

Media, Freedom, Democracy and the Rule of Law

Brief paper at the SANEF SEMINAR

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By

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Executive Summary

1. Media Freedom is a necessary corollary to other freedoms guaranteed under the Bill of Rights (Ch 2) enshrined in the Constitution.
2. Media Freedom? It is the capacity of the electronic as well as printed press to act as a barometer which to call government to account vis-à-vis the Constitution especially the values, the spirit and the ethos enshrined therein. A good example is the landmark judgment of the Constitutional Court in *Government of the Republic of South Africa and Others v Grootboom and Others*¹ concerning justiciable socio-economic rights and yet the printed as well as electronic media missed this wonderful opportunity of bringing to the attention of government its failures vis-à-vis the right to housing, healthcare etc.
3. ‘ In a system of democracy, dedicated to openness and accountability, as ours is, the especially important role of the media, both publicly and privately owned, must in my view be recognised. The success of our constitutional venture depends upon robust criticism of the exercise of power. This requires alert and critical citizens. But strong and independent newspapers, journals and broadcast media are needed also, if these criticisms are to be effectively voiced.’ Per Cameron J (as he then was) in *Holomisa v Argus Newspapers Ltd*².
4. Media not human rights oriented. Is this the case of putting profits before human rights? Sensationalist news sells newspapers not stories of human suffering and human interest matters. We only learn about social welfare problems when

¹ 2001(1) SA 46 (CC)

² 1996(2) SA 588 (W)

someone takes the government to court for delays in pension payments. And yet these are live matters affecting the lives of ordinary people.

5. Journalists need to be acclimatized to the underpinning values of the Constitution and they need to be assertive of the rights that need to be protected lest they stand in the same light as those journalists did during the apartheid era.

Introduction

A necessary concomitant of freedom of expression is the freedom of the press and therefore in our nascent constitutional democracy, there has to be more than paying lip service towards achieving the goals as envisioned in the Constitution. Today is the 25th anniversary of the day when the Nationalist Party government shut down the newspaper that went by the name of THE WORLD and other voices. Looking back those twenty five years, fifteen years were occupied by censorship and media servility especially during the regime under John Vorster and PW Botha when the media was cowed to tow the official line. If you care to study some of the newsprint of the day you would hardly find publication of what was happening, for instance, a few kilometers away from our own homes in the townships. Today, we are indebted that section 15 of the Constitution ensures that we be brought up to speed with the state of the nation and what government is doing vis-à-vis our rights. If we had a servile media, the Jacob Zuma saga would have been kept under wraps and almost daily we are being informed of happenings around the country.

Eleven years into our democracy, or twenty five years after the banning of newspapers, it is critical that we should assess the role that the media has to play because the journey to the summit of genuine freedom of expression is tortuous and steep. Thank you for affording this brief while to share with you some of the issues that concern me regarding shortcomings on the part of the media.

Asserting the right of freedom of expression

Following the 1976 Soweto uprising, it required staunch and determined reporters to expose and confront the real issues facing contemporary South Africa. Today very little

has changed. When are they now? Why have they not bequeathed their resilience to the next generation journalists equally determined to call government to account. The struggle continues though the players have changed and the gun has succumbed to the pen and yet the media conducts itself, at most of times, as if it were a waiter in the banquet of life.

At the annual general meeting of SANEF, members adopted the slogan 'Why Media Freedom Matters' as their key theme. Let's hope that we witness something more than slogans in the form of activism on the part of editors and their charges calling to account those that we have elected into parliament as our representatives.

Are Journalists rights savvy ?

I do not have a clear answer on the issue. What I do know is based on evidence as I see it in the media world. Issues such as human dignity, equality, tolerance and inclusiveness do not appear to part of the training and culture as exemplified by reporters of newspaper houses across the board. My conclusions are that they need to be educated about the values, the ethos and the spirit enshrined in the Constitution. Let me case a point for the record that is highly pertinent here. In 2003 at a conference, it was felt that many African journalists were ignorant of the issues that confronted Africa and that this was reflected in their writing and reporting. Today, turn the pages of any newspaper and the conclusion is no different.

Media Freedom v the Constitution

Why is it that we first come to know about pensioners not being paid their pensions and about delays? Why have we not heard about human interest matters such as lack of access to health care at public hospitals? Why don't the news media tell us about the housing shortage and the backlog. We learn about corruption when high profile matters such as the Schabir Shaik and the forthcoming Jacob Zuma trial. When those cases are done with we hear no more about the issue of graft and corruption.

Media freedom is important to democracy for, after all, at the centre piece of the Constitution are the foundational values of human dignity, equality and freedom. Prior to 1994 we had a government compliant media that became the hand-maiden of the dominant party and in the lexicon of Chomsky et al, was responsible for 'manufacturing consent'.

How free is the media as Lizette Rabe³ asks ? How free is it from corporate and political interference? I am reminded of the gag order obtained against the Mail and Guardian in the OILGATE expose’.

Who drives the agenda for newspapers? Who decides what’s worthy of publication as ‘news’ and what is not. As someone once put it, we have plenty of news published in the newspapers but very little information that makes us critical thinkers. Is this symptomatic of George Orwell’s 1984?

How free can the media be when its information dissemination role is subject to the business plan of its investors? The deadline should dictate the bottom line not profit!

Summary

1. Freedom comes with responsibility and obligation within the scope and ambit of the Constitution and the values, ethos and the spirit enshrined in Chapter 2, namely the Bill of Rights.
2. You are never free when someone independent of you pulls the strings
3. Our journalists need to become rights savvy and what is the vision and the blueprint underpinning the Constitution. Much of their writing and reporting reflects an absence of knowledge about the values that the Constitution seeks to prescribe.
4. Rights not profits ought to be the bottom line. Presently it is the other way around.

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³ ‘Why Media Freedom matters’ in <http://www.news24.com> dated 13.10.2005

