

Let's reclaim our freedom and decriminalise journalism

By Marcus Strom

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Thursday marks 12 months since Australian Federal Police raided the home of a News Corporation journalist, Annika Smethurst. One day later, the AFP also raided the Sydney offices of the ABC. Only last week, Smethurst learned she will not be charged for writing the news story that prompted the raid. Two ABC journalists are still waiting to learn their fate.

Those June 2019 raids grabbed global attention about the state of press freedom in Australia, not least because dawn raids of journalists are the type of thing you would expect from a despotic police state, not a country that prides itself on being a liberal democracy.

Now, in the US this week, we see news media, including Australian television crews, targeted by law enforcement in assaults that can only be interpreted as an attempt to intimidate and silence.

Is this surprising in a country with a leader who has labelled the free press as the “enemy of the people”? US Press Freedom Tracker is investigating more than 200 violations during the past few days, most in the form of police assaults.

For almost 20 years the Australian Parliament has granted governments sweeping powers to combat the so-called “war on terrorism”. Politicians have cited “national security” so government agencies can reach into our homes, offices, phones and computers to control the possession and flow of information. What we are actually witnessing is a war on journalism.

Professor George Williams, Dean of Law at the University of NSW, says that since the September 2001 terrorist attacks in the US, our Parliament has passed at least 82 national security laws – on average one every three months. They were passed with what Williams calls “convenient bipartisanship”.

It is high time our politicians started a process to wind back those laws that criminalise journalism. They need to reverse the creeping culture of secrecy and censorship that is dominating policy. Starting with national security, it now infects how the country handles policies as diverse as immigration, refugee settlement, social security and taxation. For a period in December last year, we weren't even allowed to know where or whether the Prime Minister was taking leave.

This is not about "getting the balance right" between national security and freedom of the press. Viewed through the prism of a zero-sum game, we will all lose out because only a free society can be truly secure.

Current laws allow governments to hide information from the public and punish any who reveal that information. There is no need for a government to explain or even justify why even the most bland information, such as the lunch menu at the members' dining room at

Parliament House, has been classified as secret. It is enough that the government has deemed it so.

This cloak shields the government from embarrassment, particularly when a whistleblower reveals instances of wrongdoing. Whistleblowers, often because no one has acted on their concerns, sometimes turn to a journalist to tell their story. But the new powers allow the government to ruthlessly pursue the whistleblower and criminalise the journalism. The new laws carry prison terms for both whistleblowers and journalists of up to 20 years for telling the truth.

Last year's assaults on press freedom began on June 3 when a Department of Home Affairs official told broadcaster Ben Fordham he was being investigated over a "leak" from inside the department. The story was about Sri Lankan asylum seeker boats heading to Australia. The story was true.

The next day, AFP officers raided Smethurst's home over a story published a year earlier about discussions to allow the Australian Signals Directorate to spy on Australians. The story was true.

The next day, armed AFP officers raided the ABC over a story about allegations of war crimes committed by Australian soldiers in Afghanistan. The story had been published almost two years earlier.

The AFP planned to raid News Corporation the following day but abandoned the idea after the huge outcry over the raids.

Four press freedom assaults, actual and intended, in four days.

This was a dangerous and dramatic escalation of the assault on the public's right to know about what our governments are doing in our name. Information is locked away, and the laws that criminalise journalism remain.

But the secrecy promotes a culture of insecurity and popular distrust of government. There have been tentative signs things may change but we are yet to see tangible results. After the outcry over the raids, Parliament has conducted two inquiries into press freedom. They are yet to report their recommendations.

There was also a strong response from the media as rivals came together to campaign for six reforms to ensure journalists and their sources can expose wrongdoing without fear of reprisal: the right to contest the application for warrants; exemptions for journalists from laws that would put them in jail for doing their jobs; protections for public sector whistleblowers; a new regime to limit which documents can be stamped "secret"; a properly functioning freedom-of-information regime, and reform of defamation law.

Journalists are not above the law but bad laws must be reformed if freedom of expression, and press freedom, is to be upheld. Australia's reputation as a healthy democracy that respects the human rights of its people depends on it.

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