LUND UNIVERSITY

Department of Political Science

STVK01

Tutor: Axel Hadenius

The South African Press Freedom

– A Minor Field Study of its development between 2003 and 2007

Erik Brattström
Olof Junesjö

Abstract

By utilizing a theoretical framework developed by the Konrad Adenauer Foundation (KAF) we have been able to identify developments in South African press freedom with a special focus on the printed press, between the years of 2003-2007. The purpose of this thesis has been (1) to determine whether there has been an actual decrease in the South African press freedom and (2) to establish a nuanced picture of these potential changes. To this end we have conducted an in-depth field study based on interviews with journalists and authorities within the South African media sphere. We have come to the conclusion that the press freedom in South Africa in fact has decreased and at the same time threats from parts of the ANC government have increased. However we are of the opinion that the gravity of these findings should not be exaggerated. The state of press freedom in South Africa is by most means in good condition.

Key words: press freedom, South Africa, printed press, censorship, ANC

Table of contents

1 Introduction 1

1.1 Statement of Purpose 1

2 Methodology 3

2.1 A Case study 3

2.2 Type of Question Surveys 4
2.2.1 Informant Survey 4
2.2.2 Respondent Survey 5

2.3 Sources and Source Analysis 5
2.3.1 Sources 6
2.3.2 Source Analysis 7

3 Background 10

3.1 Films and Publications Amendment Bill of 2006 10

3.2 Media tribunal 11

3.3 The Daily Dispatch's report on Frere Hospital 11

3.4 The Sunday Times health minister scandal 11

3.5 SABC and the Blacklisting Scandal 12

3.6 Koni bid on Avosa 12

3.7 ICASA Amendment Bill 13

4 Theoretical Framework 14

4.1 Defining Press Freedom 14

4.2 Press Freedom and Democracy 14

4.3 Main indicators according to Konrad Adenauer Foundation (KAF) 16
4.3.1 General conditions 16
4.3.2 The legal environment 17
4.3.3 Political conditions 17
4.3.4 Economic pressure 18
4.3.5 Non-state repression 18

5 General conditions 19

5.1 Interactive media 19

5.2 Broadcast media 19

5.3 Accessibility of the government and the ANC party 20

6 The legal environment 22

6.1 Freedom of expression 22
6.1.1 The South African constitution 22
6.1.2 The promotion of access to information act of 2000 23
6.1.3 Media development and diversity Agency act of 2002 (MDDA) 23

6.2 Regulation of media coverage 23

6.3 Censorship under law 24
6.3.1 Section 205 of the Criminal Procedure Act 24
6.3.2 Protection of information act 84 of 1982 25
6.3.3 Criminal procedure act 25

6.4 Monopolies and cartels 26

6.5 Journalists' personal security 26

7 Political conditions 28

7.1 Coverage of marginal groups 28

7.2 Self-Censorship 28
7.2.1 Corporate censorship 28
7.2.2 Self-censorship due to racism 29

7.3 Illegal state repression 30

7.4 Government control over print media 30
7.4.1 Koni bid on Avosa 31
7.4.2 Films and Publications amendment Bill and ICASA amendment act 31
7.4.3 Media tribunal 32

8 Economic pressures 34

8.1 State subsidies of private media 34
8.1.1 Regional newspapers 34
8.1.2 Sunday Times 34

9 Non-state repression 36

10 Conclusion 37

10.1 The state of the South African press freedom 37

10.2 The adequacy of the theoretical framework of how to measure press freedom 39

11 Bibliography 41

11.1 Primary sources –Interviews 41

11.2 Secondary sources 42

1 Introduction

What instigated us to do this study was that between the years of 2003 and 2007 South Africa dropped in Reporters without Border's Press Freedom Index from 21st out of 166 countries to 43rd out of 169 countries. When doing this index Reporters without Borders have a certain amount of criteria that in turn gives the country a score. The lower the country's score the better the press freedom. South Africa's score has during the period increased from 3,33 in 2003 to 13,00 in 2007. When we compared these figures to Freedom House's map of Press Freedom we found the same tendency; in 2002 South Africa's score was 23 and in 2007 it was 27 and it was even stated that "South Africa's vibrant independent media came under increasing pressure from the government in 2006"[1].

However, this is not a study to determine whether South Africa has press freedom or not. All analysts agree upon the fact that South Africa's media is among the best in Africa and in Reporters without Border's index it even beats a well-established democracy like the United States (48th).

Indexes like these always simplify the reality to be able to make comparisons over time and between countries. We wanted to get a more complex view of the situation. In Colin Hays word we wanted to increase the complexity and decrease the parsimony of the situation[2]. Had there actually been a decrease in press freedom or was this only something the international media had made a fact by spinning a story? And if the press freedom is decreasing is this a threat to Africa's prime democracy?

South Africa is in a turbulent time, most news reports during the last period has been occupied by the recent Polokwane conference and the subsequent election of Jacob Zuma, the man that with great certainty will lead the country after the 2009 election.

1.1 Statement of Purpose

Our hypothesis is that the press freedom has decreased drastically between the years of 2003 and 2007 and that this constitutes a major challenge to the democracy in South Africa. However, we will argue that to confirm such an assumption an in-depth analysis of the situation must be conducted. Hence we

---

[1] www.freedomhouse.org
[2] Hay 2002, p 31-33

found it our purpose to go to South Africa and through field research establish a comprehensive picture of the state of the press freedom, with particular focus on the printed press. We find it intriguing to ask the following questions:

Has there been an actual decrease in South African press freedom during the period of 2003 -2007?

The chief purpose of this thesis is thus to assess findings made by Reporters without Borders and Freedom House as well as making an evaluation of the actual press freedom in South Africa. To this end we will use a theoretical framework that has been developed by the Konrad Adenauer Foundation (KAF). The framework seeks to outline how press freedom best should be measured. Our purpose of applying the framework is based on (1) the fact that the criteria of the framework are dependent on neither yes or no questions nor on transformations of findings into numbers (which are the cases of Freedom House and Reports without Borders, respectively) and (2) to assess the framework's adequateness.

2 Methodology

2.1 A Case study

The first time we encountered the issue of the allegedly decreased press freedom in South Africa was in comparative studies by Reporters without Borders and Freedom House. We then asked ourselves: how well do the results of such comprehensive studies correlate with reality? It is an important question to answer since the picture organizations such as the Reporters without Borders and Freedom House convey is often perceived as credible by the international society and students of political science. Thus, on the basis that we wanted to establish a more nuanced and explanatory picture of reality i.e. one that moves beyond ratings based on number, we opted for a case study.

There are several ways to measure press freedom. Nevertheless, it is a very complex challenge. This is especially true when one wants to make comparative studies since having a large material often leads to a conflict between range, in terms of the outlooks for generalizations, and empirical accuracy. The studies conducted by Freedom House and Reporters without Borders are subjected to generalizations –the wide range of hypotheses and ratings generated by these studies are achieved only by reducing their complexity. Hence they may be lacking in empirical accuracy. In the case of the former, the data over press freedom was collected in over 100 countries and constituted only one indicator out of many over the level of democracy[3].

The indicators we have utilized to estimate the levels of press freedom in South Africa are outlined in a theoretical framework of how to measure press freedom developed by the Konrad Adenauer Foundation (KAF). There are five of them and they will be outlined in chapter 4.

The study will hence take a theory testing character since we will use one theory (the theoretical frame work from KAF of how to measure press freedom) which, in terms of a concrete hypothesis (that the South African press freedom has decreased the last five years) will be tested on an empirical material (interviews with journalists and authorities on perceptions and facts on the media situation in South Africa)[4]. So, by analyzing a contemporary case of a democratic country that

---

[3] KAF Democracy Report 2005, p. 15-17
[4] Esaiasson et al, 2003, p. 40

recently has been accused of experiencing a decrease in press freedom we will be able to test if the theoretical framework is adequate to prove the contrary.

Finally, a major problem with pure case studies concerns the absence of comparable elements. Without such elements it will be difficult to decide whether or not the theory will find sufficient support. The problem stem from the fact that it is difficult to draw conclusions concerning if the value on the variables ought to, respectively be considered high or low, successful or failure[5]. However, what we *will* be able to tell is if the theoretical framework is sufficient in terms of range. Because despite the fact that the theoretical framework of how to measure press freedom will guide us, the field study will enable us to collect material no one else has had access to before. With this privilege we might be able to obtain material that is not categorically represented in the framework. As a last reason to why we opted for a case study we argue that a case study will have the advantage of realistically describing and analysing diverse and complex repressions against media.

Our empirical material has largely been constituted by findings collected through interviews. Hence an in-depth account of the methods used while preparing, conducting and evaluating these interviews should be established.

2.2 Type of Question Surveys

2.2.1 Informant Survey

We have opted for both an informant survey as well as a respondent survey. In the former, the interviewee is used as a witness or "truth teller" who in respect to a certain issue will provide information about how their view of reality is constituted. Thus, an informant survey is applied when the researcher is pursuing the goal of depicting a chain of events as accurately as possible. Contributions from a variety of credible informants will in this way provide the researcher with pieces of information that eventually will help to complete his or her puzzle. Hence, there is no intrinsic value in asking the same questions to all the interviewees[6]. We have applied this method when conducting interviews with persons other than journalists. Examples of such interviewees are the present and former Press Ombudsman, the South African Human Rights Commission (SAHRC), the Freedom of Expression Institute (FXI), Professor Anton Harber, Anthea Garman, and Dario Milo[7]. Their opinions, amongst other, have diverted

[5] Esaiasson et al 2003, p 119
[6] Esaiasson et al 2003, p 253
[7] For further information about these persons please see chapter 11.1

and thus helped us obtaining a balanced view over the state of the press freedom in South Africa.

2.2.2 Respondent Survey

In the second kind of survey – the respondent survey – we have regarded the interviewees and their subjective perceptions as the actual study object. According to Esaiasson et al the researcher applies this method when he or she wants to identify the interviewee's perception on a certain matter. Hence the same questions are asked to each interviewee. To the researcher the task will be to map down the different perceptions and discern patterns in the collected answers. The researcher will also need to explain why and how answers to the same question may differ between groups[8]. This method guided us when the interviewees were working journalists. Despite the fact that this part of the survey deals with the perception of the state of the press freedom in South Africa the information gained from the interviews should still be regarded as legitimate sources. However, what should not be forgotten is that we deal with perceptions and not necessarily facts. Hence, we need to subject our findings to thorough source analysis and will address such issues under chapter 3.3 and onwards.

The respondent survey can be conducted in two different manners – through an *interview survey by dialogue* or an *interview survey by questions*. We have applied the former. This we have done since these interviews have been characterized by the interactive process the interview survey by dialogue represents. The interviewee has had no fixed answers to choose between, thus the concept of dialogue has been prioritize. Furthermore, what brings our respondent survey closer to the interview survey by dialogue is the fact that we have opted for a mapping of the interviewees' perceptions. Such a commitment requires the more in-depth character an interview survey by dialogue provides[9].

2.3 Sources and Source Analysis

Since the sources constitute such an integral part of our thesis, something about their reliability and suitability should be highlighted. Hence a briefing on the selection and the value of our different sources are outlined in the two following chapters.

---

[8] Esaiasson et al 2003, p 254
[9] Esaiasson et al 2003, p 255-56

2.3.1 Sources

When conducting *informant interviews* the selection of interviewees is based on centrally located sources. Accordingly, the researcher has an in advance established perception of which the most important persons are[10]. We have in this part of our study resorted to the use of authorities in different fields of the society. The SAHRC, The ANC, the FXI, and both the former and the present Press Ombudsman for instance are renowned and credible sources. Moreover, their opinions and depictions of reality differ and have provided us with a nuanced and elaborate picture of the present media situation. While the SAHRC for instance, is a Chapter Nine Institution i.e. an independent but yet State funded body, the FXI is a non-governmental organization (NGO) that is highly critical of the Government. The ANC is the ruling party and even if the Media Liaison Officer we interviewed was bound to be restricted in his personal comments the voice of the ANC nevertheless was giving the opportunity to be heard. The Press Ombudsman on the other hand, is elected by the Press and in the capacity of such he speaks on behalf of the printed press. We wanted to speak to the former Press Ombudsman for mainly two reasons. First, he was in office during the period of which the alleged decrease occurred. Second, since he is no longer the official spokesman he is in more liberty to answer our questions unrestrainedly.

To complement the views of the current press freedom in South Africa of those mentioned above, we have broadened our selection to cover personal, independent experts as well. Prof. Anton Harber the Director of the Department of Journalism at Wits University, Johannesburg, constitute an example of this. Yet another source with similar characteristics is Dario Milo of the Webber Wenzel Bowens –a renowned media lawyer. By using interviewees from different layers of the society, that differs in closeness to the government we have been able to obtain a balanced and thus source credible description of reality.

As for the respondent interview, the selection is not based on source critique to the same extent as an informant interview would be. What the researcher wants to gain from conducting the former is the *perception* of the interviewee regarding certain occurrences that he or she may hold. These perceptions should not be argued to be "true" or "false". The challenge thus lies in getting close to the interviewee and move away from their fabricated and political correct answers.

The selection of interviewees for an interview survey by dialogue follows three general guidelines; (1) the researcher should have no or little personal connections to the interviewee in question; (2) the selection of interviewees should not entail more than 10-15 people, and; (3) the interviewees should not be so called "subjective" experts[11]. In our respondent survey we have fulfilled these guidelines.

---

[10] Esaiasson et al 2003, p 286
[11] Esaiasson et al 2003, p 286-87

However, a comment should be made with regards to the third criteria. The interview survey by dialogue has been characterized by talks with journalists. Whether these should be regarded as "subjective" experts or not should be up for discussion. Journalists are indeed experts in the sense that they are the ones most familiar, through exposure, to restrictions in press freedom. However, as we have learned restrictions are not necessarily something people of this category usually reflect upon in their daily work. Hence we cannot fully ascribe them the title of subjective experts. Rather, the concept of restriction is a notion which rarely emerge for confrontation and hence something best describe as a "business as usual". Few of the interviewees have therefore been able to provide us with fabricated answers since the topic of restrictions of freedom of expression seldom is up for discussion at their work place. Instead, through discussion with us, the interviewees have been given a chance to reflect upon and confront the notion of being restricted in his or her right to freedom of expression.

The selections of journalists have been more or less random, *more* due to the fact that we have not taken gender or race into account. *Less*, since we have focused on journalists from the political sections of the newspapers. In the majority of the cases we have just phoned the reception of the newspaper and asked to speak to one of the political journalists. Hence we have not based our selection on *how* or *what* the journalist in question has written about.

On top of the interviews we will use two written sources. Firstly the earlier mentioned KAF democracy report that contains a section on South Africa. This report will be an integral part of our thesis. Secondly we will also use the other big study done the last couple of years; the African Media Barometer. These sources will be viewed with the same scrutiny as the other sources.

2.3.2 Source Analysis

According to Esaiasson e al, there are basically four different criteria that are used to indicate if a source is adequate or not. The criteria are; *authenticity*, *dependence*, *time*, and *bias*[12]. As we will see, the two criteria dependence and time are especially important in a study like this. Nevertheless, authenticity and bias should also be taken into account. Thus we will outline the contents of all four criteria in the following sections.

Authenticity

Presenting authentic material is imperative if one wants to generate a valid depiction of a certain event. Since our material mainly is constituted by transcriptions of the interviews that we have conducted, we are in a key position to judge its authenticity. We have had no reason to fabricate stories or revise the stories that has been told. However, the interviewees may have had reasons to

[12] Esaiasson et al, 2003, p. 304

fabricate their stories. Hence, there is a need to take the second criteria into account –the independence of the source.

Dependence

Dependence can be operationalized in three ways; the first way is dependent on the possibilities of *confirming* a story; the second aspect deals with the *distance* between the informant and the story; the third refers to the informant's *degree of independence*[13].

If two or more sources are independent of one another and they still reproduce a common assertion, the assertion will increase in credibility. With regards to the informant interviews where we have looked for facts rather than perceptions, we have minimized the chances of presenting disinformation by having several sources to each event. Furthermore, by using central authorities i.e. informants that in one way or another has been part of the events we are investigating, we have kept the distance between the informant and the story as close as possible. Indeed, some of their assertions have been quotes or similar but by resorting to the first criteria we have either confirmed or rejected these assertions. In the respondent interviews we have not sought to either accept or falsify the stories presented to us. Instead we have looked at the stories for what they are – perceptions of a climate in which the respondent find him or herself in. The third way to operationalize dependence has been the most problematic one, especially with regards to the informant interviews. This is much due to the delicate nature of the matter we have been investigating. In the respondent interviews this problem can be rectified with help of anonymity. By guaranteed anonymity, critical voices have felt the liberty to speak their mind and share their perceptions. An informant interview on the other hand finds much of its value in the names it can present. In other words, without the liberty to publish the names or the positions of the informant the stories loses much of its weight and credibility[14].

Time

As for the third criterion, *time*, it should be viewed externally as well as internally. With *externally* we mean how well *the interviewees* fulfil the criterion. With *internally* we refer to how well *our work* has complied with the same criterion. Generally however, time is a criterion that influences the reliability of the source. The longer time elapses between an event and its written documentation the higher the probability will be that the documentation will be subjected to mix ups, post-rationalizations, or even plain reconstructions[15].

Internally we have avoided the problem by first comparing notes after each interview. Thus we have enabled ourselves to establish a certain level of independence. Thereafter we have immediately transcribed the information at hand. In this way we have kept the distance between the interview and the actual

---

[13] Esaiasson et al, 2003, p. 308-10
[14] Esaiasson et al, 2003, p. 309-10
[15] Esaiasson et al, 2003, p. 310-11

documentation extremely short. The external time on the other hand, has to a much greater extent been beyond our control. But what we have been able to control is the selections of informants and respondents. We have controlled the selection in the sense that we have disregarded from those who has not been active during the five year period we are investigating.

Bias

Bias, or *tendency,* is the fourth criterion when judging the suitability of a source. Unbalanced views i.e. an actor's lack of negative statements in relation to a certain issue or vice verse indicates a degree of tendency[16]. We are well aware of the bias that the different interviewees have held. When it comes to the respondent interviews the same bias has been very important to our study since it has been the foundation of perception we have investigated. As for the informant interviews, to circumvent such problematic statements we have applied the criterion of dependence.

[16] Esaiasson et al, 2003, p. 311-13

3 Background

In our interviews we have run into some past, present and possible future infractions that the South African government has committed. As we are going to refer to these events throughout the entire essay we will in brief relate the stories at hand.

3.1 Films and Publications Amendment Bill of 2006

At present the Films and Publications Bill gives mandate to the Films and Publications Board to "provide for the classification of certain films and publications". In reality it regulates the film industry. It can censor films and provide them with an age limit. The stated purpose with the Films and Publications Amendment Bill is:

> "to amend the Films and Publications Act, 1996 (Act No. 65 of 1996), hereinafter referred to as the Act, so as to insert certain definitions, amend the composition and provide for the functions and powers of the Board, provide for the appointment and powers of compliance officers, provide for the composition, functions, powers and management of the classification office and repeal certain schedules to the Act."[17]

What has upset journalists and freedom of expression lobby groups has been the removal of the exemption for print media[18]. With the amended Bill all media would be subject to pre-publication censorship. The Bill has since been revised from its original form and once again exempts newspapers and journals that are members of the Newspaper Association of South Africa. However, non-members are still to be forced to submit all material[19]. The Bill has passed a vote in Parliament once and will come up for vote during 2008. If it is passed there the President has the possibility of sending it back and if he signs the Bill it can be challenged in the Constitutional Court[20].

---

[17] Films and publications amendment bill 2006, p. 15
[18] Interview - Na'eem Jeenah and Interview - Ed Linington
[19] Interview - Ed Linington
[20] Interview - Na'eem Jeenah

3.2 Media tribunal

In the policy document published by the ANC party preceding the recent Polokwane Conference[21] it is stated that "… the [freedom of expression] needs to be weighed against other constitutional rights, such as the right to human dignity and privacy". It is also stated that an investigation shall be made into "a media tribunal to address all these matters"[22]. This is a policy statement and has yet not been formulated into a bill.

3.3 The Daily Dispatch's report on Frere Hospital

In early 2007 the Daily Dispatch, a newspaper based in East London, published a report on the Frere Hospital. It unravelled extremely poor conditions and stated that the neonatal mortality was extremely high. The Deputy Health Minister Nozizwe Madlala-Routledge travelled to Frere Hospital and declared it a national disaster. This was later contradicted by South African Health Minister Manto Tshabalala-Msimang and she was backed by President Thabo Mbeki. Following this event and some others Madlala-Routledge was dismissed from government[23].

3.4 The Sunday Times health minister scandal

On the 19th of August 2007, the Johannesburg based weekly *Sunday Times* published a report on the South African Health Minister, Manto Tshabalala-Msimang, which attracted much attention. In the report they alleged that the Health Minister recently had done a controversial liver transplant, that she was a chronic alcoholic and that she while in exile in Botswana had been convicted of theft[24]. Following this scandal an article was published in the Sunday Times that declared that a reporter from the Sunday Times and the editor Mondli Makhanya was to be arrested imminently. This was firmly denied by the authorities[25].

---

[21] Annual policy conference of the ANC this year held in Polokwane
[22] http://www.anc.org.za/ancdocs/policy/2007/conference/communications.html
[23] http://www.tac.org.za/nl20070809.html
[24] http://www.thetimes.co.za/SpecialReports/Manto/Article.aspx?id=542808 and Interview - Ed Linington
[25] http://www.anc.org.za/ancdocs/anctoday/2007/at44.htm

3.5 SABC and the Blacklisting Scandal

The State broadcaster the South African Broadcasting Corporation (SABC) is currently going through a credibility crisis. According to several sources it is not perceived as a credible broadcaster. One of the reasons for this opinion is what has come to be known as the Blacklisting Scandal. On the 20th of June 2006 the newspaper *the Sowetan* published an article stating that some political commentators had been banned from stating their opinion on air by the SABC head of news Dr. Snuki Zikalala. The SABC management denied the presence of such a "blacklist" until a radio presenter on the public radio SAFM called John Perlman, on air confronted the SABC's spokesperson Kaizer Kganyago. Perlman said that he knew there was a blacklist, something Kganyago had earlier denied[26]. An independent investigation was launched and it found that there had indeed been a blacklist and furthermore that there was an atmosphere of fear in the SABC newsroom[27]. The SABC further angered the media community when it refused to release the full report. The report was later leaked to the press[28].

3.6 Koni bid on Avosa

Following the revelations done by the Daily Dispatch, the Sowetan and the Sunday Times, a bid was placed on Avosa –the print media section of Johnnic Communications which owns these three newspapers. The news of the bid was published by the Sunday Times on the 4th of November[29]. It was placed by Koni Media Holdings –a corporation owned to 30 % by people very close to the President. The President defended the Koni bid and said that there was "nothing wrong with public servants owning shares in a public company"[30]. In effect there are no laws in South Africa prohibiting the ownership of media by persons attached to the governing party. To this date no binding bid has been made.

Parallel to this, a former presidential candidate called Tokyo Sexwale has bought 30 % of Avosa and is said to be interested in buying one of the other independent newspapers – the Mail & Guardian[31].

---

26 http://www.journalism.co.za/news/perlman-to-leave-sabc-4.html
[27] Interview - Na'eem Jeenah
[28] Ibid.
[29] http://www.thetimes.co.za/News/Article.aspx?id=604481
[30] mybroadband.co.za/news/General/General/1920.html
[31] Interview - Franz Krüger

3.7 ICASA Amendment Bill

In 2006 the Bill that regulates the Independent Communication Authority of South Africa (ICASA) was up for amendment. The ICASA oversees the distribution of licenses for community radio. In the amendment this distribution was to be overseen by the Minister of Communications. The law was passed by parliament but the President refused to sign the Bill after a public outcry.

4 Theoretical Framework

4.1 Defining Press Freedom

We have not been able to come across Freedom House's definition of press freedom nor one from the Konrad Adenauer Foundation. However, Reporters without Borders make the following conceptual definition of press freedom:

> "The amount of freedom journalists and the media have in each country and the efforts made by government to see that press freedom is respected"[32]

As an operational definition they use the following:

> "Extent to which legal and political environments, circumstances, and institutions permit and promote press freedom and the ability of journalists to collect and disseminate information unimpeded by physical, psychological, or legal attacks and harassment."[33]

"Journalists", in both the conceptual and the operational definition, constitute an essential part of the definitions as total. Hence it is no coincidence that this category of people has received particular focus in our study. However, the operational definition fails to explicitly include the influence of the economic environment. Instead it is mainly concerned with legal and political environments. Hence, in our study we will use a revised operational definition;

> "Extent to which legal, political, and economic environments, circumstances, and institutions permit and promote press freedom and the ability of journalists to collect and disseminate information unimpeded by physical, psychological, or legal attacks and harassment.

4.2 Press Freedom and Democracy

---

[32] Becker et al, 2004, p 9
[33] Becker et al, 2004 p. 9

Press freedom, in addition to the rule of law and opportunities for democratic participation constitute a core value in a democratic society. Mass democracy and mass media find themselves in what resembles a symbiotic relationship – democracy cannot fully work without free media and vice versa. Press, radio, and TV are therefore central actors in sound state capacity building. Media provides citizens with an opportunity to evaluate and assess the efforts of their government, articulate their needs and their wishes and, most importantly, set the political agenda. Thus, restrictions on the media conflict with basic human rights to the extent that restrictions oppose a core value of democracy[34].

Ackerman-Rose raises the issue of accountability and argues that if there is an aim to make the government adhere to public interest the role of the media is important. Furthermore, as long as media is privately owned and free to criticize the government without fear of reprisal it will be in sound capacity to facilitate public discussion. However, if media is associated with political parties the press freedom will be insufficient[35]. Since the free press can be regarded as a watchdog, without it few other human rights are attainable. However the question remains, why is media so influential? Basically it is because politicians in democracies fear negative media coverage. Hence they cannot break the law or rules of society without facing harsh judgments in the newspapers. Therefore, democratic governance is impossible without a free press. With press freedom as an integral part of state capacity developments there cannot be a democratic society. Nevertheless whether a society can be regarded as democratic or undemocratic, governments in general try their best to exert control over media coverage. But the more a government struggles with domestic and economic issues the more it tries to control the media. Especially in non-democratic countries, controlling the media is a basic tool authority and a rather safe way to spread government propaganda[36].

As was evident in the shift from the Apartheid regime to a democratic South Africa, transition from autocracy to democracy usually begins with the liberalization of press laws. The result of the abolishment of government monopoly on information is best illustrated with freedom of speech and freedom of opinion. However, free media is not only concerned with state authorities, it also scrutinizes non-officials. Some of the latter may be very influential but nonetheless fearful of negative media. In return they can pose a great danger to the press freedom[37].

KAF has developed a set of indicators that are best utilized when conducting a qualitative case study. The development of the set of indicators has been based on previous analysises of single cases as well as regional studies. These studies focused on the influence of state authorities on media coverage. KAF however, argues that press freedom is also threatened by non-state repression. Examples of

---

[34] KAF Democracy Report p. 13
[35] Ackerman-Rose, 2003 p. 198
[36] KAF Democracy Report p. 14
[37] KAF Democracy Report 2005, p. 14-15

such are organised crime, political extremism, religious fundamentalism, economic cartels and economic underdevelopment. These occurrences are according to KAF "as likely to have a negative impact on press freedom as state repression"[38]. Hence, we have examined non-state repression *as well* as state repression.

4.3 Main indicators according to Konrad Adenauer Foundation (KAF)

We have applied five different main indicators in order to measure the level of press freedom in South Africa. According to KAF these "constitute the most important factors in successfully establishing a democratic media sector"[39].

- General conditions: general structure of the media scene
- Legal environment: institutional and legal conditions
- Political conditions: censorship and political influence over the media by state authorities
- Economic pressures: economic conditions and restrictions
- Non-state repression: press freedom endangered by non-state actors

The theoretical framework is based on pages 14-17 of the KAF Democracy report 2005.

4.3.1 General conditions

This section deals with structural frameworks for publishing and using media coverage to elucidate the challenges the citizens have to face in order to be fully informed. Preconditions which have to be realized if the media are to reach a broad audience are however also an important part of this indicator.

Ultimately, this condition draws a general picture of state-media relationship as it seeks to provide the following four conditions with a solid base for evaluation. The general conditions entail the following areas:

- Literacy rate
- Free access to all media formats
- The influence of state authorities on publicly run media

---

[38] KAF Democracy Report 2005, p. 15-17
[39] KAF Democracy Report 2005, p. 17

- The proportions of state-run and private-run media (demand and supply)
- The ownership of media companies
- The prevailing use, and influence, of different media formats on public opinion

4.3.2 The legal environment

According to KAF, "[an] effective legal environment is an essential precondition for press freedom". A reliable rule of law is of the utmost importance for journalists and media houses.

The legal environment section entails the following six areas:

- Freedom of Expression
- Regulation of media coverage
- Censorship under law
- Monopolies and cartels
- Journalists' personal security?

'Freedom of expression' concerns constitutional and legislative background to press freedom. Under 'regulation of media coverage' we investigate if the legal framework is used to guarantee freedom of the media or if it is actually used to gain control of media coverage. The third sub-indicator 'censorship under law' is by many means the most important one. Countries with censorship endorsed by the law are obviously not free of any restrictions. But illegal censorship –as a result of state repression – and the rising importance of self-censorship threatens press freedom and has to be taken into account.

The fourth sub-indicator –monopolies and cartels – deals with the existence of media centralization, and how such structures affect media coverage. In many cases monopolies have a negative influence of the quality of media coverage. According to KAF, this is especially true when they are affiliated with the government.

The last sub-indicator deals with the legal framework under which journalists are protected against state repression. We would however also like to incorporate the concept of social security into this indicator. Social security can range from being exempted from racial discrimination to being a part of a trade union.

4.3.3 Political conditions

Entailed in this section are:

- Coverage of marginal groups
- Self-censorship
- Illegal state repression

- Government control over print media

The first sub-indicator –coverage of marginal groups- concerns the behaviour of the state towards minorities of ethnic or religious kind. This indicator shows "if any group is excluded from media coverage or access to information."

'Self-censorship' indicates the degree to which the media restricts itself i.e. if the media is subjected to internal pressure. 'Illegal state repression' on the other hand indicates the degree of illegal external pressure i.e. the level of repression from state actors.

The last indicator –'government control over print media'- looks at the level of state influence over print media.

4.3.4 Economic pressure

In this section we highlight sub-indictors of economic pressures. The following is especially important:

- State subsidies for private media

States subsidies deal with the state's financial influence over media and its general economic situation. According to KAF, this indicator should show what parts of the media receive state subsidies and to what degree. However, government-friendly coverage by the subsidised media houses is also included.

Not to be forgotten are indirect subsidies from advertising. Government advertising can constitute a major part of a media house's budget and can thus be used as means to influence the media's content or decision about staff.

4.3.5 Non-state repression

This last indicator of press freedom deals with the quality and frequency of non-state repression. According to KAF, non-state repression is likely to occur in states with weak governments and weak authorities. Non-state actors will under such circumstances fill the gap which emerges when the state leaves the stage.

5 General conditions

There are currently no print media owned neither by the government nor by any political parties. The print media is dominated by four large corporations; Naspers, Johncom, Independent Newspapers and Caxton. About 20 independent newspapers are printed on a daily basis. Almost all newspapers are based in the big cities so the access on the countryside is scarce[40].

According to UNICEF the Literacy rate in South Africa between the years of 2000 and 2004 was 82 %[41]. In urban South Africa the public reads newspapers to quite a great extent but in the rural parts of the country the reliability on the state broadcaster is greater, be it televised media or even radio.

5.1 Interactive media

The internet access among the general public is quite poor and access is currently limited mainly to the white middle class. Low Internet access (about 3.5 million) is "a consequence of poor government planning and a telecommunications monopoly by Telkom that has seen South Africans reportedly pay the highest average call costs in the world"[42]. Although we recognize the possible future importance of Internet we have chosen to concentrate mainly on the old manners of communication. The impact of internet is still presently at a lack. Currently the regulation of internet is unrestrictive.

5.2 Broadcast media

The broadcast media of South Africa is dominated by the public broadcaster, South Africa Broadcasting Corporation (SABC) which owns 3 out of the 4 terrestrial channels. The fourth one, e-TV, is privately owned. The public radio broadcaster SAFM also holds a dominant position with its 21 radio channels. SAFM and SABC are the only broadcasters that air in South Africa's all official languages. This and the fact that there is a big quota of illiteracy in South Africa give the state broadcaster an important role in the South African media landscape.

---

[40] KAF democracy report 2005, p. 252 and Rhodes Journalism Review 26, September 2006 p. 35
[41] http://www.unicef.org/infobycountry/southafrica_statistics.html
[42] KAF democracy report 2005, p. 265

During recent years the SABC has come under attack; most of the persons we have interviewed are of the opinion that the SABC does not give an unbiased depiction of reality[43]. We have encountered statements that say that there is a "climate of fear" in the SABC's news room and this has recently taken on a very real guise in the "Blacklisting scandal". In the leaked report it is suggested that there is in fact an "atmosphere of fear and distrust which is scarcely conducive to the kind of open and rational debate expected with a public broadcaster"[44]. The SABC has taken no actions in respect to this report and while talking to the CEO of the SAHRC, Mr Tseliso Thipanyane he actually defended the actions of Head of News, Dr Zikalala. Thipanyane stated that "every company has its blacklistings over people who are too incompetent to be granted attention. It is nothing unusual that the SABC pursues the same logic"[45]

An independent survey conducted by the Media Monitoring Project that analyzed the impartiality of the SABC showed that (a) the SABC mentions the government in 35 % of all news stories in comparison to 25 % for its main competitor e-TV and (b) 44 % of these stories featured the government in a positive light in comparison to 28 % for e-TV[46].

As stated by Tseliso Thipanyane the bias of the SABC has never been proved in court but the general attitude of the governing party towards the blacklisting scandal harms the credibility of the SABC. If the SABC wanted to be perceived as an objective broadcaster they would have dealt with the allegations in an open and accessible manner. The perception of most journalists is currently that the SABC is a government mouthpiece and the findings done by Gilbert Marcus and Zwelakhe Sisulu confirms that to some extent.

5.3 Accessibility of the government and the ANC party

During our interviews we have encountered allegations that it is difficult to get in contact with the representatives of the ANC-party and the government ministers[47]. This can be seen as a symptom of the ANCs attitude towards the media or it can be seen just as inexperience. In the ANC party there is a media policy where the journalist in question has to go through the Media Liaisons officer, currently Tiyani Rikhotso, to get interviews with ANC officials and the ANCs view on current affairs. All journalists hence have to go through this one person to get

---

43 Interview - Na'eem Jeenah, Interview - Anton Harber, Interview - City Vision, Interview - Anton Harber, Interview - Anthea Garman, Interview - Franz Krüger, Interview - Ed Linington, Interview - Mondli Makhanya
44 SABC Blacklist report p. 56
45 Interview - SAHRC
46 Ruth Teer-Tomaselli in Changing the fourth estate p. 209
47 Interview - City Vision, Interview - Anonymous, Interview - Thom McLachlan and Speech by Raymond Louw p. 3

access and the effect is according to journalists that one doesn't get the information one needs in time for your deadline[48]. When we spoke to Tiyani Rikhotso he admitted to that his workload sometimes was so great that he sometimes "failed to entertain all requests or inquiries"[49]. He stated that he regularly received more than 100 calls per day but he was still of the opinion that this was the ultimate system stating that the officials have too much to do themselves to be constantly accessible by the press[50].

Whatever the reason for the non-accessibility of the ANC party, it is not an optimal situation. There are no international human rights documents stating that a governing party needs to be open towards the media but the current situation does not ameliorate the already strained ANC/media relationship. The perception of the journalists we have been talking to is that the ANC party is, if not hostile, so generally un-open towards the media and that such an attitude in the long run only can work as a catalyst in the deterioration of the said relationship.

---

48 Interview - City Vision and Interview - Anonymous
49 Interview - Tiyani Rikhotso
50 Ibid.

6 The legal environment

The South African press is to a high degree self-regulated. There is a system with a Press Ombudsman to whom you can turn if you feel wronged by the press. However there is still the possibility to turn to the traditional judicial system. Like in most democratic countries there are laws against defamation but in addition there are also still a few laws remaining from the Apartheid Era that has the potential to limit press freedom. We will deal with the changes within the different legislative areas during the concerned time period. To receive first hand and relatively impartial information of the legislation we spoke to Dario Milo, media lawyer at the prestigious law firm Webber Wentzel Bowens based in Johannesburg and the former and present Press Ombudsman of South Africa.

6.1 Freedom of expression

We will in this sub-section deal with the legislation that deals with and promotes press freedom in South Africa.

6.1.1 The South African constitution

The South African constitution states in section 16 that "Everyone has the right to freedom of expression, which includes, freedom of the press and other media […]" it further states that "[t]he right in subsection does not extend to propaganda for war, incitement of imminent violence or advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm"[51]. This is very similar to article 10 of one of the main human rights documents in the world; the European Convention for Human rights. The main difference between the two documents is that article 10 of the South African constitution states that;"Everyone has inherent dignity and the right to have their dignity respected and protected"[52]. This paragraph has in the Constitutional Court been weighed against section 16. This trade-off between human dignity and freedom of expression has been the basis for the concerned South African legislation.

---

[51] Constitution of the Republic of South Africa, 1996, p. 5
[52] Constitution of the Republic of South Africa, 1996, p. 4

Most of the informants and respondents that we have been interviewing are of the opinion that if a case is brought to the Constitutional Court the ruling will be fair and moderate[53].

6.1.2 The promotion of access to information act of 2000

There is a specific act that regulates the access to information and theoretically it is extremely liberal. Not only should there be free access to public documents but also to documents held by "another person" which can signify for example private companies. In reality it does not seem work accordingly[54]. The main critique that has been levelled against the act is that the processes you have to go through to obtain information are difficult, expensive and bureaucratic. Surveys have shown that media does not use the legislation because it is too cumbersome and that government officials abuse it to keep information to themselves[55].

6.1.3 Media development and diversity Agency act of 2002 (MDDA)

This act has been established so that "historically disadvantaged communities and persons have access to the media as owners, managers, producers and consumers of media"[56]. It currently supports mainly micro and medium sized media and is widely respected by most parts of media[57].

6.2 Regulation of media coverage

The last few years South Africa has seen an increasing trend among the rich and influential, according to many of our respondents. The trend is to sue a newspaper before publication of an article to get an intermediary publishing interdict. The case they argue is that the article is so defamatory that their human rights are violated. A normal scenario would then be that when the reporter phones the person being investigated in the article to get a comment this person goes to court to stop the article. In about 20 % of the cases the court rules in favour of the plaintiff and the article cannot be published[58]. According to Dario Milo these rulings are usually the effect of the great time pressure the individual judge is

---

53 Interview - Na'eem Jeenah, Interview - SAHRC, Interview - Anton Harber, Interview - Ed Linington and Interview - Dario Milo
[54] Promotion of access to information act No. 2, 2000
[55] Rhodes Journalism Review 26, September 2006, p. 34
[56] Media development and diversity agency act, 2002, p. 4
[57] Rhodes Journalism Review 26, September 2006, p. 35
58 Interview - Anton Harber

exposed to in addition to the fact that many judges are not read up on media law[59] However, this is just an intermediary decision and when a full hearing is done at a later date the newspaper is usually found to be right. But the ruling is by then mostly of academic interest because the harm has already been done and the story has cooled off.

Moreover, an intermediary publishing interdict can have enormous economical implications for a newspaper as it might be compelled to retract an already printed paper or black out the concerned article. The newspaper Mail and Guardian was in 2004 the victim of such an interdict when a court prohibited them from printing a follow-up article concerning a corruption scandal familiarly known as *Oilgate*. The journalists and the informants we have been talking to agree in general that this trend is a threat to press freedom[60]. According to Dario Milo it is far easier to do pre-publication censorship in South Africa than in for example the UK or the USA. In the UK one can get an interdict in cases that concern breached privacy but the fact that you can get it in cases regarding defamation is quite unique[61].

Even though this is a relatively recent trend in the South African media landscape there is according to Dario Milo and Ed Linington a robust support for press freedom within the judiciary[62]. A good development in the perspective of press freedom is that a recent Supreme Court of Appeal ruling establishes that in trials concerning defamation it is now up to the plaintiff to prove that the story is not of public interest. Earlier it was the journalist who had to prove his or her innocence in court[63]

6.3 Censorship under law

As earlier stated there are remnants of the apartheid regime within the South African legislation. Most such laws lie dormant but as it is part of the legislation they are sometimes referred to and can hence have a chilling effect on journalists[64].

6.3.1 Section 205 of the Criminal Procedure Act

Under this law, journalists can be subpoenaed to give evidence in judicial proceedings if the information they possess is deemed relevant to the solving of a

---

59 Interview - Dario Milo
60 Interview - Adriaan Basson, interview - Sunday Times and interview - Franz Krüger
61 Interview - Dario Milo
62 Interview - Ed Linington and Interview - Dario Milo
63 Ibid.
64 Interview - Ed Linington

case, and face imprisonment for refusal[65]. This law is seldom used but its mere presence might have a chilling effect on journalists. The law has not changed during recent years. However a memorandum of understanding was agreed between the Ministry of Justice, the Director of Public Prosecutions and the South African National Editors Forum in 1999 not to utilize this legislation. This has not been consistently observed though[66]

6.3.2 Protection of information act 84 of 1982

The fourth paragraph of the protection of information act 84 states that:

> Any person who has in his possession (…) any document, model, article or information which he knows or reasonably should know is kept, used, made or obtained in a prohibited place or relates to a prohibited place, anything in a prohibited place, armaments, the defence of the Republic, a military matter, a security matter or the prevention or combating of terrorism; and who discloses (…), publishes (…), retains (…) or neglects (…) to take proper care of such code shall be guilty of an offence and liable to a fine not exceeding R10000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment[67].

According to Dario Milo the minister of intelligence is relying much on this law and it is a very broad law. He even says that it is "a paranoid piece of legislation" and it makes editors reluctant to publish defence related material. It hence has a chilling effect on the media and there are no amendments in sight[68].

6.3.3 Criminal procedure act

Under this law it is prohibited to publish the identity of a person that is being charged with a crime before this person has had a chance to plea. This process can drag out and it is hence the view of many journalists that this limits their press freedom. In reality; many journalists break this law without repercussions but quite recently it was referred to in a high profile case. E-TV had made a documentary about a high profile murder. The Director of Public Prosecutions (DPP) insisted on viewing the documentary before it was aired and were granted an interdict before the Cape High Court. The television channel appealed and the supreme court of appeal ruled that they had no right to demand to see the documentary before it was aired. The court thereby reformulated the test for the circumstances in which publication of material should be banned in the interest of

---

65 KAF democracy report 2005 p. 258
66 Ibid.
67 Protection of information act 84 of 1982 p. 3-4
68 Interview - Dario Milo

the administration of justice. The effect of this rule is that "the courts will not interdict defamatory publications prior to their actual expression where the media intend to defend the publication unless a plaintiff can convincingly show at the interdict stage that the defamatory publication contains palpable untruths"[69].

6.4 Monopolies and cartels

There are no media monopolies in South Africa and even though most media is used by a few actors there have been no allegations nor any proof of cartels.

6.5 Journalists' personal security

Before going into details we would like to distinguish between overtly and covertly posed threats. By overt threats we mean threats that have been formulated explicitly and directed towards a journalist personally. By covert threats we aim at outlining threats that have been conducted to create a sense of fear by the use of implicit methods. Of the eight journalists we have interviewed the majority has been subjected to overt as well as covert threats aimed to jeopardize their personal security. They all state that the threats have escalated in the last couple of years.

Under the category overt threats we regard verbal or written attacks and physical violence as means to seek to limit a journalist sense of security. The majority of journalists we have spoken to have experienced verbal and written threats. The threats cannot be subscribed to one particular category of people neither are they always government related. However, one journalist who prefers to remain anonymous stated that "the most common persons to threat you are leftists from within the ANC". Yet the journalist was of the opinion that it is individuals within the party and not the party itself that disrespects press freedom. The same journalist had been shot at on one occasion for writing an article critical of the ANC.

With regards to implicit threats the most obvious one has been claims by journalists that they fear that their phones are being tapped by the state apparatus. At the Mail & Guardian the staff has felt forced to take security measures to protect their personal safety. They always work in teams when writing about a delicate issue. They never allow one person to have all the knowledge of something, and they never use company phones when talking about delicate

---

69 http://www.wwb.co.za/wwb/view/wwb/en/page142?oid=14266&sn=Detail and interview - Dario Milo

matters[70]. Two other journalists, who want to remain anonymous, confirm that there are suspicions of secret service interference.

The single fact that some of the journalists want to remain anonymous in our opinion also indicates that there is a climate of fear within the media. Whether there is a clear distinction or not that the fear originates from external pressure or from within the media corporation itself, is sometimes difficult to tell. However, journalists in South Africa do not in general belong to a trade union. According to a journalist at City Press not being a part of a trade union disables reporters from speaking with one voice. Hence, if faced with pressure from above any journalist will have to confront the whole corporation alone. "No one will back you up or help you with legal matter", the same journalist states[71]. So, despite the fact that journalists are well protected by South African law it is therefore not necessarily the case that unjust behaviour by the journalist's employer i.e. the media corporation will be taken into court.

Finally, we have found no proof that there exists racial discrimination in the media houses that jeopardizes the personal security of the journalists.

---

[70] Interview - Adriaan Basson
[71] Interview - City Vision

7 Political conditions

7.1 Coverage of marginal groups

Most major newspapers are printed in either English or Afrikaans. This can be a problem as 11 different languages hold official status in South Africa and in some parts of the country neither Afrikaans nor English is spoken[72].

In exercising the freedom of expression there is a problem with individual access and affordability for poor people in rural areas. Hence, in mainstream media it is often the urban and better-educated parts of the population who more easily exercise their rights[73].

7.2 Self-Censorship

There are mainly two reasons for self-censorship that have been referred to during our interviews; pressure from within the newspaper i.e. corporate censorship and racism. We have not come across anyone that claims that they self-censor due to state pressure.

7.2.1 Corporate censorship

In our interviews we have come across several different views concerning corporate censorship. The reporters at the newspapers that have a rumour of independence, the Sunday Times, Mail & Guardian and Business Day does not seem to have any personal problems with corporate censorship[74].

Amongst some interviewees the most worrying tendency is the increasing commercialization of media. Anthea Garman tells us the example of a columnist at the Afrikaans daily *Rapport* who wrote a chronicle on Satanism and who was fired as a consequense. The reason stated by the editor was that the report might

---

[72] http://search.eb.com.ludwig.lub.lu.se/eb/article-260125
[73] Rhodes Journalism Review 26, September 2006, p. 33
[74] Interview - Sunday Times, Interview - Adriaan Basson and Interview - Thom McLachlan

hurt the newspaper financially. She is of the opinion that there is a growing culture of fear amongst editors and that they are caving in to commercial pressure. A clear example of this is according to Anthea Garman that many newspapers have introduced managing directors that the editors have to answer to[75].

Another example is when the media company Media24 was found out to have boosted their numbers. Not one newspaper belonging to the group reported on the scandal[76].

There are reporters that have been the victim of more concrete forms of corporate censorship. Two reporters at City Vision stated that they have had stories cut down and censored. This is especially the case if one writes about social maladies[77]. This is in part confirmed in our interview with City Press that states that "you have to know what the boss wants to be able to climb in the organization[78]. Another reporter tells us that at his newspaper there is an unwritten policy of support towards Jacob Zuma. Consequently if one writes critical stories about him they have a great chance of being cancelled.

7.2.2 Self-censorship due to racism

The question of race is a delicate issue in South Africa and pressure due to sensitivity about race may transform into self-censorship. Most interviewees, whether these have been journalists or experts, agree that there are obvious limits to what can be written and who is allowed to write about racial topics. But they differ in opinions of to what extent such limits affects their own writing.

There are however opposition to the general statement that South African media is racist. The former Press Ombudsman, Ed Linington, argues that accusations of racism are political. This because newspapers of today mainly are constituted by black people; black owners, black editors, and black journalists. Thus, as a general statement he says, it is false to say that the media is racist[79]. The present Press Ombudsman, Joe Thloloe, is of the same opinion and refers to the Press Code which defies racism as well as to the fact that no one has taken complaints about racism to court. Instead, he argues, there are nuances between white and black publications but no racism. Three fourths of all editors are black[80]. However, people working within the media beg to differ. They argue that the media in South Africa is still a somewhat racist institution[81].

According to one of the journalists at City Press racism is manifested in inequalities in salaries and in discrimination in handing out assignments. The

---

[75] Interview - Anthea Garman
[76] Interview - Thom McLachlan
[77] Interview - City vision
[78] Interview - City Press
[79] Interview - Ed Linington
[80] Interview - Joe Thloloe
[81] Interview - Sunday Times, Interview - City Vision, Interview - City Press, Interview - Franz Krüger, Interview - Anthea Garman and Interview - Anton Harber

effect the latter has on the press freedom is that the stories that get published are the ones the editors want the journalists to write about. It also means that it is not necessarily the journalist most fitted for the job that gets the assignment. Thus, important things may be left out[82]. Thom McLachlan of the Business Day on the other hand, argues that the media is not racist. Yet he admits to the fact that there is a resistance against Black Economic Empowerment (BEE) within the media. BEE is mainly discussed if one has to, and the positive effects are more or less never reported on[83].

Journalists from City Vision and Sunday Times, who want to remain anonymous, see a difference between blacks and whites when it comes to media coverage. They argue that it is ok to depict black suffering, black corruption, and black robberies whereas it would be taboo to write similar things about whites[84]. Whether this is true or not is of lesser importance. What is important is the perception of the journalists and how such an understanding of the situation is deemed to result in self-censorship.

Finally, Franz Krüger makes an interesting analysis of media and racism. He argues that there is confusion between race and class. That the situation of many of the poor black people are being left out in the newspapers to the benefit of white people is due to the fact that the latter are consumers in a higher degree than poor black people.

7.3 Illegal state repression

Except for rumours amongst journalists and suspicions that the secret service is engaged in wiretappings there is no proof of illegal state repression.

7.4 Government control over print media

The government currently has no direct control over print media There is however no legislation that prohibits the possession of media by state connected actors. The appropriateness of this might be questioned. Below we outline the most remarkable attempts by the government to gain an enhanced influence over print media.

---

[82] Interview - City Press
[83] Interview - Thom McLachlan
[84] Interview - City Vision and Interview - Sunday Times

7.4.1 Koni bid on Avosa

During the last months of 2007 the Avosa-affair was exposed. Amongst our interviewees there are different views on the intentions and even the significance of this deal. There are informants who think it is a blatant attack on press freedom and that there was a real intention on the part of the ANC party, or actors within the ANC party, to shut up critical press[85]. There are others who think of it more as a warning shot, not a serious bid but more of a statement to show that if the ANC wanted to it could shut the media up[86]. The third opinion we have heard is that it is a strictly economical transaction[87]. Factors that point towards the first and second theory instead of the third one is 1) that the bid that Koni put was 2 billion rand over market price 2) it is not customary to acquire 100 % of the stocks in a company.

A fact that points towards the second or third theory is that no one can afford to run a newspaper that makes no profit. What the owners of Koni must have realized is that if they would come in and make major changes to the editorial and management of for example the Sunday Times, the paper would no longer be viewed as an objective reporter by its readership and would consequently lose most of its readership[88].

Even though no rules have been broken and the bid did not even go through there have been problems in the ruling party's dealing with this matter. In vigilantly defending itself it has once again showed itself incapable of calmly discussing the matter in an open manner. The President's response was instead to say that no fault had been committed and that the people close to him only owned less than 1 % of the shares in Koni[89], something that was contradicted by the public records.

7.4.2 Films and Publications amendment Bill and ICASA amendment act

As mentioned earlier there have been attempts to legislate infringements of the press freedom. This is not currently what you would define as government control but might become such. The most burning questions during these last couple of years have been the Films and Publications amendment Bill and the ICASA amendment act. There are several opinions about these laws; the opinion conveyed by the media lobby groups and some of the journalists is that the state once again is trying to infringe upon their press freedom[90]. There are other

---

[85] Interview - Adriaan Basson, Interview - Franz Krüger, interview - Ed Linington and Interview - Mondli Makhanya
[86] Interview - Anton Harber, Interview - Thom McLachlan, Interview - Anthea Garman
[87] Interview - City Press and Interview - Press Ombudsman
[88] Interview - Franz Krüger
[89] http://allafrica.com/stories/200711120635.html
[90] Interview - Na'eem Jeenah, Speech by Raymond Louw p. 4 and Interview - Mondli Makhanya

informants who are of the opinion that the government never had the intention to violate the press freedom and that the laws were there to fill a purpose but that they simply were badly constructed[91]. Certainly this has been an issue with the Films and Publications amendment Bill because one can simply not imagine how it would be carried out practically. To have all newspapers submit their articles to a board before every edition would effectively be unimaginable[92]. The ICASA amendment act did pass parliament but was eventually sent back by the president. This can be seen as a proof that the constitutional democracy is working.

Even if one sees the Films and Publications amendment Bill as a threat that has been posed against press freedom there is always the recourse of the constitutional court which according to many informants would not let the Bill pass in its present form[93]

7.4.3 Media tribunal

One of the tendencies that worry most journalists and informants we have been interviewing is the talks of a media tribunal. According to Dario Milo a media tribunal will "undeniably create a threat of censorship"[94] This shows that the ANC party is of the opinion that the media is out of control and needs to be restricted or in the words of the ANC:

> The ANC's commitment to press freedom is well known, entrenched and respected. However, the commission also expressed concern that in some cases the media conducts itself to the detriment of the Constitutional rights of others. The media needs to contribute to building a new society and be accountable for its actions. The ANC needs to make creative use of a range of mechanisms to communicate with the widest spectrum of South Africans[95].

According to the current press ombudsman Joe Thloloe, Esop Pahad had stated that the media tribunal would be quickly rejected at the policy conference in Polokwane[96]. In contrary to this the idea seems to have become even more entrenched within the ANC party after the Health Minister scandal. After the Polokwane conference ANC spokesperson Smuts Ngoyoma stated that a "task team would be set up to further investigate the necessity or otherwise of a media tribunal"[97].

---

[91] Interview - Anthea Garman and Interview - Franz Krüger
[92] Interview - Franz Krüger and Interview - Anton Harber
[93] Interview - Na'eem Jeenah, Interview - Anton Harber and Interview - Mondli Makhanya
[94] Interview - Dario Milo
[95] ANC National policy conference report. § 56
[96] Interview - Press Ombudsman
[97] http://www.news24.com/News24/South_Africa/Politics/0,,2-7-12_2242312,00.html

This once again might be an attempt to threaten the media because, according to the people we have been speaking too, a media tribunal would have no chance to stand up in the Constitutional Court[98].

Whatever the intention with the media tribunal might be, it is a significant example of the new attitude that parts of the ANC party hold towards the media. That is something that many interviewees agree upon[99].

[98] Interview - Mondli Makhanya
[99] Interview - Anton Harber, Interview - Thom McLachlan, Interview - Franz Krüger, Interview Ed Linington and Interview - Mondli Makhanya

8 Economic pressures

8.1 State subsidies of private media

There are no direct subsidies from the state to print media in South Africa but the state funded advertising in the media amounts to a great deal of most newspapers total revenue. The government hence has great potential power to influence media through economic pressures.

8.1.1 Regional newspapers

In several of our interviews there have been statements made that local governments have in fact in a very concrete manner cut advertising completely to newspapers that they have judged too critical of current policies. The Grocott's Mail is the main example that has been referred to. The municipality of Grahamstown was not happy with the coverage it received and consequently boycotted the paper both in respects to advertising and news material. This happened despite the fact that the newspaper had offered the municipality a platform in the form of a recurrent section within the newspaper[100]. According to Mondli Makhanya the editor of the Sunday Times the same thing has happened to The Mercury in the Kwazulu-Natal province[101] and according to the African Media Barometer project it has been known to happen on a provincial level as well[102].

8.1.2 Sunday Times

During the aftermath of the Sunday Times health minister scandal the Minister in the Presidency, Esop Pahad said that "in the light of Sunday Times reports on Tshabalala-Msimang and other reporting which, in his view, is sensationalist and deliberate miscommunication of the views and the position of government, then

---

[100] http://www.journalism.co.za/news/grahamstown-municipality-boycotts-grocotts-mail-5.html and Interview - Anthea Garman
[101] Interview - Mondli Makhanya
[102] Rhodes Journalism Review 26, September 2006, p. 36

the government must not advertise in the Sunday Times."[103] Even though this was later said to be the Minister's personal views it was looked upon with disapproval by the media. When we spoke to the Mondli Makhanya about the subject he alleged that there already is a policy within the ANC party not to advertise in the Sunday Times and that some government departments have already stopped advertising[104]. Mr Makhanya further stated that this has earlier happened to the prominent independent newspaper Mail & Guardian something that is confirmed by the African Media Barometer project[105].

When speaking to Dario Milo about the matter he said that the situation is legally unprecedented and hence not legislated against in South Africa. But he also said that if the case was to be brought to the constitutional court it would probably rely on international jurisprudence and condemn the action[106].

---

[103]http://www.iol.co.za/index.php?set_id=1&click_id=3045&art_id=vn20070907040544465C139120

[104] Interview - Mondli Makhanya

[105] Rhodes Journalism Review 26, September 2006, p. 36

[106] Interview - Dario Milo

9 Non-state repression

Repression towards the media conducted by actors that are not part of the government is non-existing in contemporary South Africa. Non-state repression occurs when the government fails to uphold legitimacy and/or power. South Africa is a consolidated democracy, if yet young, that has moved beyond any status of failed or failing statehood.

Influential private actors do try to exercise some pressure against media but to label such conduct as repression would be excessive.

10 Conclusion

10.1 The state of the South African press freedom

In this section we will weigh the evidence we have found against one another to see whether the press freedom in South Africa is in a decreasing trend. We will scrutinize the general tendencies within each chapter and finally provide a complete judgment of the state of the South African press freedom.

According to KAF the first step when estimating the level of press freedom in any country one has to establish a picture over the challenges the citizens have to face in order to be fully informed. The necessary preconditions in order for the media to reach a broad public are fairly well fulfilled in South Africa. The literacy rate has incrementally increased and the South African print media has since the end of Apartheid been free in the sense that it is owned neither by the government nor by any political party. However, a concern should be raised with regards to the recent attempts by people close to the ANC party to gain enhanced influence over the printed press. In the words of Ackerman-Rose, if media is associated by political parties the press freedom will find itself threatened. The Koni bid has been called off but people are still confused about the motives for making the bid in the first place. Was it a coincidence that Johncom Corporation entailed the Sowetan, the Sunday Times and the Daily Dispatch –three newspapers that had been highly critical of the ANC government?

When it comes to publicly run media the state influence is far higher than within the print media. The SABC and SAFM are public broadcasters but heavily influenced by the government and in addition to that they are the only broadcasting services that air in all the official languages. Since many of the newspapers do not reach the countryside, listening to SAFM or watching the SABC has for many become the only way to receive news. Taking into account the Blacklisting Scandal and opinions by some of our interviewees –that there has been a development towards a growing climate of fear in the SABC newsrooms the last couple of years –one may question the present impartiality of state run media. With reference to the Media Monitoring Project we dare to state that SABC has become far more government friendly than its counterpart, E-TV.

Also, at a general level, what will have further implications for the press freedom and the credibility of the media in South Africa is the presently poor dialogue between the state and privately owned media. A sound dialogue is according to the KAF of the utmost importance in the state-media relations. Without such a dialogue the press freedom will suffer. Poor accessibility to ANC

officials is a fact as well as that media has grown overly critical of the Government. The system with a Media Liaisons Officer follows a lengthy procedure and will in the long run further the already deteriorating relationship between state and media.

What ultimately is at stake is the prospect for government accountability. Despite a high literacy rate and free access to media formats high government influence over publicly run media and attempts to enhance influence over the independent private press will have implications for the government to adhere to public interest. This is not a sound element in the state capacity building process.

The rule of law is yet another element essential for press freedom. In our opinion South African printed press is challenged legally by new trends in the resort to interdicts, old apartheid laws, and by an increased climate of threats.

The Constitution that became effective in 1996 has not changed between 2003 and 2007. It expresses a profound protection of Freedom of Expression. However, what have changed during the investigated period are the Promotion of Access to Information Act and the Media Development and Diversity Act (MDDA). While the former is said to be abused by state officials the latter actually works in favour of the general public.

Hence, it is not clear if the creation of new laws works in favour of the press freedom and in the long run –the state capacity building –in South Africa. However, what is impossible to defy is the fact that the South African Constitution, since its implementation, genuinely works in favour of a free media. Thus it constitutes an essential foundation for the democracy in South Africa.

According to the printed press a more problematic and recent trend is the growing number of intermediary publishing interdicts. It should be classified as regulation of media coverage since it impedes the rights of the press to publish topical stories. However, such interdicts have so far only been made by influential non-government actors. Nevertheless it is a threat against the press freedom in the sense that the newspapers are denied the opportunity to conduct their work free from external regulation. Furthermore, journalists live with the knowledge of still existing apartheid law. Even though these are seldom utilized, the mere presence of them have a chilling effect on the journalists.

With regards to the personal security of the journalists threats aimed at silencing them has increased the last couple of years. These threats are both covert and overt and have forced journalists either to reorganize their working routines or to rethink before writing a critical article. The threats are conducted by both state and non-state actors.

Yet another fact that raises concerns of journalist's social security is that the non-affiliation to trade unions seems widely spread. Despite the fact that this is something that has been voluntarily chosen by the journalists it may have effects on press freedom.

As indicated in the KAF document, self-censorship due to internal pressure is a serious problem for press freedom. In our interviews we have found indications of an increasing commercialization of media. The oligopoly that exists in the South African media market does seem to standardize the output and suppress differing opinions. In our interviews we have been able to confirm that there

exists an increasing trend of corporate censorship and that it in fact is impeding press freedom.

The two bills that have been on the carpet during the time period we have been studying have both been widely criticized by media lobby groups and even though none of them will pass in their original form it shows a blatant indifference on the part of the ANC-party towards the sanctity of press freedom. Considering the fact that the bills had basically no chance of passing constitutional scrutiny it is probable that at least the latter had as a purpose to threaten media.

Once again with the media tribunal one has an idea which can not imaginably be implemented under the present constitution. This is a clear-cut case of what seems to be the new attitude within the ANC party.

Our conclusion concerning the ANC party and its adherence to the creed of press freedom is that within the party there are several factions and currently the faction that is more critical of the media is gaining ground. This can be seen through the fact that currently, within the ANC party, there are several vocal critics of press freedom but no real defenders of the same. It is seen as a game and the media and the party are irrevocably on opposite sides. This increasing paranoia on the part of the ANC party is not completely unjustified. Within the press there is also a great paranoia and relentlessness in its dealings with the party that can have instigated or at least increased the current attitude held by it.

In the question of economic pressures we once again have a situation where threats are posed against the media. On a local level the threats have also been carried through but with the current Sunday Times affair it is not probable that the government would full on confront South Africa's biggest newspaper because if it did it would most definitely lose face and would probably be taken to the constitutional court. Here lies the great power that the media possesses that was mentioned in the theoretical framework. A governing party can not break laws or rules of society without facing harsh judgments in the press. What one can establish is that the statements made by Esop Pahad are typical of the new attitude held by the governing party.

Although the press freedom in South Africa is in quite a good state currently one cannot say that it is problem-free. There is a multitude of threats that have been posed against press freedom but with the vibrant and vocal media none of them have been carried through. What South Africa has that many emerging democracies do not have is also an extremely strong constitution and an independent judiciary that vigilantly defends the human rights inscribed in it.

10.2 The adequacy of the theoretical framework of how to measure press freedom

KAF's five conditions and the following sub-indicators have proven to be efficient and adequate tools in our strife to map down the development of the

South African press freedom. We argue this since we have not come across any elements left out by the comprehensive framework the KAF offers. Yet we have conducted a unique field study with an in-depth focus that most likely has given birth to new material. Hence we argue that the theoretical framework has been put to test and proven its adequateness. Furthermore, it has helped us to prove our hypothesis right – that press freedom in South Africa has de facto decreased during the years between 2003 and 2007. But it has also helped us establish a more nuanced picture of the current situation which is something that is lacking in Freedom House's and Reporters without Borders's indexes.

11 Bibliography

11.1 Primary sources –Interviews

Basson, Adriaan is an investigative reporter who works with political, judicial and criminal reports at the Mail & Guardian. The Mail & Guardian is a Sunday paper distributed in Johannesburg. It has become known as the prime investigating journal in South Africa. The interview was conducted the 23rd of December 2007.

City Press is a national newspaper in English that is distributed mainly in Johannesburg. It has mainly a black readership. We spoke to an investigating reporter that wished to remain anonymous. The Interview was conducted the 27th of November.

City Vision is a free daily newspaper distributed in the townships of Johannesburg. We interviewed two journalists that wished to remain anonymous on the 21st of November 2007.

Garman, Anthea is the editor of Rhodes Journalism Review - a specialist magazine for journalists in South Africa and Africa. She is also a board member of South Africa National Editors Forum (SANEF) which is a lobby group that organizes editors in South Africa. The Interview was conducted the 29th of November 2007.

Harber, Anton is the Caxton Professor of Journalism and Media Studies and Director of the Journalism Program at the University of the Witwatersrand in Johannesburg. Harber has had a long career in journalism, media management and the training of journalists. The Interview was conducted the 19th of November 2007.

Hatang, Sello is the deputy director of the Promotion of Access to Information at the South African Human Rights Commission (SAHRC) and Tseliso Thipanyane is the CEO of the SAHRC. The SAHRC is a so called Chapter 9 institution it is hence state-funded but should be independent. The interview was conducted on the 9th of November 2007

Interview number eight was conducted on the 27th of November. The journalist wished to remain anonymous and we chose not to disclose the newspaper either due to specificities within the story.

Jeenah, Na'eem is the Director of Operations at the Freedom of Expression Institute (FXI). The FXI is the leading NGO in the press freedom area in South Africa. The interview was conducted the 8th of November 2007

Krüger, Franz teaches journalism at Wits University. He is also the press ombudsman at the Mail & Guardian and sits on the appeals panel for the current press ombudsman. The Interview was conducted the 30th of November 2007.

Linington, Ed is the former Press Ombudsman who retired at the end of July 2007. The interview was conducted the 3rd of December 2007.

Makhanya, Mondli, editor on the Sunday Times. The Sunday Times is the newspaper in South Africa that has the highest readership. It is a part of Johnnic communications. The newspaper has a fairly critical stance towards the government and has recently had some very high profile reports. We also spoke to a political reporter that wished to stay anonymous on the 26th of November 2007 and the editor Mondli Makhanya on the 11th of December 2007.

McLachlan, Thom is a media correspondent at the Business Day. The Business Day is a financial newspaper in English that is distributed mainly in Johannesburg. The interview was conducted the 28th of November 2007.

Milo, Dario is a media lawyer and partner of the prestigious firm Webber Wentzel Bowens. He has been involved in some way in most high profile press freedom cases the last couple of years. The interview was conducted the 12th of December 2007.

Rikhotso, Tiyani is the Media Liaisons Officer for the ANC party. He is a former radio reporter for the SAFM and now works at the ANC headquarters in Johannesburg. The Interview was conducted the 29th of November 2007.

Thloloe, Joe is the current Press Ombudsman of South Africa. The interview was conducted the 3rd of December 2007

11.2 Secondary sources

Ackerman-Rose, Susan, 2003. Establishing the Rule of Law in Rotberg, Robert, (ed.) *When States Fail. Causes and Consequences*. Princeton: Princeton University Press. Pp 182-221

”ANC considers media tribunal” Published on *news24.com* 2007-12-21. Retrieved from http://www.news24.com/News24/South_Africa/Politics/0,,2-7-12_2242312,00.html, 2008-01-07

“ANC National policy conference report”. Retrieved from www.anc.org.za/ancdocs/policy/2007/conference/international.pdf, 2008-01-07

Becker, B Lee – Vlad, Tudor – Nusser, Nancy, 2004. ” Media Freedom: Conceptualizing and Operationalizing the Outcome of Media Democratization” Paper presented to the Political Communication Research Section of the International Association for Media and Communication Research, at the conference in Porto Alegre, Brazil, July 25-30, 2004. Retrieved from http://www.grady.uga.edu/coxcenter/PDFs/Media%20Freedom.pdf, 2008-01-07

Benjamin, Chantelle “Mbeki defends Koni’s bid for Johncom media”. Published in *Business Day* 2007-11-12. Retrieved from mybroadband.co.za/news/General/General/1920.html, 2008-01-07

Busslek, Hendrik “African Media Barometer - South Africa” Published in *Rhodes Journalism Review* 2006-09. Retrieved from http://www.rjr.ru.ac.za/rjrpdf/rjr_no26/AMB%20South%20Africa.pdf, 2008-01-07

”Constitution of the Republic of South Africa, 1996”, Retrieved from http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN005172.pdf, 2008-01-07

Encyclopædia Britannica, 2008. *South Africa*. Retrieved from Encyclopædia Britannica Online. http://search.eb.com.ludwig.lub.lu.se/eb/article-260125, 2008-01-07

Esaiasson, Peter – Gilljam, Mikael – Oscarsson, Henrik – Wägnerud, Lena, 2003. *Metodpraktikan: Konsten att studera samhälle, individ och marknad*. Stockholm: Norstedts juridik.

”Films and publications amendment bill 2006”. Retrieved from www.pmg.org.za/bills/060914b27-06.pdf, 2008-01-07

“Grahamstown municipality boycotts Grocott’s Mail” published on *Journalism.co.za* 2007-09-15. Retrieved from http://www.journalism.co.za/news/grahamstown-municipality-boycotts-grocotts-mail-5.html, 2008-01-07

Hay, Colin, 2002. *Political Analysis: A Critical Introduction*. Hampshire: Palgrave

Konrad Adenauer Stiftung, 2005. *KAF Democracy Report 2005: Media and Democracy.* Bonn: Bouvier Verlag

Maker, Jocelyn –Power, Megan –Molele Charles –Naidu, Buddy. “Manto: a drunk and a thief”. Published in *Sunday Times* 2007-08-19. Retrieved from http://www.thetimes.co.za/SpecialReports/Manto/Article.aspx?id=542808, 2008-01-07

Mbeki, Thabo. “Anc Today Volume 7, No. 44,” Published 2007-11-09. Retrieved from http://www.anc.org.za/ancdocs/anctoday/2007/at44.htm, 2008-01-07

”Media development and diversity agency act, 2002”. Retrieved from www.gcis.gov.za/docs/act_bill/b2b-02.pdf, 2008-01-07

Milo, Dario and Steyn, Pamela. “Media freedom in the courts 2007” Published in *Sunday independent* 2007-12-15. Retrieved from http://www.wwb.co.za/wwb/view/wwb/en/page142?oid=14266&sn=Detail, 2008-01-07

Naidu, Buddy and Piliso Simpiwe “Mbeki men in R7bn bid to own Sunday Times”. Published in *Sunday Times* 2007-04-11. Retrieved from http://www.thetimes.co.za/News/Article.aspx?id=604481, 2008-01-07

Ngalwa, Sibusiso “Pahad may cancel adverts in Sunday Times”. Published in *Cape Times* 2007-09-11. Retrieved from http://www.iol.co.za/index.php?set_id=1&click_id=3045&art_id=vn20070907040544465C139120, 2008-01-07

“Perlman to leave SABC”. Published on *journalism.co.za* 2007-01-30. Retrieved from http://www.journalism.co.za/news/perlman-to-leave-sabc-4.html, 2008-01-07

”Promotion of access to information act No. 2, 2000”. Retrieved from www.info.gov.za/gazette/acts/2000/a2-00.pdf, 2008-01-07

”Protection of information act 84 of 1982”. Retrieved from www.nia.org.za/LEGISLATION/PROTECTION%20OF%20INFORMATION%20ACT%2084%20OF%201982.doc, 2008-01-07

Ruth Teer-Tomaselli, 2005. The role of the public broadcaster in Hadland, Adrian (ed.) *Changing the fourth estate - Essays on South African journalism*. Cape Town HSRC Press

“SABC Blacklist report” Published on the *Mail & Guardian* website 2006-10-14. Retrieved from http://www.mg.co.za/ContentImages/286848/SABCBLACKLISTREPORT.pdf , 2008-01-07

“South Africa: Mbeki Defends Koni's Bid for Johncom Media” Published in *Business Day* 2007-11-12. Retrieved from http://allafrica.com/stories/200711120635.html, 2008-01-07

UNICEF statistics: South Africa. Retrieved from http://www.unicef.org/infobycountry/southafrica_statistics.html 2008-01-07

Freedom House’s official website: www.freedomhouse.org