



LESOTHO

National Overview 2004
by MISA Lesotho

Lesotho



By Moeti Thelejane

(Moeti Thelejane is a freelance journalist with many years' experience in the Lesotho print media industry. He has sub-edited for The Mirror newspaper and The Public Eye newspaper, the biggest independent media house in Lesotho. He was also the editor of Our Times newspaper and is a correspondent for the Lesotho Monitor Magazine.)

Media and democracy

Since the advent of a multi-party democracy in 1993, there has been little progress in Lesotho as far as media freedom is concerned. This is reflected by the alarmingly small number of cases decided in favour of the media. The Lesotho media still has to operate under several media laws that undermine the principle of media freedom. These laws include the Sedition Proclamation of 1937 and the Internal Security Act of 1984.

Relevant democratic institutions - the media ombudsman or a media council - are yet to be established to counterbalance this repressive situation and promote press freedom.

Government interference in media operations

It is still common practice - procedure, in fact - for the Ministry of Communications, operating under the Internal Security Act of 1984 to refer all media practitioners, independents included, to the Lesotho Mounted Police Service (LMPS) headquarters for both press card acquisition and press accreditation. The ministry has put this measure of police accreditation in place to ensure that media practitioners are screened before being awarded press card accreditations to determine their records, in the name of "public safety and security".

Every time there is a State event, journalists are required to obtain such accreditation from the same office. Housed in the LMPS forensic department building, this office issues accreditation cards to "press controllers" and "security personnel" drawn from the police, intelligence agencies and defence force personnel, for the same event.

This practise peaked in notoriety when towards the end of 2003, and throughout the first four months of 2004, media practitioners were unable to get new press cards or to renew their expired accreditation documents from the LMPS headquarters because of the organisation's practically obsolete, non-functional IT equipment. This delay greatly inconvenienced those media practitioners whose press cards expired during this period.

Later in the year, the first and only cabinet reshuffle during 2004 saw the minister responsible for the police, the Minister of Home Affairs and Public Safety Tom Thabane, shifted from the post to become the Minister of Communications, Science and Technology. The reshuffle strangely coincided with a controversy heightened over a clause in the Lesotho Broadcasting Corporation Bill that gives the minister powers to appoint the board and chairman (never chairperson) of the government-run Lesotho Broadcasting Corporation.

To prevent the probably impact of said clause, MISA-Lesotho spent the year driving a campaign, in the midst of governmental hostility, to enact a Bill that is aligned to the principle of press freedom. Government hostility towards the transformation of state media into public service broadcasters undermines press freedom as it casts doubt on the integrity of efforts to transform the state broadcaster into a public broadcaster. There was much fear that the board would be aligned to the ruling Lesotho Congress for Democracy (LCD).

In May, Thabane, while Minister of Home Affairs and Public Safety, verbally threatened the editor of the Public Affairs programme on Radio Lesotho, Nthabeleng Sefako, on air. Roughly translated from Sesotho to English, Thabane said: “This woman Nthabeleng Sefako needs to be sorted out. She is a mere civil servant and yet she wants to dictate to me, a whole cabinet minister, how long my programme should be...we’ll keep a close eye on her”.

Six months later Thabane, the chairperson of the Cabinet Task Force on Security, became her Minister, ostensibly to keep a “close eye” on the transformation process of the state media. The on-air confrontation is an example of the necessity for the transformation of the state radio, where MISA-Lesotho was refused a slot on the current affairs programme to discuss the issue of transformation. MISA Lesotho’s interview on the government controlled Lesotho Television on the transformation of state media was also prevented from airing.

Attacks on media practitioners

In September 2004 Justice Maqelepo, a freelance journalist, was severely assaulted by police officers and armed municipal security personnel for asking why they were hurling vulgarities at vendors they were evicting from the streets of Maseru. Maqelepo had initially revealed his identity to the commanding officer, who was the first to assault him. Other officers then joined in.

MISA Lesotho condemned the barbaric act and issued the following statement: “The Media Institute of Southern Africa (MISA) Lesotho Chapter condemns in the strongest terms the attack on freelance journalist, Justice Maqelepo, by a mob of Lesotho Mounted Police Service (LMPS) cadres and Maseru City Council (MCC) constables on September 10, 2004.

The MCC enforcers, who were armed the teeth with sticks and sjamboks, were ostensibly involved in an operation to remove street vendors from the main road (Kingsway) of the capital, Maseru. There have been running street battles in the past, with some vendors resisting removal. In a similar incident in 2003, two journalists from a local newspaper were injured.

The latest incident involving Mr Maqelepo happened near the main Post Office building on Kingsway. In recounting the incident, Maqelepo told MISA Lesotho that the police alighted from two vehicles and launched an attack on the vendors with their weapons, screaming obscenities at them. He introduced himself to one of the police who seemed to be in command and identified himself as a journalist and asked whether this was the way the police normally operated. The officer in question changed his attitude immediately, screamed an insult at him and threw a punch to his face.

A small group detached itself from the main body and joined their commander in beating up Maqelepo with sticks and sjamboks. Seizing an opportunity, he fled across the street and was able to escape his attackers, but not before he had sustained a bruised lip and a lacerated shoulder.

MISA-Lesotho condemns this action by the police and MCC enforcers in the strongest possible terms. It represents a mindless infringement of the right of journalists to do their work. It infringes the right of the public to information to which the public is entitled and places the public at the mercy of the police who are seemingly above the law when it comes to respect for basic human rights.

We call on the authorities to investigate this incident and institute a full public inquiry with a view to ensuring that incidents such as these never happen again in a democracy such as ours and that perpetrators of such acts are brought to book.”

Court cases and legal hiccoughs

Two workers were shot dead by armed policemen during a peaceful protest organised by the Factory Workers' Union (FAWU) in November 2003. The march was organised to hand over a petition against the minimum wage to the Minister of Labour and Employment, Sello Machakela. The police permit stipulated that the protest should take place between 8 am and 4 pm. The shooting took place around 12.20 pm. FAWU general secretary Macaefa Billy and his deputy, Willy Matseo, were arrested for causing public agitation. They won the court case and government has appealed.

Since Candi Ratabane Ramainoane, the MoAfrika editor, paid Moeketsi Sello ZAR167 000 as compensation and punitive damages for defamation, plaintiffs have popped up out of nowhere to institute a myriad of lawsuits against the financially weak independent media. The Mirror took the trend to the next level by initiating an out-of-court settlement with a plaintiff, Mopshatla Mabitle, as outlined by Thabo Motlamelle in the 2003 "So This Is Democracy" edition.

Media solidarity in the face of authoritative adversity suffered a set-back when a newly formed English tabloid newspaper, Our Times, was threatened with closure within a month of hitting the streets. It was served with a summons by lawyers representing Public Eye, who demanded ZAR139 094 as compensation for damages to business status and reputation.

Our Times had reported that the Public Eye publisher and editor-in-chief, Bethuel Thai, also the director of the newspaper's publisher, Voice Multimedia, had sold the newspaper to a South African company because he and his wife intended to enter the printing press business.

In December, the saga reached its climax with Our Times losing the M139 094 defamation case in absentia at the High Court in a case presided over by Chief Justice Mahapela Lehohla. Our Times management insists it was never summoned to the hearing.

In another incident, the author of the article, Moeti Thelejane, who was also editor of Our Times, was threatened with a defamation lawsuit by the Public Eye consultant editor Crosby Mwanza, a Zambian national, for reporting that he owed MISA-Lesotho some money and that the institution's 2004 AGM had recommended that the secretariat secure the services of a debt collector to get Mwanza to cough up. A short time after levelling the threat, Mwanza left the country, after paying only about a third of the money he owed.

For the first time in the history of Lesotho's independent media, fears were raised that this in-fighting and lack of media solidarity would give the authorities an opportunity to intervene. It was feared that any intervention may result in the tabling of draconian laws. Efforts by 'good Samaritans' to assist a controversial tabloid, The Lesotho Sunday News - which came out once, on a Wednesday, and was never seen again - were futile.

Setsomi sa Litaba, a two-in-one publication with The Mirror newspaper, lost a defamation case against a former nurse and had its removable property seized by the sheriff of the High Court.

In another turn of events, The Mirror received a summons to appear in court in connection with a defamation case. The plaintiff, Moeketse Malebo, a political party leader and parliamentarian, is demanding ZAR700 000 in damages following an article that reported he had kept two tractors, which belonged to communities in eastern Maseru, for his personal use.

In April, The Mirror and Mohahlaula newspapers were shut down after being served with a writ of execution on behalf of one Nthakeng Selinyane, a former MISA-Lesotho chairperson,

for reporting on alleged theft and fraud of monies amounting to M13 000 the weekend he was voted out of office. A week after the closures, Selinyane and former treasurer Neo Ramarou appeared before the magistrate court and were remanded into custody, where they paid ZAR500 bail each the same day. Office equipment was later returned to both newspapers. Public Eye, for which Selinyane is a columnist and which had also reported on the alleged theft and fraud, managed to stop the seizure of its equipment.

Public Eye is also in the High Court as part of a ZAR200 000 defamation suit instituted against the newspaper by one Makhopotso Lebona, who claims that an article published in 2002 and titled, "The sorry case of X1626" was defamatory. The article reported that in 1989 the government vehicle used by the then-principal secretary of the Ministry of Interior Bereng Sekhonyana was allegedly burned down by Mrs Lebona during the military regime in a jealous rage. The demise of the car is nowhere in government records, as reported by the 1996 Audit Report, released in 2002.

Mo-Afrika is in the High Court on charges of defamation instituted by Mopshatla Mabitle, an MP who claims that an article which reported on a bank statement belonging to one M. Mabitle is defamatory. Mo-Afrika and Public Eye are however awaiting the availability of their defence counsel, Zwelakhe Mda, who is seriously embroiled in a court case where he is accused of interfering with State witnesses in a murder case of the Prime Minister's son, one Maile Mosisili. Advocate Mda is the substantive president of the Law Society of Lesotho, which has been a vocal critic of the judiciary, sometimes questioning its independence from the Executive.

Conclusion

The prevailing climate is not conducive to good journalism, nor safe for journalists. For instance, South African journalists, especially those from the SABC, have better access to information than those from local media houses. Some government ministries are yet to have information officers, who are however more like buffer zones than gateways to information. We have yet to see the enactment of media-friendly freedom of information laws, amidst efforts by the Law Review Commission and MISA Lesotho interventions to introduce such relevant Bills.

Lesoto



Por Moeti Thelejane

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Mídia e democracia

Desde o surgimento da democracia multipartidária em 1993, houve pouco progresso no Lesoto no respeitante à liberdade dos mídia. Isto é refletido pelo número alarmantemente baixo de processos decididos a favor dos mídia. Os mídia no Lesoto ainda têm que operar sob diversas leis de comunicação social que minam o princípio da liberdade da comunicação social. Estas leis incluem a Proclamação sobre Actos de Sedição de 1937 e A Lei da Segurança Interna de 1984.

Instituições democráticas relevantes - tal como um ombudsman da mídia ou um Conselho dos Mídia - ainda estão por ser estabelecidos para contrabalançar esta situação repressiva e para promover a liberdade da imprensa.

Interferência do governo em operações dos mídia

É ainda procedimento comum - na verdade é a prática seguida - o Ministério das Comunicações, actuando em termos da Lei da Segurança Interna de 1984, encaminhar todos os profissionais dos mídia - os independentes incluídos - aos Serviços da Polícia Montada do Lesoto (LMPS) para ali tratarem da carteira de jornalista e da acreditação dos jornalistas. O ministério impôs esta medida de acreditação pela polícia para ter a certeza que os profissionais dos mídia passam por um processo de triagem para que a polícia possa investigar o passado antes de ser concedida acreditação e carteira de jornalista. Supostamente, isto é feito em nome da "protecção e segurança pública".

Cada vez que há um evento de estado, os jornalistas necessitam obter tal acreditação do mesmo escritório. Abrigado no edifício forense do departamento da LMPS, este escritório emite também - para o mesmo evento - carteiras de acreditação para 'controladores de mídia' e 'pessoal de segurança' cooptados da polícia, as agências de inteligência e das forças armadas.

Esta prática atingiu o cume da notoriedade nos fins do ano 2003 e durante os primeiros quatro meses de 2004, altura durante a qual os profissionais dos mídia não conseguiam obter novas carteiras ou renovar documentes de acreditação caducados. Isto porque o equipamento de escritório da organização (LMPS) estava completamente obsoleto e tinha parado de funcionar. O atraso que houve foi um grande incómodo para aqueles cujas carteiras de jornalista caducaram durante esse período.

Mais tarde durante o ano - na única mudança que houve na equipe do governo em 2004, o ministro responsável pela polícia, o Ministro do Interior e de Segurança Pública, Tom Thabane, foi transferido para o cargo de Ministro da Comunicação, Ciências e Tecnologia. O que foi estranho, foi que a mudança coincidiu com uma grande controvérsia causada por uma cláusula na Lei sobre a Emissora Nacional do Lesoto, que dá ao ministro poderes para escolher o Conselho e o Presidente do Conselho da emissora Nacional, sob controlo do governo.

Para evitar o possível impacto da dita cláusula, o MISA-Lesoto desafiou a hostilidade governamental e passou o ano conduzindo uma campanha para a criação de uma lei que

reflectisse os princípios da liberdade da imprensa. A hostilidade do governo à transformação da mídia estatal em emissoras de serviço público mina a liberdade da imprensa enquanto causa dúvida sobre a integridade dos esforços para transformar a emissora estatal num órgão público. Havia muito receio que o conselho estaria alinhada ao partido no poder, o Congresso do Lesoto para a Democracia (LCD).

Em maio, Thabane, quando ainda ministro do Interior e da Segurança Pública, ameaçou verbalmente o editor de um programa radiofónico da Rádio Lesoto, Nthabeleng Sefako, ao vivo, com o programa no ar. Traduzido aproximadamente do Sesotho, o que Thabane disse foi: “esta mulher Nthabeleng Sefako está a precisar ser resolvida. É simplesmente uma servidora pública e no entanto quer dizer, a mim, que sou um ministro inteiro do governo, quanto tempo o meu programa devia ser. Vamos ficar de olho nela”.

Seis meses mais tarde Thabane, Presidente da Força-Tarefa do Governo para Segurança, foi indicado ministro (e portanto indirectamente superior de Sefako), supostamente para “ficar de olho” no processo da transformação da mídia estatal. A confrontação ao vivo é um exemplo da necessidade da transformação da rádio estatal, onde o MISA-Lesoto foi recusado um espaço num programa de actualidades, no qual queria debater a questão da transformação. Uma entrevista com o MISA-Lesoto que era para ter sido exibida Televisão Lesoto - controlada pelo governo - também foi impedida de ir ao ar.

Ataques a profissionais dos média

Em setembro de 2004, Justice Maqelepo um jornalista freelancer, foi agredido severamente por membros da polícia e por indivíduos da segurança armada municipal por ter perguntado porque estavam a abusar verbalmente os vendedores que eles estavam a escorraçar das ruas da capital, Maseru. Maqelepo tinha-se identificado [como jornalista] ao comandante da esquadra, que foi o primeiro a o agredir. Os outros policiais então juntaram-se ao comandante e continuaram a agredi-lo.

MISA Lesoto condenou este acto de barbárie e emitiu a seguinte declaração: “O Instituto dos Mídia da África Austral (MISA) no Lesoto condena veementemente o ataque ao jornalista freelancer, Justice Maqelepo, agredido por um grupo de integrantes dos serviços policiais do Lesoto (LMPS) e guardas da Câmara Municipal de Maseru (CCM) a 10 de setembro de 2004.

Os guardas da CCM - que estavam armados até aos dentes com paus e chicotes, tinham supostamente estado envolvidos numa operação para afastar os vendedores de rua da estrada principal da capital, Maseru. No passado, já houve conflitos de rua entre os vendedores e membros das forças de segurança. Num incidente semelhante em 2003, dois jornalistas de um jornal local foram feridos.

O incidente mais recente, que envolveu o Sr. Maqelepo, aconteceu perto do edifício da central principal dos serviços do correio em Kingsway. Ao relatar o incidente, Maqelepo disse ao MISA-Lesoto que a polícia tinha chegado em dois veículos e tinham lançado um ataque contra os vendedores, usando armas e gritando ofensas. Maqelepo apresentou-se ao policial que parecia estar ao comando e identificou-se como jornalista. Perguntou então se “aquela era a maneira como a polícia normalmente operava”.

O policial mudou a sua atitude imediatamente, gritou um insulto e agrediu-o com um soco no rosto. Um pequeno grupo de policiais então destacou-se do corpo principal e juntou-se ao seu comandante, agredindo Maqelepo com varas e chicotes. Aproveitando uma oportunidade, fugiu para o outro lado da rua e conseguiu escapar dos seus atacantes, mas não antes de ter

sofrido vários ferimentos.

MISA-Lesoto condena esta acção pela polícia e por agentes da CCM nos termos mais fortes possíveis. Isto representa uma violação sem sentido ao direito dos jornalistas fazerem o seu trabalho. Ao mesmo tempo, é uma violação do direito do público de ser informado e coloca o público à mercê da polícia que parece estar acima da lei quando se trata de respeitar direitos humanos básicos.

Nós convidamos as autoridades a investigarem este incidente e a instituir um inquérito público com uma vista a assegurar que incidentes como estes não aconteçam outra vez numa democracia tal como a nossa e que os culpados paguem pelos seus actos.”

Casos de tribunal e solavancos na lei

Dois trabalhadores foram mortos a tiro por policiais armados durante um protesto pacífico organizado pelo Sindicato de Trabalhadores Fabris do Lesoto (FAWU) em novembro de 2003. A marcha tinha sido organizada para entregar ao Ministro do Trabalho e Emprego, Sello Machakela, um abaixo-assinado contra o salário mínimo. A autorização da polícia estipulava que o protesto devia ocorrer entre as 8 e 16 horas. Os disparos ocorreram por volta das 12:20. O Secretária-Geral da FAWU, Macaefa Billy, e o seu vice, Willy Matseo, foram detidos por terem causado um distúrbio público. Eles ganharam o caso no tribunal, mas o governo apelou.

Desde que Candi Ratabane Ramainoane, o editor de MoAfrika, pagou a Moeketsi Sello ZAR 167, 000 como compensação e danos por difamação, surgiu uma onda de queixosos, cada um instituindo uma miríade de processos contra os média independentes, financeiramente fracos. O The Mirror levou esta tendência ao próximo nível, propondo um acordo fora dos tribunais num processo instituído por Mopshatla Mabitle, como relata Thabo Motlamelle na edição de 2003 de “Então Isto é Democracia”.

As relações entre os média num ambiente contrário ao crescimento sofreram um golpe duro quando um jornal inglês recentemente fundado, Our Times, foi ameaçado com encerramento sem ter completado um mês desde que chegou às bancas. O jornal foi intimado pelos advogados do Public Eye, ZAR139 094 como compensação por danos ao status quo e reputação da empresa.

Our Times tinha relatado que o dono e editor-chefe do Public Eye, Bethuel Thai - que também era o diretor da Editora do jornal, Voice Multimedia - tinha vendido o jornal a uma empresa sul-africana porque ele e a esposa pretenderam montar uma gráfica para impressão de jornais.

Em dezembro, a polémica alcançou o seu cume quando Our Times perdeu o caso de difamação M139 094 no Tribunal Supremo sem estarem presentes, num caso julgado por o Juiz Mahapela Lehohla. A gerência de Our Times insiste que não foram notificados para comparecer à audiência.

Num outro caso, o autor do artigo, Moeti Thelejane - que também é o editor de Our Times - foi ameaçado com um processo de difamação pelo editor (consultor) do Public Eye, Crosby Mwanza, um cidadão zambiano, por ter noticiado que este devia dinheiro ao MISA-Lesoto e que a Assembleia Geral da organização em 2004 tinha recomendado que o Secretariado do MISA contractasse os serviços de um cobrador de dívidas para que este fizesse Mwanza pagar. Pouco tempo após a ameaça, Mwanza saiu do país, após ter pago aproximadamente um terço do dinheiro que devia.

Pela primeira vez na história da mídia independente no Lesoto, surgiu o receio de que as brigas internas e falta de solidariedade dos média oferecessem às autoridades uma oportunidade

de intervir. Houve medo que tal intervenção pudesse resultar em legislação de leis draconianas. Esforços de ‘bons samaritanos’ em apoiarem um tabloide controverso, o Lesotho Sunday News - que viu a luz do dia uma única vez, e ainda por cima numa quarta-feira - foram em vão.

Setsoni sa Litaba, uma publicação gémea do jornal Mirror perdeu um processo de difamação contra uma antiga enfermeira e teve todo o seu património móvel confiscado por ordem do Tribunal Superior.

Noutro caso, o The Mirror recebeu uma intimação para comparecer no tribunal para responder a um processo de difamação. O queixoso, Moeketse Malebo, o líder de um partido político e membro da Assembleia Nacional, exige ZAR700,000 em danos depois de um artigo que dizia que ele mantinha em sua posse e para o seu uso pessoal, dois tractores pertencentes a comunidades em Maseru oriental.

Em abril, os jornais The Mirror e Mohahlula foram fechados por ordem de tribunal num processo instituído por Nthakeng Selinyane, um ex-presidente do MISA-Lesoto, por terem noticiado o suposto roubo e fraude de dinheiros no montante de M13 000 no fim de semana em que Selinyane perdeu o cargo numa votação para a chefia do MISA-Lesoto. Uma semana mais tarde, Selinyane e o anterior tesoureiro, Neo Ramarou, apareceram em tribunal, foram presos e soltos no mesmo dia, perante pagamento de fiança de ZAR500 cada. O equipamento de escritório foi devolvido mais tarde aos dois jornais. O Public Eye - no qual Selinyane escreve como colunista, e que também tinha noticiado os alegados roubo e fraude - tinha conseguido parar o confisco do seu equipamento.

Public Eye está também metido noutro caso de difamação no Tribunal Supremo envolvendo ZAR200 000 instituído contra o jornal por um certo Makhopotso Lebona, que reivindicava ter sido difamado num artigo publicado em 2002 e intitulado “o caso penoso de X1626”. O artigo relatava que em 1989 o veículo do governo usado pelo então secretário-principal do Ministério do Interior, Bereng Sekhonyana, supostamente tinha sido destruído por fogo alegadamente posto pela Sra. Lebona num ataque de ciúmes durante o regime militar. O desaparecimento do carro não consta em qualquer registo do governo, conforme relatado no relatório de auditoria de 1996, divulgado em 2002.

Enquanto isso, o jornal Mo-Afrika, está acusado de difamação instituída por Mopshatla Mabitle, um Membro da Assembleia, que reivindica que foi difamado num artigo sobre um estrato bancário pertencente a um certo M. Mabitle. Entretanto, Mo-Afrika e Public Eye aguardam a disponibilidade do seu advogado de defesa, Zwelakhe Mda, que está emaranhado num caso de tribunal onde está acusado de interferir com testemunhas do estado no caso do assassinato do filho do Primeiro Ministro, Maile Mosisili. O advogado Mda é o Presidente da Ordem dos Advogados do Lesoto, que tem sido altamente crítica do sistema Judiciário, por vezes questionando o grau de independência de que esta goza do executivo.

Conclusão

O clima vigente não é propício para o bom jornalismo, nem para a segurança dos jornalistas. A título de comparação, os jornalistas sulafricanos - especialmente os que trabalham para a SABC [emissora nacional], têm melhor acesso à informação que órgãos de informação locais. Alguns ministérios do governo nunca tiveram assessores, que - podemos dizer - agem mais como ‘zonas de amortecimento’ do que canais para a informação. Ainda estamos por ver passagem de leis de informação que sejam a favor da liberdade dos média. Isto, apesar do trabalho da Comissão para a Revisão da Legislação e as intervenções por parte do MISA-Lesoto para introduzir leis neste sentido.

• **ALERT**

Date: February 5, 2004

Persons/Institutions: Mirror newspaper, Handsome Tlali Caswel

Violation(s): Legislation

The weekly English newspaper, The Mirror, has been served with a summons to appear before the courts on Tuesday February 10, 2003. The newspaper is being sued for defamation by Mr. Moeketse Vincent Malebo. The newspaper's sub-editor, Handsome Tlali Caswel is the second defendant in the case and is the author of the article which Malebo is complaining about.

Malebo claims that the contents of an article which appeared in The Mirror newspaper of May 23, 2003 under the heading: 'Is Malebo rightful owner or the people?', was defamatory to Malebo since it insinuated that the plaintiff had unjustifiably kept property, in the form of two tractors, belonging to a community in northern Maseru at Thuathe, Roma Valley and used them for his own personal gain. Messrs Lephoi and Namane were quoted sources, which were referred to in the perceived defamatory article. Both the sources are members of the Roma community in question.

• **ALERT**

Date: March 23, 2004

Persons/Institutions: Mololi newspaper

Violation(s): Legislation

The weekly Sesotho tabloid, Mololi, a publication of the ruling Lesotho Congress for Democracy (LCD) political party, has been served with a court summons by Mr. Lehlohonolo T'sehlana Member of Parliament (MP) for Mokhotlong constituency No. 79, demanding maloti 350 000 (approximately US\$54 000), for defamation. The civil litigation is in relation to an article that appeared in the Mololi edition: Volume 7, No. & of February 19, 2004, under the heading: 'Tlhase e nyenyane e chesa hlaha', which roughly translates to: 'a small spark causes fire-outbreak'.

The article alleged that the MP had, on two occasions, showed disrespect to the Speaker of Parliament, disregarded and acted against the constitution of the LCD and that he had no respect whatsoever for the elderly and other members of the ruling party. In his legal submissions to Mololi, the MP has categorically denied all the allegations featured in the publication which he deems defamatory. As a result he is suing the publication and its editor and author of the article in question.

• **ALERT**

Date: May 4, 2004

Persons/Institutions: Ntsau Lekhetho

Violation(s): Beaten

On May 4 2004, Ntsau Lekhetho, a journalist working for the "Public Eye" newspaper, was physically assaulted by Mr Lephuthela Ntsie near the United Nations (UN) House in Maseru, Lesotho. Lekhetho said he was leaving the UN Library when he was accosted by his assailant who wished to know how much he was earning "... to be writing such rubbish?" According to Lekhetho he did not have a chance to respond before Ntsie started beating him with clenched fists. The journalist has since reported the incident to the Police.

• **Date: May 4, 2004**

Persons/Institutions: Mohahlaula newspaper

Violation(s): Victory

On May 4 2004, the High Court of Lesotho rescinded on a default judgement relating to a civil defamation claim against the weekly Sesotho newspaper, Mohahlaula. This effectively allows the newspaper to launch a defence against the civil defamation case in which it was cited as a

respondent, along with a two other local newspapers and a number of private individuals. Mohahlaula's equipment was returned on May 4 2004.

• **ALERT**

Date: May 19, 2004

Persons/Institutions: Ms. Nthabeleng Sefako (Radio Lesotho)

Violation(s): Threatened

On May 19 2004, Ms. Nthabeleng Sefako, editor of the Radio Lesotho's current affairs phone-in programme called "Seboping", was threatened on the air by Minister of Home Affairs and Public Safety, Mr Thomas Motsosahae Thabane. During the programme that was hosted by Mr. Tale Kopeli, the Minister claimed that Ms. Safako needed to be "sorted out".

"She is a mere civil servant and yet she wants to dictate to me, a whole cabinet minister, how long my programme should be. Does she know that I came here as per government mandate?", the minister fumed. He promised that he would "keep a close eye on her..."

The minister was infuriated by the fact that the phone-in programme had been shortened to provide paid advertising space to the Lesotho Revenue Authority.

• **ALERT**

Date: August 6, 2004

Persons/Institutions: Mirror

Violation(s): Legislation

The newly established English tabloid newspaper "Our Times", owned by a company registered as Soul to Soul, was served with summons by a local law firm, Nthethe and Company, on August 6 2004, on behalf of Voice Multimedia, which are publishers of the weekly English tabloid, "Public Eye" newspaper.

The law firm, acting on behalf of "Public Eye" and Voice Multimedia, is demanding one hundred and thirty nine thousand Maloti and ninety four cents, as compensation for damages for defamation and injury to business status and reputation (approximately US\$23 000).

"Our Times" faces possible closure after being in existence for less than one month.

In the "Our Times" edition of August 3 to 9, 2004, a front page article titled: 'Thai sells Public Eye' relates how the managing editor of "Public Eye", who is also the director of Voice Multimedia, proprietors of "Public Eye", has sold the newspaper to a South African company because he and his wife, intend to go into the printing press business.

• **ALERT**

Date: August 18, 2004

Persons/Institutions: Mirror

Violation(s): Victory

On August 18 2004, the "Mirror" newspaper, a weekly English tabloid, was served with a rescission order providing for the return of all its computer equipment by the sheriff of Lesotho's High Court. This follows the seizure of the newspaper's computer equipment after being served with a writ of execution in a civil defamation case filed by an individual named Nthakeng Pheello Selinyane on April 5 2004.

• **ALERT**

Date: September 10, 2004

Persons/Institutions: Justice Maqelepo, street vendors

Violation(s): Beaten

On September 10 2004, a local freelance journalist, Justice Maqelepo, was severely assaulted

by members of the Lesotho Mounted Police Service (LMPS) and municipal constables of the Maseru City Council (MCC), in the Maseru Central Business District area, when he attempted to report on their assault on street vendors.

Magelepo was making his way to the Media Institute of Southern Africa (MISA)-Lesotho Media Resource Centre when two pick-up trucks, one full of armed Lesotho Mounted Police Service (LMPS) officers and the other full of equally armed Maseru City Council (MCC) municipal constables, came to a halt metres from him in Maseru's central business district. Police officers and the MCC personnel jumped from the trucks waving batons and sjamboks and hurling vulgarities at street vendors telling them to vacate the streets.

• **ALERT**

Date: September 13, 2004

Persons/Institutions: Setsomi Sa Litaba newspaper

Violation(s): Legislation

During the week of September 13-17, 2004, the weekly Sesotho tabloid Setsomi Sa Litaba appeared in court four times to answer to a charge of defamation (civil) for an article it published on April 14, 2004. Setsomi Sa Litaba is a sister publication of the Mirror newspaper. Setsomi Sa Litaba is being sued for damages totaling Maloti 130 000 (approximately US\$20 000) by Advocate Kananelo Mosito, acting on behalf of one Ms. Makhotso Tlali.

On April 14 2004, the newspaper published an article entitled "Namolela litopo Bulane", which literally translates to 'Bulane intervenes on behalf of the corpses'. According to the sub-editor of the newspaper, Caswell Tlali, the newspaper reported on an incident which occurred at the Queen Elizabeth II hospital in the capital Maseru, where hospital nurses allegedly swore and spat at corpses of members of the ruling Lesotho Congress for Democracy (LCD) political party following the political strangulation of September 1998.

• **ALERT**

Date: October 6, 2004

Persons/Institutions: MISA Lesotho

Violation(s): Censored

The Lesotho chapter of the Media Institute of Southern Africa (MISA)-Lesotho has, since October 6 2004, been denied access to the state owned radio and television to comment on media law reform developments in the country and to advocate for the reform of the national radio and television. MISA Lesotho had requested a slot on the morning current affairs phone-in programme, Seboping, of the state owned Radio Lesotho, in which it had hoped to sensitise the public about the need for Radio Lesotho to be transformed into a public service broadcaster (PSB) that serves the public.

On October 6, 2004, Lesotho Television (LTV) interviewed the MISA-Lesotho national director, Mr Malefetsane Nkhahle, about the PSB campaign and asked MISA Lesotho to comment on the proposed Lesotho Broadcasting Corporation Bill which has been tabled before parliament. The national chapter criticized the Bill for not conforming to the ideals of a true PSB. The interview preceded a MISA Lesotho meeting of stakeholders to form an NGO and civil society coalition to pressure government to withdraw the Bill and involve the wider sector of civil society stakeholders in consultations to improve the legislation.

LTV was also invited to the meeting but did not attend. Upon investigating its absence, MISA Lesotho was reliably informed that the LTV crew was refused permission to cover the meeting by superiors in the Ministry of Communications, Science and Technology. Furthermore, the Nkhahle interview was not televised as per the instruction of the ministry's authorities. MISA Lesotho was further scheduled to appear on the October 13, 2004 LTV programme, Seotlong. However, its participation has since been cancelled.

Malawi



By **Costly Ronalds Mtogolo**

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Introduction

The year 2004 in the Malawi media was euphoric, marked by a shift in political monopoly from government to opposition, the reaffirmation of Constitutional guarantees and a general thawing in the relationship between media and government. Overall the media sector in Malawi posted quantitative and qualitative growth alongside a commitment by the government to open up the airwaves to the opposition and a willingness to offer free access to information.

Political Environment

The general political environment was charged due to the need for Constitutional amendments by the United Democratic Front (UDF) party to allow its incumbent president, Bakili Muluzi, to stand for a third term. The attempt divided the country into proponents and opponents of the Constitutional violation and the media was caught up in the fray. In the absence of major amendment, government used the Preservation of Public Security as a deterrence to media freedom. One example was the closure of the Malawi Institute of Journalism (MIJ) 90.3FM Radio in May 2004. The matter is in court pending Judicial Preview - the highest level to which cases of media freedom violations can be taken.

Broadcasting

The most notable development was the licensing by the Malawi Communications Regulatory Authority (MACRA) of the public broadcasters, the Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM). The licensees were seen as the new (President Bingu's) administration's commitment to treat all broadcasting licenses as equal and as a real warranty of MACRA's independence - the first in its eight-year existence. Hitherto, the MACRA was dubbed 'toothless' and 'state-controlled' for failing to license MBC and TVM. It was accused of double standards which allowed the two to be above the law and answerable to no one. Looking at other African democracies, it seems sadly unlikely - this is the general public's view - that the christening of these new "babies" will really redeem Malawian media. Meanwhile the Authority, operating without a broadcasting policy, undertook to revise the licenses of private and community broadcasters. Fourteen broadcasting licensees are currently operating in Malawi. Eight of these are in the community broadcast category. The biggest worry is that the authority is using the opportunity to make changes before amending the Principal Act. Is this another window-dressing measure, or a case of putting the proverbial media cart before the legal horse?

Print

Table 1

ORGANISATION	PUBLICATION
Blantyre News Paper (Blantyre)	<i>Daily Times, Malawi News, Sunday Times Dzūkani Magazine</i>
Nation Publications Limited (Blantyre)	<i>Nation, Weekend Nation</i>
Jamieson Publication (Lilongwe)	<i>The Chronicle</i>
Democratus Limited	<i>Democratus</i>

Patterns of Ownership

Table 2

Public Broadcasting Licensees	Private Broadcasters	Community Broadcasters
<ul style="list-style-type: none"> • TVM (Blantyre) • MBC (Blantyre) 	<ul style="list-style-type: none"> • Capital 102.5FM (Blantyre) • Power 101FM(Blantyre) 	<ul style="list-style-type: none"> • Radio Maria (Mangochi) • Radio Alinafe (Lilongwe) • ACB Radio (Lilongwe) • Transworld Radio (Blantyre) • Radio Islam (Blantyre) • Calvary Family Church (CFC) Radio (Blantyre) • Channel For All Nations (CFAN) Radio (Lilongwe) • MIJ Radio (Blantyre) • Dzimwe Radio (Mangochi) • Joy Radio (Blantyre)

In terms of the diversity of ownership, Malawi would seem to favour faith-based community broadcasters ahead of secular licensees — and perhaps this implies that it is more inclined towards superstition than empiricism?

There was very little diverse ownership in print media, apart from the establishment of the Democratus whose ownership is still a mystery although it is evidently pro-government.

Public Participation

Whilst the print media is concentrated in urban areas, most broadcast licensees, including community broadcasters, reveal a similar pattern as they are urban-based rather than in particular communities that would be accessible to the local people. Access to participation is also economically inhibitive as phone-ins are the most popular way of participating in the new broadcast media. Thus the democratisation effect of the broadcast media is very much an ideal which has yet to be realised in Malawi because participation is geographically discriminate and economically elitist.

Government-Media Relationships

The impression created towards the end of the year was that the adversarial relationship between the two estates was on the mend following a call by the Minister of Information and Tourism Ken Lipenga to public broadcasters MBC and TVM to open up to the opposition. At a luncheon in December, State President Mutharika hosted the media at his new State House in the capital city. He repeated the call for free media although the ruling United Democratic Front, (UDF) party cried foul and complained that it was being left out.

In terms of facilities, Minister Lipenga conceded that the government’s own news agency, Malawi News Agency (MANA), had inadequate facilities and was poorly staffed. This meant it could not effectively rise to the challenge of gathering information for the country’s development needs. He stopped short of suggesting whether privatisation of the state-run media could be a long-term solution. These pronouncements are more significant in analysing media-state relations because the assurance of an elected State President or cabinet minister will not free the media.

Considering media freedom

Media freedom is a constitutional guarantee and is enshrined in the 1995 Constitution of the Republic of Malawi. Its implementation, existence and success is not the preserve of an elected individual, a ruling political party or any international pressure group — it must be understood as an inalienable right of the Malawian.

Media Fraternity

Malawi is divided into three administrative regions: the northern, central and southern regions. European settlers preferred the southern region, particularly Blantyre, which is recognised as the commercial and industrial capital of Malawi. A quick check of tables 1 and 2 confirms a heavy concentration of media activity and establishments in Blantyre. Lilongwe in the central region placed second, while the northern region mostly consumes media products from the other two regions.

Ironically, the most active media fraternities are the Nyika Press Club in Mzuzu (northern region) and the Lilongwe Press Club (central region).

Blantyre does not have any vibrant media fraternities and where they do exist, they do so to support causes incidental rather than central to media activity. Some of the notable media fraternities that are now dormant are Journalists Association of Malawi (JAMA), Publishers Association of Malawi (PAMA), Malawi Women Media Association (MAMWA) and the Kabula Press Club.

Viva MISA!

In the absence of vibrant media fraternities, NAMISA, the Malawi Chapter of MISA, has tended to fill the void and was sometimes supported by the Media Council of Malawi, which is another sleeping media partner at the moment. Most of the attacks on the media in Malawi are therefore, not surprisingly, criticised by NAMISA.

Conclusion and self-critique

In a way, Malawian journalists manifest a weakness in voluntary mobilisation of their labour and interests compared to journalists elsewhere in the world. This has tended to work in favour of media establishments to divide the journalists and at times in favour of the government when it wishes to wage war on the media.