

Freedom of the press and access to information are no longer subsumed under freedom of speech. There is indeed a recognition that this aspect of human rights should enjoy autonomous status. Yet the governments' approaches have not changed.

press

freedom

in southern Africa by Bojosi Otlhogile

IN 1634 an English writer named William Prynne made the unfortunate mistake of writing a pamphlet that criticised the King and Queen. Brought before the Privy Council of the Star Chamber, Prynne was found guilty of libel and ordered to spend the rest of his life in prison. As an added punishment, he had his ears lopped off and was branded on the cheeks with the letters SL (Seditious Libeller). Had Prynne been living in the present day southern Africa, would he have fared any better?

His case would have depended on one thing: in which country in the sub-continent he lived. What is clear though, is that at least he was pilloried after standing trial. It is very unlikely that there would have been such a nicety in southern Africa on the eve of the 21st century. The scenario in Zambia, Zimbabwe, South Africa, Namibia, Malawi and Botswana is like this:

Had Prynne lived in Zambia's second republic, he undoubtedly would have been sentenced to prison for an indeterminate period by the Speaker of the National Assembly without any trial. In Zimbabwe apart from a rap on the knuckles, the writer's sexual orientation would be important for the authorities' next step. South Africa would blow hot and cold. While the ANC-led government would have made repeated protestations of its support for freedom of expression and access to information, many MPs would oppose Prynne's freedom to express himself.

Namibia's president would certainly have scurried to the state media to fire the first salvo, not of gunshot, but by both banning and burning the pamphlet. In Malawi, perhaps, he would have fared better: either Prynne would end up in the Sanjika Palace or have been pressed to disclose his source of information. Botswana, one of the older liberal democracies, has perfected the art of dealing with such persons. As an Englishman, Prynne would certainly have earned himself the wrath of the government and a sure one-way ticket back to England. He, in short, would have been declared a *persona non-grata*. Were he a citizen, the

Minister of Presidential Affairs would either have transferred him to some obscure post or taken over and re-edited the pamphlet!

This in itself shows how our journalists are treated by the authorities in the region. The bottom line is that our leaders are very uncomfortable with the concept of press freedom. Relations between the government and media remain strained. This is surprising, more so now that southern Africa has gone through a democratic sea change and the majority of state constitutions in the region contain express provisions on freedom of the press. Freedom of the press and access to information are no longer subsumed under freedom of speech. There is indeed a recognition that this aspect of human rights should enjoy autonomous status. Yet the governments' approaches have not changed.

In short there is a crisis of confidence. The problem is that all parties to the crisis cannot trust one another. The governments view the press as a menace bent on distracting them from the business of governing. The press believes it has a democratic right and duty to inform the public. It is the watchdog of the new and emergent democracy.

All parties to the dispute are partly right and there is nothing contradictory about these claims. The problem needs to be placed in context. With a few exceptions, for a long time Southern Africa choked under repressive governments of one form or another. Those countries which came to independence in the 1960s saw universal suffrage replaced by the one-party state. Even the benevolent liberal democracy governments like Botswana were no better. They became strictly *de facto* one-party systems. The opposition parties were weak if not non-existent. The other countries were chaffing under unrepresentative minority governments.

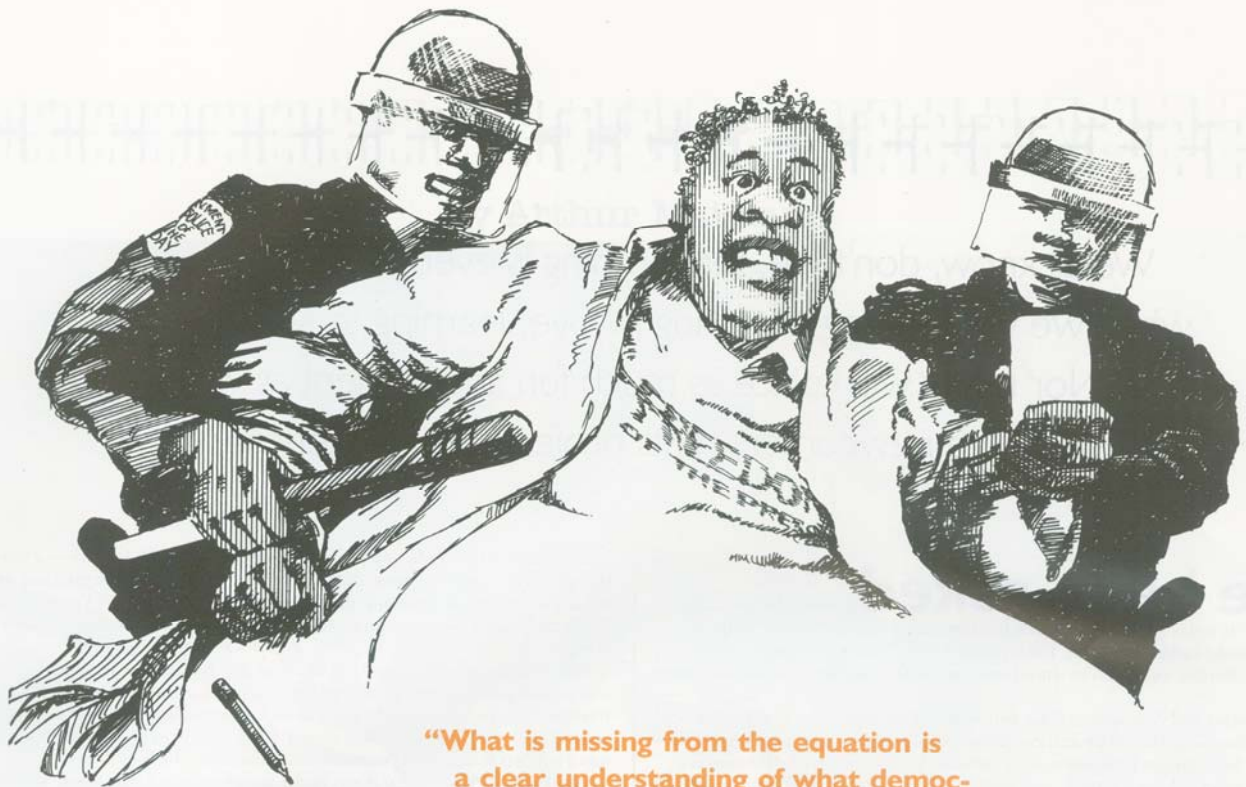
In the absence of organised and effective opposition parties the media effectively became the only voice of organised resistance. Those in power saw the media as a threat. The opposition entered into a marriage of convenience with the media. The media strenuously campaigned against the authorities. By the time the old

regimes collapsed and the new leaders ascended to power there had developed this false assumption that the media were allies who would not challenge them in the same way they did with previous regimes. When the media maintained their strict adherence to independent and fearless reporting, that effectively signalled the end of the cohabitation between the two parties.

The second point is that most governments inherited many forms of legislation enacted by the previous governments and their colonial predecessors and continued to use them to stifle freedom of expression. This was done in spite of express provisions in the new constitutions guaranteeing press freedom.

One country which has disappointed most of us is Namibia. The Namibian Constitution was the first in the region to contain express reference to and recognition of press freedom. It was in Namibia in 1991 that the SADC countries signed the Windhoek Declaration on the recognition of rights, plurality and diversity of the media. It is one country which gave us so much hope yet it has now moved to the opposite end of the spectrum. The notion of a public service media has been sacrificed by the appointment of party loyalists to leading positions in these sectors. More than anything else it was Namibia which removed books and magazines from bookshops in the name of public morality. Namibia has "progressed" from subtle suppression (of press freedom and accesses to information) to removing "offending" publications —not far off burning books at the pyre. In short, Namibia has receded to the 13th century vanities of bonfires!

Zambia, Malawi, and Zimbabwe are running a close second. The irony is that the authorities in these countries could not have come to power without the collaboration of the press. It is now conveniently forgotten that during the dark days when the traditional sources of opposition were suppressed, the press emerged as a sort of permanent opposition. The press is now used to playing this role. It is now too late for them to do otherwise. The new governments expect the press to do less of what it is used to. If anything, during this period



“What is missing from the equation is a clear understanding of what democracy means. The concept implies competition between political participants with the possibility for the ruling party to lose elections. What they fail to understand while in power is that should it ever happen that they were turned out of office, they would need a free press—not controlled by the government—to convey their message to the voters as they seek to crawl their way back in.”

of democratisation, the press should do even more of what it is already doing. Certainly not less of something it now does.

What is being required is that the media must only report the success of the government and not the failures, the bankruptcies of companies but not the explanations behind such collapse. The media are free to cover a minister's foreign trips but not their purpose. The media must concentrate on what is perceived to be good news and leave out the “bad news”. What is lost sight of is that the media do not manufacture government failures or companies bankruptcies. The bad news will still remain even if it is not reported. If there is to be any chance of correction, improvement and appreciation of what the government is doing, then all the news must be made known.

It is this fearless coverage of the news that has earned Zambia's Fred M'membe and *The Post* the wrath of the authorities. The honeymoon between former bed-fellows is now over. The champions of constitutional reforms have now started gnawing at those reforms from within. The moment they get into power, it seems, our leaders develop some dementia. They forget what is contained in the very constitutions which placed them in power, especially the provisions relating to press freedom and access to information. The first casualty is the press and the journalists whilst the government delegate to themselves sole authority to gauge and interpret public opinion. What is forgotten is that the media, when they are doing their job properly, base their fundamental professional judgments more accurately on the vagaries of public opinion than can policy makers.

The irony of this relationship should not be lost on all of us. No government in a democracy can afford to suppress the media without using the media itself. The power and role of the media are well known to the authorities. It is for this reason that all governments in this region wish to maintain a tight control over the “airwaves”, to keep control and ensure that the state media follow, what the SABC's Johan Pretorius once

called “a fairly strict government of the day line”. What however, is missing from the equation is a clear understanding of what democracy means. The concept implies competition between political participants with the possibility for the ruling party to lose elections. What they fail to understand while in power is that should it ever happened that they were turned out of office, they would need a free press—not controlled by the government—to convey their message to the voters as they seek to crawl their way back in. Seldom has self-interest produced such blinding effect.

Once freedom of the press is attacked, invariably other freedoms also suffer. The right of the public to participate in the democratic process does in great measure depend on the availability of information and its dissemination. Not only should the information be publicised but must also be explained. It is the duty of the Press to analyse and explain such information to the public. The public also has a corresponding right to demand it of the press. What use is the information that the country is experiencing a recession if no one

explains its cause? What is the point of reporting the war in Liberia or Lebanon if no one goes beyond the headlines and the carnage?

The politicians and other stake holders would not give all the explanations without trying to serve self-interest. The media, on the other hand, hardly ever give their own jaundiced views of the issues. They report what the general public, experts and interest groups tell them. This task is too important to be left to the politicians, and without a vibrant media it is sacrificed if not lost outright.

The media, like a butterfly caught up in web-like silken strands from which it is struggling to escape, fights to survive in a hostile environment in spite of the entrenchment of their rights in state constitutions. This apparently is the state of the media in southern Africa as we enter the 21st century.

Dr Ollhogile is head of the Department of Law at the University of Botswana and a Media Institute of Southern Africa (Misa) trustee.

