

The Journalism Dialogues

Transcript of recording of 2nd frayintermedia Mail&Guardian Journalism Dialogue, 29 April 2008, Moses Mayekiso Conference Centre, Johannesburg

In October last year, the ANC's Smuts Ngonyama raised the question of a potential statutory Media Appeals Tribunal to regulate the relationship between the media and its public, especially where the media was accused of trampling on privacy and dignity. His suggestion raised howls of protest from the media which naturally fears being fettered in this manner. But the issue is complex and journalists are not always right, so April's frayintermedia Mail&Guardian Journalism Dialogue grasped the nettle. What follows is a full transcript of this important debate.

Michael Schmidt (Civil Society Outreach Manager, frayintermedia):

Good afternoon everybody. Thanks so much for coming to the Dialogue. The frayintermedia Mail&Guardian Journalism Dialogues are a set of debates, public debates that will be held once a month this year with the overarching theme of the role of the media in democracy. They each deal with a topic – the previous one was how the media covers race in the wake of the Kovies video and of the Skielik shootings. Today we're looking at the question of whether or not the media should self regulate or whether it should be a statutory media tribunal as suggested by the African National Congress (ANC). I have to thank you again for all coming, I know it's a difficult week, which in part explains why it was tough to get a panel together and also why our turnout is smaller today that it was previously.

The ANC has had a month to get a panellist together for today's debate. They did participate – Jessie Duarte participated on a panel in the previous debate and unfortunately we were only informed on Thursday last week, which was pretty late, that Pallo Jordon – who we were expecting – would not be able to make it. This is indeed a pity, because naturally a lot of you want to hear the ANC's perspectives on this and get an idea of whether this concept is just still an idea that they're kicking around or whether it is moving towards being consolidated as strategy for the African National Congress.

Just a bit of background to refresh your memories. The idea for a media tribunal was first raised in public in October last year by Smuts Ngonyama at a colloquium at Wits. What was



Dario Milo

interesting about that was first of all that he suggested that the rationale behind having such a tribunal would be to really deal with public concerns about their access to representation in the media and balancing the public's interest with that of the media.

He however illustrated his point by going on to take a specific and rather direct stab at Jonathan Shapiro – otherwise known as the cartoonist Zapiro – by saying that people should not be represented as beetroots or as people with shower-heads grafted onto their heads. So the question really, was raised whether in fact the ANC

was contemplating legislation that was intended to protect the public or whether it was contemplating

legislation to protect several of its own cadre from criticism and from the type of tongue-in-cheek work that is the staple of our cartoonists.

But without further ado, I want to hand you over to our Press Ombudsman Joe Thloloe who obviously has a very long and illustrious career in the media. We're not slighting the broadcasters among you, just in case you think so. We are deliberately making sure that these Dialogues are as open as possible. We in fact sponsor community journalists to come in from outlying areas to participate in these debates – people who usually don't have access to national debates and are not usually able to have input. And we also look at new media etcetera. We're really trying to keep these debates as open as possible, but on to Joe.

Joe Thloloe (Press Ombudsman):

Good afternoon ladies and gentlemen. I should probably start by saying that we are in fact participating in what the ANC wants. It wants an investigation, so we are building up to that investigation...

But what happened in December in Polokwane, is that the ANC passed a very wide-ranging resolution on the media and Section Eight of that resolution says: "Conference adopts the recommendations

of the policy conference, that the establishment of a Media Appeals Tribunal be investigated. It accordingly



Raymond Louw

endorses that such investigation be directed at examining the principals of a Media Appeals Tribunal and the associated modalities for implementation.

“Conference notes that the creation of a Media Appeals Tribunal would strengthen, compliment and support the current self-regulatory institutions,” like the Press Ombudsman (myself) and the Press Council, headed by Raymond Louw (at the back there) “in the public interest. This is because for the need for a Media Appeals Tribunal should be located on a proper context. It is to be understood as an initiative to strengthen the human rights culture embodied in the principals of our Constitution and an effort to guarantee the equal enjoyment of human rights by all citizens.”

So the two things we should note is that we are going to investigate whether they should have or shouldn't have. So we shouldn't jump the gun and start accusing. But as I say, in preparation for the investigations, we will also continue to debate amongst ourselves and say, “Do we need self regulation? Do we need statutory regulation? Can the two systems work together?” And I'm delighted that this discussion has elicited quite some debate already. I'm not sure if Tebogo Mauoka is here. Is Tebogo here? He sent us a note saying, “Yes, we do need a statutory self regulation so that professionalism and vibrant reporting could be maintained in the media.”

In fact it was his RSVP saying he is coming here, so I hope he will be able to push his own position. And then we had Mark Thomas [of noseweek]: “There should be no room for regulation in journalism.” But in the same breath he says “... we as journalists should go into self-re-examine mode and ask ‘What are we doing wrong? How much do we report? How do we process the information we collect every day?’” So there are several sides to this question

and I'll probably ask the panellists to just give us a two-minute introduction before I throw this session to the floor. Jane, do you want to start?

Jane Duncan (Director, Freedom of Expression Institute):

Thanks Joe, well as far as I'm concerned, I haven't heard, yet, a



Panellists: Jane Duncan, Dario Milo, Susan Smuts and Jack Bloom

credible justification for a statutory Media Appeals Tribunal. I've heard an argument made by several senior ANC members – by Robert Nkuna who's a councillor from Icasa – that statutory regulation exists in the broadcast media and therefore there shouldn't be any problem for similar regulation to exist in the print media. Now I think that's a grossly misplaced argument. I think that statutory regulation exists in

“Yes, we do need a statutory self regulation so that professionalism and vibrant reporting could be maintained in the media.”

the broadcast media because there is a scarcity in the frequency spectrum and because of that, broadcasting has to be regulated in the public interest. I don't think a similar argument applies in relation to the print media.

But also one would imagine that one of the arguments that could be

made is the Press Council – because they are tentatively funded by the press and because they are self-regulatory – may have an inherent bias towards the media and may be deferential towards the media in their adjudication of the matter but frankly, since the new enhanced Press Council has been launched, I don't think that its judgements that have come out – certainly the two judgements that I've seen – actually bear that argument out. There's one judgement that's been made involving the former CEO of the Land Bank, Alan Mukoki, and on some aspects of this judgment, the Ombudsman found for him and on other aspects they found for the Sunday Times, because the complaint was against the Sunday Times.

But I think the most compelling argument about the Press Council not being captive of the industry is the latest judgment that's come out involving

the complaint laid by the very ANC who has raised this question about the impartiality of the Press Council. The ANC laid a complaint in January against the City Press about an article that was entitled: “Cracks in Zuma's NEC” and in fact the Press Ombudsman has just recently found for the ANC and against the City Press. And that matter is now being appealed by the City Press to the appeals body. So I think those two judgements alone – I think – should give the lie to any kind of argument that the Press Council, as currently constituted, is somehow captive to the media industry. In fact since it's been established, it's actually demonstrated its independence.

Thloloe:

Thanks Jane, I'm very biased so... [laughter]... I've got to declare that upfront. Dario, you are up next.

Dario Milo (Media & Constitutional lawyer, Weber Wentzel):

Yes thanks very much. I think the ANC, as a starting point deserves

credit for raising this issue and putting it on the public agenda because it's an issue of profound importance in a democracy. How do you regulate the press? How should the print media be regulated? And I think it's important to have a dialogue, to have a debate openly and transparently. It's a little difficult to respond in detail to the ANC's suggestions at the Polokwane conference because they are very much at the moment posed in a broad manner. There is a suggestion as Joe said that a Media Appeals Tribunal should be investigated and that that would compliment self-regulation. It's unclear how that interaction is envisaged to take place, but speaking for myself as a constitutional lawyer, the difficulty with any statutory regulation of the print media is that of course it's fundamentally an infringement of the right to freedom of expression and in particular the rights of editors to determine the content of their newspapers. Because that's the problem from a constitutional point of view that's what's at stake. If the statutory tribunal, whether directly or indirectly, can influence what editors should be putting in the tribunal's view into newspapers, then you are fundamentally on very shaky constitutional ground.

For me the compelling argument is, because a similar situation has arisen before the United States Supreme Court previously, and the compelling argument in a unanimous court adopted if I can quote from that: “...the choice of material to go into a newspaper and the decisions and the limitations made

“...the choice of material to go into a newspaper and the decisions and the limitations made on the size and content of the paper and the treatment of public issues and public officials, whether fair or unfair, constitute the exercise of editorial control and judgment”

and judgment”. And I think that's what we have to be careful of the moment we sanction a government body, a government agency, that has the right to, through its judgments and adjudications, create a chilling effect on media freedom, on press freedom, in terms of what goes into a newspaper. Thank you.



Michael Schmidt

Thloloe:

Thanks Dario. We're going to my old friend [laughs]. We are always fighting. Susan is on the other side of the fence and I'm on this side. Susan Smuts.

Susan Smuts (Deputy Managing Editor, Sunday Times):

Thanks Joe. I'm at the Sunday Times so as you'll work out from what Jane said, I'm sometimes in a kind of adversarial kind of relationship with Joe. When I was on my way here today one of my colleagues said where are you going? And I told him and he said: “You just got to say: ‘We don't

want it, we don't want it, we don't want it.’” And he's right – we don't. I think for me, one of the biggest questions

is why? What is the purpose of the tribunal? – and I haven't seen any way that spells out what exactly the purpose of the tribunal is. As Jane did point out that it might be because the Ombudsman might be perceived to be biased towards the press, but I can promise you that's not true [laughs].

I think the one in the Sunday Times,

since I've been there, there's only been one complaint from a politician and that was [National Assembly Speaker] Baleka Mbete. Some years ago we'd written a story about her, linking her to the Travelgate saga and she complained to the Ombudsman and we were compelled to publish a front page apology on that matter. We haven't been taken to the Ombudsman by the Minister of Health, by Jacob Zuma, by Mac Maharaj... any of the people that we've actually written quite damaging stories about. So I can't really see why there would be a perception that the Press Ombudsman is biased in favour of the press. I don't think that the ANC and its members have really tested that, so I'm not, ja, I don't really buy that argument.

I think there are also very many ways in which people can contest what's written in newspapers. They can approach the newspaper and say “You got it wrong; please correct it,” they can go to the Ombudsman or they can take us to court. If, for example, the ruling party feels we've been unfair to them, they can write an opinion piece. They do have lots of options, so why a tribunal?

I would really like to see a case being made out for that. I also think that it would be quite difficult for newspapers to have to negotiate, for example, what a tribunal would expect, what a court might look for and what is fair reporting in terms of the Press Code. So I think that it becomes quite difficult when you have to juggle all these interests and so on, and we should actually be very clear there is

jurisprudence and we operate within that. We go to our lawyers and we say: “Do you think we’ll get into trouble? Can we defend this story?”. They’ll say ‘yes’ [or] ‘no’ and we’ll kind of work out a way to report it. The press code kind of gives us the good practise and we follow that and where we go over or where we get it wrong, there are sanctions. There are ways to deal with it. So, ja, that’s basically it. I also think that if anything good is to come from it, then it is about looking



Dario Milo and Susan Smuts

at what we do and how we can make it right [because] I think we all want to do good journalism and that should maybe be the best defence against a Media Tribunal.

Thloloe:

Thanks Susan. I think Jack is probably our last speaker...

Jack Bloom (Gauteng Caucus Leader, Democratic Alliance):

Okay, thank you very much. I think if you look at the ANC’s resolution, it talks about one of the motivations being the equal enjoyment of human rights by all citizens. It’s a bit like the Scorpions. Why do they want to disband the Scorpions? It’s because it’s targeting them, actually. So it’s not [about] the equal enjoyment of all citizens. This is because politicians are being burned. Look, I’m a politician and can I say that I’m a politician who has taken the Sunday Times to the Ombudsman. I actually did and won; that was a number of years ago. It was your [Thloloe’s] predecessor, but only one ANC politician has taken you [Smuts] to the Press Ombudsman and not the other two, the ones who are making all the noises about court action. But court action is there. So there are other remedies and you’re right a lot of it can be remedied just by a letter to the editor, right of reply, or by picking up the phone. I must also say that FW de Klerk was famous for saying that politics was not for

“sissies” and I think that if you’re a politician you’ve got to have a thick

skin. And it hurts; the press publish things and in many instances it might not be fair but you’re in that game and I think our politics is probably not as tough as some of the stuff we see in America for instance. The sort of things that are thrown at candidates; you know we have ‘Clintzilla’ versus the ‘Obambi’ show going on. The sort of things that are said by them, how do you want to regulate it? Look, at the DA, we don’t think it’s [a matter of] self-regulation.

Look, but I will say one thing, I’m very worried about standards of journalism quality in the press. I get some very junior reporters who can’t put a story together. Now, it’s not malicious necessarily; it’s just frankly incompetence and they get the facts wrong and sometimes getting the facts wrong can give you damage, but there is remedy. You can write a letter, go to the Ombudsman, as I have in one instance.

Thloloe:

This is very surprising. Is there anybody in this hall here, who believes there is some reason why we should have a tribunal? Just raise your hand. You will not be shot down. [laughs].

Stephen Laufer (Stephen Laufer Public Affairs & Communications):

My name is Stephen Laufer. What I do believe is that there is a need to begin to discuss this, dealing

with what it is we, all at one point or another, lament. What we lament is junior journalists who can’t put questions together, who are competent. We lament stories which are one-sided. We lament this, we lament that, we lament the next thing, depending on where we stand. I think the point is that the tribunal idea is perhaps born out of desperation and it’s clearly coming out of a particular political corner. It would be coming out of another political corner if those parties were indeed in the majority in the country and were taking as much heat in the way that the current governing party is taking it.

And I think the issue is not that, as Mr Bloom says “this is the game you’re in, you’ve got to take it”, the issue is to what extent

is the work of the journalist being done? And to what extent is the line being crossed to, what today we know as, blogging? And I think the major difference is editing. Are the questions being asked? Are others being heard? Are those people who you’re writing about being given sufficient opportunity to give response and so on? I’ve been a journalist for many years. I now work in media relations. I have clients I work on behalf of. It’s standard operating procedure for certain media to call you an hour from deadline and want responses and they know very well what they’re doing through that practise. The story is written and it’s ready to go and it’s basically a minimal fig-leaf.

I think the point is that journalism lays the great claim, and it is a great claim and it’s an important claim, to being neutral. Start out by finding the facts and then writing the story. And I think the question that arises is, is there some form of returning

more to that approach to journalism than we see practiced sometimes, without regulation? We hear about self-regulation. How does it work in practise, is the question.

Now, I chatted to Michael Schmidt before today and I said that I’d say something from the floor about my early experience in journalism which was in Germany, where there is a whole body of media law which governs how to deal with certain things. And for me the great experience

there was not that the law is used as a bludgeoner all the time, but that the law is present in the consciousness of the journalist as they self-regulate. And I think that’s the important point. There is a very strong right of reply in Germany and in what I know of Austrian media law. I’ve seen a front page lead in an Austrian newspaper that was a right of reply. Because the law says you will have it in the same



Jane Duncan

space, with the same type face, the same size of type etc etc, as the initial story. Now that is a very heavy tool. The point about it is that as young journalists, the thing that was inculcated into us by our editors, our news editors, our colleagues, was that the biggest disaster of your career was to have somebody make use of the right of reply. So you went out of your way to avoid it by making sure you had the facts right. And that when you had the facts right, you presented them in a more or less balanced way.

Now I’m saying this having spent three years at a tabloid newspaper. And even tabloids there, which have the same bloody, big, nasty headlines that they have anywhere, you will find that when you read the text, there has been every effort made to balance the story and where is hasn’t the law is available for a right of reply and for various other responses.

It also regulates very clearly, who can and who cannot be pictured for example. There are two concepts. There is one which is called the “relative historic interest” and one of “absolute historic interest” and the way it was taught to us was that a chancellor of a country is of absolute historic interest. You can picture this person under any circumstance.

A person who is involved in a car accident is a person of relative historical interest. You can picture them at an accident scene but not in general. And that at any time of the day, they have certain personal rights to that picture. Now I’m just putting

this on the table rather than arguing anything specific. I think the issue is if the strong argument that comes from the media and it comes continually about self-regulation. How do you make it work? And I think that we’ve got to be thinking and whether the way to make it work, is that there is some sanction available to those who feel that it is not working as an encouragement to self-regulation.

Schmidt:

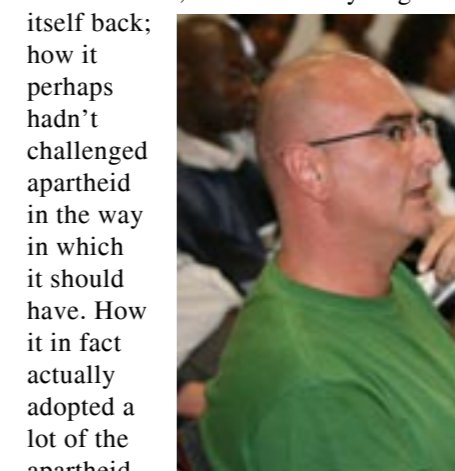
Thanks Stephen.

Thloloe:

Does anybody also feel very strongly about... where we should be? If we should be [going] in that direction of a tribunal? Were you raising your hand or where you scratching your nose? [laughter].

Schmidt:

Perhaps I could throw a cat amongst the pigeons. Think back to the apartheid era where there was a raft of legislation regulating the media, including the Newspaper Imprint Act under which you had to register in order to publish a newspaper and we know that there was a whole bunch of community newspapers that were shut down by the apartheid authorities and yet to my mind, looking back on the media’s submissions to the Truth and Reconciliation Commission, the media white-washed some of its own practises relating to how it had dealt with the truth, how it actually reigned itself back; how it perhaps hadn’t challenged apartheid in the way in which it should have. How it in fact actually adopted a lot of the apartheid policies in its newsrooms and canteens. That was self-regulation. Was that necessarily a good thing, and now that we’re living in a democratic



Dimitri Martinis

states, there is no press council or press ombudsman or any other self-regulation practice. They in fact say

era, do those bad practises continue or have we learned?

Thloloe:

Perhaps Raymond, while you are at the mic, can you also look at what legal recourse there is in the current system.

Raymond Louw (Press Council Chair and Editor of Southern African Report):

First of all Michael, I want to put you right about your complaint about what you call self-regulation in the apartheid era in newsrooms by having separate canteens. One of our greatest fears in those days was that there was labour law that was very specific in terms of its apartheid regulation and the last thing any newspaper wanted to see was to be closed down... for breaking... a labour law. You can’t imagine how the South African government would have jumped at the opportunity at closing down the Rand Daily Mail or the Sunday Times or the Cape Times because they had broken a labour law which had nothing to do with press freedom, and as a result of that we were very careful. But even despite that in some of the newsrooms for instance the staff themselves changed the signs around - where people could go, where they couldn’t go - and that was adhered to. But I must tell you that we were a little nervous about that stuff going on because we knew the government would use that opportunity.

But coming to the question under discussion here, why regulation at all? We say in our Preamble to our Press Code that we are subject to the same laws as that of the ordinary individual. No greater and no lesser? So why do we have self-regulation? The ordinary individual doesn’t have self-regulation. He’s merely got to comply with the law of the country and indeed in a number of American

“We are free to publish in accordance with the law of the land and we are exerting that right. So we don’t have a Press Council or nor do we have a self-regulating body”. But we in this country have decided to do that because of the highly sensitive nature of our politics in that sense and because there is a feeling that the press wants to lord it over everybody else and not be subject to any degree of, shall we say, ethical discipline. And so we have, as journalists who would like to adopt a purist attitude, adopted the Press Ombudsman system as the best possible system that there is and at the same time, maintained freedom of the media.

Well, I’m delighted that the ANC has not given a reason because I don’t think they have any other reason than wanting to protect their own from the rather sharp and accurate criticism that has been levelled against some of their members. That is one of the reasons why they can’t come forward with why they want the media tribunal. Incidentally, if you want to find out more about a media tribunal I suggest you go to Google and write in media tribunal and you’ll come up with the state of Fiji, which is in the process of introducing a media tribunal for the same reasons as the ANC are quoting: that, there are unfair attacks on politicians and personalities within the society. And they followed that proposal up which I believe is going before their parliament in I’m not quiet sure when, by deporting the editor of one of the most critical papers in the country,

an Australian, is being deported back to Australia. Which gives you the impression, or gives me the impression, that the kind of underlying reason for a media tribunal... and the underlying philosophy, is that of the person or the party that wants to control the media, and not actually draw attention to its failings.

Now the other day [Kgalema] Motlanthe addressed SANEF on the need for a media tribunal and didn’t exactly in fact explain why there should be one except to say that when the ANC have taken cases to the Ombudsman they haven’t been

attended to or they were brushed aside. I then asked him at that meeting whether he could give us chapter-and-verse and he said he didn’t have any documentation with him. So subsequently I’ve written him a letter asking if he can kindly produce the occasions when the ANC have taken cases to the Ombudsman and they have been brushed aside, haven’t been attended to or have been, whatever, summarily dealt with. I haven’t had an answer from him and I’ll tell you why: because he doesn’t have any cases that fall into that category. In fact an ANC minister took a case, I can’t remember the detail of it – but took a case to the Ombudsman – your [Thloloe’s] predecessor and won. And she wrote afterwards that she was highly satisfied with the outcome – which is rather contrary to the prevailing mood in the ANC that they don’t think that the self-regulatory system that we have actually works. Oh, and you want to know what recourse people have? Well of course they’ve got the Ombudsman and in radio they have the Broadcasting Complaints Commission which can levy a fine, but which we don’t believe should be levied onto the press. And of course they can go to seek... redress in the courts through defamation actions.

Now at that meeting with SANEF, Pallo Jordan said he didn’t feel it was correct for him to give up his God-given right to be able to sue a newspaper – which of course is entailed; if you go the Ombudsman you sign an agreement that you will not take the matter further to the courts. And he said he didn’t see any reason why that should occur. What he was saying... he said he wants two bites at the cherry. He wants to go through the Press Ombudsman’s system and then if he loses there, he goes to the court. Or if he wins there, he goes to the courts and gets extra damages. Well of course you’ll see immediately, if your think about it for just a minute, that if that process was

allowed – that you’re allowed to get the Press Ombudsman and whatever the outcome, there then take it further in the courts you would be turning the Ombudsman into the sort of first stage of a court procedure which would render the operation of the Ombudsman and the self-regulation processes as virtually null and void; it can’t work, but that was his complaint. But that is in fact the answer. You can go to the courts and seek redress and some people have done that. In fact Mr [Jacob] Zuma at the moment is trying to get, I think, R12-million. He’s reduced it from R63-million to R12-million from the various newspapers and cartoonists who depicted him with a shower over his head. And I’m not all together sure how far he’ll go but I did ask him a question once: “Why are you going to the courts and not the Press Ombudsman or is it that you’re in it for the money?” Thank you.



Joe Thloloe:

Thloloe:

So far two questions have cropped up in my head. The first one is: What has the effect of regulation on the broadcasters been? I think Mario and perhaps [unclear]. Has it inhibited the freedom of expression? The fact that they are conformed by culture and the fact that they have created the BCCSA, what effect has that had on it? Would the tribunal that is envisaged be in the same position as Icasa is against the BCCSA? I think that is the one question that I’ll come back to the second one. I think Jane and Dario...

Milo:

I’m not aware of any statistics or empirical research, but I think the fundamental point is that one can distinguish between the regulation that applies in the broadcast arena and between the regulation that applies in the print environment. Traditionally the distinctions are based on scarcity of resources – you need a licence to broadcast, you don’t need a licence, happily, here in South Africa, to start a newspaper. So there’s scarcity

of resources, to an extent that is no longer as powerful as it used to be as a justification because of satellite and cable and digital broadcasting. But you also have the distinction in terms of the pervasiveness of the medium of broadcasting. The idea that it is in your living room and that is sometimes regarded as a justification for more stringent regulation of the broadcast environment.

Now I’m not sure that I’m persuaded by those justifications for regulating the broadcast arena, but what is absolutely clear is that you can’t point to the regulation of the broadcast media and say that that, in and of itself, justifies regulating the print media. In fact the opposite scenario applies, which is that we should examine whether we really need the kind of stringent regulation, statutory-based regulation that we have in the broadcast arena in light of digital broadcasting and other developments. So I would actually turn the argument on its head in terms of trying to say that broadcast regulation means you should also have print regulation. In fact, lack of regulation in the print environment means that potentially we should have less regulation in the broadcast arena.

Thloloe:

Dario, my question was: what effect has that regulation had on freedom of expression in the broadcast industry? Are they less vocal because of those regulations?

Milo:

I can’t answer from the perspective of hard statistics, but one issue that applies to both the Broadcast Complaints Commission code as well as the Press Ombudsman code, and this is perhaps [what] the Polokwane resolution doesn’t articulate properly, is that you are engaged with the same balancing exercise. So you have the defences of public interest available to you as a member of the broadcast media and so in terms of the issue of whether you



Llewellyn Kriel

actually works in practise? I think it’s a question that Stephen raised. Well for one thing, I think that the Press



Panellists: Jane Duncan, Dario Milo, Susan Smuts and Jack Bloom

can justify your broadcast, you will be engaged in the same debate that applies at the level of the Press Ombudsman and at the level, in fact of courts, if courts proceedings are taken for defamation or [invasion of] privacy.

So the answer from a theoretical perspective is that you shouldn’t, as the broadcast complaints code is currently formulated, you shouldn’t find yourself in a situation where you are not able to exercise your media freedom. But of course the argument is that it’s a slippery slope. That once you have statutory regulation of one kind, it can easily descend to determining the contents of what you should broadcast or what you should publish.

Thloloe:

Thanks. Jane?

Duncan:

I don’t necessarily have an answer to that particular question. There is another issue that I wanted to raise about whether self-regulation as it’s currently constituted, is sufficient? Whether it actually works in practise? I think it’s a question that Stephen raised. Well for one thing, I think that the Press

Council as it’s constituted now, isn’t necessarily a self-regulatory system. I think it’s inaccurate to describe it like that. I think it’s a co-regulatory system. And in fact if you look at the way that its constituted, it has equal representation of people who

are drawn from the media and different sections of the media – community media, the main stream press and the independent commercial press and members of the public – and I think that’s been a significant advance

on how the Press Council has been established relative to the old Press Ombudsman, that it’s actually seen as a co-regulatory system that gives equal voice to the members of public and also the media. But I think the one question we do need to ask is whether the Press Council exhausts the whole notion of media accountability, because it’s actually quite a passive mechanism.

You have to wait for complaints to come to you in order to start dealing with problems as they emerge in the print media and I think that there is an argument to be made that a complaints body, a passive complaints body, doesn’t necessarily exhaust the mandate of the Press Council. And the mandate speaks about the objection of the council being to promote and develop the excellence of journalistic practice and ethics and to promote and preserve the right to freedom of expression.

Now, just looking at some of the debates that have been taking place

“I do believe quiet frankly that the standard of journalists entering the newsroom these days, have without doubt, deteriorated.”

internationally about press councils, I just want to refer to two particular debates. There is an academic who past away last September called Claude-Jean Bertrand, who has been

doing a lot of international... did a lot of international research work on the effectiveness of press councils and you generally tend to find that they're not extremely effective as they're simply constituted as passive complaints-receiving bodies. In fact he's developed a whole series of... 28 pages of proposals that he's developed to attempt to move the notion of media accountability beyond the press council as a complaints-receiving body in an attempt to try and embed a press council within broader strategies to ensure media accountability. Some of the issues he's raised [are] quiet fundamental to how press councils are established.

He's made the argument for instance that press councils need to do more than settle complaints. The need to be proactive for instance, they need to encourage commission[ed] research on the influence and functioning of the news media. He's even made the argument that they need to levy fines



Llewellyn Kriel and Michael Schmidt

and this is quite an interesting find in terms of press councils having bite.

But he's argued that if you want financial compensation for your damage to reputation, then go to court. But rather what defines the money that comes from the fine, should be ploughed back into making a better press council. So for instance, going on public education drives to inform people of the existence of the

press council, to encourage people to engage in media literacy work, education campaigns... that is how the money should be used. He's made the argument that a more proactive

press council should put pressure on government not to pass unfavourable laws so it plays an active advocacy role in defence of press freedom. It should report on trends in the news media and it should issue public warnings on dangerous health trends. So these are some of the suggestions that he's made. He's even gone to the point of making the suggestions that press councils should initiate complaints in situations where complaints of considerable public importance aren't actually coming out. And there's some interesting models for more proactive press councils that have been developed in places like the Philippines, for instance. There has been a press council established called the "Several Citizens Press Council" which works on what it calls "two levels" – which is complaints and issues – and complaints is your standard kind of receipt and adjudication of complaints. But then what happens is, if there are broader issues around trends in the news media which emerge from a series of complaints that people

need to be concerned about? Problems around standards and quality of journalism, then these get referred to a plenary of the Press Council who then start grappling on a more proactive basis, how to troubleshoot those particular trends. Perhaps it's these kinds of proposals that we could consider in order to strengthen the co-regulatory system, to extend it to make it more meaningful.

Thloloe:

I think, Jane you already started answering the second question I was going to raise. I was going to say... Stephen? What's happened to Stephen?

Duncan:

He slipped out.

Thloloe:

Stephen raised a very crucial question of standards in journalism and I thought that the journalists in here could talk to us about what they think of the current standards. Is the public out there justified in thinking that we are going down and our standards are not what they used to be? If there are any journalists here who would like to... I see you are nodding your head [laughter].

Llewellyn Kriel (Senior Sub-Editor, eNews):

Hi, I'm Llewellyn Kriel here, wearing my e.tv hat in the audience. But I do believe quiet frankly that the



Jane Duncan and Dario Milo

standard of journalists entering the newsroom these days, have without doubt deteriorated. I don't want to be a "when-we" but to give you a straightforward example, when I entered journalism 32 years ago, it didn't matter how many qualifications you entered [with]. If this was the first time you came into news reporting, your first beat was in the Magistrates courts. Why? Because that taught you accuracy, accuracy, accuracy!

This doesn't happen any longer and secondly within newsrooms there is, to my mind, a great scarcity of on-the-job training. On-the-job training, and specifically, in the form of mentorship by older and more seasoned journalists. And I think having myself now recently made the transition from print media – which I've been in ever since I started in the mid '70s – to television journalism, I am in a newsroom now of, wow, awesome levels of professionalism right across the board. And a lot of it comes from within the environment in the newsroom and I would advocate very strongly that certainly the print media reconsider:

"How do I take the existing journalistic base of newcomers [to] the people?" because I think, as Susan said so rightly early on, nobody sets out to be a bad journalist. Everybody wants to be a great journalist. Everybody wants to win a Pulitzer and in my days it was the SFW Awards that was the crème-del-a-crème. Everybody wants to be a great journalist. How do we help them with that transition and in which case maybe that is not going to answer certainly all the issues raised around self regulation, but I think that it will go a long way to addressing questions about standards.

Thloloe:

Any other takes on this one? Jack?

Bloom:

This... cause I'm glad that Jane has [advocated a] proactive role and the training and accuracy cause it simply isn't there. Because they say doctors bury their mistakes and editors put them on the front pages. But you sometimes see the most blatant errors which are slipping through standards training and I find, you know, it's not bias [but] that one complains about it, accuracy, really. Lack of accuracy... If there's, look you have bias, and opinion columns, but as us politicians would say a column you don't like is an opinion column that is biased.

But you're allowed to do that, that's free speech, etc. But as they say you're not entitled to your own facts, you're entitled to your own opinions but get the facts straight. And I think if that can be stressed just for general, good healthy society, that we debate based on things reported on newspapers that we know that are true because very often we get debates on things that turned out not to be true – and that's poor journalism.

Thloloe:

So are we saying the ANC is in fact trying to solve one problem by using another problem?... Let me go to Susan. Do you agree that there is slippage in standards?

Smuts:

I think we do all need to acknowledge that there are many examples of poor journalism. I'm not sure if it's slippage or standards or

what it is exactly because I think there are already also many examples of very, very good journalism, I suppose we've got to keep making it better. I mean, we are here to inform the people, we are here to get it right; we have to make sure that we do whatever we can to do that. I mean at Sunday times, we've introduced some years back an accuracy check because the things that slip through really shouldn't slip through that. But accuracy check and it's of a very basic kind: have I spoken to both sides, have I got my facts right, are the names spelt right you know, all that kind of stuff. Do we need to get to a lawyer? As Stephen said, editing it the real... maybe that's what the problem is, the editing [Laughter]. Maybe there's uneven editing...

Qondile Khedama (Mangaung):

Hi my name is Q. I'm here in a personal capacity. I'd just like to add on to what Susan just said. I think for me while I do acknowledge that standards may have slid, but I think that's just the responsibility of each journalist to make sure that they do their job properly. But I think also the problem may also come up with editorial stances of a particular newspaper or media

"We've introduced some years back an accuracy check because the things that slip through really shouldn't."

organisation or whatever.

Like I mean we [are] all aware of some of the things that are being said about what happens at the SABC with regards to freedom of speech, fairness and balanced reporting and so on. but I think that also, I don't think it's a problem that's just limited to the SABC; I think it also happens on the other side of the coin in various media organisations and I think that usually the personal political stance or leanings of a particular publication and when they are so stringent that they do not want to perhaps look at themselves more introspectively, that's when I think the problems [arise] that the ANC are speaking out against, [and so]



Jack Bloom and Joe Thloloe

would call for a tribunal. I think that's when that sort of thing will emerge. So I think also that media organisations need to be more flexible and balanced.

Thloloe:

Thanks.

Dimitri Martinis (MCM Digital Media):

I just wanted to raise two points. Seems there's been one silence here today and that's on the Film and Publications Act. And I think certainly that's also quite an important piece of legislation when we start talking about regulation of content. Because I think in the disc today it really has been very much an issue of regulation of content. But it seems maybe we need to disaggregate the notion a bit and say, are we talking purely about content regulation? Is it economic or technical regulation for example, like there is in broadcasting? The justification for that regulation... I mean I know that for example, that ICASA now is in fact has a code of conduct for all broadcasting licensees and that goes way beyond issues of content. It goes to issues of how you treat your audience, how you treat your subscribers and so I think maybe I really just wanted to hear from the panel or any of the other members, where does the Film and Publications Act and the proposed amendments fit into this general discussion?

Thloloe:

Jane?

Duncan:

Can I just make a very, very general observation in response to the questions that you've raised. I think of the arguments being made by the statutory media tribunal is that because it's going to be accountable to

Parliament rather than to the executive that it will give it some level of independence but also accountability as well, and I think that that's a misplaced argument. Because if one looks at the Film and Publications Board and also ICASA and the SABC as well, you've seen over a very long period of time, in fact since about '97/'98, a gradual transfer of power away from Parliament in relation to these particular bodies and towards the executive. So in relation to the Film and Publications Board for instance there have been three sets of amendments that have been made and incrementally what has happened through those sets of amendments, is the mandate of the Film and Publications Board has been increased while the independence of the Film and Publications Board has been decreased to the point where [it has] virtually become an extension of the Department of Home Affairs.

Likewise in relation to ICASA, there've been very subtle but incremental erosions of the independence of ICASA. Just one example of one of these erosions that have happened [is] there has been since the adoption of the Telecommunications Amendment Act, the setting up of the system of parallel licensing, where licenses are effectively granted to state institutions by legislative fiat and this relates to institutes like Sentech, the SABC in relation to SABC 4 and 5 and also in relation to [unclear] as well.

So what we seen is the erosion of the ability of ICASA to be able to decide who to grant licenses to and who not to grant licenses to. So in the case of the SABC 4 and 5 or instance its role was relegated merely to being a writer of the license, you know rather than actually deliberating on whether SABC should get these licenses or not.

There's been a whole series of other ways in which the financial independence, the administrative independence of ICASA has been eroded... the institutional independence... We've seen the gradual transfer of power of the ability to appoint councillors for instance away from Parliament. There's been

this tussle between Parliament and the executive over who appoints councillors. Now we've got this weird arrangement that involves the minister and Parliament over the appointment.

The SABC, there's been the rise of more indirect forms of control. The CEO, the CFO and the COO of the SABC, are appointed directly by the minister not by the [SABC] board. It strips the board [of

the ability] to take decisions on who to appoint, so the reason why I'm making these points Dimitri is that there's a trend when it comes to statutory but independent media institution for that independence to be eroded over a period of time. Now what we probably find is with the Media Appeals Tribunal, all the assurances were given that it will remain independent and accountable to Parliament and then gradually you'll see the same erosion taking place. That's the danger that I see in going this route – it's one danger.

And by the way, you know the other trend that one sees as well is a move away from more technical reasons for regulation to content, forms of regulation of content and then gradually the ground for regulating that content gets increased. That's

“But I can't help feeling that the amount of resource reduction in the newspapers has contributed largely to a reduction of standards because reporters are run off their feet.”

what we've seen with the latest amendment to the Film and Publications Act. The grounds of regulation, ultimately the censorship of content, increases. That is what I think's going to happen with the Media Appeals Tribunal.

Thloloe:

Raymond, do you want to respond to some of the issues that Jane raised about the Press Council being proactive, imposing fines, its advocacy

role? I think that those are issues that have been debated extensively.

Louw:

You know perfectly well where I stand [laughs]. But just before I do that, to take your argument further



Dario Milo and Susan Smuts

Jane – and Dimitri's – argument about the Film and Publications Act or both, one of the really worrying considerations about the tribunal is that it's being done against

the background of a new Film and publications Bill, a new National Key Points Act, a Protection of Information Act, which all are directed in the opposite direction to which everybody was looking in 1994, which was to open up freedom of expression. It's doing the other thing: it is reversing the trend and in fact trying to close down freedom of expression and if one looks at the tribunal in relation to that legislation, one realises that this is not just a simple piece of legislation that somebody thought up and they got up on the wrong side of the bed one morning, but it is part of a concerted campaign by the government to reduce the amount of exposure of incompetency, maladministration, corruption etc, and I think they have every reason to try to reduce that because it is in fact taken on enormous proportions in this country.

It is an attempt to in fact start controlling the media and controlling the flow of information and that is the really worrying concern. There is going to be, I believe, more legislation. The Film and Publications Bill by the way, I thought, was an attempt to try and find a new mechanism whereby they can get around some of the restrictions on attempts to interfere with freedom of expression in the Constitution – I'm talking about Constitutional restrictions on trying to impose controls on freedom of expression – to get around it by using another kind of mechanism, and that being the introduction of [clauses on] propaganda for war, incitement of violence and all that sort of things.

And if you get that passed through the Films and Publications Bill, you've then already got a mechanism for controlling the types of information that gets into the public print. And the same applies to the National Key Points Act, which is the same as the last one, except that it's broader and it's got some more undesirable features in it. And of course the Protection of Information Act is the same.

“They haven't got the same depth, the same breadth, the same amount of investigation that they used to have because in fact the reporters just don't have the time any longer.”

All of them designed to put a cap on the ability of newspapers and broadcasters to give information to the public, to present the public with information which is accountability type information.

On the question of the standard of journalists, I wasn't really going to talk about that, because it always looks bad if a former editor starts talking about how other people are doing it now... we always did it much better [laughs]. But you know the remarkable thing is that when I started in journalism, there were hardly any journalism schools. The only school I had was a chap by the name of Isaac Goodman who'd give me shorthand lessons at 5 o'clock on a Friday afternoon. And the rest of the training as Llewellyn has mentioned was what I picked up in the courts which wasn't only learning how to be accurate, but also learning how to assess information, how to sum up, how to absorb a whole lot of the features that take place in the court proceeding – body language and all that sort of thing. You become attuned to it in watching court practise and that was why it was such an enormously good training-ground for young journalists. But I don't think, actually, that the standards have dropped so much as the resources available to journalists are being reduced dramatically. Now I'm very conscious of the fact that you can't run a newspaper without making a profit and it's very important that the profits are reasonably large otherwise you won't be able to withstand advertising boycotts, court cases and all the other expenses that go with running a

newspaper or a running a publication in a society where there are people out to get you. So you do need profits.

But I can't help feeling that the amount of resource reduction in the newspapers has contributed largely to a reduction of standards because reporters are run off their feet. I mean The Star used to have, in my day, used to have an editorial staff of 250. It is now down to just half that – about 120/125. Business Day is about 60. In my day, I had a staff of 125 for a similar type of paper to Business Day and I think when you look at papers down in other parts of the country like Durban and Cape Town, the reduction of staff is enormous.

And it's that factor I think which contributes to a great extent to what one would regard as the drop in standards in newspapers. Also the type of stories that are run in newspapers! They haven't got the same depth, the same breadth, the same amount of investigation that they used to have because in fact the reporters just don't have the time any longer and they've got a schedule to produce stuff and they've got a paper to get out the next day. Although I think investigative reporting now is of probably a much higher standard than it ever has been and when you have a really good investigating reporting job done, it is generally first class and I think a very worthwhile trend.

On the question, issues raised by Jane, I don't know much about Mr Bertrand, in fact it's the first time I hear about it him, but he has a point perhaps in calling for a body in society, a civil society institution – that will be looking critically at the media and bringing cases before bodies like the Print Ombudsman, or the BCCSA. But for the Ombudsman to become a policeman and prosecutor and a judge all in one, I think that poses a great many problems and I don't think that's

desirable at all. The proactive bases of the Ombudsman, I think, it would turn... make it impossible for him to carry out his job. You'll also need a much larger staff, 'cause he also wouldn't be able to do it by himself. What are you getting, about 250 complaints a year? That's nearly one a day. How would you then, if you had to institute your own 250 complaints, be able to deal with it? So I'd be very careful of that, but I wouldn't be against a civil society organisation starting up and bringing complaints before the Press Ombudsman and the BCCSA. But in a sense that is being done by the Media Monitoring Project although they don't bring complaints. They have contemplated bringing complaints. I think they have brought one?

Thloloe:

They have brought one complaint.

Louw:

They have brought one or two complaints. So there is a mechanism there, but for proactive [investigations] I'm very worried about that. But let's beat the bosses a bit, perhaps [laughs]. Thank you.

Thloloe:

Now what...



Dimitri Martinis

Kriel:

I'd like to pose a question and sorry if I'm butting in. We haven't heard any input on the cyber media at all and I have a suspicion that this cyber media

is kind of moving our entire industry and certainly from a legal perspective: issues of copyright and patent infringements and what have you, that are hitherto unknown and I'd like to hear some... I've got various ideas about it.

Thloloe:

You want to throw one or two?

Kriel:

Well, I think in the enormous amount of freedom in blogging and also now in



Jane Duncan, Dario Milo, Susan Smuts and Jack Bloom

podcasts, bodies that are set up such as ICASA have become largely toothless as far as their visible appearance. Also what I have experienced has been the concept that the media is only the broadcast, radio and TV and the print media. I would suggest that it's much, much more than that, because primarily of the cyber media. We know certain bloggers for instance who daily get to three thousands hits on their blog site. That's a nice number of newspapers [laughs] and is this not maybe a kind of a subversive, if you like, underground movement that is redefining the industry that we play in? Now I'd love to hear further debate on that.

Thloloe:

Dario, do you want to take that?

Milo:

Llewellyn, you raise a very difficult issue. And I mean in terms of current regulation it's not the case that the Internet is the Wild West but of course there are limitations jurisdictionally. So we've had great success when clients come to us and complain about something on websites by approaching Internet Service Providers (ISPs) and in particular the ISP Association of South Africa that regulates a number of service providers. And they are very proactive in getting hold of the ISP concerned and saying you've got to take this down if you believe it is an issue, that you're infringing copyright, that you conveying defamatory or private information without justification. But of course the limitation is that that you need to have a South African ISP so where you have a blogger who registers on a New Jersey ISP and defames a South African citizen; from a policing point of view it is highly problematic. In terms of whether something like

this could be regulated by the Press Ombudsman, I think one of the strengths of the Press Complaints Commission in England has been its ability to react to major events and developments. So after Princess Diana's death there were amendments to the code dealing with long-lens photography and paparazzi etc. Last year there was a report by the Press Complaints Commission after the royal correspondent of the News of the World was convicted of accessing voicemails left for royal family members and intercepting those phone messages. And also last year they made it clear in their code that they can also receive complaints in relation to the online versions of newspapers that are subject to their authority. So I don't think that there would be any problem with a complainant going to the Ombudsman in South Africa and saying "I'm complaining about something which remains on the archives of the Sunday Times" or something that was published on the M&G online but never made it to the print edition. The practical problem of a voluntary organisation is that you don't have long arms to grasp within your net, persons who are not voluntarily subject to your authority and I fear that in those cases your remedies as a complaint would be limited to seeking to put pressure on the ISP concerned.

Thloloe:

In fact we have had complaints about the online versions of newspapers but where it's not tied to a hard copy, we cannot jump in...

Callies Matlala (Media

Monitoring Project):

Good day my name is Callies Matlala. I want to talk about two things, one of them is accuracy. When I [unclear] of media studies at varsity one of the rules that caught my mind was gatekeeping. And I thought it was about a man waiting at the gates like a security guard [but] gatekeeping is about keeping the checks about the content of the story and it's the role of the subs. You don't only check if the story is in line with your editorial policy but also the spelling but you know it saddens me to read almost everyday papers which are like predominantly read by the black population, misspelling names of

fellow Africans. Just this morning one of the papers, which is named after one of the biggest townships in South Africa [laughter], they wrote Lebohang Kumartjie instead of Lebohang Komati [spellings uncertain].

And this guy, this journalist is a black guy. A so-called journalist and you ask yourself where are the sub-editors? What's their role?

Okay, point number two: the standard of journalism in the country. I'm just new in this sector but believe me it's a shame that there are some papers that don't maybe do the country good. Like presently we have the Media Monitoring Project and we are monitoring the xenophobia in taxi ranks in Pretoria and these newspapers, the dailies, some weeklies which set the trends, they don't put their voice in the story whereby they will help the country deal with xenophobia or racism.

They just tell the story like as if it's a movie that's just hit the box office

[unclear]. It fails to [address] the attacks on these foreign people. So I think it is the role of the media, yes, to inform, educate and entertain, but please let the media help the country maybe deal with these issues by setting the trend either by opposing xenophobia. [unclear] to oppose this thing, because we're not doing our country any good.

Thloloe: I'm going to throw a curve-ball and say... Oh here's a young voice here.

Bonolo:

My name is Bonolo and I'm a journalism student at UJ and when it comes to the failure of journalists most of the blame is put on journalists and editors, but we don't really look at what prevents these journalists to do what they're doing. In most cases the objectivity of the journalist is jeopardised because of the limit of press freedom. In some cases the journalist cannot really say as much as they would love to say because they know that there are certain standards that they have to meet, so a journalist cannot really say what they really, really should say. They just have to say what the Complaints Commission has set for them or what other commissions have set for them. Like for instance, the SABC... is a government-based [laughter]... is not a private institution. It's under the government so the SABC cannot really challenge other politicians. They have to maintain a certain relationship with the government and politicians so we cannot all the time just say journalists are not doing their job properly... when you don't really look at why they are not doing their job properly.

Thloloe:

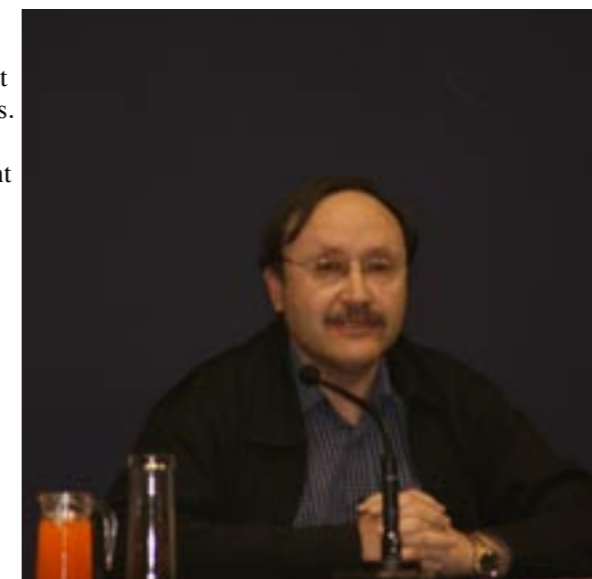
That is a frightening picture [laughs] where journalists are looking over their shoulders but I still believe whatever our criticisms of the SABC might be, they still aspire to be a public service broadcaster. We know that the elements of state broadcaster are still there and it's going to be years before that changes. Let me go back to the curve-ball I wanted to throw.

We have been looking at Section Eight of a very long resolution and the way I read this particular meeting. There are elements in the other

sections of this resolution that the media should take note of. Will that be a correct interpretation of what this house is saying? Questions that were raised in the earlier parts of the resolution, question of transformation, questions of media charters, we might be satisfied that we have debated Section Eight adequately but the more I listen to what we are saying here is we need to look much more seriously at the other sections of the ANC's resolutions. Am I interpreting this house correctly? Jane?

Duncan:

Can I maybe try and catch your curve ball because I think what you're raising is a very important point. I think that the ANC has done itself a disservice by making the proposal for a statutory Media Tribunal. I think it's so obviously unconstitutional, it's so obvious it won't fly that frankly I don't understand why they put it out there in the first place as a proposal from their policy conference. And I think what it does do, it detracts from what I think are very crucial issues that the ANC's raising about the nature of the media system that we've got at the moment. And I think some of the things that they've raised for instance, is... I've actually got the 2002 discussion document here which they discussed

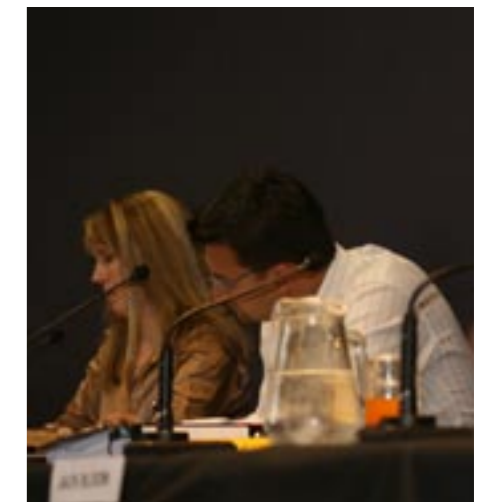


Jack Bloom

at their Stellenbosch conference. And they raise crucial issues around the access and representivity of the media. You know, they make the argument for instance that the "politically [unclear] of the media places the interest of the advertisers and well-off South Africans above the interests of other citizens. Patronage by advertisers skews the

media landscapes and consequently distorts the democratic process and debate".

And the ANC's also flagged crucial questions about media consolidation especially print media consolidation. I think it is problematic for the diversity of media and for deliberative debate



Jane Duncan and Dario Milo

generally in South Africa for the print media to be overwhelmingly dominated by four groups – one of the four groups being foreign-owned. I think it's been a problem, for instance, for the viability and diversity of community print where we found local-level wars breaking out for instance between local commercial media that are owned by these four groups and genuine community print, if you can put it like that, because the problem that community print face is because the print media is so highly consolidated. The barriers to entry are so high for community print that they find it virtually impossible to survive. Now this is why I think its important to embed the debate around the Press Council within a broader debate around media accountability and the general state of health of the media system. Because the Press Council at the end of the day is limited to what already is. It's not really raising questions about who is represented and who is not represented in the media. It's not structurally designed

to raise questions about who the media tends to focus on and who it tends to shut out because of the nature of advertising and the kinds of audiences that advertise a driven media tends to focus on. so I think it's a pity that these kinds of issues that I think are crucial to helping us design a media system that gives a voice to all South

Africans so I think it's a pity that these issues aren't being fore-grounded in the debate and we tend to focus only on the media tribunal. There are very crucial issues that the ANC are raising and we should welcome the issues that they are raising.

Thloloe:

Dario?

Milo:

Yeah, I agree with that entirely. I think that the extent that the ANC is suggesting that a statutory Media Council will solve this plethora of problems that we have in the media, in terms of concentration of ownership, in terms of lack of diversity of viewpoint, that is where they are mistaken but in terms of tackling those issues head on, it is crucial to the health of our democracy because at the end of the day as a deliberative democracy and as a self-government model where the people rule, we need to have access to as broad a variety of viewpoints as possible to make our informed decisions as voters. So these are important issues that the Media Tribunal issue are obfuscating to some extent.

Thloloe:

Susan?

Smuts:

I don't think I have anything to add to that, I completely agree with that.

Thloloe:

Jack?

Bloom:

I think there's a broader debate that we're debating today and that Jane's absolutely right. It shouldn't be about media tribunals. It should be about broader issues in the media including very much cyber space because I think that, it's great now, it's totally unregulated [laughs].

Thloloe:

I just want to say thank you to my panel and thank you to a very attentive audience. Over to Michael.

Schmidt:

Yes, thanks again so much. A lot more vigorous in fact than I expected. I think some people here thought everyone up front was going to be reading from exactly the same script. I think we were proven wrong which is great. It was also quite a nice strong debate coming from the floor as well.

In your press kits, we've deliberately included a draft constitution for a Professional Journalist's Association. This is an idea that I suppose comes out of my own febrile imagination.



Joe Thloloe

I used to be a shop steward with the old South African Union of Journalists and was in the unfortunate position of sort of... co-presiding over its decline.

A lot the debates ... you can see there are huge amounts of challenges facing the media today in terms of ownership, access, in terms of juniorisation of newsrooms, in terms of basic standards and ethics. A lot of those debates over the recently years have been held by parties external to the newsrooms by editors – much as our editors voICASA have been very much valued as they strengthened and engaged in debates recently – by interested outsiders like FXI who have an interest in a strong vibrant press and the broadcast sector in this country. But the voICASA of actual working journalists have been absent in just about all of the big debates, whether on government policy, whether in corporate policy, whether on just what the day-to-day grind requires of journalists. We've heard that journalists are severely under pressure. There are very few of us. We are very thin on the ground. We have very few resources.

So please take a look at that draft constitution. It has been put out for

very wide discussion. It has the tacit endorsement of Print Media SA of Jovial Rantao, the chair of SANEF, of the Southern African Journalist Association – which is the regional body. Strangely enough South Africa is the only national component missing in the regional body so there's lot of

institutional support. There's also a lot of organic grassroots support from journalists who are already self-organised in outfits like the various Press Clubs and also specific writers organisations, whether its the Science Writers' Association or Agricultural Writers South Africa and so forth. This type of body is clearly needed to maintain journalistic standards and to help us to defend ourselves in tough times – and clearly there are tough times ahead.

But it can only grow organically from the ground. It has to be based on the desires of journalists to help their own profession. So take it home, think about it, if you have any ideas, suggestions, if you want to shoot me down in flames, whatever, please get in touch. Throw your ideas back at us. It needs to be part of collaborative process. Ferial Haffajee of the M&G has suggested that it needs to be established sooner rather than later. So she's taking about mid-year. Of course it's not going to be driven by the editors; it needs to be driven from the newsrooms. Thank you so much to everybody for coming. I really appreciate it and you have a good week. [Applause]