral force which newspapers have gathered to power their defiance of the law. The equation runs: 'The authorities are attempting to stop you from learning some information of interest. We the media wish to provide that information. We are therefore on the side of freedom, and on the side of the people.' This equation is made immeasurably stronger by the Net, because it creates a generation which is accustomed to learning everything, without hindrance and with little or no delay. Prohibitions on what one can discover on the Net are imposed by oppressive regimes. Thus there is a new definition of a democracy: a state which allows absolute freedom on the Net. The Net puts the issue of privacy

77 'The Goodwin and Giggs Show', London Review of Books, 17 June 2011.

78 Ibid.

into a limbo from which it is hard to see an exit.

The Giggs affair was described by many newspapers as causing ‘chaos’ in the English legal system. A Scots newspaper, the *Herald on Sunday*, benefitting from the separation of legal jurisdictions, published a picture of Giggs; and the status of the Twitter and other Net-based messages defying the injunctions seemed confused. Seeking to re-establish some order, Lord Judge, the Chief Justice, gave a press conference in which he argued, in similar vein to Sedley, that

contrary to some commentary, unelected judges in this country did not create privacy rights. They were created by Parliament. Now that they have been created, judges in this country cannot ignore or dispense with them: they must apply the law relating to privacy matters as created by Parliament. It is, of course, wonderful for you (the media) if a Member of Parliament stands up in Parliament and says something which in effect means an order of the court on anonymity is breached. But you do need to think whether it's a good idea for our lawmakers to be flouting a court order just because they disagree with a court order or they disagree with the privacy law created by Parliament.⁷⁹

Lord Judge admitted that bloggers and users of social network sites such as Twitter would not necessarily be covered, since the Internet had ‘by no means the same degree of intrusion into privacy as the story being emblazoned on the front pages of newspapers’, which ‘people trust more’. But he warned that society should consider other ways to bring Twitter and other Internet sites under control, since ‘anybody can put anything on it. Modern technology is totally out of control. I’m not giving up on the possibility that people who peddle lies about others through technology may not one day be brought under control.’ The Chief Justice is right to protect the laws passed by parliament: these laws were passed for our protection, on the assumption that we wish for some measure of privacy.

There is, to be sure, a vision of a perfected humanity which lives in a wholly transparent world, assisted into that world by the media. One visionary described it thus:

The experience of living online will only become more universalized, giving people more of a basis for judging

79 www.judiciary.gov.uk/media/media-releases/2011/committee-reports-findings-super-injunctions-20052011.

people and information they encounter there. Privacy will recede from the heights it achieved during our brief period of wealth and atomization. Present notions of reputation will no longer apply; as multiple personas become more difficult to maintain. All this will result in a more accurate and humanized representation: we are who we are, warts and all, and the exposure of actions and beliefs that we now keep under wraps will result in changes in social norms. We need not fear the future.⁸⁰

This may come. But if and when it does, it would be more of a utopia for dictators than for a civil society. Thanks, again, to Rupert Murdoch for giving us a whiff of it.

A reassertion

Journalism everywhere is undergoing very tough changes. It's faced with a bewildering array of movements – one of which appears to be deserting the news, analysis, and investigation, and another which seems to show a greatly increased appetite for it – if in different forms. Great newspapers, with a century or more of tradition and with large kudos and shelves of awards, make large losses and tremble on the brink of insolvency – even as they are read, on the Net, much more widely than ever before. Some of the finest television journalism is now being done, as news reports, as current affairs, and as full length documentaries, and yet audiences fall. There have never been so many university departments of journalism – whose graduates now head for public relations companies, where the work is seen as more glamorous, and better paid, than work in struggling publications and news divisions.

This essay was prompted by a disgrace, yet one which might do some good. The cynicism and corruption revealed had been, as I have written, 'known'; but now it is *known*, and we have to deal with it. There are many changes which can and should be made, among them, a more proactive organisation than the UK's Press Complaints Commission, a press-dominated body which functions more as a figleaf than as a centre for grappling with the vast changes now affecting journalism.

But the central step must be a reassertion of what the pre-eminent scholar of journalism, Michael Schudson, uses as the title for his 1995 collection, the *Power of News*.⁸¹ That power, he believes, is as 'a vital force for keeping the concerns of the many in the field of vision of the governing few ... when the audience for news is expanded, the shape of politics changes'. It is the case, he

80 Amber Taylor, Prettier than Napoleon blog, 18 November 2007.

81 Michael Schudson, *The Power of News* (Cambridge, Mass.: Harvard University Press 1995).

writes, that 'democracy in the contemporary world is scarcely conceivable, scarcely definable, without [the press].'

Above all:

the news gains power not in its direct impact on audiences but in the belief, justified in viable democracies, that the knowledge of citizens can from time to time be effective. The power of the press grows in a political culture characterized by this belief.

Holding and maintaining that belief is the central responsibility of the profession. This responsibility the British tabloids, who call themselves newspapers and claim newspapers' privileges, had largely forgotten, so mired had they become in the complex and absorbing games of celebrity and sexual transgression, so enamoured had they become of the power they wielded over politicians who had no other form of national visibility than the coverage they deigned to give them and who had the constant fear that they would be tarred, feathered, and paraded through the virtual streets of the nation, if they were deemed to have deserved a monsterring.

The power of the press is its ability to make a connection between citizens and the public life they have been instrumental, through their votes and their activities, in creating. Whatever forms it takes, whatever medium carries it, that is what it needs to preserve: its central responsibility, the reason, at bottom, for its existence.

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The phone hacking at the *News of the World* – and more broadly – showed how desperate and driven was the search by popular newspapers in the UK for exclusive information on the private lives, both of the famous and of ordinary people caught up in a media frenzy. It revealed both widespread criminality and, on the part of the senior executives of the holding company News International, an unhealthy relationship with senior politicians, in which they were cowed into acquiescence with the group's objectives and policies in order to retain their support.

But this was only one, criminal but logical, extension of the need for secrets. The transparency demanded by the news media has been served in various ways – in part through the adoption of Freedom of Information legislation, in part through the huge increase of the exchange of personal details and news through social media, in part through the leaking of secret information, in which Wikileaks has played the highest profile role and poses the largest challenge to authority at every level.

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