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[Media Industry Development Authority chairman Ashwin Raj's letter to ABC - re correspondent Sean Dorney; ABC's response to MIDA letter!](#)

26/03/2014

[7 Comments](#)



27 February 2014

**The Managing Director,
Australian Broadcasting Corporation, ABC
Ultimo Centre, 700 Harris Street
Ultimo NSW 2007,
Australia.**

Dear Mr Scott

RE: Unprofessional Conduct of ABC Correspondent at 3rd PINA Media Summit

I recently attended the 3rd Pacific Island News Association (PINA) Media Summit held in Noumea, New Caledonia from February 10-15 in my capacity as the Chairman of the Media Industry Development Authority (MIDA). I thank PACMAS for creating the conditions of possibility for MIDA to share with fellow participants at this regional summit, the significant constitutional advancements in Fiji integral towards fostering a robust culture of human rights germane to the functioning of a free and responsible media including its citizens capacity to exercise their freedom of expression as enshrined in Section 17(1) of the Bill of Rights of our Constitution guaranteeing every person the right to freedom of speech, expression, thought, opinion and publication, which includes-

(a) freedom to seek, receive and impart information, knowledge and ideas;

- (b) freedom of the press, including print, electronic, and other media;
- (c) freedom of imagination and creativity;
- (d) academic freedom and freedom of scientific research.

Crucially, proscribing the following:

- 17(2) Freedom of speech, expression and thought, opinion, and publication does not protect
- (a) propaganda for war;
 - (b) incitement to violence or insurrection against this Constitution; or
 - (c) advocacy of hatred that-
 - (i) is based on any prohibited ground of discrimination listed or prescribed under section 26; and
 - (ii) constitutes incitement to cause harm.

And imperative in preserving:

- 17(3) to the extent that this is necessary, a law may limit or may authorize the limitation of, the rights and freedoms mentioned in subsection (1) in the interests of-
- (a) national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons, including-
 - (i) the right to be free from hate speech, whether directed against individuals or groups; and
 - (ii) the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law.
 - (c) preventing the disclosure, as appropriate, of information received in confidence;
 - (d) preventing attacks on the dignity of individuals, groups of individuals or respected offices or institutions in a manner likely to promote ill will between ethnic or religious groups or the oppression of, or discrimination against, any person or group of persons;
 - (e) maintaining the authority and independence of courts;
 - (f) imposing restrictions on the holders of public offices;
 - (g) regulating the technical administration of telecommunications; or
 - (h) making provisions for the enforcement of media standards and providing for the regulation, registration and conduct of media organisations

Section 17(3)(h), specifically, provides constitutional legitimacy for the work of the Media Industry Development Authority in engendering an ethos of good governance, instituting accountability mechanisms and upholding media codes and ethics prescribed under the Media Industry Development Decree 2010. It is imperative to note that there is no dissonance between the Media Industry Development Decree 2010 and the provisions of the 2013 Constitution despite the putative claims made by some. No evidence has been provided to date to prove otherwise. The Authority, under my Chairmanship, functions independently at all times as it adjudicates on matters pertaining to the media. Citizens of Fiji can seek further legal recourse through a Media Tribunal presided by a High Court Judge, as provided under the Decree, should they feel that the Authority has not done justice to them.

In my address, I further asseverated:

The political landscape is shifting dramatically in Fiji. We are no longer under the PER (in a state of emergency). Articles, letters to the editors, opinion pieces by those perceived to be

the detractors of the current regime are beginning to get published in media outlets perceived to be puppets of the regime. No hefty fines have been imposed nor any media outlet singled out for publishing dissenting views. This shift may very well signal a long-term epistemic break but much needs to be done to sustain this. Several civil society organisations have begun to engage with MIDA and envisaged to be partners in several workshops on the constitution and elections but much work needs to be done in this area. This is a highly mercurial terrain given the politics of donor funding and aid conditionality. Some political parties have raised concerns about inaccurate and unbalanced reporting by select newspapers and MIDA is attending to these. We hope to hold a press conference with the political parties and the various media outlets on reporting on matters pertaining to political parties in the lead up to the national elections.

The presence of and responsible reporting (not parachute journalism) by the international community and the international media of the national elections in Fiji will be critical in restoring confidence. It is in this spirit of mutual respect, entering the protocols of each other's institutions, upholding the ethics of our profession including fair, balance and accurate reporting and materializing the values of accountability, transparency and good governance, I hope that our doors will remain open to the international community. MIDA will do everything possible to facilitate this process and I am confident that Government is receptive towards this. We must continue this dialogue in the spirit of productive engagement.

Five months into my appointment, MIDA is beginning to enjoy the trust and confidence of the international community. We've held several highly productive meetings with DFAT, NZ High Commission, French Embassy EU, UNDP, UN Human Rights, and the British High Commission and they have all indicated their willingness to help MIDA advance its work. Given the critical role that the media plays in holding those in power to account, which it invariably should, it cannot be exempt from the principles of accountability and transparency. MIDA will require a disclosure of in-house editorial policies to address public concerns over why certain articles, letters and opinion pieces are published to the exclusion of others. Is it merely government pressures or are there other power differentials at play? Then of course is the pressing matter of the standardization of these policies. This, I believe, will place our media on a strong footing in safe guarding its rights and interests.

The other matter of immediate concern to me is the democratization of the flow of information. Do ordinary members of the public have access to important policies and document germane to their welfare? The media can play a crucial role in this process of democratization. Allow me to share an example. I was reading the Human Rights in the Pacific –Country Outlines 2012 report produced by the Office of the High Commissioner for Human Rights (OHCHR) Regional Office for the Pacific. In its chapter on Fiji, it made inference to the Domestic Violence Decree and then went on to quote a civil society organization on the surge in domestic violence following the 2006 coup. The question that we, and indeed any human rights advocate, needs to ask is: do those with no access to social mobility have access to these Decrees? The decline in civic participation because of citizens incapacity to access justice directly because select civil society actors remain door keepers in the interests of securing donor funds remains a matter of grave concern.

The Right to Information Bill will play an integral role in the democratization of information in the interests of accessing structures of justice. Alarmingly, little effort has been made to actually enter the protocols of the Media Decree and read through its provisions, which

provides a nuanced framework for the enforcement of media standards. If media holds the state accountable, the question then is who guards the guard? What legal recourse does the public have in the event that the media has wronged them? Too often, criticism labelled at the media is seen as an assault on the freedom of individual journalists when we all know that the media is a much more complex and hierarchical institution. The journalist is only one actor. Surely they don't make decisions independent of the publishers and the owners of the industry. Quite contrary to the theme of the summit "Constructive Engagement for a Stronger and Responsible Pacific Media" and what I thought was an extremely productive meeting held with representatives of ABC, PACMAS and the First Secretary for the Australian Agency for International Development on 12 February, I was perturbed to learn that following my official address to PINA on 13 February, Pacific correspondent Sean Dorney in an interview with Bruce Hill of ABC Radio Australia, made the following assertions:

Bruce Hill: "How would you describe the state of media freedom in the Pacific? Is it under threat? Are there signs that there is plenty of media freedom still?"

Sean Dorney: "[Uh], I suppose it is a little concerning I think Bruce [um] despite what we heard from Prof. Ashwin Raj and Matai Akauola, there is still I think a feeling, there was a feeling in the room any way that the situation in Fiji wasn't as free and open for the media [um] as it should be. In fact at one stage Matai [em] sort of almost reprimanded someone for shaking their head when he was speaking [um] about these issues but I suppose another concerning aspect for me was when Moses Steven the president of PINA [um] on the self-regulation issue spoke from the floor and talked about perhaps Fiji providing a good example for the rest of the region".

It was also brought to my attention that subsequent to this radio interview and a day prior to the PINA Annual General Meeting, Mr Dorney had probed the Acting Manager of PINA, Ms Makereta Komai on the possibility of the re-election of Mr Moses Stevens as the President of PINA. Mr Dorney expressed his lack of confidence in Mr Steven's leadership castigating the PINA Board as "useless". Mr Dorney reminded the Acting Manager that without the support of PACMAS, the PINA summit would not have materialized and warned her of the consequences of the re-election of Mr Stevens and Ms Evelyn Toa (a fellow board member) at its Annual General Meeting, namely that "PINA will definitely not get any support from PACMAS" and that "PINA will need people who will take PINA back to its original objective of defending and promoting media freedom".

The turn of events is most disconcerting, particularly in light of the positive discussions with DFAT, PACMAS and the ABC that I held in Noumea as well the recent visit by the Australian Minister for Foreign Affairs to Fiji and the willingness of both Governments to constructively engage to improve diplomatic relations between the two countries. Mr Dorney's lucubration's are mired in generalisations without any substantiation indeed begging the crucial question: How can one seek recourse to an arbitrary affect such as "a general feeling in the room" to make a definitive statement on the state of media freedom in Fiji? Does an intuition to "a general feeling" constitute a fact?

I take issue with Mr Dorney's claim that the Director of MIDA "reprimanded" a fellow participant. Mr Akauola was a speaker on the subject of self-regulation and was fully within his remit to express his disenchantment towards a senior UNDP representative who was nodding disapprovingly as Mr Akauola was speaking on the Bill of Rights provisions of our new Constitution. Her behaviour, in the very least, was unprofessional. It is an indictment of an unabashed public display of a lack of confidence in the Fijian state apparatuses and

instruments of justice by these seemingly neutral non-state actors and their complicity in the current lack of civic participation eroding the possibility of substantive democracy in Fiji. The international community including foreign journalists cannot be the praetorian guard and sole arbiter of human rights, good governance and democracy.

The invocation of the word “reprimand” cannot be attributed to a mere semantic slippage on the part of Mr Dorney but a deliberate attempt to caricature Mr Akauola as authoritarian to give credence to his unsubstantiated and on-going claim, mired in self aggrandizement given his own precarious position, that nothing has changed in Fiji since 2006. Incidentally, Mr Dorney cajoled several young Fijian journalists under the pretext on interviewing them on social media, to ask questions about politics in Fiji. They had to remind Mr Dorney that they weren’t at PINA to discuss politics in Fiji. Isn’t this agenda setting? His comments about Mr Akauola are defamatory. Can the ABC, DFAT or PACMAS please care to explain why is it that when someone representing the Fijian Government is speaking they are either being “defensive” or “reprimanding” while a journalist representing that international media is merely exercising his or her “freedom of expression” and appears as if they are fully exempt from balance, accurate and fair reporting? So exactly who sets the rules? Mr Dorney’s actions, particularly his attempts to influence the outcome of the PINA general elections makes a mockery of the virtues of free and fair elections that Mr Dorney and those of his ilk unabashedly lampoon.

Furthermore, I deplore Mr. Dorney's attempts to create fissures in ongoing initiatives to foster regionalism. PINA President’s acknowledgement of Fiji’s continued effort towards strengthening its national media body is salutary and MIDA will continue to assist fellow regional journalists in developing similar media frameworks. Given that Mr Dorney’s unsubstantiated claims have brought disrepute to the Fijian Government on the cusp of national elections, potentially shattering the confidence of its citizens and the international community, the continued infantilization of Fijian journalists by speaking for them and questioning their independence including the integrity and independence of the Media Industry Development Authority, the Authority calls for an **official, prominent and public retraction by the ABC and Mr Dorney acknowledging:**

- (1) The lack of balance and substance in Mr Dorney’s report on the state of media freedom in Fiji given his apparent conflict of interest;
- (2) The significant constitutional advancements in securing greater rights and freedom for the Fijian media;
- (3) The on going efforts by the Media Industry Development Authority in sustaining a culture of ethical and responsible journalism.

The Authority will suspend all collaboration with the ABC and PACMAS until such time when an official retraction has been received. The Media Industry Development Authority is fully committed in fostering a culture of deliberative and sustainable democracy in Fiji, robust culture of human rights including freedom of expression while upholding the ethics of our chosen profession. Please find enclosed details of two such workshops in empowering free and independent media as our nation heads for its first national election under the new Constitution.

Sincerely,

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Ashwin Raj

CHAIRMAN, MEDIA INDUSTRY DEVELOPMENT AUTHORITY

- cc – Commodore Voreqe Bainimarama, Prime Minister of the Republic of Fiji
- Mr Aiyaz Sayed- Khaiyum, Attorney General and Minister for Justice
 - Ms Lynley Marshall, CEO ABC International
 - Mr Domenic Friguglietti, Head of Mekong & Pacific Service, ABC International
 - Mr David Momcilovic, First Secretary, Australian Agency for International Development, Vanuatu
 - Mr Glenn Miles, Acting High Commissioner, Australian High Commission, Suva
 - Mr Moses Stevens, President Pacific Islands News Association (PINA)
 - Ms Makereta Komai, Manager Pacific Islands News Association (PINA)
 - Mr Matai Akauola, Media Industry Development Authority (MIDA)
 - Mr Jean Gabriel Manguy, PACMAS Advisory Board member
 - Mr Francis Herman, Program Manager, Pacific Media Assistance Scheme
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19 March 2014

Ashwin Raj
Chairman, Media Industry Development Authority
Quarters 8
Lady Davila Road
Domain-Suva
Fiji

Dear Mr Raj,

Thank you for your letter concerning the conduct of Pacific Correspondent Sean Dorney at the third PINA Media Summit and his summary of the Summit, broadcast by Radio Australia on 13 February. The Managing Director has asked me to respond on his behalf.

As you raised concerns of a lack of impartiality, your correspondence was referred to Audience and Consumer Affairs for consideration and response. The unit is separate and independent from ABC program areas and is responsible for investigating complaints alleging a broadcast or publication was in contravention of the ABC's editorial standards. We have assessed the broadcast against the ABC's editorial requirements for impartiality, as outlined in section 4.1 of the enclosed Code of Practice.

We have also sought and considered material from ABC News.

In his interview with Pacific Beat presenter Bruce Hill, Sean Dorney cast doubt on the state of media freedom in Fiji by referring to “a feeling in the room” that “the situation in Fiji wasn’t as free and open for the media as it should be”.

The Asia Pacific News Centre (APNC), which produces Pacific Beat and employs Mr Dorney, advises that Mr Dorney’s comments were based on interviews with other delegates including a former PINA president, Monica Miller. She expressed concern that while PINA used to be the Pacific region’s leading advocate for media freedom, that is no longer the case. Asked about where media freedom was a worry in the Pacific, she replied: “Definitely Fiji...Fiji still is a concern.” Similar sentiments were expressed by Kalafi Moala from Tonga’s Taimi Media Network; Lisa Williams-Lihari, a Cook Islands journalist now working in Honiara; and other attendees who were spoken to off-the-record.

The ABC is satisfied that Mr Dorney’s assessment was soundly based and impartial.

The APNC advise that Mr Dorney’s comment that “at one stage Matai sort of almost reprimanded someone for shaking their head when he was speaking about these issues” was based on an incident in which Matai Akauola had been reading from the new Fiji Constitution’s Bill of Rights when Simone Troller from the UNDP shook her head. Mr Dorney, who was present, advises that Matai Akauola said, “I can see you are shaking your head, Simone, but it’s here in the Constitution!”

The ABC is satisfied that Mr Dorney’s description of the incident was fair and accurate.

Mr Dorney disputes that he “cajoled several young Fijian journalists under the pretext of interviewing them on social media, to ask questions about politics in Fiji”. He had been commissioned to gather content for an online feature on social media in the Pacific. Mr Dorney did nine interviews with Pacific delegates about social media issues and only one of them was from Fiji - Fenton Lutonatabua, the Fiji based Pacific Communication Coordinator with 350.org – a global climate movement. Mr Dorney advises that Mr Lutonatabua was not asked about politics in Fiji.

At various times over the five days of workshops and the summit Mr Dorney spoke casually with several journalists from around the region. He says he may have asked one or two of the Fijians how they thought the election might go – an understandable inquiry for a journalist. He recalls a conversation with Anish Chand, the Manager of News Operations at Fiji Television, but I am advised Anish is unlikely to be described as a “young” Fijian journalist.

Mr Dorney’s discussion with Makereta Komai was a private conversation with someone he considers an old friend. Mr Dorney advises that Makereta Komai told him that PINA had received legal advice that because it was now a registered company in Fiji, the current board had to remain in place and that Moses Stevens would retain the Presidency for another two years.

Sean Dorney said he believed PINA was suffering from a major legitimacy problem with media throughout the region and such legal advice would cause suspicion. He admits saying that Moses had been a "useless" President. He also acknowledges asking Ms Komai if the conference would have gone ahead if PacMas had not funded so many people to attend. He does not dispute that he said to Ms Komai that: "PINA will need people who will take PINA back to its original objective of defending and promoting media freedom."

While it was a private conversation, Mr Dorney was attending the event as a representative of the ABC and he accepts that it was an error of judgement sharing his personal opinions with the Acting Manager of PINA in that context. The ABC and Mr Dorney apologise for any embarrassment caused by his remarks.

Thank you again for bringing your concerns to the attention of the ABC. Should you be dissatisfied with our response to your concerns about the material broadcast on Radio Australia, you may be able to pursue that element of your complaint with the Australian Communications and Media Authority, www.acma.gov.au.

Yours sincerely

Kirstin McLiesh

Head, Audience & Consumer Affairs