

Uneasy Coexistence – Maintaining Media Freedom within the State Security Paradigm

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On a cold January morning in Ottawa, I retrieved the newspaper from my front stoop and took off the rubber band. Shouting up at me, the blazing black type across the front proclaimed it to be “A black, black day”.¹

Under the rubric of national security, RCMP officers had executed a search warrant at the house of Juliet O’Neill, a long-time *Ottawa Citizen* reporter who had reported on the troubling story of Maher Arar. The case was controversial, because the role of the Canadian government was unclear: Arar suspected that Canadian intelligence had allowed, if not encouraged, his deportation to Syria from the United States, where he had been imprisoned and tortured before being released back to Canada. How much did the government know? And what exactly had been done by those aware of the situation? In trying to put together answers to these questions, O’Neill had accessed a file of sensitive, confidential material, which she had obtained in a leak from an as-yet anonymous source. The RCMP investigation was aimed at discovering who this was, and so early that morning, they showed up at O’Neill’s house and proceeded to search through the contents, intimate and otherwise, of her entire house.

When the story of this search broke the next day, under the ominous headline above, there was predictable outrage. Journalists and citizens alike condemned the raid, denouncing it as a more suitable action for a police state under authoritarian rule, than as a measure to be taken within a liberal democracy such as Canada. Numerous articles and letters questioned the existence of the liberties we generally take for granted – the values of free speech, a free press, and free association. Were these values in jeopardy? The importance that a democratic society places on these freedoms is often mirrored by the condition of its media, and equally, a thriving pluralist debate seems to indicate the degree of openness within a society. Thus, this infringement on press freedom raised the fear that basic Canadian freedom could be in jeopardy. If the government was capable of restraining or otherwise intimidating journalists away from writing about sensitive or potentially embarrassing issues, then they would be successful in muzzling one of the primary forums for public debate – and therefore, they would also be curtailing every Canadian’s access to news that could affect their lives.

What rationale justifies limiting both the scope and content of the news, and the democratic freedoms that Canadians value? National security concerns, fighting international terrorism, and the protection

of official secrets are all valid goals for the government, and should be – the objective of any state is to maintain its security. As part of the anti-terrorism legislation passed after September 11th, the Canadian government revamped the old Official Secrets Act into the new Security of Information Act, which included provisions against leaking secrets, and against the unauthorized possession of sensitive information. However, this legislation must work in conjunction with the existing Charter of Rights, which includes freedom of the press as a fundamental freedom. The challenge is thus for the government to pursue effective security policies, while not neglecting or compromising its domestic values, and to do so in a way that respects the civil liberties of its citizens. Yet, in our current system, states have tended to prioritize the pursuit of security over the protection of individual rights, and the cases of Arar and O'Neill are examples of what happens when the competing aims of government and the press clash. This clash is not surprising, when one considers that these two different entities must operate in cooperation within a democratic society, while at the same time pursuing seemingly contradictory goals.

What is the main goal of the state? This is articulated within its national interests, wherein the primary one is to maintain the integrity and existence of the state, and to ensure the security of its borders and of the people within. However, within the goal of the state, one must account for the interests of the specific ruling government, which has an interest in maintaining its position of power. In order to accomplish this in a democratic state, the government ostensibly has to seek the approval and the permission of its citizens, who give or withhold this consent by voting in elections. Another primary national interest is the fostering of economic prosperity, and in order to achieve this, the government must engage effectively with other states. This interaction will likely result in compromise, with each ceding a certain measure of sovereignty over some issues for the sake of productivity. Thus, it is also in the interest of governments to have some flexibility in their international relations – however, what happens when these discussions and decisions move outside the realm of a domestic public audience? States may have to make concessions and decisions that will be unpopular. The nature of diplomacy has always depended on secrecy, and the ability of elites to work behind the scenes, away from the glare of publicity, but this process subverts the open and transparent procedures that characterize democratic states.

Here then, we can see the role that a free press should play – its goal is to hold governments accountable to the people, by accurately reporting on their activities and plans, by providing a forum for open debates so that policy makers can assess public opinion and take note of the constraints they must work within. For a free press to function effectively, it must be able to legitimately criticize the government, and to have enough access to do this in a competent and responsible manner. In order to inform the public in the most complete way possible, journalists may expose government actions to unflattering attention, which may also derail previously set plans. Thus, the media's goal of providing information that is as complete as possible will cause conflict when the government perceives that it would interfere with pursuing the national interest.

In the case of national security, governments have historically been granted a certain amount of freedom by the public, who believe that they will act in the best interests of the people. Publics have also been willing to endure a limited amount of restrictions on their freedoms during times of crisis or war, if they are convinced that they are doing so for a just cause, and that a momentary loss will lead to greater benefits later on. For example, during both World War I and World War II, there were press restrictions and censorship on what was reported, and journalists were inclined to be patriotic, complying with the rules to write morale-boosting stories. The justification of this was that ultimately they were on the side fighting for the survival of democracy itself, and that in order to preserve the system at home, war had to be waged abroad using all available means and resources. As well, logistically, journalists did not want to endanger Allied troops by writing about operational tactics or strategic plans, which could be read by the enemy.

However, when journalists willingly participate in this kind of self-censorship, whether in the name of patriotism or national security, they allow the government to control the flow of information, and the framing of events and issues. This kind of filtering action is harmful in two ways: first, the news in this situation runs the risk of becoming something eerily similar to government propaganda, where every fact comes attributed to an official; and second, a passive public may be inclined to accept such information as likely to be true, since it has supposedly been verified and legitimized by what they suppose is an independent media. One mitigating factor in this case is that publics seem to be equally sceptical of both the media and their governments nowadays – a recent global survey by

the World Economic Forum found that only 52 percent of North Americans trust the media, and only slightly more than that trust in the government.² However, even given declining public trust, the pervasiveness of the media in our society means that the ramifications of a co-opted press are still important factors to be considered when looking at possible constraints on government behaviour. In essence, the main implication is that the government is capable of waging war without re-evaluating the effectiveness of their policies or the rationale of their strategy, including the validity of the operation. As long as there is consensus within the government as to its approach, it can continue to implement its own agenda, without the pressure that external critical analysis would apply. While the government may argue that secrecy aids operational success, it can also be argued that secrecy permits greater risks to be taken – risks that may not be completely evaluated, and that the public may or may not support if aware of them. While big risks can lead to big payoffs, they can also lead to big disasters, and this can lead a government to escalate its actions, in the hopes of making up for its losses.

Yet, if there are dangers in the existence of a passively receptive press, then there are also drawbacks to an overly hostile media-government relationship as well. When the media is constantly on the attack, the power imbalance works in the government's favour. Although the relationship should be mutually beneficial – the press needs information from the government, and the government needs the reach of the press – it will always be asymmetrically so. When the government perceives the media as the enemy, it can, and has, turned to various unproductive tactics, such as freezing the press out, or deceiving it outright. Neither tactic is conducive to democracy. Admittedly, these responses are not exclusively invoked in reaction to media behaviour – in some cases a government may implement these strategies proactively, sometimes in order to cover up scandals or errors. In these cases, it is necessary for the media to take on an investigative role, yet unless another Deep Throat emerges, it is often difficult to uncover undeniable proof of government wrongdoing.

And it is here that we return once more to the case of Maher Arar and Juliet O'Neil. The government has ordered an inquiry into the former, and the latter case is slowly fought out in the courts. In the meantime, the *Ottawa Citizen* has continued to run coverage on the progress of the proceedings, O'Neill has continued to speak out against the raid, and the

government has steadfastly revealed as little as possible. The difficult task that the law now faces is to decide which party has overstepped their bounds in pursuit of their opposing purposes. What must be kept in mind is that the tension caused by these competing goals cannot be resolved entirely, nor should it be resolved firmly in anyone's favour. Since the government will always have more control and power than the media, the courts need to enforce that a free press is an integral component of maintaining a healthy democratic society. However, our democratic values must continue their uneasy coexistence within the dominant security paradigm, because ultimately, a free press could not operate as effectively within a climate of insecurity.

- 1 *Ottawa Citizen*, Thursday, January 22, 2004, A1.
- 2 World Economic Forum, *Voice of the People* survey (Gallup International and Environics International: 7 November 2002).