

Chapter on Children- By Thabo Makgoba

Introduction

What type of Print Media system do we envisage within a free and democratic South Africa? What should the ultimate goal of this system be? What parameters and or values should characterise such a system? More specifically, how should this system deal with children? These are some of the questions that were raised during the “Listening to South Africa campaigns”¹. Commissioners have been allocated various sections to compile towards the bigger report and to address aspects of the above questions. In these compilations, commissioners need to offer a succinct synthesis of their research both local and international and their learning from the submissions that were made during the hearings as well as a critique of the work done by the Press Council in 2011².

Brief background

In its preamble, the Press Code locates its locus of control within section 16 of the Bill of Rights as it pertains to the freedom of expression, which includes other rights³. Writing from the “children’s” perspective, citing this constitutional provision without additional reference to Section 28 (2), which states that **“a child’s best interests are of paramount importance in every matter concerning the child”**, suggests a gap in the Preamble. If the Print Media view children as key in the future of a cohesive democratic South Africa, and want to accord children their constitutional right, their Preamble must close this gap and cite Section 28.2 (the children’s interests).

From this overarching perspective, I discuss in the following paragraphs the findings from the research and submissions, against the background of the amended Press Code. I will conclude by recommending possible amendments and/or additions to the current revised code.

Findings/Issues at hand

The scale of what children have to deal with on a regular basis, and the decisions they must take in life, are enormous. The depiction of children in media, focussing as it so often does on hunger in Somalia, or killings in Palestine, or immune compromised status in Sub

¹ The Press Freedom Commission held public hearings in Cape Town, Durban and Johannesburg in January 2012 to hear what South Africans recommended as the best methods to regulate print media in South Africa. The hearings were called *Listening to South Africa*.

² The Press Council adopted a revised Press Code from October 15, 2011 but agreed that the Press Freedom Commission should critique this Code and offer possible recommendations, following its work.

³ See Section 16 (1) and (2) of the Bill of Rights. Section 2 lists the exclusions to the rights listed in 16 (1)

Saharan Africa (to give but three examples), does not cohere well with a media committed to serving the best interest of the child within its pursuit of the “public interest”. Children should receive more balanced coverage than they do now. Positive media depiction of children should be increased if the media is to be fully involved in building South Africa. Of course there is the argument that the current choice of depicting malnourished, neglected and ailing children is an attempt to appeal to adults to care more and develop a caring and responsive attitude towards children. ***I suggest that children should be portrayed holistically and not only pathologically and that this should also be reflected in the current press code.***⁴

Over and above the depiction of children of particularly class and race in a pathological manner, there is also the content of media coverage. This extends from total disregard to the privacy of children, through to portrayals of brutality and violence. Both have psycho-social ramifications for children. If the print media is to fully serve children’s interests, ***depiction of children in certain ways should specifically not bear class or racial labels.*** Furthermore, ***ways should also be devised of protecting children from reporting of extreme violence.*** “Currently the Press Code is silent on these aspects.”⁵

The German Press Code⁶ in Section 11 stipulates “***The Press will refrain from inappropriately sensational portrayal of violence, brutality and suffering. The Press shall respect the protection of young people.***” These provisions are then broken down into 6 subsections which spell out their scope in specific areas: 11.1 Inappropriate Portrayal, 11.2 Reporting violence, 11.3 Accidents and disasters, 11.4 Coordination with the Authorities, 11.5 Criminals’ Memoirs, and 11.6 Drugs. ***I suggest that the current Section 9 start with words similar to the German Press Code and that the current section on Pornography become the equivalent of section 11.7 here, if a parallel approach and format as that of Germany is adopted.***

Discussion

The testimonies of various media experts, the views of South Africans expressed during the hearings, and the written submissions all shared the common mind that South Africa needs a credible, effective system for overseeing the Print Media that will enhance public confidence. There was also agreement that this system should assist in the creation of the sort of free, democratic, society South Africans fought for; and, further, that it must have “teeth”. The phrase that best described having teeth was “If you remove the sting, you kill the bee.” Whilst no-one argued robustly for a state regulated press, almost all respondents stated that the current self-regulatory framework had lost its sting. Most felt that searching for and reporting “truth” is compromised both by poor standards of “text”, and by research methods that contravene values of human dignity, equality and freedom for all. Most people

⁴ There are various instruments that deal with the rights of children to which the free and democratic SA is signatory, for example, as provided for by UNCRC, The African Charter on the Rights and Welfare of the African Child and UNICEF. UNCRC specifically addresses children’s rights and the media. All these could form the basis for training journalists in dealing with children.

⁵ This statement is reported to have been made in Durban during the hearing and was made in strong terms and as a criticism of the current Press Code.

⁶ The excerpt from the German Press Code dealing with Children is in Appendix

were more concerned about the underlying ethical, educative and structural issues than the specifics of regulatory mechanisms. It would be safe to suppose that in general South Africans, whilst cognisant of other possible regulatory approaches, support effective⁷ self-regulation that has the dual function of serving the Print Media whilst simultaneously deepening democracy.

It should be noted that the UK's ongoing Leveson Inquiry into the "Culture, Practice and Ethics of the Press" following revelations about illegal hacking of phones, and debate within South Africa around the "Secrecy Bill" and the separate question of a Media Tribunal, contributed to some confusion among respondents over the scope of our Commission's investigations. These external factors were noted in our subsequent deliberations, with Commissioners concluding they would not affect our report negatively. However, these influences probably led to people commenting less on the interests of children than on the big national and international matters. Nonetheless, those who offered specific comments about children made convincing submissions.

Recommendations

Having made various suggestions throughout the text above, I will now list them systematically. I conclude by placing these recommendations within the current Press Code, making the assumption that South Africans want an effectively self regulated and independent Print Media.

1. **PREAMBLE** : Section 28 (2) of the South African Constitution's Bill of Rights, which states that "*a child's best interests are of paramount importance in every matter concerning the child*", should be include the current Press Code in the Preamble Section after the paragraph following the "exclusions" that begins with " Our work is guided by ... to citizens".
2. Include a new line that states "*Public interest in our case takes into account Section 28(2) of the Bill of Rights of the South African Constitution, which requires that the child's best interest be paramount in every matter that affects the child. We commit to having a special concern for children, in our gathering of data and reporting of our findings.*"
3. **SECTION 9**: Include a positive introductory paragraph between the heading Children and definition of Pornography to read along the lines of the German Press Code. This should be along the following lines: **9.1 PORTRAYAL OF CHILDREN:** *The Press will refrain from inappropriately sensational portrayal of violence, brutality and suffering. The Press shall respect the protection of young people.*"
4. **REPORTING VIOLENCE: to be 9.2** I suggest that children should be portrayed holistically and not only pathologically and that this should also be reflected in the current press code. There should be a sentence along the lines of "*The press will*

⁷ Effective ranged from severe penalties to a speedy and credible process that is perceived to be just and also independent and possibly with investigative powers.

always devise ways of protecting children from portrayals of extreme violence.” If we agree, delete the current section 10 and renumber accordingly.

5. **DRUGS AND SUBSTANCE ABUSE:** Include a new section here that the *“press will not under-report drug and substance abuse”* (along the lines of the German Code).
6. **PORNOGRAPHY: to be 9.3.** Prof Kobus suggests the following wording, with which I concur: *“Definition of Child Pornography: For the purposes of this Code, ‘child pornography’ shall mean: ‘Any image or any description of a person, real or simulated, who is or who is depicted or described as being, under the age of 18 years, engaged in sexual conduct; participating in or assisting another person to participate in sexual conduct; or showing or describing the body or parts of the body of the person in a manner or circumstances which, in context, amounts to sexual exploitation.’”*
7. **9.4 :** Child pornography SHALL NOT BE PUBLISHED.
8. **9.5 :** **KEEP OLD 9.2**
9. **9.6** **KEEP OLD 9.3**

CONCLUSION

I return to the question that I posed in the introduction, which specifically addressed the relationship between children and the Print Media. I conclude that an effective independent press regulatory system with “teeth” can ensure that children are portrayed holistically and not pathologically, in ways that reflect the paramount importance of children’s best interests. This can best be achieved through the inclusion of specific clauses that ensure children’s interests are served at all times. Incorporated of these into the Press Code, along the lines proposed above, will effectively close the existing gaps in the Code.