

Manipulating and Muzzling the Media

Harper's undermining of the Access to Information Act

Public access to information about what government is doing is at the heart of democratic accountability. It has been called democracy's oxygen. In a system where ordinary citizens determine who has state power through elections, their electoral decisions can only be well informed if they are based on government transparency regarding its actions. Whether that information is sought by individuals, civil society groups, researchers, or journalists, democracy cannot function as promised if information is systematically denied by the government of the day.

While no government in the past 20 years has a clean record of transparency and enthusiastically providing information (often used to criticize it) the Conservative government of Stephen Harper has been widely accused of taking secrecy to obsessive levels.

Many journalists and others trying to prise information out of the current government have written about their experiences. In addition, W.T. Stanbury, professor emeritus at the University of British Columbia, wrote an article for *The Hill Times* in June 2009, that pulled together the many examples – and the various methods – of the Harper regime's efforts at maintaining a tight grip on information.

One of the methods of slowing down the flow of information, if not stopping it altogether, was the practice of designating certain requests as needing "special handling." Information Commissioner Robert Marleau "found that there is 'amber lighting' or special handling applied to access to

information requests coming from specific groups... It turns out that, yes, journalists [are included], but Parliamentarians, lawyers, immigration lawyers, a whole series of other users were in a worse situation than the media,"

Yet, according to the Canadian Newspaper Association's own analysis "more than one in four of all requests designated for special handling comes from media requesters, even though fewer than one in six requests overall come from the media. In fact, media requests are about twice as likely to get the tougher treatment as requests overall."

The vice grip on information, and the deliberate undermining of the Freedom of Information Act led to Marleau (who was appointed by the prime minister) telling Canwest News Service in February 2009: "A lack of leadership at the highest levels of the Conservative government has contributed to a 'crisis of information management' that has slowed the disclosure of public records to a trickle."

Another method of slowing down the distribution of information is to make more and more of it subject to the access-to-information (ATI) process – in other words information that has traditionally been made available as a matter of course for the public and the media is now placed behind the barrier of ATI. According to Sun Media columnist Greg Weston, the Harper government has "forced virtually all government information to flow through access to information and, in so doing, (has) completely overwhelmed the system to the point where it is now dysfunctional."

If manipulating the rules of ATI doesn't do the job, the government can always resort to pushing the question into

the courts, which both delays the issue indefinitely but can also end up in an out-of-court settlement in which the details of the case are kept secret. Harper sued the Liberal Party over allegations it made about the government regarding the Conservatives' efforts to persuade independent MP Chuck Cadman to vote with the Conservatives to defeat the Liberal minority government. The suit was launched March 8, 2005 and effectively closed off any access to information about the issue. An out-of-court settlement (the Conservatives were seeking \$3.5 million) almost a year later locked the information away forever.

The easiest way to block access to information you want to keep secret is to simply delay producing the information by seeking repeated and/or lengthy extensions of the time necessary to "find" and produce it. As reported in a *Hill Times* editorial of March 2, 2009: "Access to Information Commissioner Robert Marleau released a scathing report on how quickly 10 federal institutions responded to access to information requests in the last fiscal year. He gave six of them failing grades.... Foreign Affairs took an average of 132 days to meet requests and Public Works 126 days."

Another popular method of thwarting public and media efforts is to unilaterally charge large fees for the "preparation" of information. According to David Akin of *Cannest News Service* "Two legal experts say the Department of Foreign Affairs and International Trade (DFAIT) violated Canada's Access to Information laws when it decided to systematically charge 'preparation fees' before responding to Access to Information requests..." The department assembled over 160,000 pages to be released but refused to put them on the public record because those requesting the information abandoned the request due to cost considerations.

And on Feb. 8, 2010, the Harper government was caught breaking the law regarding the ATI Act. A Conservative political operative working for Public Works Minister Christian Paradis forced the Department of Public Works to break the Access to Information Act and deny the full release of a report to *The Canadian Press*. The department was in the process of mailing the material out when the aide rushed into the room and ordered bureaucrats to "unrelease" the documents.

Controlling the message, managing the media

On May 23, 2006, some two dozen journalists from the Parliamentary Press Gallery walked out of a news conference even before the prime minister had shown up. They did so in protest over efforts by Harper's deputy press officer, Dimitri Soudas, to exercise control over who would ask questions. Reporters had to sign up if they wanted to ask a question and then Harper could choose whom to answer. It was like the

White House, not at all like the practice that had existed for decades in Ottawa where the media itself made such decisions. This was the showdown, just four months after Harper had won his first minority government.

It was a battle that the press gallery would lose. Indeed, some believed that the whole confrontation was staged by the Prime Minister's Office in the hopes for such a confrontation, a theory given some credence by an interview Harper gave later to the rightwing Alberta-based *Western Standard* magazine. He told the magazine: "Well, I've got more control now I'm free to pick my interviews when and where I want to have them."

The Press Gallery also had a meeting with Harper's very tough press officer, Sandra Buckler, in May 2006. She had worked for Harper for years and prior to this for the Reform Party's Preston Manning. If the gallery had any illusion that there was simply a misunderstanding with a new prime minister, Buckler disabused them of the idea. *Hill Times* journalist Sean Durkin wrote: "Sandra Buckler did everything she could to antagonize the press gallery, prompting its president, Emmanuelle Latraverse, to call an end to the meeting after 20 minutes. Buckler made it clear she didn't care about any of the gallery's concerns, and indicated that even more plans were in the works to control the flow of information to reporters and limit their access to government."

Harper had suggested to *The Western Standard* that breaking the gallery's control of the news was "good for democracy." But as the *Toronto Sun's* Alan Findlay told the *Ryerson Review of Journalism*, when government tightly controls access to information it is the government that escapes accountability by deliberately making it impossible to ask the tough questions. "Not returning calls, not holding press conferences, cherry-picking reporters for interviews – all make it difficult to collect and scrutinize government information."

By the end of the first year of the Harper government – seven months had passed without a single news conference or scrum – things were no better. Chris Cobb, a political writer for *The Ottawa Citizen*, told *The Review*: "Mr. Harper has adopted a communications strategy unlike any Ottawa has seen before. Government-by-surprise is part of a Harper communications package that also includes tight control over public statements from his cabinet ministers, and a muzzle on senior bureaucrats, parliamentary secretaries and ministerial communications advisers."

One of Harper's strategies was to virtually ignore the Ottawa press gallery altogether and communicate through local and regional media, where reporters would not have the contacts and collective information sharing that the Ottawa reporters had. It would be easier to get an unmediated message through to the public by giving interviews to reporters who did not

normally cover national politics, and who would be less able to ask questions based on the deep background their Ottawa counterparts might have.

Some predicted that cutting off the press gallery's access to the prime minister and to information would cause them to dig harder and do investigative pieces, resulting in better journalism and more exposure of Harper's government. But it didn't turn out that way for the most part. Harper is now well known for being brutal in his treatment of those he sees as enemies in the media and for rewarding his friends. And it works. According to Robin Sears, a political strategy consultant, "...there is little appetite for a non-government-driven news agenda at most news organizations, so independent or investigative stories are not encouraged. Finally, it is hard work to find, develop, source and write stuff on your own, so few people try."

Sears' analysis turns out to be right as Harper's iron discipline has largely worked, according to Ekos pollster Frank Graves. The Parliamentary Press Gallery has given up the fight and little has changed since the reporters walked out in March 2006. If anything, things have worsened. The prime minister does not even enter the House of Commons for Question period through the front door, but takes a circuitous route "...ducking down through a narrow hallway, behind the public gallery, atop the west side of the Chamber, down a small staircase, and then scuttling into the government lobby through a back door across from the Speaker of the House of Commons' chamber," according to Hill Times reporter Tim Naumetz, writing in November last year.

There aren't even any photo-ops anymore – the Prime Minister's Office sends a constant stream of favourable photos of the prime minister to media outlets across the country almost every day. Thus, Canadians never see the hard side of Harper – just the warm Beatles fan playing the piano at the National Arts Centre.

According to Naumetz, press gallery veterans believe that Harper's deputy communications director Dimitri Soudas keeps a blacklist of reporters who will not be recognized for questions.