

# Media Freedom from Apartheid to Democracy



**John Matisson** was Rand Daily Mail political reporter and Washington correspondent, won a National Association of Black Journalists Award for broadcasts for National Public Radio in the US, and was executive editor of SABC radio for the 1994 elections. He was an Independent Broadcasting Authority councillor from 1994-1998 and editorial director of THISDAY, a quality national daily. He has been Chairperson of the Electoral Media Commission in Afghanistan under the United Nations, and Acting Project Coordinator of the UN's Afghanistan electoral project. A former William F Benton Fellow at the University of Chicago, he has been published in the New York Times, Washington Post, Financial Times and The Observer, among others, and correspondent on two PBS FRONTLINE documentaries.

*Current travails over media freedom in South Africa, arising primarily but not exclusively from the inroads into press freedom inherent in the Protection of State Information Bill, warrant an examination of where the media has come from under apartheid for clues to where it is going now that the country is democratic.*

South Africa's democratic Constitution promotes liberal values – the rights to freedom of expression, association and access to information in an environment tolerant of the expression of the widest possible range of views including those of minorities.

While the major thrust of the Constitution's intention, and especially of its Bill of Rights, was supported by many of the negotiators who were not themselves part of a liberal tradition, they supported and promoted its formulation. Some did so because they expected to lose power, some from recognition that the decline of the Soviet Union had changed the ideological landscape of the world, but many also acted from a genuine wish to turn the page and enjoy the benefits of a free media after generations of repression. Where did they acquire both these views and an understanding of their content and value?

## *The TRC media hearings*

From September 15 to 17, 1997, the Truth and Reconciliation Commission (TRC) examined the role of the media under apartheid. Among the major questions asked were whether the media had provided 'cloud cover' for a climate in which gross human rights violations could occur, and what lessons could be drawn for the future.

An examination of the transcript shows dramatic, emotional and heart-wrenching moments, including testimony from spies in the newsrooms, and apartheid conditions for black journalists, that, in at least one case at the South African Broadcasting Corporation, included sjambokking black reporters! South Africa has a lot to be ashamed of.

There was enough material in the hearings to show how the government-controlled state broadcaster worked. This included evidence from Johan Pretorius, former political correspondent and later TV News editor, who reminded the commission that his nickname when covering the presidency was the 'Tuynhuis muis'<sup>1</sup>.

The alternative press, in several languages, was well-represented at the hearings and rightly praised for exposing the realities of repression, of fighting the states of emergency, and death squads.

The Afrikaans press refused to officially appear at the hearings, though several individual journalists made submissions despite their companies' reluctance. But the work of the Afrikaans press on behalf of the apartheid system was demonstrated by

the evidence that three of its titles were official organs of the ruling National Party, and all of the papers in the major Afrikaans groups supported it.

There was also enough evidence presented to reach refined conclusions about the mainstream English-language press, but actually reaching these conclusions, perhaps unsurprisingly, was more problematic. Officials who worked on the TRC freely admit there was insufficient capacity or time to do the subject justice.<sup>2</sup> As a result, confusion crept into the TRC's final report. The terms 'English press', 'opposition press' and 'liberal press' were interchanged promiscuously. Some 'opposition' editors did not accept their reporters' evidence that there was a 'third force' of government-inspired assassins and provocateurs<sup>3</sup>. While exceptions among journalists and individual stories were cited, the water was further muddied when the report referred to the pioneering investigative work of newspapers like the *Rand Daily Mail* as a 'claim' made by their parent companies<sup>4</sup>. The reader of the report is left hanging. Was the 'claim' legitimate or not?

*What kind of vacuum the reader is left to infer. Yet those who lived through especially the 1960s and 1970s remember that the Rand Daily Mail's role in exposing everyday apartheid was seminal.*

### *The Rand Daily Mail.*

Complaints about apartheid conditions in all newspapers, including the *Rand Daily Mail*, dominated much of the three days of hearings. After that, it was a brave TRC member who would sound off on the *Mail's* virtues. But then the report commented that the *Mail's* closure in 1985 "was a blow to the progressive forces in South Africa"<sup>5</sup>, "left a vacuum"<sup>6</sup>, and may well have been politically motivated.

What kind of vacuum the reader is left to infer. Yet those who lived through especially the 1960s and 1970s remember that the *Rand Daily Mail's* role in exposing everyday apartheid was seminal.

Other English-language papers also played their roles in this respect. The black magazine, *Drum*, under the later renowned British journalist Anthony Sampson, pioneered the reflection of black society in an authentic way, including seminal investigations of prison conditions and farm workers' treatment. In the 1960s, Charles Bloomberg, first in the *Sunday Express* and then in the *Sunday Times*, under the editorship of Joel Mervis, exposed the impact of the Afrikaner Broederbond on the development of apartheid. The implications went far beyond white politics – it explained how race policy was being developed and implemented throughout South Africa, as Bloomberg, an active member of the Congress of Democrats, well understood. But Mervis' paper avoided substantial coverage of black society.

And the *Rand Daily Mail*, from the 1960s on, moved further and further into coverage of the realities of apartheid. Race classification, the Group Areas Act, forced removals, prison conditions and the impact of removing habeas corpus from the legal system, all received front page treatment.

Its impact was substantial. The *Mail* was the largest circulation morning newspaper in the country. Its sister papers, the largest morning papers in each major town, carried a large number of its reports. Afternoon papers, especially the Johannesburg Star, regularly led page one with follow-ups from the *Mail's* morning lead. Readers were told about apartheid with their morning coffee in Johannesburg, Cape Town, Durban, Port Elizabeth and East London. It was the *Mail's* financial success until the mid-1970s that allowed its aggressive coverage to survive as long as it did.

*“We didn’t know”*

Could white South Africans honestly say they didn’t know? Only if they maintained the rigid certainty that everything in papers like the *Mail* and later the alternative press was a lie.

And that is exactly what the TRC was told. Former Afrikaans journalist and Potchefstroom journalism Professor Ari de Beer said he didn’t believe newspaper reports, particularly about death squads, because he knew cabinet ministers who denied published reports, and he did not believe they were the kind of people who would do what the newspapers said they did.

Beyond the hard news coverage which offended the apartheid government much more than its analysis and criticism, the *Mail* – and other newspapers, to varying degrees – provided an intellectual framework for the critique of apartheid.

It was in particular Helen Suzman who used her prominence and parliamentary privilege to brilliantly expose and explain the likely consequences of abandoning, for example, the rule of law, habeas corpus, openness and tolerance of diverging opinions. The *Mail* will understandably be criticised for its support for the Progressive Party at a time when it proposed a qualified franchise. But readers could have been in no doubt that apartheid was immoral.

The *Mail* covered Suzman to a far greater degree than her white constituency justified during the period when the liberation movements were banned. I certainly did. Most of us knew very well that this was not a balanced reflection of all opinion, but we also knew very well that reporting her views, and her meetings with banned black leaders, went some way towards reflecting black realities. These were some of the many stratagems used to squeeze past the myriad of censorship laws. I spoke to banned leaders like Steve Biko to establish his position on the issue, then asked who he recommended I talk to who was not banned, and whom he trusted to convey his real views, then quoted that person.

*Hardly a member of the constitution-writing teams would not have been familiar with the Mail’s coverage of the evils of apartheid and the need for the rule of law, free expression and tolerance.*

But the question remains: how did leaders of the authoritarian National Party, as well as the ANC and its communist allies, so easily understand and adopt liberal values in the press, while rejecting angrily any suggestion they might be liberals themselves? Hardly a member of the constitution-writing teams would not have been familiar with the *Mail’s* coverage of the evils of apartheid and the need for the rule of law, free expression and tolerance. Our founding fathers and mothers understood the line of reasoning well.

*The media in the democratic era*

How has the South African media done, since the heady days of 1994? Has it brought the great constitutional goals of free expression, freedom of association to life? Do its citizens have access to the information they need to make informed decisions about the affairs of the day, including for whom to cast their ballot on polling days?

The objectives of the Independent Broadcasting Authority Act of 1993 can be summarised as to create a broadcasting environment that achieves four things: diverse content, diverse ownership and control, more local content and bringing in

significant historically disadvantaged ownership and control. These objectives were broadly achieved.

The electronic media – radio, television and the internet – underwent substantial change after 1994. The virtual monopoly of the state broadcaster was firmly and decisively broken by the Independent Broadcasting Authority (IBA), established as a Chapter Nine body under the constitution, which means that its independence is protected. Close to 100 new radio stations were licensed by 1997, each with their own news, in all the official languages as well as many others, including some broadcasting in Urdu, Arabic, Portuguese, Chinese and Greek. The listener in the vast townships of Soweto, Botshabelo and Winterveldt has a choice of at least one other station in his or her own language with a different mindset to that of the SABC. Many, but not all, small communities also do. Local music as well as political and cultural expression received a significant boost, creating jobs as it enriched the culture. The IBA and some in the SABC took steps to realign the broadcaster's mandate from a state broadcaster to the ethos of an independent public broadcaster.

*... the independence of both Icasa and the SABC have been eroded by the 'revolving door' through which politically connected individuals are ensured income from government departments in between appointments as 'independent' broadcast regulators or SABC board members.*

But turf battles soon followed. SABC executives gradually understood that they could bypass the IBA by dealing directly with politicians. Then the IBA was amalgamated with the South African Telecommunications Regulatory Authority (Satra) to form the Independent Communications Authority of South Africa (Icasa). There was good reason for this, given the increasing convergence between broadcasting and telecommunications, but it led to an anomaly, in that while the broadcast regulator is constitutionally protected from outside interference, the telecommunications regulator is not. The Minister

of Communications has certain powers to override Icasa decisions.

Perhaps less noticed but more serious, the independence of both Icasa and the SABC has been eroded by the 'revolving door' through which politically connected individuals are ensured income from government departments in between appointments as 'independent' broadcast regulators or SABC board members. Legislation governing appointments to independent bodies requires that they be determined by various kinds of expertise as well as a commitment to independence, but in practice these might be hard to challenge legally, and risky for any vested interest to do so.

In the development of the internet, South Africa has fallen lower in international rankings as a result of corruption and bureaucratic delays in advancing this sector. This is particularly significant in delaying the impact of social media in South Africa. On the other hand, a rise in mobile telephony, available even to those of very limited means, has seen a rise in this method of social communication.

But the South African public is undoubtedly served by a much wider range of opinion and ownership than ever before, both in electronic and print media. The Anglo American Corporation's control of the two major English language newspaper groups ended with the sale of the Argus company to the Irish Independent Newspapers. And control of Times Media Limited, home of the *Sunday Times*, and the former home of the *Rand Daily Mail*, went to new owners with a predominantly black board of directors and executive. But, combined with world trends damaging to

newspaper companies, print media is facing its own crises of financial viability. Since newspapers do most of the investigative journalism, this has disturbing implications for future exposure of corruption. The renamed Independent Newspaper group at first developed more titles and management training programmes. But as the parent company fell on hard times, South African profits have been increasingly repatriated to Europe to prop it up. Without investment, its capacity for good journalism diminishes significantly, and a takeover may be on the cards.

### *The TRC recommendations, then and now*

A current reading of the TRC recommendations finds them surprisingly thin. After repeated comments during the hearings from TRC commissioners and staff that the commission must recommend ways to prevent the apartheid experience of media subservience to government at the expense of human rights from being repeated, the findings are limited.

On legislation, the Commission recommended four things:

- There be less, rather than more, legislation controlling the media.
- Section 205 of the Criminal Procedure Act, compelling the revealing of sources,<sup>7</sup> be repealed.
- Existing laws be thoroughly reviewed with a view to reducing restrictions on the free flow of information, freedom of expression and on diversity of opinion.
- Recruitment of spies from the ranks of journalists be prohibited.

The record on implementing the recommendations is not good.

Press freedom campaigners have targeted apartheid-era laws restricting media freedom, but have so far failed to persuade the democratic government to repeal them, despite numerous meetings and appeals. These include laws restricting coverage of military activity and so-called ‘key points’, i.e. industrial or other enterprises which are regarded as strategic, and about which reporting is severely restricted. Old laws still provide for excessive court powers to restrict coverage of inquests and keep the press out of other court hearings. Section 205 has not been repealed. Media freedom campaigner and former *Rand Daily Mail* editor Raymond Louw accepts that rather than full repeal, what is needed is a provision providing journalists with a public interest defence, or a ‘just excuse’ in the public interest.<sup>8</sup> During the commission’s tenure the police did undertake to cease recruiting journalists as spies.

*In fact, the SABC has been in a state of disruptive “transformation” under a succession of boards, chairpersons and CEOs, with moves in positive directions being followed by reverses in a repetitive cycle.*

The Commission recommended that the independence of the SABC and the IBA (now Icasa) be maintained. In fact, the SABC has been in a state of disruptive “transformation” under a succession of boards, chairpersons and CEOs, with moves in positive directions being followed by reverses in a repetitive cycle. Perhaps the worst moment showing the loss of independence came when a blacklist was disclosed, a list of commentators who could not be interviewed on the SABC. Its current financial state is critical, near to its worst in its history, which is not a good way to be independent of outside influence.

The Commission did call for more media diversity, an area where indeed great progress has been made, both in the expansion of radio and television, and in relatively diverse ownership of the print media.

### *New threats*

From early in the democratic era, government criticism of the media often seemed excessive, but none of it seemed likely to lead to more than the usual government-media tension in a democracy, until the Zuma presidency, when it appeared to underlie a real intention to force the press to change. This time it seems to be different.

The Protection of State Information Bill particularly threatens to hamper investigative journalism. But it is far from the only worrying part of government pressure on the media. Besides this Bill, now known as the Secrecy Bill, there are dangers lurking in other proposed new legislation, including the Protection of Personal Information Bill. Ministers are becoming more reluctant to respond openly to questions in Parliament and from journalists. Treatment of individual journalists by police has become cause for concern.

South Africa's investigative journalism tradition has, however, continued to be robust. Several newspapers owned by different publishing houses continue to devote resources and space to expose government corruption, and independent political analysis by especially black journalists is of extremely high quality.

Senior members of the government and the police force have not responded well to that coverage. The Sunday Times' senior investigative journalist was subjected to a high-profile arrest by more than a dozen police at his newspaper office, driven through the night and interrogated by police about matters that appear to be purely political. Journalists covering street events have been roughed up by police, and several reporters have asked for bodyguards or reported their phones being bugged. Journalists have been arrested and held overnight, while visiting incident scenes.

The ruling party has passed formal resolutions calling for a new Media Tribunal, tougher than the current self-regulation – which the TRC once branded as appeasement of the old government by press barons.

The key differences between then and now are democracy and the constitution. How robust a defence those will be, we're about to find out.

---

#### NOTES

- 1 TRC media hearings, Day 1, Pg 34.
- 2 Interviews with the author.
- 3 TRC Report Vol.4, Ch.6, Appendix 1, para. 1g
- 4 TRC Report, Vol.4, Ch.6, Pg 175, para. 47
- 5 *Ibid.*, para. 88
- 6 *Ibid.*, para. 92
- 7 See *S.v.Matisonn*, SALR, 1981(2).
- 8 Interview with the author.