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Reporters Without Borders
Contact: Jean-François Julliard
Tel: (33) 1 4483-8484
E-mail: julliard@rsf.org

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Contribution of Reporters Without Borders (a non-governmental organisation in special consultative status) about press freedom in Canada

Introduction: Overview of press freedom situation

The country globally remains a world beacon of civil liberties. Courts, however, continue to threaten the duty of journalists to protect their sources, while a controversial clause in the Bill C10 opens the door to government censorship

Setbacks on the protection of sources

The 2004 law forcing journalists to hand over files and reveal the names of sources if police require them in criminal cases weighed heavily on the media this year.

As early as January 18, the Montreal federal court ordered two journalists employed by the daily La Presse, Joël Bellavance and Gilles Toupin, to identify the source of leaked documents from a retired Canadian Security Intelligence Service. This was done at the request of Adil Charkaoui, subject of the leaked document suspected of being an al-Qaeda sleeper agent.

The protection of sources suffered another setback on April 23, when the police raided several of the country's most prominent media in a quest for video and photos that would help identify those responsible for street violence in the city centre after a hockey game. The raids were carried on the Radio Canada broadcasting group, three TV stations (Global, CTV and TVA-LCN) and three newspapers (La Presse, The Gazette and Le Journal de Montréal).

A similar incident followed on June 25 when a court decision allowed the police to use photos seized from The Hamilton Spectator of a road block set up in Caledonia. Natives held a highway blockade on April 26 in protest against the arrest of a protester from the native

community, for alleged violation of private property in a land claims dispute. Police plan to use the photos as evidence against the protestors.

The Bill C-10, a potential censorship tool

Reporters Without Borders would like to express its concern about the implications of changes to the Income Tax Act with regard to the Canadian film and video tax credit. The changes to section 125.4 of the act would allow the Minister of Canadian Heritage, to deny a film or video an important tax credit. In the provisions of this legislation it says that the minister would have to be “satisfied” that “the public financial support of the production would not be contrary to public policy”. The clause in question would restrict the kinds of movies and TV shows that can be made in Canada. The provision is broad, giving the government the possibility to censor and, worse yet, forcing writers to self-censor.

1. Online freedom

Reporters Without Borders has not observed any special problems with the free flow of news online in Canada.

2. Government steps to improve the situation

3. Working with non-governmental organisations (NGO)

4. Recommendations

This increasing number of incidents wherein courts override the confidentiality of sources highlight the growing need for more precision in the restrictions placed on the protection of sources. We support Bill C-426, an “Act to amend the Canada Evidence Act (protection of journalistic sources)” put forward by Bloc Quebecois MP Serge Ménard. It proposes an amendment to Section 39.1 that reads, “No journalist shall be compelled to disclose the source of any information that the journalist has gathered, written, produced or disseminated for the public through any media or to disclose any information or record that could identify the source.” It also contains a provision that judges cannot issue search warrants or compel the disclosure of any information relating to an anonymous source unless it is in the public interest.

Reporters Without Borders also recommends that the Canadian government introduce an amendment to Bill C-10 in order to remove the reference to public policy that is added by this bill to subsection 125.4(1) that paves the way for unacceptable government censorship of film and video production.

Finally, we support the appeals against the news blackout on an alleged terrorism case which four Canadian and US news organisations brought before the Ontario court of appeal in March 2008. The reporting restrictions, imposed by a Toronto judge, concern the ongoing bail hearings of 17 people who were arrested in 2006 on suspicion of participating in a terrorist plot.

The data in this report has been gathered and verified by Reporters Without Borders, which has a network of correspondents in 130 countries and partner organisations in a score of countries.

In some countries, a journalist can be imprisoned for several years just for a word or a photo someone does not like. Reporters Without Borders, founded in 1985, works daily to support press freedom because imprisoning or killing a journalist removes a key witness and threatens the right of all of us to be kept informed of the news.

Reporters Without Borders
47 rue Vivienne - 75002 Paris – Tel: 33 1 44 83 84 84 – Fax: 33 1 45 23 11 51
rsf@rsf.org - Plus d'informations [Σ www.rsf.org](http://www.rsf.org)