

Press Freedom Commission hearings humbling, thought-provoking



By Gill Moodie: @grubstreetSA

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As the [Press Freedom Commission](#) is in the midst of its "[Listening to SA Campaign](#)" - a series of public hearings in Cape Town, Durban and Johannesburg - one has to wonder: Will the ANC reject its findings just as it has managed to cast doubt on the independence and efficacy of the press ombudsman?



Sure, the [commission](#) has gravitas in that it is headed by South Africa's former chief justice [Pius Langa](#) and counts among its commissioners people such as Anglican Archbishop [Thabo Makgoba](#); Prof [Kobus van Rooyen](#), the chairperson of the [Broadcasting Complaints Commission of SA](#) (with which the ANC has no quibble); and [Futhi Mtoba](#), president of Business Unity SA.

This not a group of journalists looking after their own and the commission has wisely broadened its mandate to look beyond self-regulation and consider all kinds of regulation including statutory, which is what the ANC would like considered.

Is this enough?

But is this enough, I wonder, when the ANC seems hell-bent on painting the [press ombudsman](#) as unworthy of the public's trust?

How it pulled off this sleight of hand, I don't know, when the press ombudsman, [Joe Thloloe](#), is a hugely experienced journalist of great integrity and, if you take the time to read the Ombudsman's findings, they are thoughtful, objective and balanced. The [Press Council of South Africa](#) - under which the Ombudsman falls - is made of 50% journalists and 50% non-journalists, while the appeals panel is chaired by a former Appeals Court judge.

If you need a reminder in this long-running battle between the ANC and print media, the short form is:

1. The ANC is arguing that the print media does not adequately reflect the aspirations and lives of all South Africans and, it says, self-regulation through the ombudsman is not enough to protect the public from the press. The party is proposing that Parliament look into some sort of statutory oversight of the print industry: a [media appeals tribunal](#).
2. Further, the ANC says it is too expensive for most people to sue newspapers through the courts and although it's free to complain to the ombudsman, the ANC seems to doubt the Ombudsman's independence.
3. It is important to note that the ombudsman's office does not fine offenders but its findings are binding - usually taking the form of ordering a newspaper to apologise if a ruling goes against it. It also publishes all of its findings in full on its website. If a member of the public goes to the ombudsman, however, he or she waives the right to sue.
4. The Press Council - under which the ombudsman falls - held its own review (with [public hearings](#)) last year of all of its processes. In August 2010, it came up with a range of measures to strengthen self-regulation (it also considered all kind of regulatory systems), restructure its office and be more proactive in dealing with problems in the press. ([Click here for a rundown on the key findings.](#))

All these thoughts were in the back of my mind last week as I sat and listened to the oral submissions from groups as diverse as the [National Union of Mine Workers \(NUM\)](#), the [South African Council of Churches \(SACC\)](#) and the [Right2Know](#) campaign in the Salt River Community House in Cape Town in the first public hearings held by the Press Freedom Commission.

Unusual proceedings

Two things stood out for me in these unusual proceedings:

1. That many, many groups really do want to see a change in the print-media landscape of SA - whether it be in the ownership of our newspapers (too white and monopolistic), more support and funding for community media, breaking the monopoly of newspaper distribution networks and, yes, there was support for statutory control. NUM, for instance, favoured the idea of a media appeals tribunal but thought it should be run by the judiciary. Likewise, the SACC also favoured statutory regulation but was so deeply suspicious of the government's motives, it felt it should neither be funded nor be made up a single member of government. The SACC felt that members of marginalised communities should make up such a body.
2. That the commission is doing a very thorough job in asking open-ended questions, listening intently to the answers and really trying to help those giving submissions to articulate what it is they want. It was a privilege and thought-provoking to witness someone as grave and penetrating as Justice Langa discuss the lack of moral leadership in SA with Siyabulela Gide, the Western Cape director of the SACC.

I would really urge anyone who is passionate about media to try make the next public hearing, to be held in Braamfontein in Johannesburg next week, from 30 January to 1 February 2012. It is humbling to hear exactly how people view what we do - and to see how much they do care.

And, although I fervently believe there are no degrees of freedom of speech - that there is no acceptable constitutional alternative to self-regulation - it is extremely productive to consider other views and understand where they come from.

Joburg session to be a showstopper

The other reason the Johannesburg session is going to be a showstopper is that ANC secretary-general Gwede Mantashe himself is expected to make the party's oral submission.

This is incredibly significant as Mantashe will, for the first time, lay out what the party wants in terms of regulation. Prior to this, there has not been a consensus and it's been very hard for the media to work out just who and what it's dealing with on these issues. When the Press Council held its review, a written submission from the ANC came in quite late and, when it did, it came from the party's national spokesman, Jackson Mthembu.

This time around, however - [Mathatha Tsedu](#), the project director of the Press Freedom Commission, told me - Mantashe has authored the ANC's written submission so it doesn't get more authoritative than that. It is this written submission that he will present and expand on when questioned by the commissioners next week in Braamfontein.

The fact that Mantashe, the man who runs the ANC, is presenting the ANC's view in this forum is also significant because it lends credibility to the Press Freedom Commission's authority. As long as the commissioners can show they considered all legitimate concerns, says Tsedu, it will be difficult for the ANC to reject its recommendations.

Constitutionally enshrined

On the one hand, I get the feeling the commission will consider deeply everything presented to it but it will hold the constitutionally enshrined right to free speech uppermost in its mind when it does. On the other hand, the signs are there that the ANC and its partners in the tripartite alliance will increasingly put transformation of media ownership on the table and I think we can expect to see some kind of transformation charter for the industry in the future.

But in the end, everyone - the media and the ANC - needs to accept that the press is not perfect and that mistakes will and do happen - even if the regulatory system is strengthened or changed.

As activist Mark Weinberg of the [Right2Know campaign](#) wisely said in his submission, "Investigations and risky stories are about checking what you can in the time that is available but then it's about printing - about getting it out there - and being willing to be wrong... Mistakes do happen, especially with courageous, risky journalism."

For more:

- Press Freedom Commission: [Details of 'Listening to SA Campaign' public hearings](#)
- Bizcommunity: [Show some backbone, mense in the media](#), July 2011
- Times Live: [SA must 'take ownership' of democracy](#) (about why Archbishop Thabo Makgobo joined the Press Freedom Commission), July 2011
- Constitutionally Speaking: [Constitutional-law expert Pierre de Vos on why the media tribunal is a case of 'Boiled chickens pretending to be plumed peacocks'](#), August 2010
- SA Communist Party website: [SACP deputy secretary-general Jeremy Cronin on why there is a need for a media tribunal](#), August 2010

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