

# [Media law in south africa](https://assignbuster.com/media-law-in-south-africa/)

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The Press Freedom Commission (PFC) was launched in July 2011 by the press industry representative body, Print Media South Africa and the South African National Editors Forum in order to set up a suitable regulatory media system for South Africa (Press Freedom Commission, 2012: 1). The Press Freedom Commission that was held earlier this year assessed all measures concerning co-regulation, self-regulation, independent regulation and state regulation so as to ensure that the media is accountable to the public that they serve and similarly to ensure the protection of press freedom (Press Freedom Commission, 2012: 1).

This year, the PFC recommended that an independent co-regulatory system , which does not include State participation, would best suit the country. This would mean that the press are accountable to serve in interest of the population (Press Freedom Commission, 2012: 1). With reference to Julie Reid’s and Julie Posetti’s article in the Rhodes Journalism Review, I aim to evaluate various contexts and henceforth provide reasons for why I am in accordance with the co-regulation of the media.

Under the South African Constitution, in the Bill of Rights (1996) it is stated that every person has a right to freedom of expression, which includes freedom of press and the media, the freedom to receive or impart information or ideas, freedom of artistic creativity, academicfreedom and freedom of scientific research (Act no. : 108 of 1996). Henceforth press freedom means the autonomy to communicate ideas, opinions and information without restraint.

The media are a public trust with the ability to inform and influence and because of this power they should serve to represent the interests of the citizens without external institutional constraints. When analyzing freedom of the press with the current regulatory system, there are two powerful institutions in society which cannot be ignored, that is political and economic power. Under apartheid the freedom of the press was heavily restricted.

The Newspapers Registration and Imprint Act of 1985, required that all newspapers had to be registered and conform to a strict code of conduct. In addition newspapers were also required to lodge R40 000 as a deposit before they could publish, as a result the act silenced many liberal newspapers (Manoim, 1996: 7). With the transition into a new democracy, self-regulation of the media was employed to uphold freedom of expression, a pivotal component of a true democracy.

Self-regulation is a system that operates on self imposed rules by the media, it consists only of representatives of the media profession who use the Journalistic Codes and Ethics as a guideline (Reid, 2012: 1). The relationship between the government/ state and the media is one of conflict and dependency because on the one hand, the media are commonly referred to as the ‘ unofficial opposition’ to the government.

As ‘ watchdogs’ they make public a range of issues concerninghealthcare, education, corruption, unemployment etc and because of these disclosures the government repeatedly attempt to censor their biggest critic. As such, the government proposed a Media Tribunal, which could lead to the forced registration of all newspapers, the registration of all journalists and punitive fines(Reid, 2012: 1). The tribunal exemplifies the government’s hostility towards the media and it clearly epitomizes the Newspapers Registration and Imprint Act of 1985 .

Another example constitutes as the Protection of Information Bill which will allow the government to classify specific information which is deemed harmful to the “ national interest”. The government have suggested media-unfriendly laws which pose a threat to attack the heart of the struggle for democracy (Reid, 2012: 1). On the other hand, however, the media are dependent on the government for information and official materials and similarly the government depends on the media to produce important information to their citizens.

It is evident that the media plays a large role in making public the successes and the failures of the government, however, I argue that a change in the regulatory system could improve the relationship between the two so that the media do not have their own agendas for the information they produce, but they produce that which of interest of the public that they serve. Although self-regulation of the press was once highly valued, examples like the Murdoch scandal have shown that the system is weak and does not assure theaccountabilityof the press.

Journalists from the News of the World were accused of phone hacking, police bribery and using unethical means to obtain ‘ public interest’ stories (Posetti, 2012: 19). The self-regulatory system allows for journalists to operate freely without state interference and although there haven’t been any situations like the aforementioned unethical proceedings in South Africa, the regulatory system does not fulfill the democratic vitality of the inclusion of wider population (Reid, 2012: 18). For many years under the rapacious system of apartheid, the black population was silenced, their grievances and njustices undocumented. In this new democracy, the media are still seen to cater for the interests of the elite, this can be conceptualized in Noam Chomsky and Edward. S. Herman’s “ propaganda model”. Granted the media does deliver information to serve the interests of its citizens, news coverage is frequently tailored to what suits the corporate. The media are a profit-seeking institution, funded by advertisers and are (sometimes) owned by private investors, this can henceforth lead to the media placing profit above public interest (Manoim, 1996: 4).

An example of this can be seen in various newspapers during the apartheid era, particularly the Business Day. The Business Day embraced a conservative liberal take on the apartheid system. The reporting that the Business Day encompassed relied on keeping an apolitical stance and avoided negative consequences of full disclosure. The newspaper did not report on any issues negative aspects of the apartheid system or its effects on the population and the reason for this was to gain more revenue than to possibly create controversy (Manoim, 1996: 4).

Another example of this was the recent Marikana shootings, wherein the first pieces of information distributed by the media through print and broadcast, told a story of a violent, armed and angry mob, charging towards apprehensive policemen who then shot the mobsters from afar, in fear of their lives (Johnson, 2012: 1). At least 36 miners were shot dead and because of the inadequate coverage by the media, many people were under the impression that the police action was proportional to the threat posed by the miners.

It wasn’t until Greg Marinovich went on to publish shocking findings about the deaths of the Marikana minors, in his article “ The murder fields of Marikana: The cold murder fields of Marikana” (Marinovich, 2012: 1). The article made public that some of the miners had been shot by close range (execution style) and others crushed by police vehicles, thus providing proof that the police did not act in fear, but instead hand the upper hand and viciously killed the miners.

In many of the articles published, before Marinovich’s, statements were mainly one sided, comprised of policemen, the mining management and government official (Manoim, 1996: 7). It can be understood that many journalists and news firms did not accurately report on the Marikana shootings because they did not want to cause controversy and did not want to lose revenue. With regards to the aforementioned relationships between the media and political/ economic institutions within the self-regulatory system, I argue that the system is clearly weak.

There is indeed morefreedom of speechwith this system, however, the press aren’t held accountable to the citizens that they serve, the press can be seen to accommodate only the elites and silence the people. For these reasons and the above examples, in my opinion it is clear that the self-regulatory system in inadequate for a new democracy such as ours. The proposed system of independent co-regulation without state or government intervention will best serve the freedom of the press in our country.

The system will consist of members of the public (e. g: academics, civil society organizations etc. ) and members of the press industry therefore sufficiently creating integration between the press and the society that it serves (Reid, 2012: 18). The independent system as well as journalists will henceforth be accountable to the public. The co-regulatory system will allow regulatory rules to be created by more than one stakeholder and it will have independence from industries (Press Freedom Commission, 2012: 1).

The system should sufficiently allow members of the public and the press to engage with reports made by the independent body. This nature of transparency will build a close relationship between the public and the media and henceforth it will encourage the media to be accountable to the citizens that it serves (Reid, 2012: 18). I believethat the increased integration between the public and the press will give the once unheard voices of the public a platform for their opinions furthermore it will directly assist the country on the road to true democracy.

The PFC suggests that the system will introduce a more efficient framework for dealing with sensitive matters especially when dealing with children. There will also be a be a method of “ space fines” which will consist of monetary fines, summons or rulings for any offences made by the press (Press Freedom Commission, 2012: 1). The co-regulatory system proposed by the Press Freedom Commission is not an attack at the freedom of the press, rather, it is very necessary to strengthen the system of the press in South Africa.

Co-regulation will not only serve the public because of the system’s transparency and allowance for integration but it could also improve the quality and credibility of journalism in the country. The marginalized and excluded persons of this country need anenvironmentwhere they are able to make public their discrepancies and regarding the extensive reception to the current self-regulation it is evident there needs to be a change in the system.

In my opinion co-regulation will ensure the greatest independence from different influential institutions, it will reinforce the accountability the press should have for the citizens, it will allow for press freedom and furthermore it will assist to uphold the principles of a democracy. References: Manoim, I. 1996. You Have Been Warned: The First Ten Years of The Mail & Guardian. Penguin Books: South Africa. Posetti, J. 2012. Media Regulation, Murdoch and the Journalism Wars of Oz. Rhodes Journalism Review. Press Freedom Commission, 2012.

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