

Evidence of Professor John Thompson to the Leveson Inquiry

1. Who you are and a brief summary of your career history.

I am Professor of Sociology at the University of Cambridge and Fellow of Jesus College, Cambridge. I have written on aspects of the relation between politics and the media, including *The Media and Modernity* (1995) and *Political Scandal* (2000).

Relevant aspects of the public interest

2. How would you describe the public interest in a free press?

I would say that it is in the public interest to have a free press (1) that is pluralistic in character, (2) that represents a diversity of viewpoints, (3) that is able to inform citizens fairly and accurately on matters of public concern and (4) that is capable of and committed to holding power to account.

3. How would you describe the public interest in freedom of expression? To what extent does that public interest coincide with, or diverge from, the public interest in a free press?

Our societies are intrinsically diverse, and it is in the public interest that individuals should be free to express their opinions on issues that matter to them. It is also in the public interest that the various media which together help to create a public sphere of information dissemination and debate should (1) allow for the free expression of views and (2) should represent a diversity of views. This overlaps to some extent with the public interest in a free press, though the latter is broader than the former and includes other considerations, such as the commitment to hold power to account.

4. In order to maximise the overall public interest, with what other aspects of the public interest would freedom of expression, or freedom of the press, have to be balanced or limited? The Inquiry is particularly interested in the following, but there may be others:

I would say that the following are the most important counterbalancing considerations:

- i. Issues of national security.
- ii. Areas where a degree of confidentiality is clearly required in order to make good and well-reasoned decisions in matters of public policy, i.e. in order to ensure good governance. An example might be a confidential reference that is provided to an appointments panel that is tasked with the responsibility of finding the best person to fill an important public position.
- iii. Reputation: i.e. the need to avoid unwarranted damage to the reputation of an individual or institution based on false or unwarranted accusations or attributions.
- iv. Personal privacy: i.e. the need to protect the privacy of individuals, and of information concerning individuals, unless there is a clear and defensible public interest in the disclosure of this information.
- v. Copyright and intellectual property rights.

The relation between the public interest in the freedom of the press and these counterbalancing considerations is often contestable in particular cases, and it is therefore a matter of weighing up the arguments for and against. For example, in the case of the disclosure of information concerning MPs' expenses, an argument could be made that this was personal information and therefore a matter of privacy for the individuals concerned; on the other hand, there is a strong

and, in my view, compelling counter-argument that the expenses claimed by MPs are a matter of legitimate public interest and therefore the publication of these expenses was a legitimate and defensible action. Different counterbalancing considerations will require different arguments but the overall structure of contestation – i.e. the marshalling of arguments for and against – will be similar in most cases.

5. What are your views on the extent to which the overall public interest is currently well served, both in principle and in practice, by the current balance between the public interest in the freedom of the press and free expression on the one hand, and competing aspects of the public interest on the other? In your opinion, what changes if any would be desirable in this respect, in order to maximise the overall public interest? If relevant, please state whether those changes should be voluntary or obligatory.

In my view, there are two areas in relation to the freedom of the press where the public interest is not being well served by current practices and legislative structures.

The first area is in relation to pluralism and diversity. Maintaining and nurturing a pluralistic media is fundamental to the freedom of the press, but this requires two conditions to be met: (1) there must be a strict separation between media institutions, on the one hand, and the government/state, on the other; and (2) there must be strict limits on the degree of concentration and cross-ownership that is permitted in the media sector. These two conditions comprise what I call 'the principle of regulated pluralism' (*The Media and Modernity*, pp. 240ff). In my view, the actual practice of media and political organizations and the legislative framework governing media ownership fall well short of both of these conditions. To redress this situation would require at least three things in my view:

- i. Tougher legislation on media concentration and cross-ownership which places stricter limits on the extent to which any one corporation or organization can own or control media assets that are active in the UK context. This can and should be dealt with in a statutory and obligatory way.
- ii. A greater degree of separation between media organizations, on the one hand, and government/state organizations and officials, on the other. Partly this is a matter of establishing clear institutional separation between organizations, even if the media organization in question is a public organization, such as the BBC, so that the government of the day cannot place undue pressure on media organizations. But partly it is also a matter of changing a culture and set of practices by establishing principles of good practice and relentlessly exposing infringements of these principles as a way of holding power to account. Exposing and counteracting the kind of undesirable coziness between media organizations and government/state officials that has been unveiled in recent months is not so much a matter of statutory legislation than of culture and good practice linked with a strong and vibrant press committed to a watch-dog role.
- iii. It is not simply a matter of maintaining but also of *nurturing* a pluralistic media, and this is a matter that requires a good deal of attention and proactive intervention on the part of public authorities. Forcing large media organizations to divest themselves of media assets in the UK would not significantly contribute to a pluralistic media environment in the UK if those divested assets were simply closed down because they were financially unviable. In the current context, where many newspapers find themselves in a financially precarious position thanks to the decline of advertising revenue and the long-term impact of the digital revolution, this issue is of the greatest importance. It is imperative for public authorities to consider carefully how best to *nurture* a pluralistic media and to provide it with the support it needs – including financial support – in order to serve the public interest in the freedom of the press.

The second area where the freedom of the press is not well served by current practices and legislative structures is in relation to personal privacy. The breaches of personal privacy that have been exposed by the Leveson Inquiry are clearly unacceptable and they demonstrate that there was a pervasive culture of intrusion that was tolerated within the media organizations concerned. It seems to me essential that we develop a clear and legally enforceable set of rules that will help to ensure that the personal privacy of individuals is protected against intrusion by the press *unless* there is a clear public interest defense – and of course this qualification is crucial.

Press ethics

6. What would be the distinguishing features of the conduct and practices of a media industry, or any organisation which was a part of that industry, which would make it an 'ethical' one?

I would say media organizations have four distinctive ethical responsibilities: (1) a responsibility to ensure that the information they publish is true and accurate; (2) a responsibility to ensure that any allegations they publish are justified, defensible and based on accurate information; (3) a responsibility to ensure that what they publish does not cause harm or distress to individuals in ways that are unwarranted or libelous or defamatory or serve no discernible public interest; (4) a responsibility to respect the privacy of individuals unless there is an overriding public interest.

7. In particular, to whom might the press be considered to owe ethical duties, and why? What might be the content of such duties? To what extent might such duties come into conflict, and how should any such conflicts be resolved? The Inquiry is particularly interested in the following as potentially owed ethical duties, but there may be others:

The answer to this question follows from the previous answer: (1) the press has a responsibility to their readers and to the public at large to ensure that what they publish is true and accurate and that any allegations they publish are justified; and (2) the press has a responsibility to all individuals to ensure that what they publish does not cause unwarranted harm or distress and that it respects the privacy of individuals unless there is an overriding public interest.

Of course, media organizations have certain responsibilities to their employees and fiduciary responsibilities to shareholders and investors, but in my view these are and should be secondary to the ethical responsibilities of the press as outlined above.

8. What role might reasonably be expected to be played by a code of conduct in encouraging, inculcating or enforcing ethical behaviour by the press? What would be the distinguishing principles and features of any code of ethical conduct with universal application to the media industry?

A code of conduct is fine but I don't think it will ever be strong enough to deal with the key issues mentioned in answer to questions 5 and 6 above, primarily because a voluntary code of practice will not suffice to ensure that the press adheres to the responsibilities that can be legitimately ascribed to it. A stronger statutory framework is necessary in my view.

9. Please comment on the current edition of the media industry's Code of Practice <http://www.pcc.org.uk/cop/practice.html> from the perspective of its status as an ethical code. Your answer should in particular address the following:

The existing code of practice seems to me to be sensible in terms of the range of issues covered, but the critical issue is whether a voluntary code can ever be sufficiently strong to ensure that individuals and organizations in the media comply with it. My own view is that it cannot, and this, I think, is the key issue that needs to be addressed.

10. What approach would you recommend to the consideration of improvement to the nature, status, content and enforceability of the current Code? Are there changes to either content or enforceability of the current Code you would wish to see? Please explain your thinking.

I think a distinction needs to be drawn between aspects of the current code that can and should remain part of a voluntary code of practice and aspects that need to be strengthened by being incorporated into a statutory regulatory framework for the press. For example, a statement such as 'The Press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact', is properly regarded as part of a code of practice, while issues concerning privacy would be better dealt with as part of a statutory framework. In my view, the current code mixes together issues that are, from a legal and ethical point of view, quite different in character and it would be best to separate these out.

11. What other changes would you consider desirable in order to encourage or constrain the press to improved standards of ethical conduct and practice? Your answer should explain the standards you consider appropriate and why, whether conformity should be encouraged or constrained, and how.

I would add that it is also vital in my view to address the issues outlined in my answer to question 5 above concerning the need to maintain and nurture a pluralistic media.

John Thompson
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