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FREEDOM OF THE PRESS

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United Kingdom

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With a history of aggressive reporting and an editorially independent public broadcaster, the United Kingdom maintained its open media environment in 2012, though positive developments regarding libel law reform were balanced by the possibility of increased newspaper regulation.

The laws provide for freedom of the press, and the government generally respects this right in practice. While antiquated legal provisions that criminalized blasphemy and blasphemous libel were abolished in 2008, several laws that weaken press freedom remain in place. The media can be required to turn over reporting materials to the police under the 1984 Police and Criminal Evidence Act. This happened on several occasions during the 2011 London riots, as well as during separate riots in Northern Ireland. In the aftermath of the July 2005 terrorist bombings on London's mass transit system, the government passed the 2006 Prevention of Terrorism Act. Certain provisions of the law criminalize speech that is considered to encourage terrorism, even in the absence of a direct, proven link to a specific terrorist act. The 2006 Racial and Religious Hatred Act

criminalized incitement of religious hatred or violence, and using threatening words or behavior or displaying any threatening written material is considered an offense if the intended purpose is inciting religious hatred. The same is true for material that is broadcast. In the first conviction under this legislation, blogger Bilal Zaheer Ahmad was sentenced in July 2011 to 12 years in prison for encouraging Muslims to murder members of Parliament who had supported the war in Iraq. His website was also shut down.

Libel laws in effect in England and Wales heavily favor the plaintiff, placing the burden of proof on the defendant. As a result, the country has become an increasingly popular destination for “libel tourism,” in which foreign plaintiffs bring libel actions against foreign defendants in English courts. However, a campaign led by the free speech organizations Sense about Science, English PEN, and Index on Censorship launched a libel reform petition in Parliament in December 2009, attracting greater attention to the issue and resulting in a promise in 2010 by the new coalition government to reform libel laws. A bill introduced in Parliament by the Ministry of Justice in May 2012 was designed to limit lengthy and expensive proceedings, making it easier to dismiss frivolous cases quickly. Under the proposed law, claimants would have to demonstrate that the published material in question caused them “serious,” not just possible, harm. The measure is also expected to limit the use of English courts by foreign claimants by excluding those who live outside the European Union (EU), except for cases in which “England and Wales is clearly the most appropriate place to bring an action.” Campaigners are still calling for a stronger “public interest” defense—currently journalists would first need to prove that they have been “responsible” in their writing—and better protections for internet service providers. As of the end of 2012, the bill had made it through its third reading in the House of Commons and was pending in the House of Lords.

The 2003 Communications Act prohibits any message from being sent through a public electronic communications network that is “grossly offensive or of an indecent, obscene, or menacing character.” In July 2012, the High Court overturned a 2010 conviction against a man who had written a microblog comment about “blowing the airport sky high.” The presiding judge ruled that the statement was not menacing and had been written out of frustration over flight cancellations. In October, 19-year-old Matthew Woods was sentenced to three months in prison for posting allegedly offensive statements on the social-networking site Facebook related to a missing 5-year-old girl. The director of

public prosecutors announced in December that guidelines on prosecuting offensive comments on the internet would be established to rein in the growing number of legal cases in recent years.

In keeping with EU policy, a 2009 law requires communications service providers to retain certain limited usage records for one year. Intelligence, law enforcement, and other agencies may access such data—which do not include the content of communications—without judicial permission for a variety of reasons, including crime detection, national security, and the “economic well-being” of the country. However, the system includes procedural and institutional safeguards against abuse, and there are departments in place to handle public complaints. A draft communications data bill under consideration in 2012 would require internet and telephone companies to retain a much greater range of information about online communications, including on social media, e-mail, mobile phone calls, and voice calls placed over the internet. The proposed law, which has been defended as necessary for crime prevention and detection, would allow public authorities to access the identity of communication participants, their location, and the duration of contact, among other information. Accessing the content of communications would still require a warrant. In December, Parliament’s Joint Committee on the Communications Data Bill released a report that was critical of the draft, deeming it too sweeping and calling for consultations before redrafting. The prime minister announced at year’s end that the bill would be rewritten.

On rare occasions, the courts impose so-called superinjunctions, which forbid the media from reporting certain information and even from reporting on the existence of the injunction itself. The media have criticized the increasing use of these “gag orders,” claiming that they allow the rich and powerful to be legally exempt from journalistic investigation. However, such mechanisms have been undermined by the ease of spreading information via the internet and social media. In a recent superinjunction revelation, a Channel Islands businessman claimed that he was gagged by the former wife of an unnamed Asian head of state in 2009. The businessman, Mark Burby, stated in a submission to Parliament’s Joint Committee on Privacy and Injunctions, published in February 2012, that the Asian head of state was a “substantial” supporter of Al-Qaeda and had “advanced knowledge” of the 2005 London bombings. Lawyers for the former wife threatened “diplomatic repercussions” against the parliamentary committee, requesting that the submission—which revealed the existence of the 2009 superinjunction to the public—be removed from its website. The committee did not comply.

In March 2012, the same committee released a report calling for internet companies, like Google, Facebook, and Twitter, to establish ways to limit online posts that breach court orders. The committee also concluded that the introduction of a privacy statute would be more harmful than the current regulation because no definition of privacy could be exhaustive, potentially resulting in new litigation over interpretation. Earlier, in January, Twitter had unveiled a new censorship system whereby microblog posts could be blocked on a country-by-country basis if they broke local laws. The new system served to address, among other things, breaches of British superinjunctions. Upon receiving notice from an authorized entity, posts that violate a superinjunction can be blocked in the United Kingdom, but will remain accessible outside the country. Twitter has pledged to be as transparent as possible, logging blocked posts and alerting the author of the action.

The right to information is not constitutionally guaranteed, and while a 2000 Freedom of Information Act came into force in 2005, it contains a number of broad exceptions. “Absolute” exemptions act as unconditional barriers to the disclosure of information. With “qualified” exemptions, a determination is made as to whether the public interest is better served by withholding or disclosing the information; also, a ruling is made on whether to reveal what particular information has been withheld. Although the law includes 24 such exemptions, the Information Commissioner’s Office—established in 2000 to address freedom of information complaints—has been praised by civil society groups.

Broadcast media are regulated by the Office of Communications (Ofcom), while the print sector operates under a voluntary, self-regulating mechanism. The Press Complaints Commission, whose rulings have no legal force, is made up of representatives of the newspaper industry. In response to the 2011 *News of the World* phone-hacking scandal, the prime minister launched a public inquiry, led by Lord Justice Leveson, into the ethical lapses at the tabloid and the general regulatory framework of the British media. The resulting Leveson report, released in November 2012, recommended the establishment of an independent regulatory body with statutory underpinnings. Press freedom advocates, who claim that any kind of statutory regulation would undermine freedom of expression, criticized the proposal. Prime Minister David Cameron also disagreed with the concept of a statutory solution and recommended stronger self-regulation instead. In December, the government suggested the alternative of using a royal charter—such as the one used to set up the public-service British Broadcasting

Corporation (BBC)—to establish an independent regulatory body. Proponents of this model argued that it would provide a press regulator that is free of interference from both the political sphere and the newspaper industry. Under a royal charter, a governing committee of five to nine independent figures would be established and charged with appointing and overseeing members of the new regulatory body, which in turn would be responsible for drafting a new press code. However, opponents of the charter plan and victims of privacy invasion continued to call for statutory regulation.

Physical attacks on the media are rare in the United Kingdom. However, there were a number of incidents of harassment and assaults on journalists in Northern Ireland in 2012. In August, the National Union of Journalists reported that a Belfast-based journalist had received a death threat from the Ulster Defence Association (UDA)—Northern Ireland's largest loyalist paramilitary group—though the UDA denied involvement. In early December, an Associated Press photographer was injured in clashes between police and rioters during demonstrations against a Belfast council vote to limit the display of the union flag at the city hall. Two weeks later, a reporter for the *Daily Telegraph*, Adrian Rutherford, was attacked in East Belfast while covering loyalist protests over the flag decision; he was chased by a gang of masked men, who stole his mobile phone. A few days earlier, a pipe bomb was left outside the home of news photographer Mark Pearce in County Down; army bomb-disposal officers deactivated the device, and no one was injured. As of the end of 2012, no one had been brought to justice for the 2001 murder of journalist Martin O'Hagan, who is believed to have been killed for his investigations into cooperation among Northern Ireland police, military intelligence officials, illegal armed groups, and drug gangs.

The United Kingdom has a strong tradition of public broadcasting, and the BBC, which is publicly funded, is editorially independent. Ownership of private media outlets is concentrated in the hands of a few large companies, including News Corporation, and many of the national newspapers remain aligned with political parties. Following the *News of the World* scandal, critics of the existing media structure, including Lord Justice Leveson, argued for stricter ownership rules. The broadcast regulator Ofcom, however, argued against absolute limits on ownership and concluded in its regular review, published in November 2012, that the current system did not need any immediate changes. Few commercial news radio stations exist, and the handful in operation are reportedly struggling financially. The BBC offers a wide range of regional and local radio stations. There are a number of

independent television news channels, including ITV and BSkyB. In 2012, about 87 percent of households in the United Kingdom had internet access.

2013 SCORES

PRESS STATUS

Free

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21

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