The court re-iterates that freedom of expression constitutes one of the essential foundations of a democratic society and that the safeguards to be afforded to the press are of particular importance. Whilst the press must not overstep the bounds set, inter alia, in the interest of 'the protection of the reputation and rights of others' it is nevertheless incumbent on it to impart information and ideas of public interest. Not only does the press have the task of imparting such information and ideas: The public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of 'public watchdog' ..."

5.17 The court concluded, at paragraph 33, that -

"*Taken as a whole, the feature could not objectively have appeared to have as its purpose the propagation of racist views and ideas. On the contrary, it clearly sought – by means of an interview – to expose, analyse and explain this particular group of youths, limited and frustrated by their social situation, with criminal records and violent attitudes, thus dealing with specific aspects of a matter that already then was of great public concern.*"

5.18 Whilst, section 22(2) authorises the Board to exempt broadcasters from the classification procedures, this provision will do little to ameliorate the unconstitutional effects of section 18 of the Bill. Of particular concern is that any exemption given by the Board in terms of section 22(2) may be conditional and may be withdrawn at any time by the Board. Whenever there is a threat of imposing conditions which may restrict the right to freedom of expression or of a withdrawal the result is that free expression is undermined and a propensity to self-censorship induced.

6 THE UNCONSTITUTIONAL EFFECTS OF THE BILL ON FREEDOM OF EXPRESSION

6.1 The removal of the exemptions in section 22(3) and 23(3) and the requirement that all publications, including newspapers and online publications, films and interactive games be made subject to the approval grounds in sections 16 and 18 of the Bill coupled with the overbroad and vague provisions of sections 16 and 18 and the under inclusive grounds for exemption in those sections when

viewed in the context of the criminal sanctions for non compliance in sections 24A and 24B of the Bill amounts to a prior restraint on freedom of expression. The result of this prior restraint will be a chilling effect on free speech and the risk of self censorship. The provisions in question are also impractical to implement and cut deeply into the principle of editorial independence. Each of these issues is dealt with below.

6.2 **Prior restraints and the Chilling effects on free speech**

6.2.1 There can be no justification for requiring prior approval in the form of having to notify publications for classification in terms of section 16(2) and for broadcasters having to notify films for classification in terms of section 18(1). Such restrictions amount to a prior restraint. Prior restraints on freedom of expression entail the imposition of restrictions on speech prior to entering the public domain and take the form of government consents, authorisations or licences as a pre-requisite for publication. Prior restraints are subject to a heavy presumption against their constitutionality due to their chilling effects on free speech and encouragement of self-censorship and have been found to be unconstitutional by our courts in a number of cases.[17]

6.2.2 Section 24A(1) of the Bill provides that "*any person who knowingly distributes or exhibits in public a film or interactive computer game without first having been registered with the Board as a distributor or exhibitor of films or interactive computer games shall be guilty of an offence*". Section 24A (2) of the Bill makes it a criminal offence to knowingly broadcast, distribute, exhibit in public or offer for sale or hire or advertise for exhibition, sale or hire any film or publication referred to in section 16(2) which has not been classified by the Board or which has been classified as a 'refused' or as a XX film or publication. It is also an offence in terms of section 24A (3) for *"any person, not being the holder of a licence to conduct the business of adult premises and not being registered with the Board as a distributor or exhibitor of films or interactive computer games, and who knowingly broadcasts, distributes, exhibits in public, offers for exhibition, sale or hire*

[17] See Mandela v Falati 1995 (1) SA 251(W).

or advertises for sale or hire any film, interactive computer game or a publication which has been classified X18". In addition, any person who knowingly distributes a film or publication classified as X18 or which contains depictions, descriptions or sequences of sexual conduct to a person under the age of 18 years[18] or who knowingly distributes a film or publication in contravention of section 18A of the Bill[19] will be guilty of an offence. Any person found guilty of having contravened these provisions will be liable, upon conviction to a fine or to imprisonment for a period of five years or to both such fine and imprisonment.

6.2.3 Section 24B of the Bill details the circumstances under which it will be an offence to possess certain films, interactive computer games or publications. Section 24B(1)(d) provides that any person who *"knowingly makes available, exports, broadcasts or in any way distributes or causes to be made available, exported, broadcast or distributed, or assists in making available, exporting, broadcasting or distributing, any film, interactive computer game or publication which contains depictions, descriptions or sequences of child pornography or the abuse of children or which advocates, advertises, encourages or promotes child pornography or the sexual exploitation of children shall be guilty of an offence and liable, upon conviction, to be sentenced to imprisonment for a period not exceeding ten years."*

6.2.4 In addition section 24B (2) of the Bill provides that any person, who has knowledge of the commission of any offence under section 24B (1) or having reason to suspect that such an offence has been or is being committed and who fails to report such offence to the relevant authorities and to furnish all details in respect of such offence will be guilty of having contravened the Bill and will also upon conviction be liable to a fine or imprisonment for a period not exceeding ten years or to both such fine and imprisonment[20]. This particular provision in the Bill constitutes a substantial deviation from the basic tenant of criminal law requiring intention, as well as

[18] Section 24 A (4) of the Bill.
[19] Section 24 A (5) of the Bill.

a sufficient causal nexus between an act and the socially repugnant consequence of such act. The section goes much further than the existing common law offences of common purpose, conspiracy and defeating the ends of justice, which require a close association between the act or omission and the ultimate consequence. As a matter of policy, the section could result in severe injustice for *"innocent bystanders"*, who would be compelled to act as *"spies"* on others, replacing the function of the police with a nation of snoops.

6.2.5 As for journalists, section 24B (2) is even more dangerous. Forcing journalists to reveal their confidential sources of information related to the commission of an offence will severely undermine the media and will diminish the media's ability to develop other sources and gather news. In particular, it will deter other sources from confiding in journalists for fear of being exposed and thus have a 'chilling effect' on journalists. It will also result in a perceived loss of independence for the media because the public may perceive the media as an investigative tool of government instead of a neutral entity. This undermines public confidence in the media and restricts journalists' news gathering ability. It will place a burden on the time and resources available to media organisations by bogging down reporters and editors in dealing with court challenges, thus affecting the ability of the media to carry out its prime function of gathering and disseminating news efficiently. This is particularly the case for small, independent media organisations who have minimal resources. It will also amount to an intrusion into the editorial process of the media because the prospect of a subpoena may inhibit the media from news gathering or disseminating news. Rather than risk being subpoenaed to reveal sources, a journalist or newspaper may decide not to publish information. It may, in certain circumstances, threaten the safety and wellbeing of journalists and their sources. In particular, sources who provide information on condition of confidentiality may face harassment, prejudice or retaliation or even threats to their lives if their identity is disclosed.

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[20] Section 24B (2) of the Bill.

6.2.6 It is a further offence under section 24B (3) of the Bill for persons who have control over a film or publication which contains depictions, descriptions or sequences of sexual conduct not to take all reasonable steps to prevent access to such materials by any person under the age of 18 years. Any person found guilty of having contravened this section in the Bill will upon conviction be liable to a fine or imprisonment for a period not exceeding five years or to both such fine and imprisonment.

6.2.7 The imposition of criminal sanctions in the manner provided for in sections 24A and 24B of the Bill and the wide ambit of such contraventions make the effects of the prior restraint on freedom of expression even more acute. South African courts[21] have in the context of considering common law rules for defamation, recognised the 'chilling effect' that such rules have upon free expression and their propensity to induce self-censorship. The provisions in question encourage self-censorship. The print and broadcast media may be deterred from reporting on certain matters of public interest for fear of guessing wrong and exposing themselves to criminal sanction, thereby finding the only guarantee of legal safety, in silence. Prior restraints on freedom of expression[22] and vague or overbroad laws[23] have also been found to have a 'chilling effect' on free expression. For the reasons set out in paragraphs 4 and 5 of this submission the vagueness of the provisions in question and their over breadth and under inclusion in setting the grounds for exemption coupled with the criminal sanctions in sections 24A and 24B will have a chilling effect on the constitutionally protected right to freedom of expression.

6.3 **Editorial independence**

6.3.1 The concept of editorial independence - a crucial component of freedom of the press and other media was dealt with in the case of *Miami Herald*

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[21] *Argus Printing and Publishing Co. Ltd v Inkatha Freedom Party* 1992 (3) SA 579 (A) at 587 F-G and 590F; *National Media v Bogoshi* 1998 (4) SA 1196 (SCA) at 1210H; *Holomisa v Argus Newspapers Ltd* 1996 (2) SA 588 (W) at 605 C-E, 616 B-I.

[22] *Nebraska Press Association v Stuart* 427 US 539 (1976) at 599

[23] *Reno v American Civil Liberties Union* (1998) 61 MLR 414 where the vagueness of the statutory phrases *"indecent transmission"* and *"patently offensive display"* were described as having an obviously chilling effect on speech.

Publishing Co v Tornillo (1974) 418 US 241 where the court stated at 256-258-

"A newspaper is more than a passive receptacle or conduit for news, comment and advertising. The choice of material to go into a newspaper, and the decisions made as to limitations on the size and content of the paper, and treatment of public issues and public officials - whether fair or unfair - constitutes the exercise of editorial control and judgement. It has yet to be demonstrated how governmental regulation of this crucial process can be exercised consistent with the First Amendment guarantees of a free press as they have evolved to this time."

And at 259-261-

"We have learned, and continue to learn, from what we view as the unhappy experiences of other nations where government has been allowed to meddle in the internal editorial affairs of newspapers. Regardless of how beneficent-sounding the purposes of controlling the press might be, we prefer 'the power of reason as applied through public discussion' and remain intensely sceptical about those measures that would allow government to insinuate itself into the editorial rooms of this nation's press....

Any other accommodation - any other system that would supplant private control of the press with the heavy hand of government intrusion - would make the government the censor of what the people may read and know.....

Prior compulsion by government in matters to the very nerve centre of a newspaper - the decision as to what copy will or will not be included in any given edition - collides with the First Amendment. Woven into the fabric of the First Amendment is the unexceptional, but nevertheless timeless, sentiment that liberty of the press is in peril as soon as government tries to compel what is to go into a newspaper.....

Quite the contrary, this law runs afoul of the elementary First Amendment proposition that government may not force a newspaper to print copy which, in its journalistic discretion, it chooses to leave on the newsroom floor. Whatever power may reside in government to influence the publishing of certain narrowly circumscribed categories of material…. we have never thought that the First Amendment permitted public officials to dictate to the press the contents of its news columns or the slant of its editorials."

6.3.2 The principle of editorial independence is a well-established and a widely accepted component of freedom of the press and other media. Legislation which compels the print, broadcast and online media to publish that which the print broadcast and online media feels should not be published or which forbids the print, broadcast and online media from publishing specified matter is at odds with this principle. The print, broadcast and online media are not public utilities subject to reasonable regulation in matters affecting the exercise of journalistic judgement as to what the Board and the classification committee believes should be printed, broadcast or published online. The respect for editorial independence embodied in the right to freedom of the press and other media erects a strong barrier against government efforts to intrude into the editorial rooms of the print, broadcast and online media. The Bill by attempting to control expression on the basis of content undermines the concept of editorial independence and gives the Board and the classification committee free reign over the editorial rooms of the print, broadcast and online media.

6.3.3 The extent and significance of the Bill's intrusion on editorial independence is best illustrated by the following example. The speeches made by former United States Secretary of State Colin Powell justifying America's reasons for invading Iraq and those of President George W Bush would qualify as descriptions or representations amounting to *"propaganda for war"*. There is no doubt that such statements would be in the public interest and would further be of such a nature that the print, online and broadcast media would have a duty to report them. However, section 16(2) of the Bill will require editors on each occasion where statements such as these are made to either elect not to report them or to report them after having sought the

required classification approval, alternatively to report them without the required classification approval. Where an editor decides not to report the statements, this will amount to nothing other than self-censorship. Where editors apply for classification approval, they will inevitably do so at the risk of sacrificing the immediacy and currency of the story and ultimately competitive market advantage. On the other hand, where editors elect not to apply for classification approval, whilst the story will be immediate, current and first to market, they will run the risk of criminal prosecution.

6.3.4 The difficulties of the above scenario become even more acute where a Colin Powell type speech is made at 18h00 as there will be no time for the classification committee to convene to hear the application. The Bill is silent on how the classification committee intends to deal with the multitude of applications which it will now receive and there is further no provision for the classification of applications on an urgent basis. If one considers that there is a very real likelihood that more than one story requiring classification approval will break in a single evening, it is clear that the classification committee will simply be unable to meet the demands of newspaper, online and broadcast deadline demands. For the reasons stated above, it will be impractical, if not impossible for the media to comply with the Bill in a manner which gives proper effect to the right to freedom of expression. Similarly, the enormous administrative burden which will be brought to bear on the classification committee will make it impossible for that committee to properly perform its functions and duties under the Bill. Legislation which is impossible to comply with is generally regarded as being unenforceable and invalid.

6.4 **Silencing some speech in order to facilitate other speech**

6.4.1 To the extent that the provisions in question pay any regard to freedom of expression, they appear to proceed on the inarticulate premise that it is necessary and appropriate to silence certain forms of speech in order to facilitate the objects of the Bill. The primary motivating factor behind the provisions in question is an attempt to eliminate child pornography and child abuse. Whilst there is no doubt that this objective is laudable, the overbroad, vague and in certain instances under inclusive provisions in

sections 16 and 18 of the Bill when coupled with the threat of criminal prosecution will have the effect that expression on matters of public interest and subject to constitutional protection will be stifled in pursuant of the objects of the Bill.

6.4.2 In doing so the provisions in question become an instrument for government control and the objects of the Bill should not be invoked to justify significant regulation of the content of expression in conflict with the right to receive or impart information and ideas. The need to guard against government control and the potential unconstitutional effects thereof on the right to freedom of expression were referred to by the Constitutional Court in *Islamic Unity Convention v Independent Broadcasting Authority and others* [2002] JOL 9576 (CC) at paragraph 27 on page 15 –

"*... in S v Mamabolo* (ETV, Business Day and the Freedom of Expression Institute intervening*) the following was said:*

'Freedom of expression, especially when gauged in conjunction with its accompanying fundamental freedoms, is of the utmost importance in the kind of open and democratic society the Constitution has set as our aspirational norm. Having regard to our recent past of thought control, censorship and enforced conformity to governmental theories, freedom of expression (the free and open exchange of ideas) is no less important than it is in the United States of America. It could actually be contended with much force that the public interest in the open market-place of ideas is all the more important to us in this country because our democracy is not yet firmly established and must feel its way. Therefore we should be particularly astute to outlaw any form of thought control, however respectively dressed.'

Notwithstanding the fact that the right to freedom of expression and speech has always been recognised in the South African common law, we have recently emerged from a severely restrictive past where expression, especially political and artistic expression, was extensively circumscribed by those legislative enactments. The restrictions which were placed on

expression were not only a denial of democracy itself, but also exacerbated the impact of this systematic violations of other fundamental human rights in South Africa. Those restrictions would be incompatible with South Africa's present commitment to a society based on a 'Constitutionally protected culture of openness and democracy and universal human rights for South Africans of all ages, classes and colours.' ...

South Africa is not alone in its recognition of the right to freedom of expression and its importance to a democratic society. The right has been described as 'one of the essential foundations of a democratic society; one of the basic conditions for its progress and for the development of every one of its members. As such it is protected in almost every international human rights instrument. In Handyside v The United Kingdom the European Court of Human Rights pointed out that this approach to the right to freedom of expression is:

'applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb ... such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society.'

6.5 **Undermining of the Constitution**

6.5.1 Section 7 (2) of the Constitution provides -

"*The state must respect, protect, promote and fulfil the rights in the Bill of Rights*".

6.5.2 Section 8 (1) of the Constitution provides -

"The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state."

6.5.3 SANEF's members regard section 16 of the Constitution not merely as a right, but as a duty to inform the public to the maximum. Should SANEF's members fail to comply with this obligation they would not be carrying out

the implied constitutional demand that they exercise the right to freedom of the press and other media in the spirit of clauses 7 and 8 of the Constitution. Accordingly, SANEF regards the limitations imposed on the right to freedom of expression and detailed in this submission as not only interfering with the practicalities of news gathering and dissemination but as forcing members of the media to be in breach of their constitutional obligations. At the same time, any attempt by the Board or the classification committee to interfere with the right to freedom of expression in the manner provided for in the Bill will constitute a contravention of sections 7 and 8 of the Constitution.

7 REDUCTION IN PROCEDURAL RIGHTS AND SAFEGUARDS

7.1 Allied to the concern in respect of the unconstitutional effects of the Bill on the right to freedom of expression is the removal of certain procedural rights and safeguards. In this regard, the Bill proposes to remove the following procedural safeguards in the Films and Publications Act, namely –

7.1.1 section 16(4) of the Films and Publications Act which provides that no decision on any complaint or application lodged with the Board shall be taken unless the publisher of that publication has been given reasonable notice of the place where and the date and time when the application will be heard;

7.1.2 section 19(a) of the Films and Publications Act which grants publisher's affected by an application for classification or the withdrawal of an exemption or whose financial interests will be detrimentally affected by a decision on such an application, the right to appear before the Review Board, the executive and classification committees as well as the right to legal representation; to adduce oral or written evidence and to address the Review Board, the executive and classification committees;

7.1.3 section 19 (b) which grants publisher's the right to have their case and arguments duly considered and to be informed in writing of any decision of the Review Board or the relevant committee;[24] and

7.1.4 section 21 of the Films and Publications Act which provides for an appeal to the High Court against certain decisions of the classification committee.

7.2 The removal of important procedural rights and safeguards only serves to exacerbate the unconstitutional effects of the Bill's various intrusions on the right to freedom of expression. The removal of these safeguards is contrary to the constitutional requirement that administrative action be lawful, reasonable and procedurally fair.[25] In addition, the removal of the right to appeal to the High Court is contrary to the constitutional right of access to the courts.[26]

7.3 The failure to ensure that adequate administrative safeguards are retained in the Bill is also in contravention of the more detailed provisions of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA") which was specifically enacted to give legislative effect to the constitutional right to lawful, reasonable and procedurally fair administrative action. In particular, the Bill fails to take cognisance of those provisions in the PAJA which detail the minimum requirements for procedural fairness, the relevant provisions of which provide as follows –

7.3.1 Section 3 (2)(b) of PAJA -

"S3(2)(b) In order to give effect to the right to procedurally fair administrative action, an administrator, subject to subsection (4), must give a person referred to in subsection (1)-

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[24] Section 19 (b) also places an obligation on the Review Board or committee to furnish the reasons for and the grounds on which the decision is based. This obligation is contained in sections 16 (5) and 18 (4) of the Bill. In terms of these sections the chief executive officer is required to publish classification decisions in the government gazette together with reasons for the decision. The provisions of sections 16 (5) and 18 (4) are limited to refusal classifications, XX classifications and X18 classifications and do not extend to decisions on exemptions as is the position with section 19 (b) of the Films and Publications Act.

[25] Section 33(1) of the Constitution.

[26] Section 34 of the Constitution provides – *"Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum."*

(i) adequate notice of the nature and purpose of the proposed administrative action;

(ii) a reasonable opportunity to make representations;

(iii) a clear statement of the administrative action;

(iv) adequate notice of any right of review or internal appeal, where applicable; and

(iv) adequate notice of the right to request reasons in terms of section 5."

7.3.2 Section 3 (3) of PAJA -

"S3(3) In order to give effect to the right to procedurally fair administrative action, an administrator may, in his or her or its discretion, also give a person referred to in subsection (1) an opportunity to-

(a) obtain assistance and, in serious or complex cases, legal representation;

(b) present and dispute information and arguments; and

(c) appear in person."

7.4 The removal of the procedural safeguards in the Films and Publications Act not only accentuates the unconstitutional effects of the various infringements on the right to freedom of expression but is in itself contrary to the constitutional right to just administrative action. In the case of broadcasting the removal of the procedural safeguards has the added effect of further interfering with the constitutional requirement that broadcasting services be subject to independent regulation.

8 OTHER CONCERNS

8.1 Section 18A of the Bill deals with the manner in which classification decisions must be displayed. Section 18A (1) provides as follows –

"Where a film, interactive game or publication has been classified or exempted from classification in terms of the Act it must -"

8.2 The subsections to section 18A (1) detail the information which must be disclosed on the cover or packaging of any classified film, interactive game and in any advertisement for a classified film as well as the manner in which classified publications should be packaged. The display, informational and packaging requirements detailed in sections 18A(1)(a), (b) and (c) should only be of application to those films, interactive games and publications in respect of which the Board or classification committee has issued a classification order. Under no circumstances, should sections 18A(1)(a), (b) and (c) be of application to exempted films, interactive games and publications as this in effect renders any exemption under the Bill, a nullity and utterly meaningless.

8.3 It should be noted that the Bill is totally silent as to what the effects of a 'refused', XX or X18 classification would be thereby rendering the provisions of the Bill vague and unenforceable.

9 THE LIMITATION OF FUNDAMENTAL RIGHTS

9.1 The right to freedom of expression as is the case with other fundamental rights and freedoms protected by the Bill of Rights is not an absolute right. Its boundaries are set by section 36 of the Constitution which gives effect to the constitutional basis for the limitation of fundamental rights and which provides -

"s 36(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, the quality and freedom, taking into account all relevant factors, including-

(a) the nature of the right;

(b) the importance of the purpose of the limitation;

(c) the nature and extent of the limitation;

(d) the relation between the limitation and its purpose; and

(e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights."

9.2 When determining whether a limitation of a constitutional right is reasonable and necessary in a democratic society, the courts will be required to weigh up competing values and to make an assessment based on proportionality. In the balancing process, the relevant considerations will include those factors listed in section 36(1)(a) to (e) of the Constitution.

9.3 Thus, the Court is called upon, to the extent that the limitation is the least infringing means to achieve an important public purpose, to balance the purpose achieved by the limitation against the infringement caused by the limitation of the fundamental rights in question. The process to be followed was outlined by the Constitutional Court in *S v Makwanyane* 1995 (3) SA 391 (CC) -

"In sum, therefore, the Court places the purpose, effects and importance of the infringing legislation on one side of the scales and the nature and effect of the infringement caused by the legislation on the other. The more substantial the inroad into fundamental rights, the more persuasive the ground of justification must be."

9.4 The primary object of the Bill is to protect children from potentially disturbing, harmful and age inappropriate materials in publications, films and interactive computer games, mobile cellular telephones and on the Internet. As such and in order to ensure that the Bill constitutes a justifiable limitation of the fundamental right to freedom of expression, the limitation must be the least infringing means of achieving the objects of the Bill. The vague, overbroad and in certain instances under inclusive provisions of the Bill result in an outright ban or severe restriction being placed on the ability and capacity of the media to report on items of public interest, such as news reports and broadcasts on rape, indecent assaults, incidents of violence, unrest and violent crime. The mechanisms employed by the Bill to protect the interests of children in respect of child abuse and child pornography are over arching in

application and most certainly do not constitute the least restrictive means of achieving the Bill's stated purpose. Accordingly, the infringement of the right to freedom of expression is not justified under the limitation provided for in section 36 of the Constitution and the Bill will not pass constitutional muster on the second stage of the analysis referred to in paragraph 3.6 of this submission.

10 CONCLUSION

10.1 SANEF submits that the constitutionally objectionable provisions identified in this submission should be omitted from the final legislation. They are too deeply at odds with the principles underlying any legitimate system of freedom of expression in that they –

10.1.1 chill free expression and encourage self-censorship;

10.1.2 interfere with editorial independence;

10.1.3 violate the principle that expression should not be prohibited on the basis of content; and

10.1.4 impose on speakers and audiences an obligation to comply with state sanctioned ideas as to what constitutes permissible expression at the expense not only of dissident views but also of expression deserving of constitutional protection.

10.2 In short, the Bill is *"incompatible with South Africa's present commitment to a society based on a 'Constitutionally protected culture of openness and democracy and universal human rights for South Africans of all ages, classes and colours.' ..."* [27]

[27] *S v Mamabolo (E.TV, Business Day and Freedom of Expression Institute intervening)* 2001 (5) BCLR 449 (CC).