

# South African Medical Journal

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## Media freedom – journal challenges

Nelson Mandela in 1994 stated that 'A critical, independent and investigative press is the lifeblood of any democracy.' But now South Africa's highly contested Protection of Information Bill<sup>1</sup> (the Bill) provides a useful hook on which to hang some thoughts on media freedom. 'Worldwide, most freedom of information laws exclude the private sector from their jurisdiction. Information held by the private sector cannot be accessed as a legal right. This limitation has serious implications, because the private sector is performing many functions that were previously the domain of the public sector. As a result, information that was previously public is now with the private sector, and the private contractors cannot be forced to disclose information.'<sup>2</sup>

### Keeping 'them' out and 'us' in

Let's start, rather improbably, with the Great Wall of China, which is a series of fortifications constructed to protect the northern borders of the Chinese Empire against intrusions by nomadic groups. Several walls have been built and rebuilt by successive dynasties since the 5th century BC, but most of the existing wall was built during the Ming Dynasty.<sup>3</sup> Such walls have usually been built to keep invaders (them) out, but some, such as the East German (Berlin) wall, were built to prevent inhabitants (us) from escaping to greener pastures. When concluding, I will return to the Great Wall of China.

South Africa's Bill, which is still under consideration, proposes that the authority to classify information rests with 'any organ of state' and that 'a head of an organ of state may delegate in writing authority to classify information to a subordinate staff member'. The Institute for Democracy in Africa (Idasa) recorded that there are 1 001 bodies that would have the right to file information as secret under the proposed law, which prescribes minimum prison sentences for all who leak classified information.<sup>4</sup>

Opposition to the Bill<sup>5</sup> includes comments by the Alternative Information Development Centre (AIDC): 'The "people shall not govern" if they are not informed and cannot express their views. There can be no meaningful development or service delivery responsive to the needs of the people without the freedom of expression and information.' Apart from promoting censorship, activists fear that the Bill could also be used to target citizens in the long run. Anton Harber, Caxton Professor of Journalism and Media Studies at the University of the Witwatersrand, warned that people and even civil society organisations will no longer feel free to write news stories denouncing corrupt officials: 'The minute you give that power to the state or government to make those decisions, it will in the long run have the potential to be used, not only against journalists, but also against other citizens.' Former University of Cape Town Chancellor Dr Mamphela Ramphele warned that the Bill could well be used to make society less open and less accountable: 'Citizens could be deprived of information and, ultimately, freedom of expression would be inhibited, if not choked altogether, for fear of the punitive measures the Bill contains.'

Even without the Bill there are many pressures on the media to kowtow to political or economic forces.

### Some examples from medical journals

George Lundberg was fired as editor of *JAMA* (1999) after publishing an article on college students and sex, which said, among other

things, that students did not consider oral sex to be 'having sex'. Unfortunately the article coincided with Bill Clinton's impeachment hearings in which this question was at the centre of things. The very conservative AMA was furious and felt that the journal was being used to help Clinton. In fact, the article had been peer reviewed and on the waiting list for publication long before, and the two events were coincidental. Jerome Kassire, editor of the *NEJM*, was fired (1999) by the Massachusetts Medical Society because he refused to have the *NEJM* name and logo placed on other Society publications, not peer reviewed by the journal, in order to boost sales by cashing in on the stature of the *NEJM*. John Hoey, long-standing editor of the *CMAJ*, and his colleague Paul Herbst were fired (2006) for publishing an editorial criticising Canadian pharmacists for routinely putting intrusive questions to patients needing the morning-after pill, and then charging them a 'counselling' fee. The editorial was robust and the Canadian Pharmacists Association got wind of it from the pre-publication blurb, was livid and complained to the *CMA*, who ordered the editors to pull the editorial. They refused and were fired.

### SAMJ woes

After the death in detention of Steve Biko the *SAMJ* received many letters criticising the role of the Medical Association of South Africa (MASA) and also for not sufficiently challenging the findings of the Medical and Dental Council on the matter. Our files show that the deputy editor who dealt with correspondence in the *SAMJ* referred these to the then Secretary-General of the Association, who effectively acted as a censor. Refusal to publish some of these letters, together with some controversial official MASA pronouncements, led to the public resignations from the Association of some prominent members and also to the establishment of an alternative National Medical and Dental Association. A response of the then Publications Committee was to insist on all material published in the *SAMJ* having the author(s) clearly identified (previously the editorials and some other announcements were unsigned).

More recently the editors of the *SAMJ* have been threatened by legal and other actions for publishing papers that were critical of pharmaceutical company products and airing criticisms of the actions of high-profile individuals. The journals lost advertising revenue and the editors felt that they lacked official support. This resulted in clear definition of the editor's roles and the putting in place of structures and functions to ensure editorial independence.

### Repression and controlling access to information

Repressive regimes try to control access of information by their citizens. China's modern Great Wall is a large army of cyber sleuths who monitor and block what they consider to be offending information from reaching their people (keeping 'them' out). Those who are found guilty face severe punishment. The apartheid era had its own obsession about what information its people should be able to access and what should be denied, leading among other things to the ridiculous and amusing banning of the bestselling novel about a horse, Anna Sewell's book *Black Beauty*. Censorship of what is printed, especially in the electronic media, is difficult to maintain, but fear of the consequences of being found out often leads to the most insidious and dangerous form of censorship, namely self-censorship.

The electronic media that enable communication on an unprecedented scale through social networking services such as 'Facebook' and 'Twitter' were largely responsible for the success of the recent campaigns in Northern Africa and the Middle East against oppressive dictators.

Pushing the boundaries of media freedom is the phenomenon 'WikiLeaks',<sup>6</sup> which has published submissions of private, secret and classified media from anonymous news sources, news leaks and whistleblowers. Its editorial policy is to accept only documents that are 'of political, diplomatic, historical or ethical interest' ('material that is already publicly available' is excluded). Its revelations have caused delight, embarrassment, anger or despair to individuals, companies or countries, depending on the revelation and the recipient. Julian Assange, its controversial main spokesperson and editor-in-chief for WikiLeaks, and many of his associates have come under surveillance, threat and persecution for their activities. As a backlash many countries and companies have attempted to block access to its websites. WikiLeaks has certainly challenged and changed existing norms for what is or is not acceptable exposure of information.

The South African Bill has ominous signs of moves towards authoritarianism. We as editors have added our support to its

opposition. South African citizens should vigorously oppose a reversion to the censorship of information typical of repressive regimes and should not have to be fearful of free expression of their views. We should heed the words often attributed to Thomas Jefferson: 'The price of democracy (liberty) is eternal vigilance.'

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1. Protection of Information Bill. Government Gazette No. 32999, 5 March 2010.
2. [http://en.wikipedia.org/wiki/Freedom\\_of\\_information\\_legislation](http://en.wikipedia.org/wiki/Freedom_of_information_legislation) (accessed 12 May 2011).
3. Lovell J. The Great Wall of China. China against the World 1000 BC - AD 2000. Atlantic Books, 2006.
4. <http://mybroadband.co.za/news/general/19637-Protection-Information-Bill-under-fire-again.html> (accessed 14 April 2011).
5. <http://www.sangonet.org.za/article/protection-information-bill-sa-media-under-attack> (accessed 14 April 2011).
6. [http://en.wikipedia.org/wiki/WikiLeaks#Backlash\\_and\\_pressure](http://en.wikipedia.org/wiki/WikiLeaks#Backlash_and_pressure) (accessed 13 May 2011).