

ACCESS TO INFORMATION AND USE THEREOF IN SOUTH AFRICAN POLITICS AND MEDIA: IS STRICT REGULATION REQUIRED?

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ABSTRACT

This paper analyses and evaluates the access to information and the security and use of such information in the South African public administration environment. South Africa assured its citizens of access to information and right to freedom of speech and expression. Information classified as secured is often used haphazardly by media and politicians disregarding the nature and sensitiveness of issues, then destroying people and organisations unnecessarily. This paper therefore uses a literature analysis approach to argue that information security in South Africa is abused in the name of access to information, freedom of speech and expression only when is convenient for politicians and the press. Depending on who is affected the individual image is put at risk while the perpetrators are not taken to task for biased use of information. This paper therefore concludes that if objective measures are put in place to secure and protect the integrity of people and information, the public administration environment can be well managed. The promotion of cheap popular politics and the misleading of public opinion can be reduced and we can have media that will guard our democracy, educate society and be informative in an objective manner.

Keywords: Freedom of Expression, Human Rights Organisations, Media Appeals Tribunal, Media Regulation, Access to Information, Politics.

Introduction

The South African government passed legislation on access to information which gives the public and organisations in the country a right to information, free expression and opinion on issues of public relevance while the other specific information because of its sensitiveness remains confidential and highly classified and can only be accessed responsibly through formal procedures and requests. The latter information has, however, often been accessed and publicised without due procedures by politicians, public officials and the media. That was ultimately used to make decisions in a manner that contradicts the legislation without consequences to politicians, the media or officials responsible. An attempt by the government to regulate the media in this regard was not seen as being an effective measure. The weak legal system pretends not to see when such abuse of information is continuously used to target politicians who lost favour in the system as well as other public figures in the society.

The legislation that takes care of information security and risk should be effectively enforced in order to limit the level of abuse that often reveals itself in the political arena that gives the media a share in the profits. Information on individuals or corporations, which is held by the government,

should be protected from abuse by both the politicians and the media. Lack of control of access of secured information by the government usually leads to abuse by politicians and the media and pushes cheap popular politics and misleads the public.

The Governments and Media in International Context

Many governments around the globe have different relations with the media operations in their administration. Freedom of expression by the media is promised in most government administrations such as South Africa (Sebola, 2012) and other democratic countries, while in other governments, such as in Azerbaijani and Singapore, the hostility between government administration and the media is clearly documented in laws (Gomez & Long, 2005:4-55; Vincent, Baris & Bonilla, 2010:2-27) through restrictions by other sections of their constitutions. The purpose of those restrictive sections is to protect members of the public and politicians from being unnecessarily destroyed by the media. McCracken and Louw (2012) refer to those restrictive sections as insulting laws to the press freedom because indeed the freedom of the press should be unconditional. There are also cases of government administration throughout the globe in which freedom of the press is promised and guaranteed through constitutional provisions, however, with little brutality on the press that seem to criticise the ruling elite. Mexico is considered the most dangerous country in the world where journalists' lives are highly threatened (Schneider, 2011) and therefore media freedom is highly threatened. Azerbaijani's Constitution guarantees freedom of expression but is restricted by the defamation provisions in the criminal procedures Act of the same constitution which ultimately become an insult to the press freedom law.

Singapore and Botswana have constitutions that guarantee freedom of expression, but set limitations on issues such as those considered to be in the interests of the security of a country, harmony among citizens, the reputation of other people, public order, suppression of disorder, incitement and protection of privileges of parliament (Maripe, 2003; Gomez & Long, 2005:17). They limit the right to freedom of expression as espoused in those constitutions. Such limits of expression for journalists ultimately contribute to the public's failure to obtain information and therefore the right to access to information by the public is denied or limited. Zimbabwe's constitution is one of the best that puts on paper its guarantee for freedom of expression, freedom of the media and access to information (Sibanda, 2015:1), however, like in all other countries the public or the affected complain about legal and extra-legal hindrances that limit the rights espoused in the constitution (MISA-Zimbabwe, n.d:1-11; Patel, 1997). It can be deduced that the notion of the freedom of expression and access to information is not as easy as can be espoused in democratic constitutions. Arguments have always been raised about democratic constitutions, to the effect that no right is an absolute right. Practical realities of democratic constitutions have ever revealed that one's own right limits the right

of the next person. Matyszak (2013) argues that limited rights are often considered by countries' constitutions in order to ensure that the exercising of those rights by others does not prejudice the rights and freedom of others. It has been widely acknowledged in many academic sources of law making that there is indeed no law that achieves mutual exclusive ends for everyone. From time to time it becomes clear that a law that benefits the one person to a particular extent de-benefits the other person in one way or the other.

While constitutions are supposedly drafted on the basis of the political will of the people through elected politicians, their legal contexts differ from the political ones. Thus far in terms of guaranteeing freedom of expression and access to information by democratic constitutions only a thin line divides democratic constitutions from autocratic ones. There are worse reported beatings, jailing's and maiming of journalists in constitutional democratic countries such as Zimbabwe, than in some autocratic countries. The ill-treatment of journalists across the globe seems similar world-wide, especially in countries such as Tunisia, Yemen and the Arab emirates being rated high in terms of lack of freedom of the press. In Africa press freedom and access to information is enshrined in constitutions. However, African journalists experience similar problems to those experienced worldwide: of being tortured and persecuted by ruling parties for their independent reporting. Gilbach and Sonin (2014) noted that the influence or control of media information by the state results in lowering the standard of reporting and increased biasness which ultimately causes the populace to lose interest in watching, listening or reading the news reported. Consequently, the control of information in the news room by the state compromises both the quality and the credibility of the state.

Media and Democracy

The role of the media in democracy is an old narrative traceable to the work of the American writer Walter Lippmann and the American philosopher John Dewey (Sebola, 2012; Sebola, Tsheola & Molopa, 2014). Lippmann's perception is that journalists are to record and pass information to the people as it is without any possibility of doctoring the idea, while Dewey argues that the recorded information should be passed on with an analysis to influence public opinion. Maybe Lippmann's perception if well implemented could save journalists the trouble of providing journalistic analysis which is often seen as inciting negative opinion in the minds of the public. It can however be mentioned that Dewey's perception of the role of the media has exaggerated the role of journalists in which they have perceived their role to be the one of manipulating information so as to direct the perception of the information to suit their personal agendas. Most academic writings about the role of media in politics have overemphasized the way in which media help to shape the public opinion and influence public policies and strengthen democracy (Bgoya, 2004; Wasserman & De Beer, 2005, Esuh, 2008; Sebola, 2012, Duncan, 2014, Gehlbach & Sonin, 2014) to the specific direction. Little is often

emphasised about how subjective reporting by the media has contributed to compromising democracy in developed and developing countries. According to Maparura (2014), most journalists do not even show human conscience about the damage they might have caused from the effect of their subjective reporting. On the one hand, politicians in their elected offices claim to be the custodians and drivers of democracy on behalf of the people. On the other, journalists claim a moral responsibility for giving the public the information that is due to them which Patel (1997) regards as a right to receive and a right to impart.

Politicians claim power of ownership of the people, while the media claim power of ownership of knowledge of information to the people. As much as the media want to hold the politicians to account (as democratically required), seeing themselves as a watchdog to safeguard the ethical correctness of politicians; so too do the politicians with their political and legal power want to hold the media ethically accountable through their legislative powers. Hence a restrictive act by the politicians is an act which the media does not accept easily since they want to operate without hindrances and oppressive control. In South Africa, monitoring institutions such as the South African National Editors Forum (SANEF) and the South African Press Council were said to be ineffective in media control and monitoring. Parties in opposition to these two monitoring institutions have argued that the media in the country unethically conducts their business of damaging other institutions and people, without these institutions doing anything about the journalists.

Shepperson and Tomaselli (2005) and Maparura (2010:1-5) revealed that there is indeed no clear distinction of a right or wrong between the politicians and the media when it comes to ethics because journalists often abuse their power of knowledge dissemination to push for selfish interests against specific politicians. The fact that the current society is an information society does not guarantee the public of the assimilation of genuine and objective information to be obtained from the different sources of media moguls in their country and outside. The media industry worldwide is currently overwhelmed by ethical problems and concern about finding common ground as to which ethical values and models (Wassermann, 2006) are acceptable to govern the role of the media in democracy. As ever argued (Wassermann, 2006; Sebola, 2014), ethical guidelines are from the West and which rarely conform to the local realities of most developing countries. That in itself confuses the role of the media in democracy which thus far is viewed from both a subjective and an objective perspective depending on whose ethics our argument is based.

The media and the disregard for ethical guidelines as a foundation of practice have fuelled the problem of the significant role of the media in a democracy of the twenty first century. The conflict between the media, public figures (business elites) and politicians has been noted in most countries' legal proceedings. In South Africa recently President Jacob Zuma is suing Media24 editor Tim du Toit

for R5 million for allegedly harming his reputation and dignity in which he is compared to using Dingaan strategy of befriending the Afrikaner volk when indeed he wanted to have them dead (South African Press Association, 2013:1). Singer Jurie Els is suing Media24 for R 4.5 million on publishing a story that alleged that he sexually molested Robby Klay when he was still a minor; a case that Jurie was acquitted in the Pretoria high Court (De Bruin, 2011:1). Politicians and public figures (business elites) complain about how the media is operating as a law unto themselves without proper regulatory authority. The regulatory authorities that exist in South Africa are not viewed as being effective. Nyamnjoh (2014) sees that as a danger in which the press often sees itself as the fourth authority and as Serfontein (2013) further argues, as a gate keeper of public knowledge. That in itself reveals the danger of trusting the media as a sole instrument of shaping public opinion because indeed even the politicians need a good media platform to convince the public to buy into of their opinion. The public opinion needs to be placed under the guardianship of ethically sound media regulatory system that should monitor and oversee media objectivity and not suppression. Even within the regulatory framework; the democratic system of government can be trusted by its own people only if they so wish. White and McAllister (nd: 210-213) showed that in Russia the average citizenship is of the opinion that government controlled media in their country is the most objective and reliable source of information. That is however an issue for debate since in communist countries the media is likely to be state controlled and owned. Toepfl (2013) noted that in countries such as Russia and Czech despite the fall of communism, their governments still find it difficult to unleash the media of its control. Media industries in those countries are however currently taking a western model which is fairly believed to be democratic and promising freedom of expression and independent reporting.

The Government of South Africa and Media

From a constitutional perspective the South African government promotes freedom of expression and media independence as well as right of access to information. That however does not mean that such rights and freedom are exercised and enjoyed as expected in the constitution (National Community Radio Forum, 2003:1-29; Serfontein and Serfontein, 2013; Duncan, 2014; Leonard, 2014). The African National Congress (ANC) government published its media charter in 1992 in which it committed itself to empower people in gaining access to media information, to set broadcasts and to increase media rights (Fourie, 2002). The country is hailed as one of the 57 countries in the globe to create mechanisms of accessing government held information and in Africa The first to enact freedom of information laws (Richter, 2005). But having to argue the implementation of such rights and access from a practical perspective only a contradiction can be revealed. Section 16 of the Constitution of the Republic of South Africa, 1996 reads thus;

“Everyone has the right to freedom of expression which includes-

- (a) Freedom of the press and other media
- (b) Freedom to receive or impart information or ideas
- (c) Freedom of artistic creativity; and
- (d) Academic freedom and freedom of scientific research.”

Section 32(1) of the same Constitution provide for the protection of the rights of the media and everyone as it states that; “Everyone has a right of access to:

- (a) any information held by the state
- (b) any information that is held by another person and that is required for the exercise or protection of any rights.”

Motala (2006:153) and Leonard (2014) hail these rights as the most important feature of democracy in a country like South Africa with a poor history of media censorship under the apartheid rule. What becomes clear out of this kind of discussion is that South Africa’s constitution like all other constitutions in Africa (not limited to Malawi, Botswana, Zambia, Swaziland, Zimbabwe, Lesotho, Namibia and Tanzania) and other developed and developing countries, ensures the citizens and organisations (Media) the right to freedom of expression and access to information as found required. A similar pattern of practice in all countries that promise freedom of expression and access to information is that such freedom of expression and access to information is highly restricted by similar laws in their constitutions. This is mainly based on the assumption that rights have a tendency of practically conflicting with each other in the implementation of law (Limpitlaw, 2012:8). Many Human Rights organisations’ concern about media freedom and information, such as the International Covenant on Civil and Political Rights (ICCPR), in their Article 19 declare that the right to freedom of expression can often be used unfairly to:

- (a) Ruin a person’s reputation through the publication of untrue defamatory statements and therefore infringe upon that person dignity
- (b) Justify the taking of intimate photographs of a person and therefore violate his or her right to privacy.

From this it can be deduced that a fair and objective freedom of expression is not mutually achievable in the practical social life environment. But for South Africa, being a freshman in democracy, ambitiously adopted policies in the best interests of freedom which the ruling political elite believe they were denied by the previous apartheid regime. Most of the rights and freedom as expressed in the Freedom Charter and the Constitution can be linked to former State President Nelson Mandela’s speech at the opening of the South African parliament, Cape Town 25 May 1994, in which he stated that:

Our single most important challenge is therefore to help establish a social order in which the freedom of the individual will truly mean the freedom of the individual. We must construct that people-centred society of freedom in such a manner that it guarantees the political liberties and the human rights of all our citizens. (1994, p.20)

It can be deduced from the above sentiments that freedom and liberty dominated South Africa's political discourses in which the realities were often neglected when liberal treaties were adopted and practiced to satisfy the western model of democracies. South Africa seems to have in the process of its adoption ignored its legal, cultural and democratic context which should be in synchronous with the adopted practices. Freedom of expression, the media and access to information dominated the political patterns and education of the citizenry of the country. The question that was never looked at was whether the media and every citizen can enjoy the privileges promised by the law of the country in terms of access and genuine use of information obtained. Based on this we need to look at whether the access to information and the use of freedom of expression is not abused by either the politicians or the media. The use or abuse of information by either the media or politicians in Africa and South Africa is often viewed from a subjective perspective. The ownership and directorship of some media corporations are either owned by people that are politically influential or connected therefore putting the objective use of media information at a prime risk. In Kenya, for example, Uhuru Kenyatha owns the most influential television stations in the country, therefore his role as the President of the country and his control of information of the state is likely to shape the opinion of the Kenyan to the direction he may wish (Mail & Guardian, 2014; Sebola, 2015). To a particular extent it is the educational level and political awareness of communities that determines the effectiveness of an adopted media policy stand. In South Africa a business man and political heavy weight Tokyo Sexwale is still believed to be the owner of Times Media.

Use and Abuse of Information by the South African Media

The South African politicians of different racial groups' fought for freedom of the media and its political right of freedom of expression and access to information that would educate the public. Such freedom wished by many who failed to see it (Sebola, 2012, Sebola, Tsheola & Molopa, 2014) it may seem was not anticipated along the ethical lines of reporting and regulation that came to characterize the long awaited media freedom victory. Ward (2004:57) indicated that the media should operate on three basic ethical imperatives which are;

- To inquire into important truths for the public, in an independent, verified, comprehensive and objective manner.
- To inquire into vital social and political issues (and values) so as to assist reasonable public deliberation and to hold officials accountable.

- To adopt an objective stand when engaging in (a) and (b)

The South African media indeed fought for freedom of expression but could not predict how that battle was going to be affected by ethical guidelines set for such freedom of access to information and expression. While the above three imperatives look simple they are often viewed by the journalists as complex because everything about them is relative. Often it is argued that our print media would like to report what pleases them rather than the prevailing situation and consequently compromising objectivity and the truth. Historically, South Africa had two sets of journalists: those that supported the apartheid government (some Afrikaans newspapers such as *Beeld*, *Rapport* and *Die Burger*) and those that opposed the apartheid government (predominantly English newspapers such as *Daily Mail*, *City Press* and *Sunday Times*) and both in their different scope were said to be reporting the truth in their own way that satisfied their readers. Such is of course a situation that had led to most predominantly English newspapers being banned for publication in South Africa (Fourie, 2006), probably for their lack of pushing for the then ruling elite (white minority) agenda. A win of democracy by the ANC and other political parties in South Africa therefore signalled the freedom of operation for English newspapers without political hindrances, while at the same time it can be argued that the enactment of freedom of speech and expression and access to information gave the Afrikaans newspapers and the political opposition's aligned media free reign of better use or abuse of information on states and individuals.

Journalists within the media are human beings who also have their personal opinions and political allegiance to their favourites and can push for personal agendas. The South African media and its own journalists like others in that fraternity on the globe want to operate within the area of free reign and write what they like no matter the damage and destructive consequences of their pen. Some unscrupulous harmful publications of allegations about individuals have resulted in unwanted deaths (Wassermann, 2006), which could have been avoided. Politicians such as Jackie Selebi, a former National Commissioner of Police in South Africa had the media on his back about his involvement with a drug lord until his health could not take it anymore.

The South African government on the one hand legislated the access to information act so that whatever information is to be published on government activities is not detrimental to the government's existence. On the other hand, private information on individuals and organisations is protected by the rights enshrined in the country's constitution which if infringed by any individual the court would have to adjudicate on fair grounds. Memeza (n.d:1-38) argues that South Africa and Zimbabwe are the only members of the Southern African Development Community (SADC) which enacted access to information legislation. It is however argued that the Zimbabwean access to information act is viewed as not giving anyone a right to access state information at all, while in South

Africa politicians and trade unions are arguing that there is a direct link between the weakness of the act in making information of the state accessible and the poor service delivery conditions in South Africa. Dick (2005) reveals that access to government held information is characterized by non-compliance, bureaucratic arrogance and hostility. This is often a cause for the print media to have obtained information in an unscrupulous manner and have it published under the pretext of freedom of speech and the freedom of expression. That on other hand had caused the post-apartheid South Africa to develop a different viewpoint of the image of the media in South Africa. South African politicians viewed them as anti - thesis of the government developmental plans and ideals. In reaction, the media claims to have been targeted and have their constitutional rights of freedom of speech and expression against the government infringed. This cast doubt from the complaining newspapers as most of them were mostly white-owned (Fourie, 2002). This is more so because even though South Africa after democracy introduced various mechanisms to develop and support most upcoming media, the process did not seem to have worked. The emerging new media entrepreneurs could not penetrate the market as envisaged and therefore white owned media remain on top and controls public opinion in that regard.

In South Africa the people have seen how the media respected former President Nelson Mandela and how the media persecuted former President Thabo Mbeki for his views on the cause of HIV/AIDS and the price that came with it. President Mbeki on the other hand was not friendly to the South African media which on several occasions he accused of perpetuating colonial stereotyping of Africans (Wassenaar, 2006). Consequently, they might have resorted to their monopoly of information dissemination to the public to take revenge on his opinion of their role. The media did not sufficiently give him a platform to tell the public of his opinion except the distortions they were pushing for on his behalf about the HIV/AIDS issue, which ultimately resulted in his own political downfall which the media further spiced by insinuating the perception of him intending to remain a life president of the ANC. The combination of these two issues ultimately and completely destroyed his political career. And from that destruction of peoples' political and business career the media have not paid a price but instead continued with its destructive intentions without regulation and accountability. It is argued that for politicians to survive in the political environment they have to befriend the media or else they face the destruction from the same institution.

In South Africa, the Judge Hefer Commission set up by President Thabo Mbeki on October, 22, 2003 to establish whether the Former Director of Public Prosecution Bulelani Nqcuca was an apartheid spy or not as alleged in the City Press newspaper published on September, 07, 2003. The Commission revealed that Bulelani Ngcuka was not a spy as alleged, but instead also discovered that the former editor of City Press, Vusi Mona published a damaging allegation against the Director of Public

Prosecution because he knew that the Director was also investigating him for shady business deals in government (Berger, 2004: 1-13). Although Bulelani Nqcuca was cleared of all the allegations; the drama caused him his professional, political and future careers in the public sector. The media, therefore, whether subjective or objective is run by individuals with own agenda and natural bias. When the South African government controlled Media Corporation (SABC channels) alienated President Mbeki from the public broadcasts it was not like they were not aware of the abuse of power in their hands given to them by politicians. That does not make it correct, however. During his era, Mbeki was also accused of trying to limit the public air space given to the then Premier of Gauteng Province, Tokyo Sexwale.

It is indeed seldom about expressing one's right for the truth and for objective information dissemination, but often about achieving own personal goals and set agenda. The South African government has criticized its media when it suits it and praised them too when it suits them. Like all other media of the globe, the media is used by government for propaganda when well positioned and reject to be used for propaganda when suitable. According to Manzaria and Bruck (2015:1-11), no individual is immune from propaganda when so required by the state. The media, like the politicians possess power to manipulate public opinion (Oswald, 1994); but it must also be rightfully acknowledged that media moguls make the most of their paying business with the governments. The media cannot succeed without business support from government if it is supporting them financially and so cannot be objective when reporting faults in government administration. In South Africa, after the fallout of the government with the media in the year 2000, the country has seen the government putting into the directorship of their communications divisions' individual journalists that used to project negative reporting on government ideals and development projects. Tabane (2005) suggested that journalists that took bullets to protect politicians are likely to be appointed as future "spin doctors" in public offices. That was argued to be an intelligent move to appoint from the media people that could handle the negative reporting and to neutralize the effectiveness of the media to the favour and advantage of the government. It is indeed difficult to conclude that the South African media uses its access to information to disseminate truthful information or to abuse it for own and personal objectives. Be it the media that is government aligned or the one that is against the governments' developmental and political ideals; the media's role in modern democracy remains to be that of a subjective institution pursuing subjective goals in public dissemination of information. South African journalists in the context of their history are likely to pursue multiple personal agenda such as political, tribal and racial agendas rather than objective reportage.

The Use and Abuse of Information by South African Politicians

The South African government subscribes to the international treaties that support media freedom and has supported not only freedom of the press but has also enacted laws for the development of the media throughout the country. The belief about South Africa and its media is that there is no way in which the country will go back to regulating the media in an apartheid fashion or adopting the former apartheid tricks. Duncan (2009) argues that despite the known theoretical challenges and limitations of the critical political economy model, the African National Congress (ANC) surprisingly chose the model for media transformation. That makes it no surprise at all when the government surprisingly opted for a need to regulate the media and making it accountable through The Media Appeals Tribunal (MAT). That is a move which according to Fourie (2002) in his article “Rethinking the role of Media in South Africa” clearly compares South Africa’s choice of regulation as a replica of the apartheid rule. The use or abuse of information by the politicians of the post democratic South Africa is dependent on various factors that face the government as a challenge at a particular point in time. The use or abuse of media information is ever circumstantial and at no stage should we ever say our media are objective or not because that is a relative assumption. In times of Julius Malema and Floyd Shivhambu as ANC Youth League heavy weights they jointly released the following statements to in favour of the Media Appeals Tribunal (MAT):

... spiteful agendas to undermine the integrity of our organizations and leadership... The other media institutions and organizations such as SANEF and Press Council of South Africa are equally useless in media monitoring and evaluation. This therefore calls for immediate establishment of a Media Tribunal to save our organizations and leadership from repeated attempts to assassinate their characters and [to] sow divisions. The Media Appeals Tribunal should then begin with the investigating [n]ewspapers such as the City Press, Mail & Guardian, The Citizen, Sunday Times, The Times, most Afrikaans[n]ewspapers (Burgher & Rapport) and all Independent Groups[n]ewspapers to expose their ill-intentions and programme to sow divisions in the ANC and undermine its integrity. Some of the owners and directors of these [n]ewspapers are active funders and leaders of opposition parties and this explains why the ANC and all its structures are under a constant attack. (Sebola, 2012, p. 2).

From the above, two things can be deduced about the ANC Youth League standpoint about the media and use of information in the country. Firstly, it is that the government cannot trust both the current English and Afrikaans newspapers reporting on government activities. The assertion is that the English newspapers could be serving the political interests of the West as its ownership could be linked to the West. The Afrikaans newspapers on the other hand are clearly suspected of wishing to discredit the African leadership in order to retain and legitimize the legacy of apartheid which they have a history of supporting. Secondly, the option of adopting the Media Appeals Tribunal as the only weapon the government could use to defend itself against the agenda of the white imperialists through funding and ownership of opposition media. The Media Appeals Tribunal is not perceived as a strategy

that aims to assist any other organization against media slandering, but the ruling party and its allies. But it can, however, be argued that today as Floyd Shivhambu and Julius Malema are now in a different political game court after being expelled from the ruling African National Congress (ANC). They are currently members of the new prominent opposition party called Economic Freedom Fighters (EFF). They are likely to say a different thing about the creation of the Media Appeals Tribunal to protect the ANC which expelled them for ill-discipline in the organization. What is clear about the general perception of the South African populace about the Protection of Information Bill and the Media Appeals Tribunal is that it limits the freedom of the media in exercising its right to transmit information to the public. According to Leonard (2014), the bill makes it a criminal offence to publish classified information considered to affect the national interest. To be precise, the South African politicians are not certain of when the state information needs to be protected and when can it not be protected. When so required, especially politicians that have fallen out of grace, have compromised the state information to get back at those that defeated them. Little has been done about the media that reported such. In other instances, politicians in positions have on their own leaked confidential information to the media to get back at their opponents without anyone accounting how such was divulged. A case in point here could be how the media got hold of President Zuma's financial statements that were in crisis and tax problems that were made public. Julius Malema also became a point of focus of the same scandal after he differed with the ANC leadership. The question is would he have been investigated for tax evasion if he had not been at loggerheads with the ruling party political leadership? Would Zuma also have been investigated for tax evasion and corruption if he had not had political problems in the party? This raises the question "who are the secret initiators of such investigations?" Is it not the same politicians who provide the media with such information on their opponents' personal status?

Is Strict Regulation Required in South African Media?

The regulatory institutions of the South African media, such as SANEF, Press Council and Press Ombudsman, has had its effectiveness questioned by politicians and the public affected by negative publicity given to them as individuals (Berger & Berger, 2009: 1-2). On other hand there are instances where government or individual information has been unscrupulously obtained and unnecessarily damaging those investigated in a biased and inaccurate manner. The South African media with its spy tape allegations and their conspiracy theory portrayed the then Deputy-President of South Africa, Jacob Zuma as a victim of President Thabo Mbeki to the ANC Youth League and Alliance partners such as Congress of South African Trade Union (COSATU) leadership. Even though Julius Malema (then ANC Youth League President) and Zwelinzima Vavi (then General Secretary of COSATU) apologised later to former President Thabo Mbeki the damage was not repairable. Those that are damaged do not necessarily get judicial compensation except apologies that cannot repair their

lost image and careers. Wassermann (2005) concurs that while tabloid journalism in South Africa is unavoidable, it should be done without compromising the journalists' social responsibility and the humanity of the people reported on. Taking into consideration the damage that often comes with the South African media on the state and individuals, self-regulation seems not to be working. For instance, in the Hefer Commission it appeared that the then Editor of the Sunday Times, Mathatha Tsedu, refused to publish the "Bulelani Ngcuka spy story" by his political correspondent, Ranjeni Munusamy, because it lacked accuracy and some facts by the reporter could not be verified. Munusamy, however, later argued that the editor refused to publish the story because of his closeness to both Bulelani Ngcuka and the Scorpions (Berger, 2004). The Sunday Times political correspondent took the story to an editor (City Press) that had a biased agenda against Bulelani Nqcuka and therefore it got published without needing to verify the accuracy of facts. That resulted in both Munusamy and Vusi Mona being fired by their organisations and getting employment in the government's communications units (Harber, 2014) - good price to pay for one's journalistic career. Munusamy has, however, gone back to the media profession after fallout with Dr. Blade Nzimande about the media tribunal which Nzimande supports while Munusamy is against it. As an Associate editor of the Daily Maverick she now writes what she wants and projects a negative image of the Zuma administration. Thus, making objective journalism difficult to speak of.

In a situation where people's integrity need to be protected the impartial state regulation of the media becomes significant. It is crucial, not only when it suits the political elite, but equally practiced to protect all citizens' unnecessary bad publicity. State regulation of the media should not aim to reduce the quality of reporting objectively on truthful information. Indeed, there are instances in which public officials or politicians when it suits them secretly divulge sensitive information to the press and the information is used to disturb peace in the society. The media on other hand is bound by an ethical code that protects their source of information. However, some of such information is not always the truth but is deliberately used to create chaos and to misinform the public with the purpose to mislead them to take wrong actions. When such wrong perceptions are spread by the media; the public is used as a baton that changes direction from time to time when the media so wishes. While media should not be state controlled to force them to provide bias and inaccurate information in favour of the state; it must also not use its power of information to destroy politicians and the public members for personal agendas.

Conclusion

This article argued that information access, freedom of speech and freedom of expressions are not absolutely achievable and practised as per requirements of the constitution of the Republic of South Africa. Both the media and the politicians are equally wrong in manipulating the constitution to

function subjectively with regard to information use and access to information. The politicians often want the media officials to use information in a biased manner to benefit them and expect them to operate as their propaganda machines. When the opposite occurs they view the media as - revolutionaries and anti-government programme reactionaries. The media personalities on the other hand may pursue their own personal goals against members of the public and politicians; taking advantage of their power of information to reach and shape public opinion against individuals. The abuse of information by either the media or politicians can be prevented if effective measures of control could be put in place to ensure that objectivity of information is screened before public opinion is abused. It is recommended that researchers navigate the opportunities for real use of freedom of expression by journalists without compromising the credibility of citizens. The government should indeed regulate media to ensure that it provide the society with genuine information that is free from biasness from the organisation or an individual.

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