

for almost 40 years, Algerians living under a one-party regime knew only one-party newspapers, radio and television. It was only after the violence that shook the country in October 1988 – nationwide youth protest against that regime – that an ever-widening crack was opened in a system based on the rigid and oppressive ideology of ‘unique thought’.

The 1989 constitution, adopted just after the events of that violent October, paved the way for a multi-party system and the information laws which followed. It shattered the state’s monopoly over information and politics and allowed hundreds of journalists, freed from administrative and political restrictions, to create their own media enterprises. From 1990 until 1992, dozens of independent papers were created. It was the spring of the independent press. One could count up to 800 papers in less than ten years; there were not more than 20 independents during one-party rule. Many, though, were lost to the laws of the marketplace.

Set in motion a decade ago, this dynamic continues: new private papers see the light of day each month. At present one can count nearly 200 papers, of which 35 are French and Arabic dailies, whose combined editions exceed one million – and could be multiplied two- or three-fold if distribution channels, privately held, were more efficient.

THE CURRENT MEDIA CLIMATE

In Algeria today there coexist two sectors of the print media: a sector of the press said to be public, amounting to a dozen newspapers with limited editions in French and Arabic, and a sector of the private press with dozens of newspapers publishing strong editions for the hundreds of thousands of readers in the two languages. The recent closure of some state-owned papers (such as the famous *Algérie Actualité*), which have become financial burdens for the state and its taxpayers, has challenged the future of the press inherited from one-party rule. The public sector newspapers, controlled by the state, no longer monopolise the press. They have been rattled on their old pedestals by the private papers, whose dynamism is equalled only by their boldness, which has made them popular with hundreds of thousands of Arab, French and bilingual readers. Independent papers such as *El Watan*, *Le Soir d’Algérie*, *El Khabar*, *Liberté*, *Le Matin* and others have in a few years become credible institutions and thriving enterprises.

In the mere ten years of its existence, the independent press has captured by its quality and credibility a vast readership in Algeria and other countries. This was not done easily. From its birth, this press – created by organised journalists and societies of editors – found itself confronted with repeated pressure from the authorities.

Pressure soon came from other quarters. After the Islamicists were denied a potential election victory in late 1991, all hell broke loose. The year 1992, named ‘the black year’, was particularly trying for journalists

and their young press. The assassination of journalists by fundamentalist terrorists and the death threats that weighed so heavily on them from 1993 to 1997 profoundly shook the members of a profession which played and continues to play a vanguard role in the country’s struggle for democracy, freedom of expression and universal human rights values.

CENSORSHIP: AN OLD MEMORY

Except for the security information controlled by the state (newspapers were allowed to publish only news coming from military sources or from the official press agency), newspapers did not submit to any other form of censorship.

From the end of 1997, which saw the lifting of the security information stamp, censorship became only a bad memory. No subject is now taboo; all issues are tackled, including secularism and multilingualism in a country where Islam is the state religion and Arabic is the official language. Recently, a famous columnist for the daily newspaper *Le Matin* raised a general outcry among the Islamic nationalistic chauvinist communities when he wrote that Muslim fundamentalism was only a screen for the problem which Islam as a religion poses to society.

Often, the private press publishes investigations into socio-economic problems, bad management and corruption. It doesn’t hesitate to hold leaders accountable. Last summer, the private press led to the downfall of one of the most powerful public figures and a minister of justice. Its forthright and ruthless critique, especially concern-

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Le Prix suprême

The mortally high cost of a free press in Algeria



Few countries, if any, have lost so many journalists to the democratic struggle – in Algeria’s case against a repressive regime and Islamic fundamentalist terrorism. In the background on this page we print the names of those assassinated. Journalist **Ladhari Labter** himself has had many close encounters with death.

Here he recounts the remarkable growth of the country’s independent press, where journalists daily experience “an apprenticeship in democracy”...

Secrecy

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duce accurate and balanced journalism for the benefit of the public.

A state which moves against journalists on allegations of breaching military secrets encourages the belief that there is something to hide, creating a credibility gap with the public and tensions with journalists and the media as an institution. As the Zimbabwean and Zambian governments learnt earlier this year, after arresting journalists on allegations of breach of military matters/secrets, such action brings about a torrent of international criticism which impacts on the international standing of the country. It also affects the country's ability to enjoy the confidence and levels of support that nations which respect human rights and observe the rule of law enjoy. Once action is taken using laws which are archaic and infringe on human rights, the question becomes not whether the government is correct in taking action against breaches of existing laws, but a broader issue of low standards of governance.

For the general public a confrontation between journalists and public officials can be confusing, contributing to lack of trust in public institutions. The ramifications for using Official Secrets Acts therefore far outweigh their efficacy, if any, in modern contexts. In short, in contexts where there is no Freedom of Information but Official Secrets Acts there is no winner.

Landscape

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On the civil side, the law of defamation continues to present a daunting challenge to the media in the region. Several newspapers have been forced to shut down after large libel awards were given against them. What is disturbing is the failure of our legal systems to recognise the distinction between private individuals and public figures when it comes to liability and damages in libel cases against the press. It is now widely recognised – since the 1964 U.S. Supreme Court decision of *New York Times vs. Sullivan* – that public figures should not be entitled to damages for libel in the absence of malice. The rationale is that it is not in the public interest for the threat of libel proceedings to discourage open debate on the conduct of public affairs. And yet the wisdom of Sullivan seems to have largely escaped the courts in the region, where offended public figures are awarded huge damages at the expense not only of individual newspapers, but of press freedom at large.

Zambian courts came close to recognising the importance of Sullivan in 1995 in *Sata vs. Post Newspapers Ltd.* & Another when the High Court held that public figures must be open to the most searching criticism of their official acts and must accept factual errors reasonably made in the course of such criticism. But then the court went on to say that only the public conduct of public figures was to be protected by the defence of fair comment, pointing out that it remained illegitimate to attack the private

A balance needs to be struck which will enhance the standing of public institutions and protect the interests of society. This balance necessitates the abolition of Official Secrets Acts in favour of Freedom of Information Acts. Freedom of Information Acts can have provisions which protect sensitive information from being placed in the public domain. However, such provisions must not deviate from the principle of openness. Mechanisms must be worked out so that it can be verified that particular information is sensitive, or which aspects of such information are sensitive. We must rectify the situation where information is declared secret and so unavailable to the local media because it allegedly endangers national security, yet it remains available to media from 'enemy' countries. Besides, in the modern context of global media such information becomes available locally anywhere.

Public officials and agencies must prove that information needs to be kept out of the public domain and not the other way round. The principle must always be one that recognises that openness and access to information is a right not only for the media but for the public at large. Only in extraordinary situations should the principle of open access be curtailed, and even then the parameters, processes and duration for doing so must be protected from abuse.

A system which adjudicates access to information needs to be easily accessible itself and must work expeditiously so that decisions are not reached when the matter has become academic. Media work on dead-

behaviour of public officials. In practice, that distinction is not always easy to make.

The South African Supreme Court has also recently loosened the noose around the media in defamation cases when, in *National Media Ltd & Others vs. Bogoshi*, it rejected the traditional doctrine of strict liability for media defendants and introduced the availability of a defence of absence of fault. But the Zambian and South African cases are exceptions to an otherwise hostile regime of defamation laws throughout the region which are in urgent need of reform.

NEW FORMS OF CENSORSHIP

A relatively new threat to media freedom comes in the pervasive attempts by governments to muzzle the press by introducing media council legislation which seeks to register journalists, set up government-appointed media councils and establish harsh disciplinary measures against journalists who fall foul of such laws. In the last two years there have been attempts to introduce such legislation in Uganda, Kenya, Tanzania, Zambia, Botswana and Swaziland. The Ugandan law is already in the statute book despite being blatantly unconstitutional. The media and civil society in Tanzania, Botswana and Zambia have successfully fought off this threat to media freedom, while the jury is still out in Kenya and Swaziland where such laws have been published but not promulgated.

AN ENABLING ENVIRONMENT: ACCESS TO INFORMATION

The attempt by governments to establish compulsory registration of journalists and set up media councils has been done in the

lines because of the perishability of news, so access to information for journalists wishing to publish breaking news needs to recognise news routines and processes. Secondly, in relation to ordinary citizens or groups the mechanism for adjudicating disputes over access to information must not be so cumbersome and expensive that it acts as a deterrent. If access to information is a right, it must be a right that can actually be exercised and enjoyed.

Once such a system is in place journalists – in the interests of responsible, informative journalism – must adhere to the system or face the legal and professional consequences of publishing information that is legally protected. Because of ongoing social change and technological developments, any mechanism which limits access to information for specific reasons in a given context and for a specified duration needs constant review. If enacted without excluding key institutions like the executive branch of Cabinet and without bowing to claims from corporate organisations about the need to keep secrets for commercial reasons, South Africa's Open Democracy Act could be a place to start – a model to help set standards of freedom of information and access to information that the continent so urgently needs to adopt.

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Prix

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ing government, has no equal in any other Muslim or Arab country. The governments of the countries of the Maghreb have labelled Algeria's independent press 'subversive' to the point of forbidding its dissemination in their territories. One cannot cross the Moroccan or Tunisian borders with Algerian newspapers.

TELEVISION: AN OUTMODED MONOPOLY

If the press is largely free and diversified the situation with broadcast media is something else. The one television network, as well as both national and regional radio stations, are under state control. In spite of demands and a law which provides for the setting up of independent radio and T.V. stations, the authorities to this day have not delivered the necessary administrative approval.

But this should not be further delayed. It is necessary to emphasise, however, that these state broadcast institutions have strongly competed with the foreign networks broadcast via satellite. Compared with countries with a similar population count, Algeria has among the highest number of satellite dishes in the world. Algerians have the choice between dozens of foreign networks, notably those broadcasting in Arabic and French.

The Algerian media, particularly the independent press, has become in a relatively short time a true opposition, a real and precious open space where one enacts every day an apprenticeship in democracy and in free citizenship. This achievement didn't fall from the sky. It is the fruit of struggles diverse and strenuous against the monopolies and censors who impaired journalists with imprisonment, judicial harassment, suspended publication and many other setbacks. But above all, in the struggle against fundamentalist terrorism, a negation of all liberties – the profession has paid the highest price: 90 journalists and media workers assassinated in five years.

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This article was translated from the French version by Melissa Baumann.

name of maintaining high journalistic standards. However, it is ironical that the governments so intent on standards are also the slowest in creating an enabling environment for such standards to flourish. In this regard, the need for access to information legislation is obvious and common to all countries in the region. South Africa is the most advanced in this regard, with its Open Democracy Bill in the final stages of enactment. Although not perfect, the bill nonetheless offers a good model for the rest of the continent. What remains to be seen is how other countries, which have for so long been governed under a cloak of official secrecy, will find the political will to promulgate access to information legislation. The media and civil society have a crucial role to play in creating the necessary impetus through sustained advocacy.

The landscape for media freedom in the region, then, is uneven, but largely fraught with the dangers of yesteryear. The relative opening up of political space has not been accompanied by systematic reform of repressive legislation inherited from the one-party and apartheid eras, and governments have continued to use these laws to suppress press freedom and undermine the tenets of democracy. There is urgent need for an overhaul of repressive laws to further expand the boundaries of free expression and create political space for the entrenchment of democracy.

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