



Media Ombudsman Report - 2010

**Report presented to the Annual General Meeting of
the Editors' Forum of Namibia on 01 October 2010**

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"The independence of the judiciary and the freedom of expression are two of the pillars of an open and democratic society. The judiciary bears the responsibility of upholding the rule of law and ensuring that the government respects and promotes our fundamental human rights. The media has the responsibility to report what has, in fact, happened and what has not happened which is supposed to happen."

- Former Chief Justice Pius Langa, 30 March 2008¹

Introduction

The Media Ombudsman of Namibia is appointed in terms of article 4.2.3 of the Constitution and article 1.3 of the Media Complaints Procedures (Schedule II) of the Constitution of the Editors Forum of Namibia (EFN). The role of the Media Ombudsman is to administer the media complaints procedure, investigate complaints, conciliate between parties, adjudicate complaints together with the Media Complaints Committee, arrange for the hearing of appeals and report on complaints.

The EFN was formally launched on 26 June 2007 and soon thereafter a process was started to develop a Code of Ethics for the Namibian Media. The Code of Ethics and the Complaints Procedures were adopted on 11 August 2009 and at the same special meeting of the Editors' Forum, the first Media Ombudsman and incumbent, Clement Daniels, was appointed under this new provision. The appointment took place at the time when the Namibia Communication Bill (dubbed in the media and public as the "Spy Bill") was under discussion and public scrutiny. The prevailing situation at that time therefore gave impetus to the EFN taking the bold step of adopting the self-regulatory mechanism for the media, because of the apprehension that the government might appoint a state-regulatory mechanism for the Namibian media. The position of Media Ombudsman is a part-time position.

The appointment of the Media Ombudsman was welcomed by the Minister of Information and Communication Technology, Mr Joël Kaapanda and the media fraternity in general². There was however also scepticism from some quarters with regards the timing of the appointment, because of alleged divisions in the media³.

¹ Former South African Chief Justice Langa, speaking at the Durban University of Technology on the role of the Judiciary and its relationship with the media, Durban, 30 March 2008.

² Namibian Newspaper: 14 August 2009 – "Namibian Media appoints a Media Ombudsman"; Editors Forum of Namibia Media Statement: 13 August 2009 - "Kaapanda applauds appointment of Media Ombudsman"; New Era Newspaper: 14 August 2009 – "Kaapanda welcomes Media Ombudsman"

³ New Era Newspaper: 21 August 2009 – "Media Ombudsman? Yes Lastly! But for whom" and 11 September 2009 – "Media love-hate affairs seems far from fading".

The Media Ombudsman and the members of the Media Complaints Committee were however only formally launched at a function on 13 November 2009.

Complaints

In 2009 a total of eight complaints were received.

Before the appointment of the Media Ombudsman and even before the adoption of the media complaints procedures, the public has made complaints to the EFN. Three complaints were received before August 2009. The Code of Ethics is not retrospective and in reality it would have been unfair to pursue these complaints. The office has nevertheless considered the complaints and contacted the complainants, who indicated that they do not wish to proceed due to the time that has lapsed.

A further five complaints were received after the appointment of the Media Ombudsman.

- Gawaseb / Republikein (04/2009) - matter was withdrawn after advice that there was insufficient grounds.
- Matsi / Namibian Sun (05/2009) - matter was satisfactorily resolved at an informal meeting between the Ombudsman and the parties.
- Rally for Democracy and Progress / Namibian Broadcasting Corporation (06/2009) - matter was considered but insufficient evidence of alleged biased reporting was presented by the complainant. No action taken.
- Saintfeit / Namibian (07/2009) - this was a very personal matter against the writing style and alleged biasness of a particular journalist. After the journalist resigned from the newspaper there was no need to pursue the matter.
- Smit / Republikein (08/2009) – complainant wanted his letter published in the newspaper in response to another reader’s letter. Ombudsman felt that the letter did not originate from the newspaper and newspaper was not obliged to publish the letter.

Since 01 January to 30 September 2010 a total of 12 complaints were reported.

- Kamwi / Republikein (01/2010) – matter was registered pending publication of correction. Complainant has not pursued this matter.
- Amakali / Informanté (02/2010) – matter was settled through conciliation process. It however took very long to finalise.

- lipinge / New Era (03/2010) – complaint of alleged bias and incorrect reporting. The newspaper offered to publish the version of complainant. Have not received feedback from the complainant.
- Ombetja Yehinga Organisation / Namibian Sun (04/2010) – after investigation the complainant withdrew the complaint.
- Polytechnic of Namibia / Informanté (05/2010) – matter under investigation. Will be referred to Media Complaints Committee for adjudication.
- Namibian Broadcasting Corporation / Namibian Sun (06/2010) - matter under investigation. Will be referred to Media Complaints Committee for adjudication.
- Boois / Republikein (07/2010) - matter under investigation. Will be referred to Media Complaints Committee for adjudication.
- Legg-Ghetto / Namibian (08/2010) – registered, but awaits further information from complainant.
- Ephraim / Namibian (09/2010) – under investigation, awaits further information from a third party.
- Polytechnic of Namibia / New Era (10/2010) - matter was registered pending publication of correction. Complainant has not pursued this matter.
- One Africa Television / Informanté (11/2010) - matter under investigation. Will be referred to Media Complaints Committee for adjudication.
- Kandandu / Namibian Broadcasting Corporation (12/2010) - matter under investigation, awaits reply from respondent.

The Complaints received so far were not always dealt with within the set time frames of the complaints procedures due to lack of administrative capacity in the office of the Media Ombudsman to do regular follow-ups and also due to delays in replies from certain media houses. There are plans underway to enhance the administrative capacity in the office and the Media Ombudsman also plans to change the rules of engagement with media houses, so that they are more responsive to complaints.

On reflection it could be said that the Media Ombudsman could have been more robust and public in dealing with complaints, but it was a learning curve for all and we trust that things will improve in the next year. The present number and type of complaints do not show clear trends, but the overwhelming number of complaints relate to inaccurate reporting and failure by journalist to hear and publish both sides of a story.

Promotional matters

One of the cornerstones to ensure public participation in the self-regulatory process is the promotion of the code of ethics, the complaints procedure and the office of the Media Ombudsman. There were some successes and shortcomings in this respect.

The Media Ombudsman has formed a very supportive task force that assist with the development of publicity materials. The task force consists of the Media Ombudsman and representatives from the EFN, fesmedia Namibia Office and MISA Namibia.

So far the committee has conceptualise and produced:

- Pamphlets in English, Afrikaans, Oshiwambo, Otjiherero, Khoekhoegowab, Rukwangali and Lozi.
- Booklets in English.
- Posters, stickers and t-shirts are in the production process.
- An animated TV-slot is in production and will soon be viewed on television.
- Radio slots are also being developed.
- A banner for public meetings and events.
- An interactive website has been established, where the public can also register complaints at www.mediaombudsmannamibia.org

Outreach activities

The Media Ombudsman planned a number of trips to the regions to promote the office and explain the complaints procedures. Unfortunately most of the trips were not realised due to funding constraints.

The Media Ombudsman however managed to visit Oshakati on 04 December 2009 and Keetmanshoop on 28 April 2010 and spoke to some community members and journalists. The meetings were not well attended, but received publicity and there were fruitful discussions with journalists regarding the code of ethics. The Media Ombudsman also visited the editors of the New Era and Republikein and the Director General of the NBC during 2010.

On 11 November 2010 the Media Ombudsman participated in the launch of the Africa Media Barometer Namibia Report in Windhoek.

The Media Ombudsman presented lectures to media students at the Polytechnic of Namibia on 16 March and University of Namibia on 19 March 2010 on the Code of Ethics and Complaints Procedures. These interactions with the students led to articles being published and assistance to some of the students with regards projects.

In February 2010 the Media Ombudsman visited the Press Ombudsman in South Africa and some senior editors of the press media. He also addressed media students on the role of the media and self-regulation in Namibia.

On 5 May 2010 the Media Ombudsman participated in the World Press Freedom Day under the theme "Access to information: the right to know".

Funding

All funds earmarked for, or donated to the Media Ombudsman are handled by the EFN. The EFN is resolute that it should be responsible for the administrative and operational activities of the Office of the Media Ombudsman, since it is a self-regulatory system. Funding for outreach and promotional activities were provided by fesmedia, MISA Namibia and the Legal Assistance Centre.

Future Plans

- As mentioned above the Media Ombudsman will have to enhance its administrative capacity to deal more effectively with complaints.
- Better cooperation between the Media Ombudsman and all editors should be maintained.
- Outreach visits to the different regions should be accelerated over the next twelve months. This should be supported by user friendly information and publicity materials.
- The Media Ombudsman should improve engagement of the Media Complaints Committee in its activities.
- Improve interaction with government officials and politicians to ensure better understanding of the role of the Media Ombudsman.
- Secure long-term funding for outreach activities and administrative capacity.

Conclusion

The message of support from Minister of Information and Communication Technology, Mr Joël Kapaanda, on 13 August 2009, have generated interest and

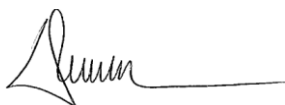
support for the Office of the Media Ombudsman from a broad spectrum of the Namibian public.

It is difficult to make a proper assessment of the performance of the office of the Media Ombudsman or to analyse trends over such a short period. The whole concept of self-regulation is new in Namibia and it might take some time before the code of ethics and concepts such as privacy, dignity and media freedom are entrenched in our society. A number of lessons have been learned from this experience and it is hoped that this would improve performance as we move ahead.

The establishment of the Media Ombudsman and the self-regulatory mechanism are in itself an important milestone for Namibia. It is however important that the publishers and editors embrace and implement the code of ethics and enhance professionalism within their staff. Complaints to the Media Ombudsman should be the exception and not the practice.

Neither the media, nor the Media Ombudsman can afford to become complacent in dealing with media self-regulation. We need to prove beyond reasonable doubt that the system works and that the general public supports it and gain satisfaction from it. The changing environment in our neighbouring countries should be a reminder that things could change very quickly if no effective, efficient and legitimate self-regulatory mechanism is in place.

The Media Ombudsman thanked the members of the Task Force for their advice and energy, the EFN for its support and guidance, the individual editors and journalist for their cooperation and last, but not least the members of the public who are making complaints and enquiries.



Clement Daniels
Media Ombudsman
01 October 2010

Any regulatory body established to hear complaints about media content, including media councils, shall be protected against political, economic or any other undue interference. Its powers shall be administrative in nature and it shall not seek to usurp the role of the courts.

Effective self-regulation is the best system for promoting high standards in the media.

(African Commission Declaration on Freedom of Expression in Africa - Principle 9(2) and (3))