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## The Role of the Media in a Time of Crisis

**Vincent Ho, the winner of CAMLA's 2001 Essay Competition, provides a timely examination of the conflict between the media's responsibility to ensure the public's right to know and their moral obligations to those they could endanger.**

*"Of all the foundations of a free democratic society, that most basic – the freedom to know, to be informed – has guaranteed that such knowledge and such information can be fashioned by the fanatic through the conduit of the media eye. To close that eye would erode a fundamental right, would close an open society. Yet not to do so would assure future massacres, further terrorist-events with little hope of audience saturation".<sup>1</sup>*

J. Bowyer Bell

### THE DILEMMA

The above quote captures the essence of the terrorism dilemma facing the media. It is well recognised that a degree of symbiosis exists between the media and the perpetrators of terror. The news competition and sensationalism that characterise Western media lend themselves to exploitation by terrorists. These features enable terrorists to use the free media as a platform for their propaganda and recruitment. Modern terrorists have learned to cunningly exploit the media's own *modus operandi* to draw attention to their causes. In return, the actions of terrorists expose media stations and newspapers to millions of viewers and boosts ratings sky high.

To illustrate this, the attacks on the World Trade Centre on September 11, 2001 were committed on a scale unparalleled in the

history of modern terrorism. The terrorist acts were perpetrated in a way that would maximise television coverage, with the graphic images broadcast live to millions of appalled viewers all around the world. Major television channels had no option but to broadcast what was happening live, as the events taking place were far too significant to delay. No other terrorist incident in modern history has so captivated and at the same time horrified so many people.

The access to the media as a result of the terrorist attacks was utter and complete. Instantly, Osama Bin Laden became a recognised household name, his exposure almost as great in the United States as that of the President. Throughout parts of the world he has been venerated as a hero and his Al-Qaeda movement has enjoyed new found legitimacy in the hearts and minds of many who harbour a

deep resentment of the United States. Intelligence officials warned members of the United States Congress in early October that 'there is a high probability' of a future attack.<sup>2</sup> Sure enough, another terrorist attack to gain the media's attention was not long in coming and this time it was aimed by unknown parties at the media itself.

The anthrax attacks deadly as they were, represented a most efficacious means of utilising the media vehicle to amplify fear into a national phenomenon. There are good grounds to presume that any terrorist action initiated in the future will be duly reported by the mainstream media, and via this conduit, the significance and status of the perpetrators greatly magnified.

Muslims the world over have found themselves the victims of attacks in obvious racial hate crimes. In the United

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States a wave of fear has spread throughout the Islamic community, as cries for vengeance turn to persecution. Among the most gut-wrenching attacks include the murder of a Pakistani Muslim store owner in Memphis, the murder of a Sikh man in Arizona for appearing Muslim and the stoning of a pregnant Muslim woman in Rhode Island.<sup>3</sup> Many thousands more Muslims in the United States have felt the hand of intimidation. Here in Australia, an Islamic school in Perth has had its windows smashed, Muslim women and children have been vilified and several mosques defaced.<sup>4</sup>

The media cannot be held responsible for the repression and victimisation of Muslims. However, just as Asian Australians were vilified after Pauline Hanson made her views known through the media mouthpiece, it should be recognised that there exist barbarous members of our society actively seeking scapegoats, upon whom they unleash their frustrations and rage. For these persons, the media is the principle source of information upon which they feed.

Media then, have the difficult task of weighing up their moral obligations to

those they could endanger against their inherent responsibility to ensure the public's right to know.

Freedom of expression is a fundamental tenet of modern democratic principles. There is a strong moral, ethical and philosophical imperative to allow the emergence and growth of ideas without inhibition or restraint. Freedom of expression importantly is not just the domain of the individual. In modern mass society, Vincent Blasi argues that the mass media have the power and influence over the opinion process to properly monitor government; the individual no longer does.<sup>5</sup> Therefore, the media are a necessary and appropriate countervailing force to government, essential for the perpetuation of any free democracy.

The imperative for freedom of expression however is put into question when the issue of a terrorist crisis comes into play, particularly where hostages are involved. The issue then becomes one of proportionality not absolutes. It is justified to say that media should not interfere in a process that may lead to jeopardising the safety of hostages, and indeed the media has as important a

responsibility to the safety of the hostage as it does to the public's right to know.

Media interference in the Lufthansa hijacking in 1977 and the Hanafi Muslim takeover in Washington D.C. earlier on in the same year was strongly criticised for being potentially dangerous and in the Lufthansa case, media coverage contributed directly to the death of a hostage.<sup>6</sup>

There is also an element of accountability to the nation when reporting terrorist incidents. The reporting of terrorist incidents may generate contagion effects,<sup>7</sup> for example with anthrax hoaxes in America. There is the opportunity for vilification to be wreaked upon innocent victims. And of course, as noted, there is the greater issue of the media's symbiotic relationship with terrorists, increasing the likelihood of further terrorism against the state.

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### **THE LEGISLATIVE AND JUDICIAL RESPONSE**

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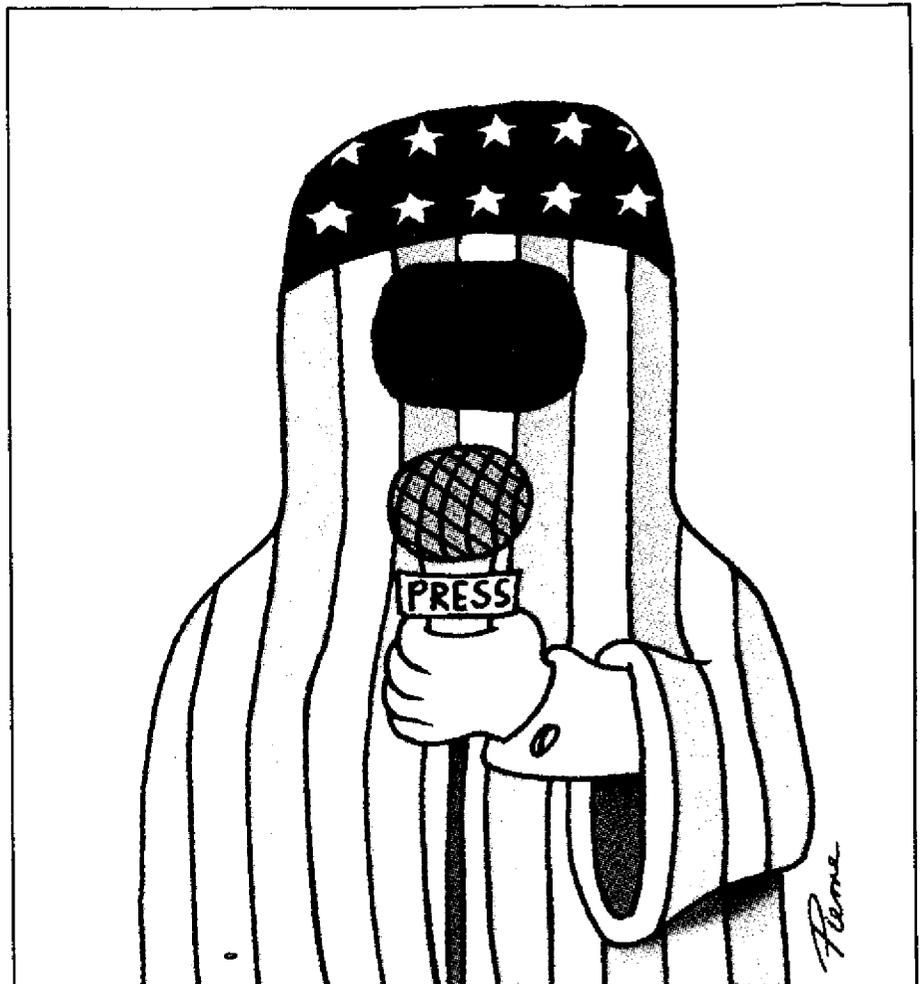
For these reasons, codes have been drawn up to try and find a compromise between the media's desire and duty to exercise

free speech and the safety of the people. In Australia, a system of voluntary restraint by media organisations has been adopted rather than outright censorship. Justice Hope's *Protective Security Review* commissioned in 1979 stressed the need for media cooperation in terrorist crises.<sup>8</sup> However, the review also recommended the use of police powers against media organisations that do not cooperate with government and security guidelines. Although this may be seen as an infringement of civil liberties, the reasons for this are at least understandable if the action is taken in the best interests of citizens. Where hostages are involved there is an *a priori* interest in their well-being and safety, one that can justifiably override the national interest for immediate news coverage. Similar restraints would be called upon the media in times of national security or if the rights and liberties of citizens were put into true jeopardy.

More disturbing are issues where national security interests are not clear-cut and the government has raised insufficient grounds to explain the case for the endangerment of citizens. When a situation arises where the need for information is more urgent and compelling than the case for endangerment of citizens and the nation, the media can appeal to the judicial system. However, as courts do not like to probe government motive, the result is often an enforced denial of information to the public.<sup>9</sup>

There are legal constraints on what the media can report on terrorism. In the United States, section 793 (d) and (e) and section 798 of the *Espionage Act*<sup>10</sup> allow wide ranging powers for prosecution for the possession and publication of unauthorised national materials when interpreted in full technical sense; applying equally to journalists and members of the public. The successful prosecution of Samuel Morison, a civilian intelligence analyst employed by the United States navy, for passing photos to a private weekly defence magazine, exemplifies the vulnerability media and individuals face as a result of legislation's nebulous definition of national security.<sup>11</sup>

The United States District Court rejected a defence argument in *United States vs. Morison* that the *Espionage Act* applied only to the secret transmission of information to foreign powers.<sup>12</sup> The



court held that 'the danger to the United States is as great when this information is released to the press as it is when it is released to the agent of a foreign government'. The court deemed that Morison's motive, whether to injure the security of the United States or whether to inform the public, was irrelevant to a finding of guilty under section 793 (d) and (e). This decision was later affirmed in the Fourth Circuit Court of Appeals.<sup>13</sup>

Section 78 of the *Crimes Act* 1914 is the Australian equivalent.<sup>14</sup> Like sections 793 (d) and (e) of the American *Espionage Act*, the provision can be extended to have a wide range. In the United Kingdom, active wide ranging powers of the *Official Secrets Act* which provided the direct model for Australian legislation, has already led to penalties for political dissent and criticism of government activity.<sup>15</sup>

### **THE ISSUE OF CENSORSHIP**

Media organisations respectfully comply with national security interests but there should be reasonable justification presented for grounds of censorship. This

is not to say that reporters should presumptively embark upon a course of audacious coverage but rather, should tread a judicious course vis-à-vis their principle mandate of reporting the news.

The request by the White House to major news organisations to censor bin Laden's video messages is highly questionable. United States National Security Advisor Condoleezza Rice has said that bin Laden may be using video messages to relay coded instructions for operatives in the US to stage retaliatory attacks for the US bombardment of Afghanistan and has requested that American television networks self-censor the messages of bin Laden.<sup>16</sup>

Asked for evidence about possible cryptic messages, the White House said it had none. Despite the paucity of evidence of any security threat to citizens, media networks nonetheless acceded to the request of the White House, in deference to the patriotic fervour sweeping the United States.

The government-funded international radio station 'Voice of America' protested attempts by the U.S. Government to prevent broadcasts of an exclusive

interview with the Taliban Leader Mullah Omar. Judge Powell apparently made requests to the Emir of Qatar to crack down on the pan Arab, all-news satellite station al Jazeera. Ahmed Sheikh, the channel's news editor, was surprised at American efforts to censor the station. 'Because this [complaint] comes from the United States, which considers itself the strongest advocate of freedom of expression, this comes as very strange and unacceptable'.

It is highly probable there will be no media coverage of the land invasion when it gets underway. A correspondent for the US armed forces' own newspaper *Stars and Stripes*, told Phillip Knightley that even he would not be allowed to accompany any invasion force.<sup>19</sup> Large media organisations will have no option but to accept this. Despite the sheer importance of the First Amendment, it is unlikely that the media would prevail in a court of law.

Judges simply do not like to determine what constitutes national security. As Lord Parker of Waddington stated in *Zamora*, "Those who are responsible for the national security must be the sole judges of what the national security requires".<sup>20</sup> *J.H. Pictures vs. Defence Department* was launched post-Gulf War to challenge for the right of access to pictures of dead American soldiers in a U.S. Air Force Base, under the First Amendment. The trial judge ruled that the First Amendment did not 'mandate a right of access to government information or sources of information within government's control'. Sadly, the larger question of the constitutional validity of the government censorship was not considered.

A more pressing question for the media concerns the pall of censorship self-imposed over the United States in the aftermath of the terrorist attacks. The fact that the majority of Americans support media airing the views of those who feel U.S. policies were to blame for the terrorist attacks,<sup>22</sup> has not affected media censorship in the United States after the terrorist attacks. Censorship has been vast and swift.

Bill Maher's program *Politically Incorrect* was taken off the air by the ABC network for comments Maher made in reference to the hijackers. Maher was forced to broadcast a humble apology.<sup>23</sup>

Both Tom Gutting and Dan Guthrie, columnists for the *Texas City Sun* and *The Daily Courier* respectively, criticised President Bush and both were promptly sacked. *The Texas City Sun's* publisher made a front-page apology to "all our country's leaders and especially President George W. Bush" and the editor of *The Daily Courier* announced that only "responsible and appropriate" criticism of Mr Bush would be permitted in future media coverage.

Criticism of the other side has also been punished harshly. Ann Coulter was fired by the *National Review Online* for posting a racist article encouraging attacks on the Palestinian state<sup>24</sup>. Coulter's words which were unquestionably inflammatory, offensive and most certainly untrue, nonetheless are in the form of opinions and deserve protection for their right to exist.

The aftermath of September 11 has united people in a way that was hitherto unimaginable and in the prevailing political climate dissent is all but non-existent. Rousseau articulates the power of patriotism in his writings.<sup>25</sup> To Rousseau, patriotism is a passion, a strength of the soul that empowers action. Along with *amor patriae* or love of country, patriotism is a zeal for justice and an enthusiasm for civil benevolence. An attack on one is an attack on all.

The media in the prevailing nationalistic spirit most understandably want to play their part as patriotic citizens in these troubled times. But journalists are imbued with the unenviable responsibility to discern and report the truth. It is through their vigilance that the war on terror is prevented from devolving into a war on truth.

John Stuart Mill once wrote

*'Not the violent conflict between parts of the truth, but the quiet suppression of half it, is the formidable evil. There is always hope when people are forced to listen to both sides.'*<sup>26</sup>

Unpleasant and frightening as the truth may be, there is an inherent duty by the media who are the custodians of free voice in our modern society to voice this truth. Any self-imposed prior restraint by the media organisations necessarily deny people the opportunity to receive impartial information which may change their mode of thinking. The exceptions of course as noted previously are where

national security interests and the rights of citizens become paramount.

In the same way that the flag desecration case *Texas vs. Johnson*<sup>27</sup> was held by the US Supreme Court to symbolise a key bed-rock principle - 'Government may not prohibit the expression of an idea simply because society finds the idea to be offensive', there is an inherent right for media to present without government restraint, opinions and more importantly facts which may run counter to the views, perceptions and beliefs held by the majority of American people. Detailed exposure and recognition of the plight of the Afghan people in this war may be counter to the aims of the United States Government but may ultimately result in action that can realistically lead to a better life for the Afghan people.

## LESSONS TO BE LEARNT

There are lessons that Australia can learn from what is happening in the United States. In the recent Tampa boat crisis, much criticism was justifiably levelled by the media towards the government, for denying relevant footage. While the government's action may be protected by a technicality in defence law<sup>28</sup>, it is difficult to see how the incident would have endangered national security to the point of censorship. Irrespective of the merits of the case, the media has the right to portray the story with all its essential facts.

Terrorism is a crime on humanity and no less a tragedy. It is not an easy subject to grasp and more difficult still to present objective truth. Consideration and an awareness of the moral, ethical and legalistic issues involved in a time of crisis will enable media to determine the best way to forge ahead in fulfilling its duty to the people.

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## Freedom – Lost or Loaned

**Mr Kerry Stokes, AO, in his 2001 Andrew Olle Media Lecture provides this personal account of his reaction to the events of September 11 2001 and their impact on the role of the media.**

"The world as we know it has changed forever." You've heard those words countless times since the events of September the 11<sup>th</sup>. Yet somehow they sound obvious, hollow, and inadequate.

I was shocked and horrified as I watched live pictures of people jumping to their deaths. Knowing that as I watched those buildings crumble to the ground I was in fact witnessing the deaths, of thousands of people. Innocent people who, like us, were just going about their everyday lives.

I said aloud: "*The world will never be the same*".

Those horrific images we saw over and over will forever be etched in our memories. We're now forced to question everything. The way we live our lives, the way we conduct business the way we, as media, fulfil our role.

I'd suggest, now is a time for contemplation: The Macquarie Dictionary defines contemplation as: "*thoughtful-observation & consideration*", "*continued attention and reflection*". Never before has contemplation been more important, more relevant. Now is the time as a nation, and indeed for the world, we must plan for peace. This is not a new challenge for our civilisation. As Aristotle said:

*"It is more difficult to organise peace, than to win a war, but the fruits of victory will be lost, if the peace is not well organised."*

It is imperative that we develop a cohesive strategy and plan in response to this event and to put this plan in place for the future. I call it an event because it didn't happen in isolation. This is not the first, nor sadly the last, act of terrorism. Although in my view these are the most cold blooded acts of murder more horrific than any fiction Hollywood could dream of.

The full impact of this horror is yet to be felt. There is little doubt there are more horrors to come. Around the world, and indeed in Australia, it's like the waves that follow the tidal wave.

This address is probably the most difficult I've had to give. I found it impossible not to become emotional, angry, frustrated. Yet that is what we must put aside if we are to contemplate the future. My first thoughts when considering a topic were of the media's role in our evolving multi-cultural Australia. The events of September 11 brought multi-culturalism and tolerance into even sharper focus.

And like the continuing pall of smoke that still comes from the ruins of lower Manhattan so too the world is still absorbing the consequences, I believe the world is at an incredible turning point.

I'd like to pose some questions. I hope that collectively we will have some of the answers.

This is the time for us to put aside our commercial and philosophical

differences. If we get it right, the people in our industry can play an integral role in identifying and determining the type of country we want to call home. We, people in the media, can assist in shaping a better future for Australia. Because, it is you who are respected. It is you, the people in this room, with whom millions of Australians identify. It's therefore up to us collectively to be not mere observers in this issue but active participants in the solution.

Let's reflect firstly on our response to the events.

At one point I was watching just one international feed from one media organisation on every single network in this country. Even at the source in New York, the home of media, they were ill prepared to provide coverage. From New York we would have expected to have an instant critical response. Initially they were too dismayed to mount a cohesive and adequate coverage in their own town.

Given it was eleven at night here in Australia, we could be forgiven for taking time to marshal our own resources. As a result, in the world of globalisation and infinite choices there was in reality, only one: CNN. The fact that networks in Australia were able to go into a 24 hour coverage, that the television, radio, newspapers and even on-line, produced outstanding coverage is testament to the dedication and commitment of the people involved in all of our newsrooms.