



Children's Rights Centre

September 2010

Brief on Media and Children's Rights in South Africa

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1. Children's rights and the freedom of the press are under threat

Freedom of the press is vital for all of us, but particularly for those who need fearless people to speak up on their behalf because they have no vote and little voice - and these are our children. Our rights, our safety and wellbeing and those of our children, depend on a clean, efficient government, a government by leaders who have values and a keen conscience. And the best definition of 'conscience' in this sea of frail humanity is 'the still, small voice that tells us someone is looking'. Vigilant monitoring (keeping an eye on government and other leaders) is dependent on transparency and the free flow of information. "The price of freedom is eternal vigilance" as the slogan says. Without freedom of speech our leaders and the civil service – and big business – will be able to get away with corrupt, ineffective, lazy, self-serving practices. And our children will suffer!

The press and media are already subject to common law regarding libel and hate speech. There are also very strict laws against all forms of child pornography. The only valid argument for special restrictions on freedom of the press is 'national security'. Human rights activists agree with this limited censorship, but on condition that there are strict definitions of 'national security' – no vague language that enables any little clerk or self-serving politician or business executive to extend the ban to cover up his or her misdemeanors! Those responsible for any censorship, under the Information Bill or the proposed Media Tribunal, need to be independent, clearly identified, and themselves accountable.

2. RIGHT2KNOW – Campaign to stop the Secrecy Bill

A responsive and accountable democracy that can meet the basic needs of our people is built upon transparency and the free flow of information. The gains of South Africans' struggle for freedom are threatened by the Protection of Information Bill (the Secrecy Bill currently before Parliament). We accept the need to replace apartheid-era secrecy legislation. However, this Bill extends the veil of secrecy in a manner reminiscent of that same apartheid past. **This Bill fundamentally undermines the struggle for whistleblower protection and access to information. It is one of a number of proposed measures which could have the combined effect of fundamentally undermining the right to access information and the freedom of expression enshrined in the Constitution.**



Our concerns

The Bill will create a society of secrets.

- Any state agency, government department, even a parastatal and your local municipality, can classify public information as secret.
- Anything and everything can potentially be classified as secret at official discretion if it is in the 'national interest'. Even ordinary information relating to service delivery can become secret.
- Commercial information can be made secret, making it very difficult to hold business and government to account for inefficiency and corruption.
- Anyone involved in the 'unauthorised' handling and disclosure of classified information can be prosecuted, not just the state official who leaks information, as is the case in other democracies.
- In some cases the disclosure of information that is not formally classified can land citizens in jail. This will lead to self-censorship and have a chilling effect on free speech.
- Whistle-blowers and journalists could face more time in prison than officials who deliberately conceal public information that should be disclosed.
- A veil is drawn over the workings of the intelligence services. It will prevent public scrutiny of our spies should they abuse their power or breach human rights.

Who will guard the guardians?

- Officials don't need to give reasons for making information secret.
- There is no independent oversight mechanism to prevent information in the public interest from being made secret.
- The minister of state security becomes the arbiter of what information must remain secret or may be disclosed to the public.
- Even the leaking of secret information in the public interest is criminalised.
- Unusually severe penalties of up to 25 years in prison will silence whistle-blowers, civil society, and journalists doing their job.
- All these factors will limit public scrutiny of business and government, through Parliament or journalists. Accountability will be curtailed and service delivery undermined.

Our demands

The Constitution demands accountable, open and responsive government, realised through, among other things, freedom of expression and access to information. Our elected representatives are bound by these constitutional values and any legislation they pass must comply. We demand that the Protection of Information Bill must reflect the following:

- Limit secrecy to core state bodies in the security sector such as the police, defence and intelligence.
- Limit secrecy to strictly define national security matters and no more. Officials must give reasons for making information secret.
- Exclude commercial information from this Bill.
- Do not exempt the intelligence agencies from public scrutiny.
- Do not apply penalties for unauthorised disclosure to society at large, only those responsible for keeping secrets.
- An independent body, appointed by Parliament and not the Minister of Intelligence, should be the arbiter of decisions about what may be made secret.
- Do not criminalise the legitimate disclosure of secrets in the public interest.

Sign on, circulate, educate, activate: www.r2k.org.za/index.php?page=sign-on.php



3. Child safety and censorship

Media freedom, and censorship, applies to all communication devices – films, videos, CDs, the internet and cellular phones etc., as well as print media and publications. Children need to be on the agenda when media freedom is debated, particularly as one of the key arguments for censorship is often the cry ‘Protect the children!’

In the UN Convention on the Rights of the Child, Article 13 states:

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

Article 13 UN Convention on the Rights of the Child

While this right to information appears unrestricted, it is in fact limited by the principles of the Convention, especially the principle that all decisions must be in the child’s best interests, and that parents have a duty and right to guide their children.

Looking at children’s rights, what are the specific arguments for limiting freedom of speech?

1. SAFETY:

We are committed to the protection of children in our Constitution and this is why it is a criminal offence to involve a child in producing or watching images of sexual activities and pornography.

Child pornography images are part of a cycle of child sexual abuse and exploitation. In terms of the Films and Publications Act, as amended, a child pornography image is defined as any image or description of sexual conduct involving persons under the age of 18 years. Every child abuse image is evidence of the commission of a serious crime. Apart from the child victim, parents and relatives are victimised as they suffer the knowledge of the abuse of their child. This activity, therefore, has far reaching implications socially.

The Films and Publications Act has been amended to make the investigation and prosecution of child pornography offenders more effective. According to the Act, it is also an offence to **possess, create, produce, distribute, import, access, advertise or promote** child pornography images. Each of these acts carries a maximum penalty of 10 years imprisonment. Failure to report knowledge of child pornography images to the police is also an offence. If anyone commits any of these acts related to child pornography outside South Africa, they may still be prosecuted when they return to the country.

Members of the public are reminded that they have an obligation to report any knowledge of child pornography and related incidents.

The hotline contact number to call is 0800-148-148

**Alternatively, an online message can be sent to Pro Child (linked with Interpol).
Go to www.fpbprochild.org.za**



Adult content and age restrictions. The Film and Publications Board (FPB) classifies films, videos, DVDs, computer games and certain publications for their suitable age viewership. It is then up to viewers to make informed choices about what they – and in particular their children – should or should not see. The FPB classifies all film material distributed in South Africa, except that shown on TV. Broadcasters have their own regulatory body.

2. PRIVACY:

Privacy is linked to human dignity and this is a right guaranteed in our Constitution to every person, young or old. The UN Convention also refers to the protection of the law against unlawful attacks on a child's honour or reputation or interference with their privacy.

Filters against child porn websites?

Several governments are looking at legislation for filters that would force internet service providers (ISPs) to identify and block child porn from coming into the country concerned:

Melbourne – 09 July 2010: Three of Australia's biggest Internet service providers agreed on Friday to voluntarily block child pornography online before the government introduces its mandatory filter, Communications Minister Stephen Conroy said. Telstra, Optus and Primus will block a list of URLs compiled by the government's Communications and Media Authority. But the companies would not confirm their support for the proposed filter, which would make Australia one of the strictest Internet regulators among the world's democracies. Conroy also announced a review would be conducted into the guidelines for the banned content under that filter. The restricted content includes child abuse material, bestiality, rape and other extreme violence and terrorist acts. The Internet filter proposal needs the support of Parliament to become law later this year.

Some critics of the proposed filter have said it puts the nation in the same censorship league as China, and Internet giants Google and Yahoo have called it heavy-handed. The US State Department said in April that open Internet access encouraged economic prosperity and the free flow of information. – Sapa-AP

4. Children's rights to access information and also to be heard

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But no one has the right to bar children from access to information they need to be safe, to understand their world and to develop to their full potential. A free flow of information from different viewpoints challenges children to be critical thinkers, and helps them in the vital task of establishing their own set of values. It also increases their 'emotional IQ' or empathy with others, helping them not to be biased or prejudiced.



5. Children's views not in the news

Publication: Children's Views not in the News - Portrayal of Children in South African Print Media 2009-2010 (Media Monitoring Africa -MMA). This review of print media over the last 2 years shows little effort is made to give children a voice or even to consider their views when publishing! News on children is generally sensationalised and children are still stereotyped as 'villains' (usually teenagers) or 'little angels' (usually the very young).

Only 11.3% of stories deal with children and their issues. Of these 11.3%, only 34% actually refer to children as sources, and of these only 14% of children are quoted, either directly or indirectly. For every story written about children, an average of 1.3 children were involved or consulted. Journalists accessed children either directly or indirectly in just 14% of cases. In most stories involving children (59%), they are not even named, but are just mentioned, often by only referring to their age.

The number of in-depth analysis or feature articles has fallen to 3%, down from 8% in the 2009 report. The vast majority of stories on children fall within the category of hard news. That figure now stands at 66%, up 4% on last year's results. This is a worrying development as the emphasis on hard news leaves little room for addressing children's concerns. Children's rights were clearly violated in 2% of stories monitored, by either directly or indirectly identifying them when it was not in a child's best interests. This tends to occur most frequently in stories of abuse where the child's identity is revealed. This year has seen a small improvement on last year, a decrease of 1%, while the figure has dropped by 8% since the research in 2003.

Headlines now appear to respect children's rights 79% of the time, an improvement of 18% on last year. While only 42% of the actual stories clearly made efforts to respect or reinforce children's rights, this is up 4% on last year. Regrettably however, when considered collectively, headlines, copy and photos clearly considered children's rights in only 2% of all cases - down 2% on 2009.

Education, disaster/accident and personality or profile pieces are the 3 most reported on topics when it comes to reporting on children. Collectively they make up 35% of all children's news stories. Whilst *The Times* scored highest in terms of the quantity of stories published on children, (18.4%), the *Sowetan* was rated highest in a qualitative assessment of its representation of children (as evaluated with the DRIVE criteria – looking at Diversity, Respect for Rights, Issues Covered, Voices Heard and Ethical Approach).

Source: www.mediamonitoringafrica

6. Giving children a voice: Anna's speech on children's rights- July 2010

This is the speech Anna, a 15-year-old learner, gave to her class as a result of the sudden and imposed changes to school classes without any warning or consultation with the children affected.

We are happy to give children a voice in our newsletters, and congratulate Anna on the stand she took.

"In 1976 the youth of South Africa started riots about this issue [Children's Rights] and in 2005 Navatheem Pillay took [our school] to the KwaZulu Natal High Courts and later to the Constitutional court. All of this was done because of a patriarchal discrimination against our rights to freedom of expression and participation. And now the leaders of [our school] have done it again. Without



participation or our opinion being expressed they've mixed 'a racially incorrect school' into 'a racially correct school'.

On 9 June 2010 the Grade 9s of [our school] were, without notice, moved to different classes. We were told to lead down to the Ref area in the last ½ hour of the day, there everyone was told to move [into new classes] quickly with no further discussion. While some were happy to be moved to a better class, the majority of us spent the next few day days dwelling in anger and frustration and sadness and even confusion.

The reason for the move was that at the beginning of the year classes were split up according to mark and classes ended up racially segregated. But in actual fact, and I quote, "the grade was split up because two of the Grade 9 classes were made up of predominantly black learners. In a multi-cultural environment that we promote at [our school] this has not been appropriate". This is not appropriate in [our school] let alone in South Africa.

So just as the youth in 1976, the girls in our year need to be heard so I'm going to make my stand now by starting with this... In a book of laws protecting children's rights, known as the UN Convention on the Rights of the Child, there are many rights that have been violated against us, such as:

- Our right to **Non-discrimination** (Article 2): This article states that we are protected against any form of unfair treatment or discrimination because of gender, race, disability or class and how many of you feel this right has been abused because of the schools' mismanagement?
- **The child's opinion** (Article 12): In this article we are allowed to express opinions freely and have that opinion taken into account in any matter or procedure affecting ourselves...this right is fundamental in all children's laws and how many of you know that this right has not been put into action? On the 9th we were told strongly that we could not question and discuss the procedure.
- **Freedom of expression, thought and word** (Article 13): Were we given the freedom let alone the opportunity to express our thoughts about this disruptive process in our class and school community? All of you most probably answered *no* to this question and according to article number 13 we are allowed to seek information and share it freely by law! This means we are allowed to express our thoughts with anyone and everyone through poetry, posters, writing, pamphlets and protests. Although a daunting task to do alone, we also have a right to group together and make ourselves heard (Freedom of Association, Article 15).
- **Aims of education** (Article 29): According to Article 29, education is a not purely just about getting a matric result but to prepare for an active adult life in a free society that respects culture identity language and values of others. Here the school has created a racial crisis demonstrating segregation rather that integration and inclusion. But not only were Children's Rights discriminated against but some of our human rights were offended. Although I won't go into detail about these rights I'd like to point out a few...namely... our rights to freedom of association, freedom of expression, freedom to participate, [right to] dignity and non-discrimination. Crushed by this mix up we've lost special friends and working companions but let's acknowledge we're not to blame for it and that we can make a difference by putting into practice our rights as humans and as children. So girls of 2010 lets stand up and make our voices heard amongst our controlling hierarchical society... Let's start with just a small step by making our voices heard amongst adults. Let's show them we have the capacity and wisdom to be part of the solution rather than perpetuating the problem."

