

No one can be perfectly free till all are free;  
No one can be perfectly moral till all are moral;  
No one can be perfectly happy till all are happy."<sup>1</sup>

In the wake of *Reporters Without Borders* (RSF) Annual Report, "Freedom of the Press Worldwide 2007", it was time we examined South Africa's situation in relation to the rest of the world with special reference to the United States. It is noteworthy that in the report's color-bar, South Africa is ranked Grey (Satisfactory Situation); the same ranking as the United States of America."

In Africa, there are just nine other countries sharing the Satisfactory Situation: Benin, Botswana, Ghana, Guinea-Bissau, Madagascar, Mali, Mauritania, Mauritius and Mozambique. According to RSF, fewer than 30 countries worldwide ranked White (Good Situation), of which Namibia is the only country in Africa.

What makes RSF and other world media organizations hail the status of press freedom in South Africa as satisfactory? Having spent time monitoring and analyzing the situation of the country's media, and using the English philosopher Herbert Spencer's argument quoted above, that status is far from satisfactory. The situation in South Africa may not be as bad as it is in the neighboring Zimbabwe (ranked Red - Difficult Situation), but it is not satisfactory.

The practitioners in the industry have created this belief by rarely covering what would be deemed controversial. As long as the media sings to the tune of the systems (advertisers and policy makers - read politicians), then they would be free to disseminate whatever they feel necessary: thus the feeling of freedom.

The media does not, however, have to be controversial to be stifled. Over recent months, there have been thoroughly investigated pieces that have brought some public servants down from power, though amidst accusations of "witch-hunting by the media".

We have had the Transnet Pension scam, arms deal, Travelgate and Oilgate scandals and the never-ending reports on Brett Kebble's fraud and subsequent murder. These are but a few of the major scandals that have been brought to the limelight, thanks to the media, over the last months. Whoever would assume that the subjects in these reports easily accepted these revelations would be dead wrong.

Public officials involved in improprieties have perfected the act of obtaining interdicts against media houses so that it's like child's play. The costs of defending these interdicts are so exorbitant and beyond reach for small-time media practitioners that it only gives room to media houses with disposable income to survive, thus in essence hindering the free flow of information as enshrined in the country's constitution as well as Article 19 of the Universal Declaration of Human Rights to which South Africa subscribes.

Whereas the legal system provides for pre-publications/broadcasts interdicts, when the South Africa Broadcasting Corporation's CEO or the director of public prosecutions applies for the interdict and loses, it's the taxpayers' money that ends up paying the costs. This raises the question of accountability which is often never raised; these are reckless expenditures of the public's hard-earned money.

While reporting on the Oilgate scandal, the Mail & Guardian was once forced to give its readers darkened pages; that was truly a gag. Ferial Haffajee, the editor of the weekly says, "It's worth noting that we have won with cost in the past three attempts." The only advantage South Africa has over most African countries is a working judiciary; a judiciary that can reason beyond what has been presented before them.

The M&G legal gag was later reversed; what didn't the interdict-granting judge see? The first issue in legal battles pertaining to press freedom is the definition of "public interest". Secondly, when does a private citizen become a public citizen? The protective right to privacy does not apply to public personalities.

That description still hasn't helped much, has it? Public personalities are first private individuals and would hurriedly hide behind the constitutional right to privacy whenever the public, through the media, demands an explanation over their improprieties.

The society need not be reminded that everyone with an interest (however small) in any public office or public contracts automatically surrenders his or her private status. There is no half way about it. When a private corporation decides to venture into business with public funds, it should be ready to face total public scrutiny.

The media is just a watchdog and it does this for the public. As the public messenger, it should be allowed to serve without any hindrance. Having a Freedom of Information Act alone is never enough; the authority must pledge to process journalists' requests within a logical time and at nominal cost.

Back to the RSF's rankings, placing South Africa at par with the United States is questionable. In what RSF calls Alarming Weakness it writes, "The United States has been largely discredited for its illegal detention of an Al-Jazeera journalist at its Guantanamo military base, by its repeated imprisonment of US journalists for refusing to disclose their sources, the lack of any serious investigation of the deaths of Iraqi journalists shot by US troops and its persistent support for regimes that have no respect for press freedom. The US cannot be trusted when it talks of press freedom."

The detention without charge or trial of Al-Jazeera's Sami al-Hajj at Guantanamo was readily accepted by most western media because of the Global War on Terror cliché. But how do they explain the hundreds of subpoenas served on media houses? The United States leads other nations with cases on demands that reporters reveal their sources. It also leads in numbers of reporters committed to jail for contempt of court.

Judith Miller of *The New York Times* and rhetoric writing professor Paul Trummel of Contra Cabal are just two of the many journalists to have spent time in jail in America for resisting attempts to gag the press. Whereas Miller was lucky to get permission from her confidential source to disclose his identity to the grand jury, Trummel, a septuagenarian, wasn't; he spent 111 days in jail for repudiating a court order requiring him to obliterate from his web site a report exposing corruption in Seattle, National Council of Jewish Women, Council House. Nearly five years after his incarceration, Trummel is still fighting for both his rights to free expression and safety. Professor Trummel has been reduced to a situation where he no longer discloses his true whereabouts. He has also resisted deportation attempts (he is British and a permanent resident of the US). [*Supreme Court Decision #1*] [*Supreme Court Decision #2*]

Professor Trummel is not the only journalist to have been jailed for declining to honor court orders in US. Joshua Wolf, a freelance blogger and videographer, was imprisoned in September 22, 2006 for refusing to turn over to a federal grand jury a videotape of a 2005 protest.

Is this the country *Reporters Without Borders* boldly equates to South Africa?

Comparing the American situation to the South African one, it would be right to conclude that the latter is better off. The media however should never deliberately give the respective authorities room for banishment. Take the September 11, 2005 Sky News' special feature on Zimbabwe. When Sky's Stuart Ramsay was referring to the situation of white farmers, the footage displayed was that of convicted mercenaries who were arrested in Zimbabwe on their way to Equatorial Guinea.

A viewer with no knowledge of the history of the case would easily assume that the white men videoed in chains were Zimbabwean white farmers. Harare may not do anything to change the footage already aired, but would in future hesitate to grant the reporter the opportunity for such a feature.

In these difficult times, journalists should be beyond reproach. The public should not be given room to question the media's intentions. With every public official blaming the media for their personal goofs, the media in South Africa should ready itself to fight off any attempts to stifle the flow of information.

As Harry Belafonte said in 1988, "You can cage the singer but not the song." As much, you can jail the journalist but not the information.<sup>2</sup>

1. Herbert Spencer (1820-1903), English Philosopher. [*Social Statics* 4, ch. 30].

2. This article was first published in print by *The Media*, a South African based publication for media practitioners, in its May 2007 Edition under the title, 'Press Freedom se voet'.

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