

Press Complaints Commission (PCC): 'It's not a perfect system, but give it a chance'

Delivering the keynote address at the PCC/FES public discussion titled 'Self-Regulation of the Press, For Whose Benefit?' on Wednesday, Britain's Consultant to the Press Complaints Commission, Ian Beales said:

"I am particularly pleased to be here today when Sri Lanka stands on the threshold of what I regard as a very bold and far-reaching exercise in balancing press freedom and social responsibility, the mutual concepts which were memorably embraced in the Colombo Declaration of April 1998.

The plans for the Sri Lanka Press Complaints Commission which will be launched next month, and which we are here to discuss today, are in a very real sense, the spirit of the Colombo Declaration translated into action. But I think it goes much further than that.

For reasons which I will come to later, I believe that if this exercise is successful, not only will it change for the- better print journalism in Sri Lanka, it could also help shape the future of journalism around the Commonwealth and beyond.

So it is a big and glittering prize. But for whom?

The question which we are here to discuss this afternoon is: Self-regulation of the Press -for Whose Benefit? The answer, I would argue, is better for almost everyone with a genuine interest in freedom and responsibility in a democratic framework.

Better for civil society....the general public, the reader the customer often - for it provides a form of redress for the complainant with a genuine grievance which is fast, fair and free.

Better for the press ... because it provides an effective, efficient form of dispute resolution which protects the independence of the press from the heavy hand of government control. That, too, is a benefit for the public: freedom of expression is a universal right, not the exclusive preserve of newspapers and journalists.

There is another potential beneficiary, I would suggest, though it is a benefit not always immediately acknowledged by the recipients. It is...

Better for governments and politicians... at least those who are genuinely interested in preserving the balance between freedom and responsibility. Of course, it varies from country to country, there is no one-size-fits-all-formula. But there are some generally accepted norms. So let me, if I may, give you a quick, ten-point guide to what is, I think, becoming understood internationally by the term. It is:

1. A system not controlled by State or statute. If we are supplanting a state system it must be obviously different, obviously independent. There should be clear blue water between the state and the system of self-regulation. A press, which is regulated by the government and the courts cannot be truly free. There are systems who do embrace the state, and they vary from the benign to the tyrannical (Zimbabwe, for example, has just

closed the nation's only independent newspaper for not registering with the state regulation system).

2. It should be independently funded, preferably by the industry.
This is perhaps the biggest single statement of independence - that the industry is paying its own way. There is no better mark of commitment, and maturity as an industry. Of course, there can be assistance from genuinely independent outside sources, such as international donors. But the less the state is involved, directly or indirectly, the better - otherwise the clear blue water becomes heavily muddied
3. It should deliver voluntary but universal industry commitment. This is often the biggest hurdle -persuading commercial, political and sometimes ethical and cultural rivals to unite behind the principle of universal compliance. It is rarely easy in such a competitive business as print journalism, but around the Commonwealth and beyond, it -may be seen that it is not impossible either. The strong self-interest in such a commitment can - and rightly so - be a great unifier.
4. Operating a transparent code of practice that has been approved by the industry itself
This is the rule book to which the industry will work, and which it pledges to uphold. It is a statement both to the industry of what it believes is the minimum standards that should be achieved and to civil society at large as to what the public is entitled to expect from newspapers and magazines. It is fundamental to success- ownership of the Code makes compliance a moral obligation. It is the Editors' Code written by them, for them.
5. A code whose values reflect that of its national culture. There is no one-size fits-all solution. The system of de regulation must be suited to the demands of the society it serves. That may be that the Code itself is different in some ways, but usually the essential tenets are very similar. But it is in the interpretation of the Code where variations are most likely. The same rule will have a different meaning in Sri Lanka to the interpretation in Sierra Leone, or the UK, or where-ever.
6. Which protects the rights of the individual This should be at the very heart of press freedom.
7. While upholding the freedom of expression and the public's right to know. It should not be a trap which impedes legitimate reporting. Taken together, these two enshrine the essential balance which must be struck -the blend of freedom and responsibility, with its clear echoes of the Colombo Declaration. It will mean an acceptance by the press that there is no absolute freedom, that rights carry responsibilities, and an acceptance by civil society that some times publication in the public interest will outweigh rights of the individual. In this judgment proportionality is all.
8. Providing quick, easy, effective resolution of complaints. Fast, fair, and free- better than the courts which are slow, inaccessible and expensive.
9. The system should be on the lines of natural justice, via simple, not over-legalistic procedures. The UK PCC has no oral hearings, it is all done by correspondence to save time, money, and grandstanding by lawyers. Lawyers can take part in the correspondence process - our experience is that they add 40 per cent to the time taken to resolve disputes!
10. Significant lay membership on adjudication panels.
Lay members bring credibility and moral authority to the process. You need professional representatives, because they can often spot flaws in the newspapers defenses - but the press should not be a sole judge in its own court.

It is a regime which attempts to strike the balance between freedom and responsibility by trying to: Enshrine the essential rights of the individual - the right not to be falsely accused, misrepresented, traduced or suffer invasions of privacy without reason -

While at the same time it must protect the vital essence of press freedom: the right to free expression, the right to be fearless and robust, the right to investigate and expose

and, indeed, the right to be wrong, ie to have no prior restraint, which is in fact censorship. There can be no perfect freedom which does not uphold the right to be imperfect.

In the UK, there are no fines for offending newspapers or compensation for complainants. There are only two principal sanctions: an adverse adjudication which must be published in full and with due prominence; and in extreme cases, an editor can be reported publicly to his publisher.

This may not seem enough, until you consider what this involves. First when a newspaper has to publish a critical adjudication, it exposes the paper's failings to its readers; that can be a pretty humiliating experience - the Daily Mirror in London had to run a 4000 word adjudication across two main news pages, taking space that would have been sold to an advertiser for sterling pounds 1 00,000.

Then, the adjudication is also leapt upon by the newspaper's competitors. They are likely to splash it across their pages to demonstrate the incompetence on their rival - it is a commercial marketing tool, a form of deliberate double jeopardy. And it works. By common consent, Editors go to great lengths to avoid adverse adjudications.

The Internet is uncontrollable by statute - so why try to shackle the press? Indeed self-regulation of the press can provide a system for online newspapers.

It has defeated governments for years but the UK PCC Code committee agreed it in a day. The true self-regulatory system costs neither the taxpayer nor the complainant a penny - if it is paid for by the industry or by independent funding.

So there we see there are genuine benefits for governments: a system whose very existence can contribute to a nation's democratic credentials, which can save hours of legislative time, and which produces rules which are not subject to constant challenge in the courts and elsewhere as legal restraints inevitably would.

And for civil society, too, there is the advantage of a system which is fast, which is free, and which is fair a system where there is a built-in majority of lay members who can outvote or overrule the commissioners who represent the press side. And of course, for civil society, there is the genuine benefit of knowing that the nation's press is not subject to undue pressure via statutory regulation.

But if those are the general benefits of self-regulation internationally, what are the benefits for Sri Lanka? How will it work here? We have already heard from Mr Sam Wijesinha. He is a very distinguished first chairman who will lend authority to the process. He presides over a commission in which his presence will guarantee an inbuilt majority of lay commissioners.

They will be operating to a Code of 'Practice which has been commissioned and endorsed by the Editors themselves. That has not yet been printed, or published, but ladies and gentlemen, a copy has fallen into my hands.

Some of the components designed to provide that balance of freedom and responsibility envisaged in the Colombo Declaration five years ago will cover:

- Accurate Reporting;
- Corrections and apologies
- An Opportunity to Reply;
- Protection of confidential sources
- General Reporting and writing;
- Privacy

- Harassment and subterfuge (and even)
- Journalistic dignity

I would like to refer to the Preamble to the Code, which in my view is probably the most important indication of the spirit of the document and the careful and balanced way in which it is being approached by the Sri Lankan press.

The preamble says:

This code of practice which is binding on all Press institutions and journalists, aims to ensure that the print medium in Sri Lanka is free and responsible and sensitive to the needs and expectations of its readers, while maintaining the highest international standards of journalism.

Those standards require newspapers to strive for accuracy and professional integrity, and uphold the best traditions of investigative journalism in the public interest, unfettered by distorting commercialism or by improper pressure or by narrow self-interest which conspires against press freedom. Newspapers and journalists, while free to hold and express their own strong opinions, should give due consideration to the views of others and endeavour -to reflect social responsibility.

This code both protects the rights of the individual and upholds the public's right to know. It should be honoured not only to the letter but in the spirit neither interpreted so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly as to prevent publication in the public interest.

Now that, I think is a very solemn pledge and undertaking by the press. On the one hand it will not restrict genuine investigative journalism in the public interest, or prevent the robust expression of strongly held opinions, while on the other it honours the commitment to respect the rights and feelings of the individual.

Moreover, this is not an imposed requirement, which would almost certainly be subject to constant challenge. It is in a real sense a compact between the press and the people, most specifically the ordinary people of Sri Lanka. And yet, as I have said, government and politicians can be beneficiaries, too.

In the UK 97per cent of complaints come from ordinary people, not the famous, or infamous, not celebrities, or politicians. It is a demonstration of their faith in the fairness of the system. And it also avoids the necessity for expensive court cases, which may have a particular resonance here in Sri Lanka.

So you can see that there is a genuine prize here. for Sri Lanka - for all sections of the community - if this new regime can be made to work as I believe it can and will. But I spoke earlier of wider implications beyond these shores.

I can tell you that this exercise is being watched very closely around the Commonwealth. The Commonwealth Press Union, for which I act as an advisor on self-regulation, sees Sri Lanka as a potential flagship not only in Southern Asia, where the experience might be copied, but also in the wider Commonwealth and beyond.

In many ways, Sri Lanka's press industry has more in common with much of the Commonwealth press, than has the UK's. And while the general solutions. that we offer may be perfectly applicable here, it is the way in which they are fine-tuned to local circumstances which will be closely observed, and- emulated by others.

I know the World Bank, for example, is watching the Sri Lankan exercise. In some circumstances it might help fund it, if that were required. But what is more important is that if Sri Lankan self-regulation works, it will set a model which can be copied, and recommended to the World Bank by other Commonwealth countries seeking financial aid.

I am not saying that the fate of these countries' self regulatory aspirations rests on Sri Lanka's shoulders that would be an unfair burden. What I am saying is that success here would give a huge shove to the 'system, adding credibility and authority to the - concept, and making it more accessible to other developing nations.

I hope and trust that Sri Lanka's brave initiative will succeed. But it will not be easy. There will be wobbles. There will be good decisions, and I suspect - if the UK experience is any guide - there will be bad decisions.

It will not be a perfect system. And I say to anyone here who knows of a perfect system, then let them adopt it now. As Winston Churchill said of democracy, it is the worst form of government except for all the others. That is its strength and that is why I believe it will strengthen both Sri Lankan society and the Sri Lankan press - if you give it the chance.