



May 2022 Branch

The United Nation's World Press Freedom Day on 3 May celebrates journalism and reminds governments of their need to respect press freedom. This year the theme was "Journalism under digital siege" to spotlight the numerous ways journalists face surveillance and digital-mediated attacks, Michelle Stanistreet looks at the current threats.



As general secretary of the NUJ, I sometimes feel I am fighting a many-headed hydra. As we celebrated our Old Bailey victory, preventing West Midlands Police from using terrorism legislation to force Chris Mullins to reveal the sources of his investigations into the 1974 IRA bombings of Birmingham, we had to remain vigilant against a whole host of new threats, as well as dealing with the old.

The UN's report for World Press Freedom Day showed how online harassment, mass and targeted surveillance, data storage vulnerabilities and spying software which hacks reporters' phones are among the many ways that digital tools have been used to jeopardise the safety and integrity of journalists as well as their sources.

Governments, oligarchs, businesses and criminal networks which want to keep secrets will do everything they can, by passing laws, by harassment or undertaking illegal means, to stop journalists doing their job. This week I

gave evidence to a Ministry of Justice inquiry into SLAPPs – legal action where the rich and thin-skinned initiate meritless cases designed to intimidate journalists and publishers to stop them publishing information. The threat of an expensive lawsuit is often enough to kill a story, and the cases that work their way through the system represent just the tip of the iceberg. The UK government says it intends to stop the press being muzzled in this way, and the NUJ is working hard to ensure this commitment is delivered. Following our campaigning in the Republic, the Irish government could be the first to introduce anti-SLAPPs legislation as part of its update of defamation laws.

I made clear to the committee that the deployment of 'lawfare' goes beyond the stress and strain heaped on the individuals involved – these bully-boy tactics are designed to stymie journalistic investigations. It's a scourge that the UK has been a destination-jurisdiction for those hell-bent on undermining media freedom and abusing journalists around the globe in this way.

This week we also heard the Queen's Speech which heralded a number of worrying new laws posing a threat to journalism. I explain on page 3 why the National Security Bill has been described as "the greatest threat to public interest journalism in a generation". The Online Safety Bill poses a danger to freedom of speech, and we are still waiting to hear the government's promised protections for journalists to be published and we will fight to ensure our members are protected.

As part of our work for the National Committee for the Safety of Journalists we will soon be launching a video of members powerfully describing the intimidation and harassment they are subjected to in the course of doing their job, and will be publishing an online safety toolkit.

We will continue our efforts to prevent Priti Patel from extraditing Julian Assange – which would set a very chilling precedent.

In this month's NUJ Branch we look at how we can collectively fight back against these attacks – working with our cross-party Parliamentary Group. NUJ branches can play a pivotal role in lobbying their MPs and raising awareness locally of these threats to a free press.

In Solidarity

Michelle Stanistreet



SPOOKS

02



Under digital siege

Tim Dawson explains how journalists need to develop their tradecraft to avoid being snooped on

Spying on journalists has become popular practice among governments the world over, according to the International Federation of Journalists (IFJ). It said the extent of the use of spyware to secretly monitor reporters was one of the main and most worrying threats to press freedom.

The scale of surveillance of journalists' phones using Pegasus software is on an industrial level. More than 180 reporters have been snooped upon, including Roula Khalaf, editor of the Financial Times. Similar intrusion has penetrated 10 Downing Street, the UK's Foreign Office and politicians around the globe.

Hungarian journalist, Szabolcs Panyi, is among those whose phones were found to have been infected with Pegasus malware. He works for direkt36, a news platform specialising in investigating abuses of state power. As well as feeling humiliated that his private communications were spied upon, he admitted a little pride that his government thought it worth spending more than his salary keeping tabs on him. But he had to change his work methods.

"The way I communicate has become much slower and more complicated," Panyi told the Committee to Protect Journalists. "I use various secure tools and applications. I have to be very mindful as to what wi-fi or other networks I connect to on my computer or mobile phone. I regularly go to meetings now without my phone. I take physical notes. I have much more difficulty meeting and communicating with sources, who are increasingly afraid of the trouble I might bring into their life."

There are extremes - Jamal Kashoggi was spied on with Pegasus before being murdered in the Saudi embassy in Istanbul but the more generalised effect of surveillance is to create an enduring hinderance to journalism, as Panyi describes.

Fortunately, the reaction to the Pegasus scandal has been as loud as it has been widespread. It was debated in the European Parliament as part of this year's World Press Freedom events devoted to Journalism under Digital Siege and the International Federation of Journalists' 31st World Congress in June will have a special focus on surveillance.

NSO, the Israeli cyber arms

company behind Pegasus, has also suffered significant difficulties. President Biden placed the company on a national blacklist, WhatsApp has a legal case against it and it has experienced significant corporate turmoil.

Alas, there is little comfort to be taken from this. While Pegasus is by far the most notorious software that facilitates snooping on smart phones, it is not unique. British and US security services have their own products with similar capabilities and there are numerous other programs that allow users to spy on communications devices.

When the IFJ convenes in Oman, it will almost certainly call for legislation to protect journalists from surveillance to be overseen by an international watchdog. In the meantime, journalists need to protect themselves. Five years ago, investigative reporter, Duncan Campbell, warned London Freelance Branch about the increasingly hi-tech threats faced by journalists. "Tradecraft, not technology is the key to protecting your sources," he told the meeting. Learning tricks from espionage to evade the spooks and authorities is now an essential part of a journalist's knowledge.

NUJ guide to phone security:
<https://tinyurl.com/6r7ctxnk>

CAMPAIGN

03

Matt Kenyon



Enemies of the State

A new bill which will make journalists traitors must be resisted, says Michelle Stanistreet, the NUJ's general secretary.

The National Security Bill, listed in the latest Queen's Speech, could pose "the greatest threat to public interest journalism in a generation", Michelle Stanistreet told an online meeting at the Festival of Debate in April.

This is the legislation to reform the existing Official Secrets Acts (OSA) which would put journalists on a par with spies and traitors and poses a real danger to anyone who prizes the role press freedom plays in a functioning democracy, she said.

The government had suggested journalists who published leaks should be treated equally with those committing espionage offences. Maximum sentences would be increased from two to 14 years. It claimed that whistleblowing and the release of documents and information online could sometimes be an even more grievous act than spying by a hostile agent.

The Law Commission, tasked with reviewing the reform of the OSA, had argued for a statutory public interest defence, and proposed establishing an independent statutory commissioner to investigate concerns of wrongdoing from whistleblowers. It said the bill

could be in contravention of Article 10 of the European Convention on Human Rights, which guarantees the right to freedom of expression. But Priti Patel's Home Office said it did "not consider that there is necessarily a distinction in severity between espionage and the most serious unauthorised disclosures".

Michelle said: "The government has claimed that whistleblowers and journalists cannot 'accurately judge whether the public interest in disclosing the information outweighs the risks against disclosure'. I'm pretty certain that most people would sooner trust the instinctive and considered judgments of whistleblowers and of journalists, rather than that of a government whose default is secrecy when it comes to weighing up what information we should be privy to or not."

Stories based on unauthorised disclosures include Edward Snowden's revelations in 2013 of the activities of US and UK spy agencies, including major global surveillance programmes, and they were used to expose the MPs' expenses scandal. These stories, the NUJ believes, were clearly in the public interest.

It was terrorist legislation that

the West Midlands Police used to try to seize material relating to the Birmingham Six bombings from NUJ life member Chris Mullin. The union won that case - one which should never have got off the ground.

In 2018 Belfast-based journalists Trevor Birney and Barry McCaffrey had their homes and offices raided by police with a search warrant that a judge later ruled was obtained at a hearing that fell "woefully short of the standard required". Currently a court must rule on police applications to inspect journalistic material. Under the Official Secrets proposals these protections will be watered down, allowing a police superintendent to authorise search warrants and inspection of special procedure material.

Michelle said: "These changes come at a time when press freedom is under attack. We've seen a raid by the Information Commissioner to find the source of The Sun's scoop, that the then Health Secretary, Matt Hancock, had both broken his own Covid rules and had an affair with an aide in his ministerial office."

"We've seen increasing acts of 'lawfare' designed to stymie and thwart journalistic reporting and investigations. Bully-boy tactics like these are aimed at creating a chilling effect and bringing about a culture of more risk-averse reporting."

CAMPAIGN

04

The trauma of truth

Martin Bright says whistleblowers, vital to our democracy, will be the victims of the new espionage law

There is a scene in the film *Official Secrets* when GCHQ whistleblower Katharine Gun (pictured) is confronted by the enormity of what she has done. The memo she leaked – revealing details of a US/UK plan to spy on delegates at the United Nations in advance of the Iraq War – has been printed on the front page of *The Observer*. She is so shocked by the reality of the situation that she runs to the toilet and vomits. It is a vivid representation of the visceral trauma felt by extreme truth-tellers.



Whistleblowers come in all shapes and sizes. For some they are heroes who deserve to be made the subject of Hollywood movies, for others they are merely snitches and traitors. But trauma is central to the experience of them all. The trauma begins with the isolation and loneliness of the whistleblower's original predicament. They alone are horrified enough by wrongdoing they are witnessing to report it.

It intensifies as their disclosure reaches the public domain. But it does not end there. The trauma

continues long after the reporters and cameras have gone away. Ian Foxley, chief executive of Parrhesia, the whistleblowing think tank, said: "What should be an uplifting experience, simply telling the truth about wrongdoing, is actually a deeply distressing and disturbing process. There is a sense of disbelief at not being listened to, horror at being treated as a traitor to the system... and a deep pain at not being believed."

I have been involved in three high-profile national security cases and in each case the consequences for the individuals involved have been devastating. David Shayler, the MIS officer who blew the whistle on intelligence service incompetence and alleged wrongdoing in 1997, spent time in prisons in France and the UK. His mental health was left in tatters, and he ended up as self-proclaimed messiah susceptible to any passing conspiracy theory. Derek Pasquill, the Foreign Office whistleblower who revealed details of the New Labour government's accommodation with radical Islam, has since disappeared. Katharine Gun, the most level-headed of whistleblowers, nevertheless felt she had to leave the UK for Turkey not

long after her revelations.

If we accept that whistleblowers are the lifeblood of democracy, I fear the National Security Bill announced in the Queen's Speech, which includes new measures to toughen up official secrecy legislation, will have a devastating impact on truth-telling. Cynics will say this is the whole point: the experiences of Shayler, Pasquill and Gun will undoubtedly act as a deterrent. But where does that leave those whistleblowers whose revelations are squarely in the public interest – bearing in mind the Pasquill and Gun cases were dropped when the prosecution realised they were unlikely to succeed in court. It is now imperative that journalists and free speech campaigners push for a public interest defence to allow members of the intelligence services to speak the truth when they witness wrongdoing. The consequences for whistleblowers who choose to do the right thing on our behalf are already too great. The trauma for our democracy will be even greater.



Matt Kenyon

CAMPAIGN

05

Information delayed...

An MPs' committee chair says the government's approach on FOI 'is unsustainable and unacceptable in a modern democracy'

Number 10 recently evaded an FOI request from *The Mirror* citing "interests of national security" when the paper asked if the Prime Minister's interior designer had security clearance to wander in unescorted to the Cabinet Room – where the party which led to Boris Johnson receiving a fine for breaching lockdown rules was held.

The Financial Times reported that it took two years to get a response from the Scottish government to questions about the size of a 25-year taxpayer-backed guarantee to the metals magnate, Sanjeev Gupta. The government had cited commercial confidentiality. The FT appealed to the Scottish Information Commissioner and the government was ordered to disclose the information. Emails seen by reporters suggested the government had known it would lose the appeal and asked if it had been "a time-wasting tactic to delay the release of

politically-sensitive information?"

A damning report by the Public Administration and Constitutional Affairs Committee (PACAC), published in April, concluded many instances such as these showed the UK's Cabinet Office (which oversees FOI in England, Wales and Northern Ireland) "needs to work harder to ensure a strong and enthusiastic tone from the top that supports FOI".

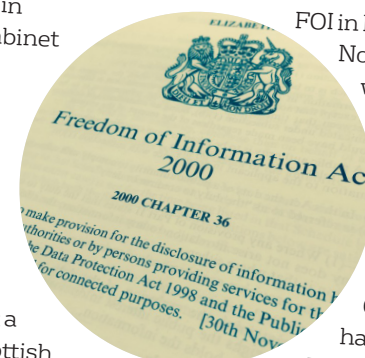
The committee had investigated the Clearing House, the Cabinet Office unit which handles FOI requests.

It found requests from journalists were put under scrutiny, against the spirit of the law which says FOI requests must be handled in an "applicant-blind" manner. A letter signed by the NUJ, editors, journalists, MPs, academics and lawyers to John Edwards, the new UK Information Commissioner, said "increases in late responses, stonewalling, public-interest-test delays,

misuse of exemptions, as well as opaque and inconsistent monitoring and enforcement mean that the current regulatory approach to FOI is clearly not working". As the former commissioner, Elizabeth Denham, said: "Information delayed is information denied." Just 41 per cent of FOI requests sent to government departments and agencies were granted in full in 2020.

The PACAC report said the government must reverse its decision to exclude the Advanced Research and Invention Agency, with its £800m budget, from the scope of the FOI Act. William Wragg, the committee chair, said "This approach is unsustainable and is simply unacceptable in a modern democracy."

The committee said the act should be amended to include outsourced public services not covered by the law, WhatsApp and other private messaging systems used by ministers and officials to evade the FOI Act, and the Information Commissioner should conduct an audit of the Clearing House.



Action

Organise training for branch members on FOI requests:
<https://www.cfoi.org.uk/foi-training/>

Lobby your MP to have the FOI Act loopholes closed.

Survey branch members on their experience of FOI requests.

CAMPAIGN

06

Stop SLAPPs now

Here's your chance to put the case against wealthy litigants using UK law to stifle journalists' stories.

How much does legal risk factor into what you publish? Even with evidence to stand up your reporting, have you or your editors refrained from publishing because of the fear of legal consequences? Have you been subject to threatening legal letters? Or a lawsuit? Or maybe you want to add your voice to those calling for measures to stop wealthy litigants intimidating journalists?

In March, the UK government launched a call for evidence on strategic lawsuits against public participation (SLAPPs). For many, this term is relatively new but the issue that it describes is far more familiar. Coined by US academics in the early 90s, it is used to describe abusive legal actions taken with the intention, or the effect, of stifling debate on matters of public interest.

Launching the consultation, Justice Secretary, Dominic Raab, said: "The government will not tolerate Russian oligarchs and other corrupt elites abusing British courts to muzzle those who shine a light on their wrongdoing."

Michelle Stanistreet said: "We have long campaigned for low-cost arbitration solutions to settle genuine disputes and would welcome any moves to ensure journalists and media outlets no longer face

prohibitive costs and deliberate intimidation by wealthy litigants with the deepest of pockets. For too long the super-rich have got away with abusing the law to bully journalists and undermine media freedom."

Concerns about SLAPPs have been growing globally in recent years and the UK has been pinpointed as a hotspot for litigants.

The cases brought against investigative journalist, Catherine Belton, author of Putin's People who received multiple threats including some from Roman Abramovich, Tom Burgis, author of Kleptopia, and Carole Cadwalladr, author and journalist, sued by Brexit donor Arron Banks, reached the High Court

in the last year. They were recognised as SLAPPs by media freedom and anti-corruption groups and raised the public profile of this issue. However, such cases are just the tip of the iceberg, with most never reaching the court stage.

Instead, letters threatening costly legal action can kill a story early on because the UK's legal system remains "claimant friendly" and mounting a defence is a costly and lengthy process. This makes it too risky to defend a challenge, particularly for freelancers or smaller newsrooms.

The government's consultation provides a real opportunity for change. This is why it is vital that those who have experience of this issue respond before the deadline of Thursday 19 May: <https://www.gov.uk/government/consultations/strategic-lawsuits-against-public-participation-slapps>

Susan Coughtrie is project director at the Foreign Policy Centre and author of the report London Calling on the use of legal intimidation and SLAPPs.



Matt Kenyon

USEFUL STUFF

07

The NUJ provides a range of guides and resources to help with members' work and wellbeing... here are some of them

Keep your branch lists secure

Branch officers are reminded that they must abide by General Data Protection Regulations when dealing with their list of branch members and keep any communications secure.

Messages and other branch communications should be sent via the London office to stuart@nuj.org.uk to ensure that the most up-to-date list is used. The union has received complaints from former members who continue to be sent emails from the NUJ.

Trade union membership falls into a special category of data that is deemed 'sensitive'. That means extra rules and checks apply.

Branch officers and members must:

- Not allow access to, providing copies of information/data, to unauthorised individuals, companies or organisations.
- Not retain information for personal use/or contacting members on business outside the union's.
- Not disclose whether an individual is a member of the

union to any unauthorised individuals, companies or organisations.

• Not include without authorisation email addresses of other members within email correspondence.

• Destroy old lists and files securely.

The NUJ legal department and data controller's office warns: "Those members charged with processing member data as NUJ representatives, chapel or branch officers should take care to use the information in accordance with the terms under which you are authorised by the union, failure to do so, could result in a breach of the Data Protection Act 2018 (DPA) and General Data Protection Regulations (GDPR). While you perform a vital role on behalf of the union, understand that you have a responsibility to make sure that member information is secure, used fairly, legally, and how NUJ members would expect, this includes but is not limited to ensuring membership information such as branch/chapel lists are up-to-date and member information is not retained longer than is necessary."

Cost of Living: guidance for journalists

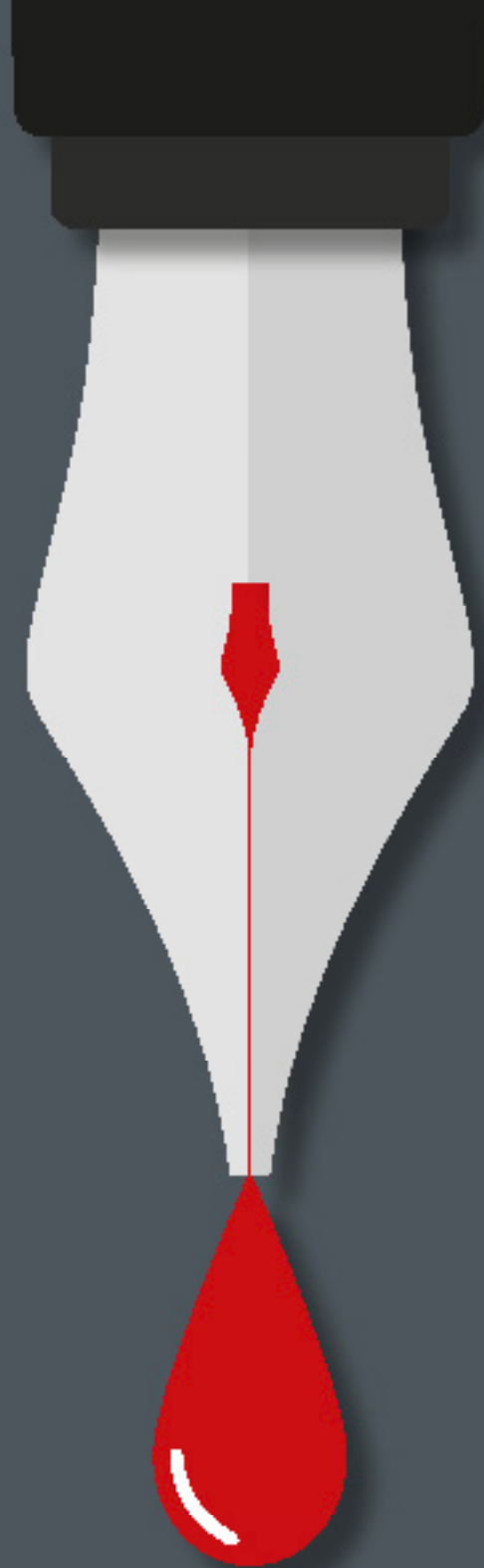
With the inflation due to go rampant, gas and electricity prices soaring and taxes rising the cost of living is a hot topic. For journalists covering these issues a guide on the NUJ's website will help report on these complex issues accurately, sensitively and powerfully. The guide, supported by ATD Fourth World, Church Action on Poverty, the Joseph Rowntree Foundation, On Road Media and the NUJ offers practical recommendations on reporting the statistics of poverty and people's direct experiences: www.nuj.org.uk/resource-report/reporting-poverty-a-guide-for-media-professionals.html

Mental health toolkit

On Saturday 7 May the NUJ held an online mental health conference for members and reps. You can still sign up to a series of free evening workshops with expert trainers focused on improving mental health, download NUJ's mental health toolkit with practical action reps can take in workplaces, and read a report on the conference on the NUJ website: <https://www.nuj.org.uk/resource/mental-health-awareness-week.html>



**REASONS
TO JOIN**



Journalist's Rights

The NUJ fights for journalists' rights, freedom of expression and ethical journalism. We support reporters in protecting their sources, photographers from having their footage taken by the authorities and media workers from surveillance. The union's cross-party parliamentary group gives the NUJ a voice on legislation which affects its members.

Are you keeping good company?

Join the NUJ today at

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