

CJFE'S Review of Free Expression in Canada
2010/2011

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JOURNALISTS
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CJFE

555 Richmond St. W, Suite 1101, PO Box 407

Toronto, ON M5V 3B1

Charitable #BN 89104 3747 RR0001

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EDITORIAL DIRECTOR
Julie Payne

MANAGING EDITOR
Jaclyn Law

ART DIRECTOR
Gigi Lau

COPY EDITOR
Cara Smusiak

WRITERS
Dan Blackwell
Grant Buckler
Bob Carty
Anna Chen
Erin DeCoste
Peter Jacobsen
Paul Knox
Dana Lacey
Julie Payne
Paula Todd
Phil Tunley
Jen Wilson

PHOTO EDITOR
David Lee

LAWYER
John Norris

ADDITIONAL THANKS
Arnold Amber
Alexander Besant
Dan Blackwell
C.J. Burton
Canadian Committee for World
Press Freedom (CCWPF)
Bob Carty
Annie Game
Paul Rudkowski
Mary Deanne Shears

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THE GLOBE AND MAIL



“... the freedom of speech may be taken away—and, dumb and silent we may be led, like sheep, to the slaughter.” *GEORGE WASHINGTON*

CJFE’s Report Card 2010-11: Like Sheep to the Slaughter

IN THE FIRST EDITION OF THIS REPORT LAST year, we observed that 2009 had brought “more fodder for comment on free expression issues than we have seen in decades.” While 2010 may not have been as remarkable, it couldn’t exactly be called anticlimactic either.

Government secrecy worsened in 2010. As our article “How access to information fails journalists” (p. 24) explains, it has never been harder to pry information essential to a functioning democracy out of the government bureaucracies. The past year may come to be known as the one in which evidence first appeared at the federal level of a systematic machine for politicization of the denial of information to Parliament and the electorate.

The Supreme Court, while not as active on free expression issues as last year, made important rulings on journalists’ right to protect their sources and on the openness of the court system. Some of these rulings were disappointing, but the Court’s recognition of a right to protect confidential sources, at least on a case-by-case basis, is somewhat encouraging.

But it was a single one-time event that placed the blackest mark next to 2010 on the freedom of expression calendar. The G20 Summit in Toronto produced a very disturbing list of violations of the rights of journalists as well as others. In case there was any doubt, this in itself is enough evidence that protecting freedom of expression right here in Canada requires constant vigilance.

Here for the second year is our assessment of the important issues and how some of our major institutions have performed.

ACCESS TO INFORMATION AND THE FEDERAL GOVERNMENT:

F-

We gave the federal government a failing grade in this area last year and now face the dilemma of how to recognize the fact that its record has worsened. Delays in the release of information continue to lengthen. What is released is even less complete than before. More than half of the federal institutions surveyed for their performance on access to information ranked below average and five failed outright. The governing party was ruled in contempt of Parliament for failing to produce information about major spending programs. Once a leader in access to information, Canada now ranks dead last among five leading democracies. After an investigation sparked by a Public Works bureaucrat’s move to “unrelease” information, Information Commissioner Suzanne Legault found evidence of political interference in the handling of ATI requests at Public Works and raised concerns about similar vetting at other departments. All of which may explain why journalists seem to be using the access system less often than in the past.

INFORMATION COMMISSIONER SUZANNE LEGAULT:

A-

The Office of the Information Commissioner continues to suffer from a weak access law desperately in need of reform, and from the commissioner’s lack of power to force disclosures and ensure that public interests override the government’s culture of secrecy. Nonetheless, Suzanne Legault is a promoter of open government who shows a willingness to push the boundaries of her limited powers to produce greater access. She has significantly reduced her office’s backlog of complaints. Her reports on the failings of the access to information system are clear and forthright. And she has forcefully explored cases of political interference in the ATI process and referred these to the RCMP for criminal investigation. The government needs more arm’s-length watchdogs like her.

PROTECTION FOR WHISTLEBLOWERS:

C-

It was an international story—that of WikiLeaks—that drew attention to the role of whistleblowers this year. Events in Canada were less dramatic, and the news here was largely bad. Veteran Sean Bruyey spoke out against provisions of a *New Veterans Charter* and was rewarded by having government officials share details of his mental-health history widely. The Public Sector Integrity Commissioner, whose role is to investigate allegations of wrongdoing and protect civil-service whistleblowers, resigned after being found to have been doing almost nothing to protect whistleblowers. The story is not all bad. The Supreme Court of Canada ruled that whistleblower protection is part and parcel of the *Charter’s* guarantee of freedom of expression, and extended a bit more protection to journalists who rely on whistleblowers as sources. Public understanding of the whistleblower’s role seems to be growing. There is still room for improvement.

THE SUPREME COURT OF CANADA AND PROTECTION OF SOURCES:



The past year brought significant decisions on journalists' right to protect their sources. Disappointingly, the Supreme Court forced *National Post* reporter Andrew McIntosh to hand over to police a document—allegedly forged—linking former prime minister Jean Chrétien with a loan to a business in his constituency. But even in that decision the Court stated that a right to protect sources can exist where the media can show it is in the public interest. That was reinforced in a later case involving *Globe and Mail* reporter Daniel Leblanc, and the Court referred Leblanc's case back to Quebec Superior Court with guidelines on how to resolve it—guidelines that reinforce the role of principles known as the Wigmore Criteria in cases concerning protection of sources. The right of reporters to protect their sources is still not as clear in Canada as we would like it to be, but recent developments are somewhat encouraging.

THE G20 SUMMIT, SECURITY FORCES AND THE FEDERAL GOVERNMENT:



Reports elsewhere have pointed out a frighteningly long list of problems at the G20 Summit held in Toronto in June. The Ontario Ombudsman called it a moment of infamy involving “the most massive compromise of civil liberties in Canadian history.” Freedom of expression was among the victims. The Orwellian concept of creating a “freedom of expression zone” during the summit set the tone for a long list of violations of that freedom, from refusal to recognize legitimate journalistic credentials to detention of journalists without due process or cause. Three reports have already condemned events at the summit. One of these came from the federal Standing Committee on Public Safety and National Security, which found significant human rights violations and called for a judicial inquiry. Conservative members of the committee dissented, calling the summit an “unmitigated success.” Perhaps that depends on your priorities: if they include freedom of expression and assembly, it was not a success but an abject failure.

OPEN COURTS AND PUBLICATION BANS:



The Supreme Court of Canada refused to overturn the rule making publication bans mandatory for bail hearings. Notably, the Court did not use the danger of tainting the jury pool to justify the ruling, so that its position seems to apply even to cases not involving a jury. This was disappointing. So were its rulings on two Quebec cases, upholding the right of judges to limit the use of cameras and recording equipment in courthouses (not just in the courtroom but anywhere in the building) and banning the broadcast of video-recorded statements made to police before charges were laid. On the other hand, the Ontario Court of Appeal ruled in favour of the CBC in a case involving the network's access to exhibits in the case of Ashley Smith, a young woman who died in a correctional institution in 2007.

Finally, as we did in the first edition of this *Review*, we would like to recognize the contributions of other individuals or organizations who have helped advance free expression rights:

Peter Milliken, the retiring Speaker of the House of Commons, for a thoughtful, judicious and wise ruling that found the Harper government in contempt of Parliament for failing to release information on the cost of major new programs.

The Citizen Lab at the University of Toronto's Munk School of Global Affairs was in the news for its role in documenting a cyber-espionage network that affected 1,294 computers in 103 countries. Its work also includes documenting Internet censorship around the world and developing the Psiphon software for circumventing censorship.

George Washington's ominous warning about the dangers of taking away free speech became one of the inspirations for an unequivocal legal standard for America's protection of free expression rights. Canada's history is different, but there is equal passion for vigilance for these rights in the words of one of our founding fathers. Defending his newspaper in court, Joseph Howe begged his jurors “to leave an unshackled press as a legacy to your children.” 🍁

ABOUT CJFE

VISION

To achieve universal respect for and protection of the right to free expression and access to information.

MISSION

CJFE boldly champions the free expression rights of journalists and media workers around the world. In Canada, we monitor, defend and promote free expression and access to information. We encourage and support individuals and groups to be vigilant in the protection of their own and others' free expression rights. We are active participants and builders of the global free expression community.

CJFE'S WORK INCLUDES:

- Advocacy of free expression issues both in Canada and around the world.
- Publicizing and profiling free expression issues through events and outreach.
- The protection of journalists through its Journalists in Distress Fund.
- Partnerships like the Scotiabank/CJFE Fellowship at Massey College for Latin American journalists.
- The management of the global free expression network IFEX, which has 88 member organizations around the world.

CJFE GALA: A NIGHT TO HONOUR COURAGEOUS REPORTING

Six hundred people attended the 13th annual CJFE Gala, held at The Fairmont Royal York in Toronto on Nov. 25, 2010, and hosted by Anne-Marie Mediwake, co-host of *CBC News Toronto*, and Victor Malarek, investigative reporter with CTV's *W5*. Among those honoured were Cameroonian journalists Bibi Ngota, Serge Sabouang and Robert Mintya; Mexican journalists Emilio Gutiérrez Soto and Luis Nájera; and Canada's Citizen Lab, based at the Munk School of Global Affairs at the University of Toronto. This year's gala will be held Nov. 24, 2011.

ADVOCACY WORK IN CANADA

In 2010-11, CJFE intervened on a number of important cases, which we hope will result in the creation of better laws protecting free expression in Canada. These include:

DEFAMATION AND LIBEL CASES

- Crookes v. Newton—issue of hyperlinks and defamation

ACCESS TO INFORMATION

- CBC v. Attorney General of Quebec, SCC no. 32920—issue of electronic access to the courts

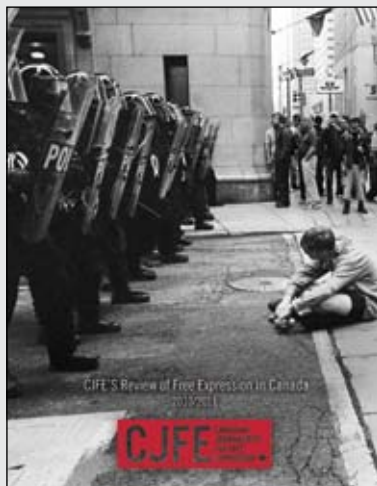
HATE SPEECH

- Whatcott v. Saskatchewan Human Rights Commission

CJFE also launched a *Charter* application to address the troubling practice of police forces and their officers impersonating journalists for investigative purposes.

SCOTIABANK/CJFE FELLOWSHIP AT MASSEY COLLEGE

This journalism fellowship, open to a mid-career journalist from South America, Central America, Mexico or the Caribbean, will welcome its latest fellow to Toronto in September 2011. The fellow, who was chosen by jury in late March, will be announced in June. This year's fellowship has been extended from one semester to two semesters, allowing the fellow to take full advantage of the remarkable Canadian Journalism Fellows program at Massey College. The successful candidate will audit courses of his or her choice at the University of Toronto and make connections with the Canadian media, while expanding his or her work related to a significant issue. The fellowship is made possible by a generous grant from Scotiabank and a partnership with Massey College.



ABOUT THE COVER

PAUL RUDKOWSKI shot the striking image on the cover of this year's *Review*, as well as the pictures on pages 8 and 20, during the G20 Summit in Toronto. Rudkowski, who became a photographer only two years ago, snapped the photo of the peaceful standoff between protestors and police on King Street west of Yonge. He says the experience of documenting the protests taught him a lot about "the absolute need for real, unbiased and on-the-ground photo- and traditional journalism, not only to document the events, but ... to protect our rights and freedoms as Canadians and citizens of the world."

JOURNALISTS IN DISTRESS

CJFE’s Journalists in Distress Fund provides humanitarian assistance to journalists whose lives and well-being are threatened. In most cases, the journalists we help have been attacked or threatened because of their profession. In addition to disbursing its own fund, CJFE also co-ordinates an email group of 18 international organizations that provide distress assistance to writers and journalists, allowing all of us to share information, co-ordinate joint efforts and avoid duplication.

This year, CJFE helped a journalist who had fled Somalia get access to medication and living support, while another journalist received psychological counseling after a traumatic experience. We also helped a journalist pay for a flight to a safe house in another country when he was forced to flee after covering a story about police corruption, and for yet another journalist, we provided money for translation for a court case. These are just a few examples of the cases CJFE supports. Since its inception in 1999, the fund has disbursed more than \$200,000.

THE JOURNALISTS IN DISTRESS FUND

HELPS JOURNALISTS:

- Pay lawyers’ fees when they are detained.
- Pay for medical expenses when they are caught in the line of fire.
- Pay for transportation costs when they are forced to flee.

INTERNATIONAL FREE EXPRESSION EXCHANGE (IFEX)

CJFE has been both a member and the manager of IFEX since its inception in 1992. IFEX is a dynamic global network that monitors, promotes and defends freedom of expression worldwide. Based in Toronto, IFEX produces urgent daily alerts and weekly information products, helps build the capacity of members regionally, facilitates campaigns and advocacy, and creates the space for its members to discuss, learn and collaborate on common strategies to address critical free expression issues. As part of this important community, CJFE brings a Canadian perspective to the table and collaborates with like-minded organizations around the world on a variety of initiatives key to their mandate.

“I have received the money that you sent me. I really want to forward my deep thanks for helping us out of this trouble that we are facing. I am really grateful for your unreserved help for me and my daughter. Thank you very much.”

—ETHIOPIAN JOURNALIST



With the help of a Journalists in Distress grant, Canadian-Eritrean journalist Aaron Berhane was finally reunited with his family in Canada after nine years apart.



CJFE’s redesigned website, cjfe.org

OUTREACH AND EDUCATION

Throughout the year, CJFE works to raise awareness and understanding about important free expression issues. Each year we celebrate World Press Freedom Day—this year we mark the day with the publication of this year’s *CJFE’s Review of Free Expression in Canada* and with an event that explores the increasingly hot topic of Canadians’ access to information. CJFE’s other major publication is the *International Free Expression Review*, in which we explore free expression issues and events on the world stage.

CJFE has also been engaged in the year-long process of developing a new communications strategy, working with the very talented team from Juniper Park, who gave us the huge gift of their time to develop a new logo, campaign images and ideas to communicate our messages to the Canadian public. In tandem with that we have also been redesigning our website with web designer Christy Rutherford. Visit cjfe.org to check out our new site and lots of exciting content! 🍁

Still Looking for Answers: Hearings and Inquiries into the G20 Summit

By Julie Payne

ALMOST A YEAR AFTER THE G20 SUMMIT WAS HELD IN DOWNTOWN TORONTO, Canadians have access to more information about what happened at the protests and how it happened; however, there are still few answers as to why it happened. What's more, no level of government or police authority has taken direct responsibility for the extensive human rights violations that took place at the protests.

Immediately after the summit, Canadian Journalists for Free Expression published a survey to record how the rights of journalists were compromised. We heard from approximately 30 journalists who felt that their rights had been violated, and from two journalists who had experienced no problems whatsoever. The overall picture that has developed from the many emotional and angry testimonies is one of a very dark time indeed for free expression in Canada.

What CJFE learned about the failure of security forces to recognize the valid credentials many journalists presented to the police was disturbing. Journalists who had every right to be present were jailed in spite of those credentials. Ultimately, all of the journalists who were jailed were not charged, or, where charges were laid, they were later dropped.

Since then, numerous inquiries, public hearings and civil suits have been launched. These include:

- Two parliamentary standing committees, reviewing costs and tactics related to the G20 and G8 summits.
- The Commission for Public Complaints Against the RCMP, investigating RCMP conduct during the summits.
- Toronto Police Service's Summit Management After Action Review Team (SMAART), reviewing all aspects of Summit policing in Toronto.
- Toronto Police Service Board's review of matters of governance in relation to the G20 Summit.
- The Office of the Independent Police Review Director's review of systemic issues related to allegations against police of unlawful searches, unnecessary arrests and improper detention during the G20 Summit.

This array of responses clearly indicates that something went badly wrong on the weekend of June 25–27, 2010. But, with the staggered schedule of reports, and little co-ordination between the various departments and levels of government involved in these inquiries, it is hard not to be pessimistic about the likelihood of consistent and effective action.



Police in riot gear during the G20 Summit in Toronto in June 2010

By the spring of 2011, three reports had been released. CJFE has reviewed the findings and found common themes and recommendations among the reports.

The first inquiry to publish its findings was that of Ontario ombudsman André Marin, who released his report, *Caught in the Act*, on Dec. 7, 2010. It deals with the Ministry of Community Safety and Correctional Services and its implementation and use of Regulation 233/10, described in the report as being “of dubious legality and no utility.”

The report is a hard-hitting and strongly worded condemnation of the regulation, which Marin says should never have been enacted. He states that the ministry “quietly handed the police extravagant, sweeping powers ... powers that would almost certainly be illegal and unconstitutional under the *Charter of Rights and Freedoms*.”

Marin also identified several problems he faced in collecting information. For instance, he says that the Toronto Police Service declined his invitation to take part, and the York Regional Police only participated through written responses. In addition, many of the government documents he requested were censored to various degrees.

One of the most interesting questions raised by Marin is why Ontario is the only province to still have war measures legislation on the books. He notes that the Ontario Provincial Police, which rejected the use of the *Public Works Protection Act* during the G8 Summit, stated that “it would not likely stand up to a constitutional challenge.” Marin agrees, stating that he has “real reservations about the constitutional compatibility of Regulation 233/10 with the demands of freedom of expression.”

Caught in the Act concludes that the Ministry of Community Safety and Correctional Services promoted a regulation that “appears to be contrary to law” and is not “in accordance with the provisions of any Act.” He closes with four recommendations, including perhaps most importantly that the *Public Works Protection Act* should be revised or replaced. The ministry has agreed to his recommendations and will report on progress made at six-month intervals—the first of these reports is expected in April 2011.

The Canadian Civil Liberties Association (CCLA) and the National Union of Public and General Employees (NUPGE) released their report, titled *Breach of the Peace*, on Feb. 28, 2011, based on public hearings the two organizations held in Toronto and Montreal in November 2010. Neither the Toronto Police Service nor the Ontario Provincial Police accepted an invitation to send representatives to the hearings.

The report documents many of the violations of *Charter* rights and civil liberties that occurred during the policing of this event, including the arrest of 1,105 people—the largest mass arrest in Canadian peacetime history. Nathalie Des Rosiers, the CCLA’s general counsel, states that the rights violations from the G20 Summit protests occurred “on such a scale that they cannot be viewed as the result of individual police officers’ misbehaviours or overreactions.”

The NUPGE and the CCLA found that the majority of arrests resulting from the G20 Summit protests were excessive and unwarranted. These arrests violated the rights of Canadians to be free from arbitrary detention and unreasonable search and seizure.

The report concludes with eight recommendations, the first of which is for a joint federal-provincial inquiry. Additional recommendations call for improvements to policing policy and training, including *Charter* training specific to public demonstrations in order to ensure greater respect for the boundaries of lawful detention and search powers.

The third report, *Issues Surrounding Security at the G8 and G20 Summits*, was dramatically tabled on the last day of parliament, ensuring that it would be immediately overshadowed by the election.

This report from the Standing Committee on Public Safety and National Security draws from the previously discussed reports, along with accounts recorded at five hearings held by the committee between October and December 2010.

The report agrees with many of the points made in previous reports, and is equally vehement in its condemnation of human rights violations; it also decries the lack of transparency and accountability on the part of the Canadian government, and the absence of a clear chain of command to handle the security of the two summits.

In an interview with CJFE volunteer Dan Blackwell, Don Davies, NDP MP and vice-chair of the committee, said he thinks the committee’s most important recommendation was that “there must be a full, independent judicial inquiry with powers of subpoena, and the powers to compel the production of documents, and with counsel that they can actually take testimony over extended periods of time ... Right now we just have appalling treatment of Canadian citizens in a modern democracy, and not one person to this day has actually been held responsible for making those decisions, and they just want to move forward and close the chapter on it.”

In stark contrast, the report ends with a “dissenting opinion of the Conservative Party of Canada.” Here, the Conservative members of the committee “vigorously disagree with the conclusions drawn in this extremely biased report,” and state that “Conservative Members of this Committee believe that this summit was an unmitigated success.”

While each of the reports focused on different aspects of the G20 Summit protests, all three clearly documented the various human rights violations that took place. They viewed the actions of the government and police authorities critically, and made strong recommendations—including, crucially, calling for a public inquiry—to prevent similar violations from occurring.

CJFE recently wrote to Premier Dalton McGuinty to again call for a comprehensive inquiry including a thorough examination of police treatment of journalists covering the event. The premier responded that it would “be the decision of the Government of Canada to hold any public inquiry into security and enforcement activity during the G8 and G20 summits.” Once again, it is hard to escape the conclusion that, despite all of the time and resources being poured into inquiries and hearings, we have a long way to go before we have a clear understanding of the chain of command governing the G20 Summit and who should be held responsible for this travesty of justice.

CJFE will continue to monitor the progress towards giving Canadians the answers they deserve.

Julie Payne is CJFE’s manager.

JOURNALISTS SPEAK OUT

Some were hit with rubber bullets, some beaten by police. Their cameras were seized, sometimes broken. Film was destroyed. Some people were arrested and charged. Several were held in cages for up to 20 hours, denied food, water and access to legal help. Others were “kettled”—hemmed in by police—for up to four hours in pouring rain.

The following are excerpts from CJFE’s interviews with journalists.

“An Edmonton police officer demanded to see my press credentials, taking my Parliament Hill pass forcibly off my neck and telling me ‘That doesn’t mean shit to me,’ and I was then told to get on the ground.”

CHRISTOPHER PIKE, a freelancer with the National Post and Xinhua News Agency

“They asked me if the AMC was a legitimate press or if it was ‘underground press.’ The officer who harassed me asked if I was born in Canada”

DAVID PARKER, a journalist with a campus community paper

“Immediately my wrists were grabbed and I was forced into handcuffs. I said my press ID was in my bag but nobody was interested in seeing it. Nobody said anything, except my police escort, who said, ‘You have been charged with conspiracy to commit public mischief.’”

LISAN JUTRAS, blogging for the Globe and Mail

“Someone must be held accountable for the decisions which robbed so many innocent individuals of their rights. I am merely a citizen, and whether I’m taking photos for a website or marching for a cause, I should be able to freely assemble and walk down any street without being arrested and thrown in a cage when I have committed no crime.”

MICHAEL TALBOT, a journalist with Citytv/Rogers

To read the full article about the treatment of journalists during the G20, visit <http://tinyurl.com/43fkfeb>.

To watch video interviews with some of the journalists and CJFE Board member and lawyer John Norris, visit youtube.com/CJFECanada.

Some called it heroic.
Some called it treason.
Some hailed it as a blow for
democracy; others feared a whole-
sale invasion of personal privacy.
Whatever your point of view,
WikiLeaks' dramatic dump of
more than **250,000** secret
diplomatic cables to major news
organizations dominated public
discussion about the news media
during the second half of 2010.

A WELCOME TO WIKILEAKS

By Paul Knox



Editorial cartoon by Angel Boligán Corbo,
courtesy of the International Editorial Cartoon
Competition of the Canadian Committee for
World Press Freedom (CCWPF).

As the dust swirled, important questions were raised about the responsibilities of those who believe passionately in freedom of expression. Should we applaud WikiLeaks unequivocally and defend it against attack? Or should we be questioning its practices and seeking to hold it to account? Should all information, everywhere, be available to everyone at all times? And if not, where do we draw the line?

The simple answer is yes, we should welcome the courage and ingenuity of WikiLeaks' founders and volunteers. We should salute their commitment to freedom of expression, journalism and the flourishing WikiLeaks societies. WikiLeaks and similar enterprises facilitate whistleblowing and have raised global awareness about the benefits of transparency and access to information. The events of 2010 underscored the value of digital technology and the Internet as a tool for expanding the frontiers of information and free expression. They vindicated the use of well-established journalistic techniques in the analysis and presentation of news—in this case, the information revealed in the WikiLeaks cables. They demonstrated the benefit of allowing journalists to do their jobs unhindered, and thus bolstered support for their freedom-of-expression rights.

One measure of WikiLeaks' impact is the extraordinary extent to which governments and powerful interests have used it as a pretext for trampling those rights. Reports gathered by the International Freedom of Expression Exchange (managed by CJFE) tell of reprisals, crackdowns and Internet bans. U.S. government pressure led Amazon.com to stop hosting WikiLeaks' web operations, and also led PayPal, Visa and MasterCard to sever its financial lifeline. The U.S. military is accused of mistreating an imprisoned soldier alleged to be the source of WikiLeaks' material. Russia cut short the term of a correspondent for the *Guardian* of London who had written about unflattering references in the cables to Vladimir Putin, the current prime minister and former president. Saudi Arabia

It's not easy to draw a clear line between the right to free expression and that of privacy.

was just one of several countries blocking access to WikiLeaks sites. News websites that published the cables or links to them were attacked, possibly by government agents or sympathizers.

On a more basic level, the affair gave advocates of free expression fresh insight into the way power over information is exercised and the strategies necessary to confront it. It exposed hypocrisy, revealing private assessments that were at odds with those issued for public consumption, thus underscoring the importance of consistent, proactive access-to-information policies. It also demonstrated that when the best practices of journalism are applied to leaked information, individuals incidental to the issues in question are not likely to be harmed and the public interest is likely to be served. These developments are particularly welcome in Canada, where secrecy-obsessed governments show a growing desire to flout access laws by withholding information compiled and stored at public expense.

At the same time, the emergence of

Others wondered whether the right to free expression extends to those who bare government secrets.

WikiLeaks led some to ask whether the group had been cavalier about the personal privacy and safety of those named in the cables, and whether it should be urged to adopt a standard of journalistic responsibility. Others wondered whether the right to free expression extends to those who bare government secrets.

There are elements of journalism in what WikiLeaks did, but whether it was or wasn't acting as a journalistic outlet is not a key issue. Free expression is a universal right—not one that is meant to be enjoyed only by those whose job description happens to include the word "journalism." Whistleblowing sites promote free expression by facilitating access to the kind of information we need to make judgments about our governments and current events; for this reason alone, they deserve support and protection.

Yet simple acts of exposure are not enough to hold the powerful to account. WikiLeaks grabbed headlines with massive dumps of cables and shocking footage of a U.S. military attack on civilians in Iraq. But it registered its greatest success when it teamed up with news organizations experienced at making judgments about official documents—what's important, what cries out for further investigation, what could put a marginal figure in peril.

It's not easy to draw a clear line between the right to free expression and that of privacy. Private lives and choices become newsworthy when they begin to affect public affairs, but not all the details are significant. It's hard to argue that a low-level informant for U.S. forces in Afghanistan, who may have co-operated under duress or may have been highly selective in giving information, is legitimate collateral damage in an open-government project. To their credit, some of those associated with WikiLeaks appear to have recognized the danger of posting unvetted military documents. Journalism has well-established practices for sifting the significant from the needlessly harmful; those who carry out acts of journalism would do well to become familiar with them.



A classified U.S. military video shows Iraqis being shot by U.S. Apache helicopters that killed a dozen people in Baghdad, including two Reuters staff, on July 12, 2007. WikiLeaks released the video to Reuters in April 2010.

As for violations of official secrecy, it's easy to overstate the danger. For decades, Canada's *Official Secrets Act* was rarely used. But in 2001, the federal government jumped on the opportunity presented by the Sept. 11 attacks to insert a tough section on secrecy into Bill C-36, the *Anti-terrorism Act*. It threatened prosecution for revealing information the government is "taking measures to safeguard," gave new surveillance powers to the state and broadened Ottawa's eavesdropping powers. In 2005, Privacy Commissioner Jennifer Stoddart reported to Parliament that Canadian authorities had developed a "voracious appetite for personal information and surveillance." Yet she found no evidence that the sweeping post-2001 powers had been useful in "detecting, preventing or deterring terrorist acts." More recently, the WikiLeaks cables that revealed the private judgments of Canadian officials have caused no discernible harm.

Instead of draconian secrecy laws, Canadians need a robust national access-to-information regime. Governments have a duty to manage information, and in certain cases, to hold it closely. Narrowly defined exceptions to the principle of open access are legitimate where law enforcement, personal privacy and national security are at stake. But information should be presumed public unless the government makes a convincing case for its suppression—not the reverse, as is so often the case currently.

In a system built on a foundation of respect for open government and accountability, governments would release on request most of the non-personal information they collect and compile. They would adequately fund the relevant processing units and order timely compliance with requests. Disputes between those seeking information and those holding it would



Editorial cartoon by Marilena Nardi, courtesy of the International Editorial Cartoon Competition of the Canadian Committee for World Press Freedom (CCWPF).

be resolved quickly by independent review. Officials would not be able to levy exorbitant costs as a back-door means of thwarting the goals of access laws.

Lacking such a regime, we turn to whistleblowers, journalists and their allies, not only for information that is sensitive and explosive, but for that which ought to be routinely divulged. We can expect more WikiLeaks-style attempts to bring official documents out of the shadows and into public view. We should welcome them, and help facilitate the publication of government information that is in the public interest. Freedom of expression and access to information are joined at the hip; the more we know about our world, the broader our range of ideas and creative expression will be.

Paul Knox is an associate professor of journalism at Ryerson University and a former foreign correspondent, editor and columnist at the *Globe and Mail*.

Iceland: Free Speech Zone

By Paula Todd

REYKJAVIK, 2013

AS YOU TUCK INTO A SMOKED LAMB SANDWICH and skim your email, a courier drops off the results of your latest Freedom of Information application. Inside, you find page after photocopied page of classified documents delivered in pristine condition—not a single swath of blacked-out, redacted material in the lot. You have the story.

Across town, Iceland's most aggressive investigative TV team is huddled in the editing suite when a bundle of threatening letters and affidavits are dumped at their feet, compliments of the big bank they are scrutinizing. "They don't have a legal leg to stand on," says their executive producer. "Dig even deeper. We'll back you up."

And in a tiny shack on the coast, a web reporter easily reassures a local fisher that new legislation makes it impossible for anyone to find out he's the one risking his livelihood to blow the whistle on the ship-ping rigs he's seen emptying toxins into the ocean night after night.

Every journalist's fantasy? Perhaps, but one spawned by a real-life horror. In fact, if very determined Icelanders have their way, the worst economic collapse in history could give birth to the strongest free expression laws in the world.

In the autumn of 2008, Iceland's big banks, grown fat and sloppy on reckless loans and poor oversight, imploded, taking the island's once-admired economy with it. With billions in loans outstanding, neither Iceland's government nor the central bank were ready with a backup plan.

"The private banks failed, the supervisory system failed, the politics failed, the administration failed, the media failed, and the ideology of an unregulated free market utterly failed," Prime Minister Johanna Sigurdardottir said.

With fingers still wagging—and the special prosecutor carrying out financial raids—one idea is taking firm hold: A free and powerful press might have uncovered the corruption and warned the world in time.

So last year, with support from every political party, Iceland's parliament passed a motion to create the first free expression sanctuary, a sort of "free fly zone" to protect the press, encourage investigative journalism and provide a safe harbour for those seeking—or telling—the truth.

"The Icelandic Modern Media Initiative [IMMI] is based on turning the tax-haven concept on its head. Instead of pulling together asset-hiding and secrecy laws from around the world in order to shelter corruption and financial crime, the IMMI pulls together the best transparency-enabling legislation, to create a stronghold for investigative journalists, internet publishers, transparency watchdogs and the public," according to the legislative initiative, passed June 16, 2010.

The Icelandic Modern Media Initiative is aimed at shoring up protections for whistleblowers, journalists, publishers and the sources who make investigations possible. Watch for proposed contractions in other key areas, everything from narrowing prior restraint powers to closing the door on defamation tourism. Here's what the IMMI wants to introduce:

- The Icelandic Prize for Freedom of Expression
- Protection from "libel tourism" and other extrajudicial abuses
- Protection of intermediaries (Internet service providers)
- Statute of limitations on publishing liabilities
- Virtual limited liability companies
- Whistleblower protections
- Source protection
- Source-journalist communications protection
- Limiting prior restraint
- Process protections
- Ultra-modern Freedom of Information Act



Even the mechanics will be challenging. If the reform goes ahead, more than a dozen laws would need to be retooled across a handful of government departments.

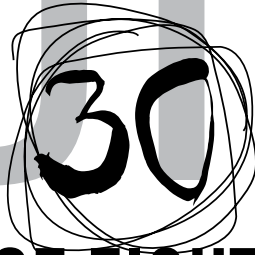
Julian Assange of WikiLeaks, an early collaborator on the project, has said one of the goals is to entice media outlets to Iceland, improving both the economy and the island's morale and reputation. But the free speech push is more than a local get-well project. Icelanders hope their new "transparency haven" will inspire other countries to strengthen protections and make it more difficult to harass, thwart or silence the media.

Birgitta Jonsdottir, an IMMI advocate and member of The Movement party (founded to bring radical government change post-meltdown), says Icelanders want others to learn from their hard lessons. "The crises sharpened our perspective on what really matters. We found out the hard way that we did not have a vibrant free press that could report without fear of those in power. If we had, perhaps some of the calamities our country now faces could have been prevented," she says.

"Because the world is connected by financial and information flows, suppression of the truth is not only our problem, but everyone's problem. The right of the people to understand what is happening to their societies needs to be strengthened," she says. "I believe in supporting the world's most courageous journalists and writers with the best legislation possible."

Paula Todd is a board member of CJFE and a W5 investigative journalist and legal analyst for CTV.

CJFE



YEARS OF FIGHTING FOR FREE EXPRESSION

By Grant Buckler

The year was 1981.

El Salvador was embroiled in civil war and thousands were dying—including journalists, for whom it was one of the deadliest conflicts ever. That January saw two foreign journalists killed within days. South African cameraman Ian Mates died when his car hit a land mine, which also injured two other journalists. A couple of days later, a rebel sniper's bullet injured French photographer Olivier Rebbot, and he died in hospital in Miami three weeks later.

Violence against Salvadoran journalists was a given at that time. “They had been killing and beating up and torturing local journalists,” says Nick Fillmore, later the first executive director of what became Canadian Journalists for Free Expression (CJFE). But escalating attacks on international journalists helped bring the situation home to more Canadians. “That sent a real shock wave through the establishment media,” says Fillmore. The shock would grow the following year when four Dutch journalists were shot and killed in an ambush widely believed to have been set up by the army.

As the violence escalated, Canadian journalist Brian McKenna was in El Sal-

vador shooting two documentaries. He came back in early 1981, convinced that journalists could not remain silent as their colleagues died. At the annual meeting of the Centre for Investigative Journalism (CIJ, now the Canadian Association of Journalists) in Montreal, McKenna spoke forcefully about the dangers for reporters—both local and foreign—in El Salvador, and in Latin America generally. About 150 journalists, he told the meeting, had been killed or “disappeared” in the custody of security forces in Latin America in the previous two years.

Galvanized by McKenna's first-hand report, the CIJ voted to form a committee to campaign against the kidnapping, torture and murder of journalists in Latin America, with initial funding of \$1,000. The CIJ Latin America Committee was born.

The dangers reporters sometimes face weren't widely understood in those days, says Carole Jerome, one of the original committee members, and part of their mandate was to publicize them. The subject was very personal for committee members who had worked overseas. Jerome had known Rebbot, whom she remembers as a popular member of the press corps who was nicknamed “The

Happy Rabbit” by his colleagues.

The committee in its early days resembled a local chapter of Amnesty International. Fillmore recalls that members in Toronto met in a CBC conference room, where “we'd sit around a conference table and write letters ... that was the old-fashioned way.” Besides the Toronto group, there were groups initiated in Montreal, Ottawa, Winnipeg and Vancouver, and later in Halifax, Edmonton and other cities, each keeping files on freedom of expression violations in different countries.

The committee also helped a few Latin American journalists escape when their lives were in danger, providing money and sometimes contacts to help them seek work in Canada.

NEW NAME, NEW LIFE

By the mid-1980s, the energy with which the committee was founded began to fade. But three Toronto journalists—*Financial Post* reporter Frances Phillips, *Toronto Star* reporter Olivia Ward, and Fillmore, then with CBC—rejuvenated it. The first step was to broaden the committee's mandate from Latin America to the world and rename it, in 1985, the Canadian Committee to Protect Journalists (CCPJ).

This marked the first of two significant transitions—the broadening of focus from press freedom abuses in Latin America to a global concern with such issues. The second transition would come gradually as the organization began paying more attention to press freedom issues at home as well as abroad.

With a global focus, the CCPJ developed a “Red Alert” network to share information about attacks on journalists and respond to them quickly with protest letters to offending governments and Canadian officials. But it remained an informal organization. Ward, its first president, remembers meetings in her living room over sandwiches and coffee. The closest thing to an office was Fillmore’s basement.

Realizing that a volunteer organization with very limited funds could easily founder under the weight of its new and more ambitious mission, the organizers sought to put it on more solid footing. This was achieved in part in 1994 with the creation of the independent Canadian International Freedom of Expression Trust (CIFET), which allowed the organization to raise funds and provide charitable tax receipts to donors. At least as important to the CCPJ’s development, though, was its involvement in creating and running the International Freedom of Expression Exchange (IFEX).

THE BIRTH OF IFEX

The idea emerged in the late 1980s that CCPJ and other organizations like it around the world—such as the Committee to Protect Journalists (CPJ) in the U.S. and the British group Article 19—should work more closely, sharing information and eliminating duplication to make their efforts more effective.

The real push to create the IFEX came when a Ford Foundation representative told several freedom of expression groups that the funding agency couldn’t keep handing out money to multiple groups that were duplicating each other’s work. To solve this problem, there were some informal talks in the late ’80s, which led to the May 1992 meeting in Montreal that created IFEX.

Bob Carty chaired that meeting. A former foreign editor of CBC Radio’s

Sunday Morning, he was covering the Central American wars as a CBC and NPR freelancer at the time. He says Canada was chosen as neutral ground; most groups represented were established Western ones and there was considerable resistance to creating a new international body. What delegates could agree on was the idea of a network for sharing information. CCPJ proposed the creation of a “clearing house” with the modest goal of exchanging

preserve of NGOs in developed countries—notably Reporters Without Borders in Paris, the CPJ in New York, the International Federation of Journalists in Brussels, and the worldwide network of PEN. They could apply substantial resources and experience to issues all over the world, including those in the Global South, but “the problem with that model,” Carty says, is that “you’re not doing anything to establish a free-standing organization in those soci-



CJFE and PEN Canada joint press conference on Freedom of Expression and Association on Trial

information among existing groups, and ultimately the Canadians were chosen to run that clearing house out of Toronto.

To illustrate the value of this network, Fillmore cited an example in his 1994 Executive Director’s Report:

When a journalist was imprisoned by the Serbians, the group sent us a protest that we relayed along the IFEX network. Shortly thereafter, a guard came to the cell of the journalist and said, “Who in the hell are you? You must be someone very important.” Approximately 35 faxes had arrived in the country on his behalf. He was soon released.

In the early 1990s, Carty says, free expression case work was largely the

eties and a culture of freedom of expression in those societies.”

So CCPJ championed the IFEX Outreach Program, which aimed to provide resources to fledgling free expression groups in the Global South, to help them expand and become IFEX members. Today IFEX has 88 members, more than two-thirds of them in the Global South. CJFE is also a founding member of the Tunisia Monitoring Group, an association of 20 IFEX members created in 2004 to focus on free expression issues in Tunisia. The group continues to promote and defend free expression in the country.

IFEX continues to evolve. Building on its information-sharing function, IFEX has organized a growing number of member campaigns on specific issues. IFEX member groups work together, and often

with other organizations as well, on press freedom issues around the world. “Not only are we putting out information, but we’re also finding ways to act on the information as a network,” says Anne Game, executive director of both IFEX and CJFE.

IFEX has also put together a set of resources, available online, to help members with a variety of concerns such as fundraising, media strategy and electronic advocacy. And, Game says, IFEX can bring together members with complementary skills and needs—for instance, helping to bring a trainer from the Philippines to Pakistan for a media-training project.

INTERNATIONAL MISSIONS

The first in a series of international projects was a fact-finding mission to Argentina and Uruguay in 1983. With \$3,000 the Toronto group raised by holding a dance, the Latin America Committee sent Kathryn Leger of The Canadian Press and Susan Perly of CBC Radio’s *Morningside* to Uruguay and Argentina. Representatives of the CPJ and the U.S. branch of PEN International joined them for the Uruguay portion of the trip.

The group reported strong evidence linking government security forces to the “disappearance” of at least 80 journalists in Argentina. In Uruguay, they found journalists who were imprisoned indefinitely without medical treatment and facing psychological torture. The report criticized the Canadian government for not speaking out consistently against human rights violations in Latin America, as well as the Canadian media, which the report said “often fail to present well-rounded reports and interpretations of the situation in Argentina and Uruguay, despite a growing interest on the part of Canadians.”

In 1991, the CCPJ recruited Carty, who had worked extensively in South America, to visit Guatemala with representatives of the International Federation of Journalists.

Spending four days in Guatemala meeting journalists, government officials and judges, they found overt violence against journalists was only the tip of the iceberg; most reporters practised self-censorship, knowing that writing certain things could get them killed. The visitors’ report,



CJFE Skills Training in Thailand, 1999

The Daily Terror, painted a disturbing picture:

Guatemala has experienced more death squad killings than El Salvador, more disappearances than in Argentina or Chile, more regular use of torture, more massacres, more overall death than any other country in Latin America. And yet the Guatemalan case is little known ... [a] critical factor [is] the violation of human rights of journalists and the severe restriction of freedom of expression. The silence within Guatemala echoes without.

In 1993, Guatemalan president Jorge Serrano was overthrown and replaced by Ramiro de Leon Carpio, the country’s ombudsman for human rights. A joint CCPJ-CPJ mission to Guatemala that year found things somewhat improved. The report’s title, *The Terror Subsides*, aptly summarizes the group’s findings, though Carty says press freedom violations did not entirely cease.

International fact-finding projects also included a joint CCPJ-PEN mission to Mexico in 1991 and a report on the Peruvian media in 1994. In the 1990s, though, emphasis shifted to helping international media rebuild and grow.

The first training mission went to Malawi in 1995. Arnold Amber, who had

just succeeded Ward as CCPJ’s president—he remains CJFE’s president today—travelled to Malawi as part of the project. He says it was a response to the opportunity presented by the departure of long-time president Hasting Banda—an opportunity also arising in Eastern Europe and elsewhere as dictatorial regimes fell.

Western governments and foundations saw freedom of expression and of the press as keystones of the emerging democracies, Amber says, but many countries had no journalism training programs and few reporters who were experienced in independent journalism. Funding from granting agencies such as the Canadian International Development Agency (CIDA) was available for training projects, which became the favoured model for the organization’s overseas work for the next decade. The projects included training journalists in Thailand, Indonesia and Cambodia, among other countries, along with a media-rebuilding project in Sierra Leone (see sidebar, right).

CJFE’s focus has moved away from international training missions in recent years, but a new kind of educational initiative took place at home. In 2002, CJFE created the Donner/CJFE Journalist at Risk Fellowship, allowing a foreign journalist facing danger in his or her work to

spend an academic year at the University of Toronto's Massey College, auditing courses and acquiring new journalistic skills. This was succeeded in 2009 by the Scotiabank/CJFE Fellowship for Latin American journalists, also at Massey College. Mid-career journalists spend two semesters at the college, auditing their choice of courses throughout the university.

PRESS FREEDOM AWARDS

The idea of honouring international journalists for the courageous defence of free expression emerged as early as 1994, when Fillmore, then executive director, circulated a proposal to the CCPJ board. That proposal noted that an awards program could do three things: pay tribute to international journalists and writers who demonstrated "exceptional courage in promoting press freedom and freedom of expression"; raise the profile of the cause; and become the basis for an annual fundraiser.

Until well into the 1990s, CCPJ was chronically short of money. Amber recalls that board meetings usually began with the treasurer informing the assembled group how many weeks the organization could keep going if its next hoped-for funding didn't materialize. So the idea of a fundraising gala looked good. To start with, Amber recalls, the talk was along the lines of "we'll get a church hall, we'll throw a dinner and we'll raise \$10,000." Then Richard Gwyn got involved. The *Toronto Star* columnist used his extensive contacts to promote the event, and the 1998 inaugural gala, which featured keynote speaker Mary Robinson, who was the United Nations High Commissioner for Human Rights, raised \$65,000. Today, the International Press Freedom Awards are presented at the CJFE Gala: A Night to Honour Courageous Reporting. The event, which attracted 600 guests to The Fairmont Royal York in Toronto in 2010, is CJFE's major fundraiser.

In 2000, CJFE inaugurated the Tara Singh Hayer Award, named for the former publisher of the *Indo-Canadian Times* who was murdered in British Columbia in 1998. It is presumed that he was murdered in connection with his condemnation of the 1985 bombing of Air India Flight 182 and his planned appearance as a witness

MEDIA REBUILDING: SIERRA LEONE

CJFE's most ambitious overseas project began in 2001. Sierra Leone had been battered by 10 years of war. "The rebel forces in Sierra Leone in '99 chased most of the good journalists out of the country," says Nick Fillmore, one of CJFE's founders. "They blew up all the presses, they robbed the radio stations, they just obliterated the press, because most of the press had been opposed to the rebel activities."

With funding from the Canadian International Development Agency (CIDA), CJFE set up a rebuilding project. "There were 35 rag-tag, little, terrible, crappy newspapers that had sprung up in Sierra Leone, little four-page or eight-page things, some of them sensationalist," Fillmore says. After talking to people in the community, CJFE's team picked the handful that seemed most promising. They bought an old printing press in Toronto and had it shipped to Freetown. The papers shared the press.

The next step was to provide training to the relatively inexperienced publishers, editors and reporters. Fillmore thinks the way CJFE approached this was a key to the project's success. CJFE recruited people from smaller Canadian weeklies—papers closer in size to the Freetown papers they would be working with.

One of those people was Roger Holmes, then-publisher of the *Wainwright Star Chronicle* in Alberta, one of five newspapers his family owned at that time. He remembers visiting newspaper offices with intermittent electricity, telephones padlocked to prevent costly outgoing calls, and rats running free. Underpaid reporters supplemented their meagre incomes by taking bribes. But, he says, they were eager to learn.

All of the papers relied on newsboys. Every morning, the publishers would bring their newspapers to the outdoor market, where teenage boys bought them to sell on the streets. The boys



Roger Holmes in Sierra Leone, March 2002

chose which papers they would sell each day based largely on how sensational the headlines were. "Semi-literate, otherwise unemployed youth are dictating the kind of journalism that is featured in the newspapers," Holmes wrote in a report at the time.

Circulation was also limited by how far the boys could walk and how many papers they could carry. The solution: Buy the boys bicycles so they could travel farther and sell more papers.

Arnold Amber, CJFE's president, says the Sierra Leone project was successful because it was more than training. Rather than simply teach a few journalists some skills, it created infrastructure. "It gave roots, whereas in some other ways of training ... you'd go in, and for three weeks you'd train a bunch of people, and they'd go back to their newspapers where the more senior editors wouldn't let them do what they were taught to do."

Amber adds that, in later years, "In Foreign Affairs and in CIDA, you'd bump into somebody and they'd say, 'Well, we think this is one of the most successful things that we ever financed' ... because it has a lasting quality about it." —G.B.

Read about more of CJFE's past projects at cjfe.org/programs/past_projects.

WHERE ARE THEY NOW?

PAST RECIPIENTS OF CJFE AWARDS

JILA BANİYAGHOUB (2009), founding editor of the women's rights news website *Kanoon Zanan Irani* (Focus on Iranian Women) and a reporter for the newspaper *Sarmayeh*, was arrested, along with her husband, journalist Bahman Ahmadi Amoyee, in the media crackdown that followed disputed election results in Iran in 2009. She received an International Press Freedom Award that year. Last June, the Revolutionary Court of Iran sentenced her to one year in prison—a sentence she is waiting to begin serving—and banned her from writing for 30 years. Her husband remains in jail.

AKBAR GANJI (2000), an Iranian investigative journalist, was imprisoned for taking on the Iranian regime over its involvement in the operation of death squads. He received an International Press Freedom Award in 2000. He moved to the United States in 2006 and is now living in New York, where he is working on a book about Ayatollah Khomeini that is expected to be published next year.

TERRY GOULD (2009) wrote *Murder Without Borders: Dying for the Story in the World's Most Dangerous Places*, a book about journalists killed because of their work. He received the Tara Singh Hayer Memorial Award in 2009. Gould is working on a documentary television series based on that book, as well as a new book for Random House Canada that will involve research in several failing states.

JINETH BEDOYA LIMA (2000) was military affairs reporter for the newspaper *El Espectador* in Bogotá, Colombia, when she was kidnapped, sexually assaulted and beaten in 2000, apparently because of her reporting on killings inside a prison. Just months later she was back on the beat. She received an International Press Freedom Award that year. Bedoya, now legal issues editor for the Colombian daily *El Tiempo*, is as courageous as ever. Late in 2010 she was threatened by the Revolutionary Armed Forces of Colombia (FARC) guerrilla group after publishing a book about a recently assassinated FARC leader.

FARIDA NEKZAD (2007) is an Afghan journalist and a significant contributor to independent media, and she has long encouraged women to work in the Afghan media. As editor-in-chief of the independent Pajhwok Afghan News, she had been the target of threats and harassment when she received an International Press Freedom Award in 2007. She is now director and editor-in-chief of Wakht News Agency and vice-president of the South Asia Media Commission.

JIM POLING (2008), a senior editor at the *Hamilton Spectator*, implemented and managed the newspaper's Internationally Trained Journalists Project, and chaired an advisory committee for Sheridan College's Canadian Journalism for Internationally Trained Writers Program. He calls his 2008 CJFE Vox Libera Award a professional highlight for himself and the newspaper, and says it "allowed us to continue the conversation and build a rapport with internal and external communities." This year, the *Spectator* is applying resources to a project focusing on community diversity.

in that case. To this day, no one has been brought to justice for his murder. The award was designed for Canadian journalists who make an important contribution to reinforcing and supporting freedom of the press. In 2005, CJFE introduced the Vox Libera Award to honour any Canadian who has made an important and sustained contribution to freedom of expression.

Following the launch of the gala, CJFE started its Journalists in Distress Fund, formalizing efforts to provide financial aid to international journalists in need. From 1999 to 2009, CJFE also managed a Journalists in Exile program, which supported international journalists who came to Canada to escape persecution at home.

GROWING CANADIAN FOCUS

Until the 1990s, the original Latin America Committee and its successor, the CCPJ,

focused on international press freedom issues. The problems were certainly worse abroad than here—reporters weren't being shot and no radio stations were bombed in Canada. Nonetheless, says Carty, "I think there was always a current of concern about this, that we weren't working enough in Canada."

In 1998, to better reflect its mandate of championing free expression worldwide, the organization changed its name a final time, to Canadian Journalists for Free Expression. In a sense, the name change heralded a new chapter in the organization's development.

"If we were Canadian Journalists for Free Expression," Amber says, "part of what we should be doing is minding our own country." The question came up more often after CJFE's annual gala began drawing more attention to its work. Perhaps the 1998 murder of Tara Singh Hayer and

the non-fatal shooting of Montreal crime reporter Michel Auger in 2000 spurred an increased focus on Canadian issues. Suddenly, it was no longer true that Canadian reporters didn't get shot for what they wrote.

CJFE continues to document physical attacks against journalists in Canada, and violations of free speech and assembly at the 2010 G20 Summit in Toronto remind us that there is no room for complacency about our rights at home. Meanwhile, CJFE is kept busy with a variety of other freedom of expression issues, including protection of journalists' sources, access to information, hate speech controversies, defamation cases, and the egregious practice of police impersonating journalists—the focus of a court challenge that CJFE launched in 2010. In the past decade, several experienced media lawyers have joined CJFE's board and/or provided pro bono work for the organization.

Besides intervening in a number of legal proceedings (see sidebar), CJFE has spoken out on various Canadian press freedom issues, most recently publishing reports of free expression violations during the G20 Summit and the 2010 Olympics in Vancouver.

Recognizing the organization's work in 2007, the Canadian Library Association presented CJFE with its Advancement of Intellectual Freedom Award.

In its five-year strategy for 2009–2014, CJFE defined three strategic goals: to be the lead advocacy organization on free expression issues in Canada; to support journalists in other countries whose right to freedom of expression is under threat; and to broaden understanding, respect and promotion of free expression through the creation of an independent base of support throughout Canada among journalists, advocates of free speech and the general public.

There has been progress on the international front, with more freedom of expression and of the press around the world than there was 30 years ago, Amber says, but “there are failures as well as successes.” People are still hunted down and killed or made to disappear. Close to 100 journalists are killed every year.

CJFE's increased emphasis on freedom of expression issues in Canada—part of which is the creation in 2010 of *The 2009 Free Expression Review*—is important for two reasons. First, Game says, it increases the organization's international credibility. “Organizations in the Global South will say ‘Well, what are you actually doing in your own country?’” Second, there are real concerns to be addressed at home, she adds. “We cannot be complacent in our own country, or take for granted that these rights that we enjoy are rights that are not going to be challenged.”

Grant Buckler has been a freelance journalist for more than 25 years, specializing in covering information technology and telecommunications and, more recently, alternative energy and clean technology. He has been a volunteer with CJFE for several years. He lives outside Kingston, Ont.



Inaugural CJFE Gala, 1998

CJFE'S LEGAL INTERVENTIONS

Canadians are comparatively lucky: Battles for freedom of expression in this country are more often fought with words in courtrooms than with bullets and tear gas on the streets.

PROTECTION OF CONFIDENTIAL SOURCES

Vital to a journalist's ability to obtain information, this principle has been challenged repeatedly. CJFE has been involved in the cases of Juliet O'Neill of the *Ottawa Citizen*, Andrew McIntosh of the *National Post*, Ken Peters of the *Hamilton Spectator*, Daniel Leblanc of the *Globe and Mail* and author Derek Finkle.

In the Peters case, the Ontario Court of Appeal “made it clear that there was a long and careful road that any court had to follow before they could ever consider citing a journalist for contempt in those circumstances,” says Brian Macleod Rogers, a former CJFE Board member and counsel for Peters.

Recent Supreme Court of Canada rulings have stopped short of establishing a blanket right, but have supported journalists' right to protect sources if they can show it is in the public interest, on a case-by-case basis.

DEFAMATION

CJFE was part of a media coalition intervening in a defamation case involving Vancouver broadcaster Rafe Mair and his employer, WIC Radio Ltd., which Mair won at the Supreme Court in 2008. That ruling strengthened the defence of fair comment.

Two other cases in which CJFE intervened—*Cusson v. Quan* and *Grant v. Torstar*

Corp.—helped establish a defence of responsible communications for defamation cases. The Supreme Court gave journalists, writers and bloggers a new defence when they fairly and responsibly cover stories “on a matter of public interest,” even if every statement cannot later be proved true.

CJFE also intervened in *Crookes v. Newton*, a defamation case that hinges on whether an online link to a defamatory article can be considered equivalent to publishing the article itself.

ACCESS TO INFORMATION

CJFE was an intervener in a suit brought by University of Ottawa professor Amir Attaran, aiming to stop the Department of Foreign Affairs and International Trade from censoring reports on human rights in Afghanistan. Unfortunately, the Federal Court ordered the department to reveal only portions of reports already made public. Also disappointing were recent Supreme Court decisions on Quebec courts limiting the use of broadcast equipment in courthouse corridors and refusing media access to official audio recordings of court proceedings.

POLICE IMPERSONATING JOURNALISTS

CJFE, the CBC and RTNDA Canada have launched an application under the *Charter of Rights and Freedoms* to prevent police officers impersonating journalists. This challenge is currently awaiting responses from the attorney general of Ontario and the Ontario Provincial Police.



30 MONTHS CANADIAN ONLINE JOURNALIST KHADIJA ABDUL QAHAAR HAS BEEN MISSING IN PAKISTAN

PROTESTORS, JOURNALISTS AND PASSERSBY ARRESTED DURING THE G20 SUMMIT IN TORONTO

1,105

395

AVERAGE NUMBER OF DAYS IT TAKES TO RESOLVE AN ACCESS TO INFORMATION COMPLAINT IN CANADA

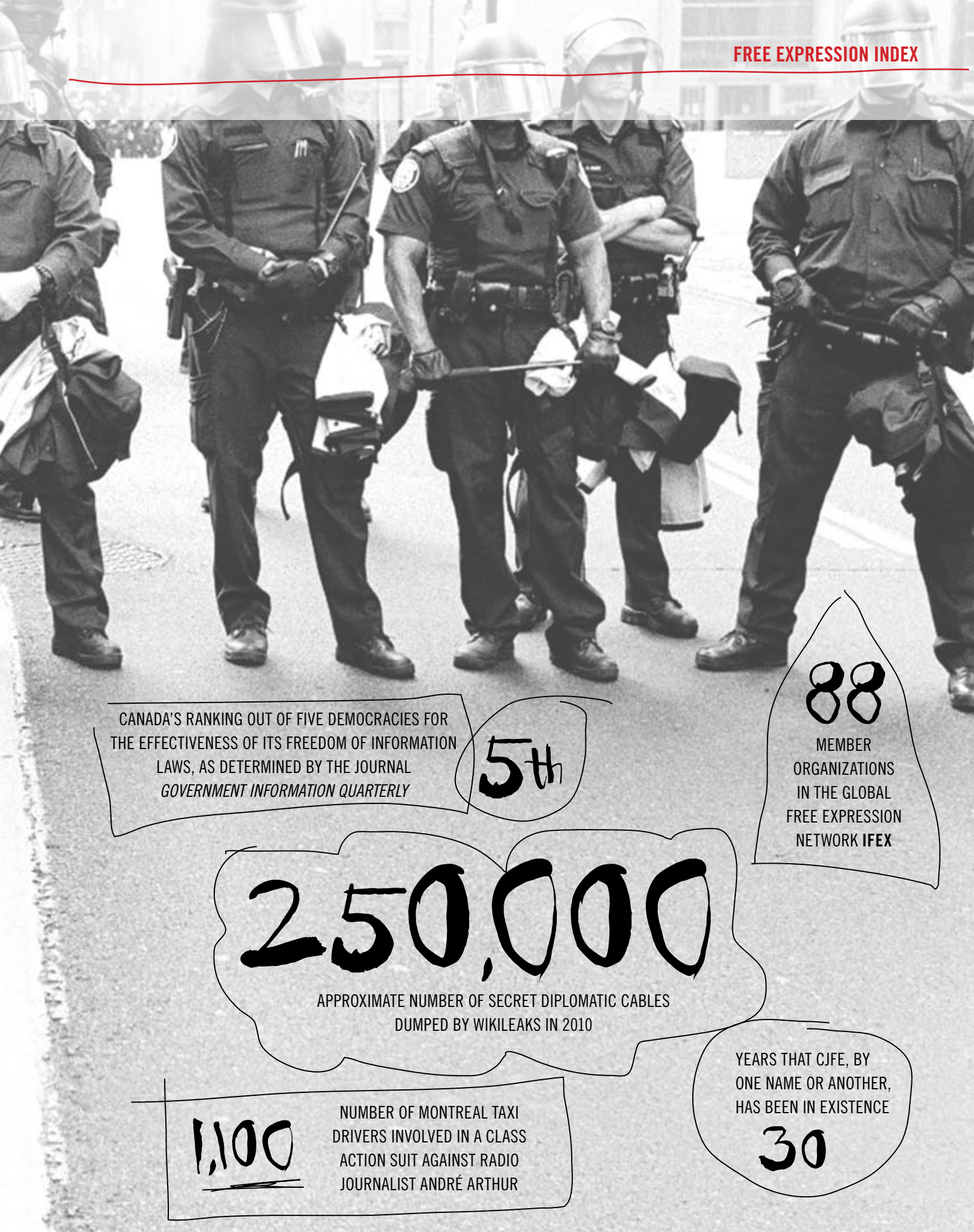
AGE OF MANITOBA GIRL WHO CAME TO SCHOOL WITH RACIST WRITING AND DRAWINGS ON HER BODY, INCLUDING A SWASTIKA AND THE WORDS "WHITE PRIDE"

7

11 FREE EXPRESSION CASES IN WHICH CJFE HAS INTERVENED SINCE 2006

NUMBER OF WORDS AND PHRASES TRADEMARKED BY THE ORGANIZING COMMITTEE OF THE 2010 OLYMPICS, PREVENTING THEIR USE WITHOUT PERMISSION, FROM DECEMBER 2007 TO DECEMBER 2010

17



CANADA'S RANKING OUT OF FIVE DEMOCRACIES FOR THE EFFECTIVENESS OF ITS FREEDOM OF INFORMATION LAWS, AS DETERMINED BY THE JOURNAL *GOVERNMENT INFORMATION QUARTERLY*

5th

88
MEMBER ORGANIZATIONS IN THE GLOBAL FREE EXPRESSION NETWORK IFEX

250,000

APPROXIMATE NUMBER OF SECRET DIPLOMATIC CABLES DUMPED BY WIKILEAKS IN 2010

1,100

NUMBER OF MONTREAL TAXI DRIVERS INVOLVED IN A CLASS ACTION SUIT AGAINST RADIO JOURNALIST ANDRÉ ARTHUR

YEARS THAT CJFE, BY ONE NAME OR ANOTHER, HAS BEEN IN EXISTENCE

30