Journalism, Defamation Law and Democracy: Contested Public Speech in Four Countries

Andrew Kenyon (The University of Melbourne) and
Tim Marjoribanks (La Trobe University)
Overview

• Media, public debate and democracy

• Defamation law, journalism and chilling effect

• Defamation law and journalism practice in Australia, Malaysia, Singapore, and UK
Media, public debate and democracy

- Media practice, public sphere and democracy
- Institutional context enables and constrains forms of media practice
- Institutional context includes journalism practice, regulatory regime, media ownership, civil society/political context, media forms, technology
Methods

• Studying relations between journalism, defamation law and public speech
• Comparative
• Legal analysis
• News content
• Interviews
• Similarities and variations between (and within) countries
• Implications for transnational journalism
Defamation law and media speech

- Defamation law seeks to balance protecting speech and reputation
- When media criticises, it raises defamation concerns
- Does defamation law chill media speech?
- Recent shifts in defamation law, with important national variations
- Defamation law does not operate in isolation. It exists with range of other regulatory practices, and in broader institutional context
Responsible journalism

• Emergence within common law of recognition that traditional defamation law too restrictive of speech
• Development of privilege defence around ‘responsible journalism’
• Contested organisational practice in context of legal change (Australia, UK)
Media content

- Malaysia, Singapore and Australia
- Singapore and Malaysia print media publish less defamatory material than Australia print media
- Singapore print media publishes less content defamatory of domestic targets, and very little critical domestic political content
- Media in all countries more inclined to criticise individuals rather than politicians, commercial figures, celebrities
- On-line media (Malaysiakini) opening up public speech in Malaysia
Conclusion

- Defamation law is part of institutional context of journalism
- Relationship of organisational practice and legal context influences public speech
- Multi-method comparative research provides empirical and theoretical insights