

Media freedom and self-regulation

The Press Code of ethics and conduct.

Our history

Media under Apartheid

Plethora of laws:

National Defence Act

Criminal Procedures Act

Suppression of Communism Act

Internal Security Act

Prisons Act

1977 clampdown: Banning of the World, Weekend World, Pro Veritate; detention of editor: “Black Wednesday”

From 1985: successive States of Emergency with increasingly restrictive measures.

Closure and/or suspension of newspapers such as Weekly Mail, New Nation, Vrye Weekblad (after lawsuit)

Constitution of South Africa

The Constitution

OF THE REPUBLIC OF SOUTH AFRICA, 1996

As adopted on 8 May 1996 and amended
on 11 October 1996 by the Constitutional Assembly

Bill of Rights

Chapter 2: Bill of Rights

Freedom of expression

16. (1) right to freedom of expression, which includes—

- 1.(a) freedom of the press and other media
- 2.(b) freedom to receive or impart information or ideas;
- 3.(c) freedom of artistic creativity; and
- 4.(d) academic freedom and freedom of scientific research.

The right in subsection (1) does not extend to—

Chapter 2: Bill of Rights

- 1.(a) propaganda for war;
- 2.(b) incitement of imminent violence; or
- 3.(c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that
- 4.constitutes incitement to cause harm.

Assembly, demonstration, picket and petition

17. Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

Freedom of association

18. Everyone has the right to freedom of association.

Current threats to the media

Why media freedom remains fragile in South Africa

October 18, 2017 5.04pm SAST



Demonstrators protest against the decision by the South African Broadcasting Corporation to stop airing violent protest scenes. Reuters/Mike Hutchings

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Disclosure statement

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Partners



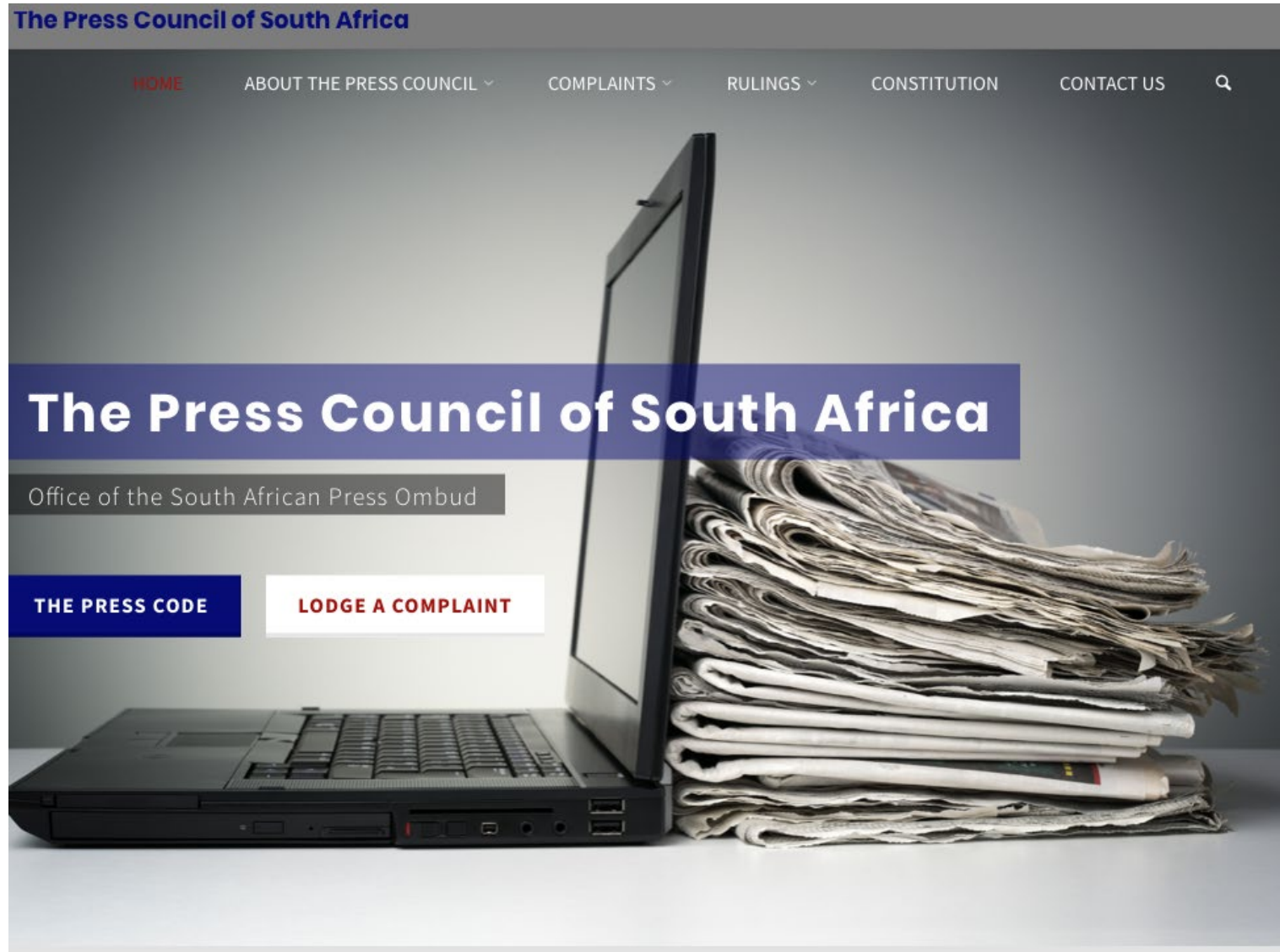
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Threats today

- “Four decades after the [Black Wednesday](#) crackdown on the media and the black consciousness movement, South Africa is a different country. Freedom of expression is guaranteed in the [constitution](#) and a [slew of institutions](#) and laws support the guarantee. At the same time, powerful groups continue to seek ways to limit and undermine journalism.” (*Franz Kruger, The Conversation, 2017*)
- Secrecy Bill: still not law
- Media Appeals Tribunal
- State capture: new newspaper, TV channel, subversion of public broadcaster
- Financial pressures and lack of resources
- Cyber bullying
- **Credibility: we can be our own worst enemies.**

So why is self-regulation important?



The Press Council

- Reconstituted in 2013 following the Press Freedom Commission report published in 2012.
- The PFC headed by late Justice Pius Langa to review the Press Council's processes following calls from the ANC at its congresses for the establishment of a Media Appeals Tribunal and concerns that the Office of the Press Ombudsman was toothless and ineffective.
- Its immediate predecessor was the Office of the Ombudsman, and before that (under apartheid) a body run by the NPU, comprising owners and some editors.

What is the Press Council?

- The Press Council is an independent self-regulatory body. Best described as social contract between the public and the media - we believe that the quality of our journalism will improve if the public is vigilant and holds journalists to account.
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- We aim to promote and develop ethical practice in journalism to elevate our public discourse and the texture of our democracy.
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- Why self-regulation? We believe that it is the only effective mechanism to hold the media accountable.
- Why not MAT? The Press Council aims to uphold and promote the SA Constitution by preserving the right to freedom of expression and freedom of the media as contained in Section 16 of the Bill of Rights. Government regulation, and even being accountable to Parliament as a Chapter 9 institution, will curb these freedoms.

How is the Press Council structured?

- Three retired judges oversee the work of the Council to ensure that the Press Council adheres to its mandate of resolving public complaints against the media efficiently and effectively.
- The PC is chaired by retired **Judge Phillip Levinsohn** and has six media representatives and six public representatives. The judge and the public representatives together ensure that the non-media voice in the Council is louder.
- The Appeals Panel is headed by **Judge Bernard Ngoepe**
- Our media representatives come from our constituent partners, namely SA National Editors' Forum, Association of Independent Publishers, the Forum of Community Journalists, media training institutions, and the Interactive Advertising Bureau of SA (IABSA), which represents our online members.
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- Public representatives are chosen for a five-year term and are appointed by **Justice Yvonne Mokgoro** for their commitment to promoting and maintaining ethical standards in the media.

Office of the Press Council

- The office of the Press Council comprises:
- The director, the Public Advocate, the Press Ombudsman and two support staffers.
- Its website is www.presscouncil.org.za
- Code of ethics and conduct
- Rulings

How are complaints resolved?

- The Press Council has established and maintains a voluntary, independent mediation and adjudication mechanism to deal with public complaints. It offers three tiers of recourse to complainants.
- In 2013 a public advocate was appointed to assist members of the public with their complaints. The public advocate's task is to assist people with formulating their complaints and to mediate.. The public advocate is former journalist Joe Latakomo.
- If the public advocate is unable to resolve the complaint, the complaint is referred to the Ombud. She will make a ruling based either on the papers before her, or call a formal hearing with two representatives from a pool of adjudicators which is headed by Judge Bernard Ngoepe.
- If a publication or complainant is unhappy with the Ombud ruling, they can lodge an application for leave to appeal with Judge Bernard Ngoepe.
- All our hearings are open to members of the public – except in cases where minors or survivors of sexual violence are involved.

What is the Press Code?

- **The Code of Ethics and Conduct for Print and Online Media**, or the Press Code as it is commonly known, provides ethical guidelines for journalists on newsgathering processes, conflicts of interest, how to deal with issues of privacy and avoid reputational damage, and how to report sensitively and compassionately on issues of vulnerable groups and children.
- The PC's preamble states:
 - ***As journalists, we commit ourselves to the highest standards, to maintain credibility and keep the trust of the public. This means always striving for the truth, avoiding unnecessary harm, reflecting a multiplicity of voices in our coverage of events, showing special concern for children and other vulnerable groups, and exhibiting sensitivity to the cultural customs of their readers and the subjects of their reportage, and acting independently.***

What does this mean?

- ***We commit ourselves to the highest standards:***
 - Publications and journalists commit themselves to the highest standards of excellence so as not to lose credibility and to maintain the trust of their readers.
- ***Always striving for the truth:***
 - Requires journalists to strive for the truth and to remain vigilant as there are many facets to the truth.
- ***Avoid unnecessary harm:***
 - Requires journalists not to cause unnecessary harm. It does not say that journalists should not cause harm; only that they should not cause unnecessary harm. By not verifying and corroborating information, by depending on secondary or anonymous sources who may have ulterior motives for information; by disregarding context; by not giving the subjects of critical reportage a right of reply or by engaging in brown bag journalism, journalists are more likely to cause unnecessary harm.
- ***Reflect a multiplicity of voices:***
 - Requires journalists to reflect all voices in society, and to ensure that the voices of women are taken into account. Prevents one-sided stories.

What does this mean?

- *Show special concern for children and vulnerable groups:*
- Requires journalists to exercise exceptional care when reporting on children and vulnerable groups. Section 8.1 of the Press Code includes a reference to the Bill of Rights (section 28.2) which says that a child's best interests are of paramount importance in every matter concerning the child.
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- *Exhibit sensitivity to cultural customs:*
- It requires journalists to be aware of cultural customs and to be aware that different cultures have different rituals and may attach different values to the dead.
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- *Act independently:*
- The Press Council views conflicts of interest as a third tier transgression of the Code and urges journalists to not only consider their own positions but also contemplate what impressions their actions may create.

Complaints

- Since 2013 we have averaged about 500 complaints a year. About 25% of these are dealt with by the Ombud and the rest of are mediated and resolved or dismissed by the Public Advocate. All Ombud and Appeals Panel rulings appear on our website, www.presscouncil.org.za.
- The Public Advocate is a first-line mediator
- The Ombudsman can call informal or formal hearings with or without adjudicators

How effective is the Press Council?

- In recent years, the Press Council has made some landmark rulings. In 2015, the Press Council ruled, for the first time in the history of the South African media, that an errant newspaper be compelled to carry an apology on its street posters to reflect the Press Council's ruling in the newspaper.
- Last year, a newspaper in Hartebeespoort Dam was directed to publish a full-page apology to a complainant.
- The Press Council also dealt with the SARS Rogue unit complaints in 2015, with the Ombud ruling that the Sunday Times publish a front-page apology in respect of Minister Pravin Gordhan. **This was before the evidence about State Capture was revealed.**

The other threats to the media

- **Sometimes the greatest threat is ourselves:**
- Resources in newsrooms are stretched.
- Media companies, including and perhaps especially broadcast companies, are disinvesting in news
- Editorial oversight is often lacking, and sometimes challenged
- Journalism education especially about use of statistics, public documents etc, is lacking.

How effective is the Press Council?

- About 500 complaints a year, of which about one quarter are adjudicated
- High level of compliance
- Although the waiver has been scrapped since 2013 (after the Langa Commission), very few people sue: in that time only 3 people have sued, none successfully
- A sign that self-regulation is successful

Our constraints

- The biggest English-language group, Independent Newspapers, withdrew in 2016, ostensibly because of the dropping of the waiver
- This affects our financial resources
- We also have to turn away many complaints that come in respect of Independent Newspapers
- Our capacity is stretched with one Public Advocate, one Ombud, one ED, one case officer.

The media's most important currency is trust

- “The use of information as a weapon is not new - propaganda is as old as the hills, and South African political and factional campaigns have often made use of leaks as a form of warfare. But we seem to be entering a new phase where it becomes harder and harder to distinguish real exposes from the false kind. Some journalists and media outlets, in some cases liberally supported by public funding, are allowing themselves to be used for factional ends.
- Trust is journalism's most valuable asset. In an era of fake news, that trust is harmed not only by what the media themselves may do, but by what is done by pedlars of misinformation, who are often hard to distinguish from professional journalists.
- A loss of trust may in the long run cause more harm to journalism than the repressive tactics of past decades.”
- *Franz Kruger: The Conversation, 2017*