

Nokulinda Mkhize vs. Daily Maverick

Ruling by the acting Press Ombud
19 August 2021

Particulars

Complaint numbers: 8955, 8956

Date of article: 23 May 2021

Date of cartoon: 26 May 2021

Headlines: *Exposed: DoH's R150m Digital Vibes scandal – Zweli Mkhize associates charged millions for Covid-19 media briefings* (an article by Pieter-Louis Myburgh)
: *Doctored Contract* (a cartoon by Zapiro)

Respondent: Jillian Green, managing editor

1. Complaint

1.1 The article

1.1.1 The crux of Mkhize's complaint is that the article falsely and without any verification suggested that she was involved in a corrupt relationship between her family (the then Minister of Health, Dr Zweli Mkhize, is her father) and the Mather family, and that she had somehow benefitted from that relationship. She adds that she was merely "used as evidence" of the friendship between the Mather family and her father.

1.1.2 In addition, Mkhize complains that:

- the article was degrading/insulting to her as an adult, as well as misogynoir (which denotes misogyny directed towards black women);
- she was not given a right of reply; and
- Myburgh used her image online as a prop in his story, thereby exposing her to unnecessary scrutiny and "frightening" levels of cyber-bullying, cyber-stalking and overall humiliation.

1.1.3 She also complains the journalist omitted to:

- state that the company with which she was associated, Aweh Consulting, which was formed 15-16 years ago, has never done any business or received any funds or transacted in any way, and that it was deregistered eight years ago (she says the company is listed inactive on CIPS); and
- clarify that she had not been involved in Digital Vibes, and that she had not been under investigation for anything relating to the Department of Health's procurement processes.

1.1.4 Mkhize concludes that the story:

- was defamatory of her; and
- has discredited her, has tarnished her reputation as a person, has compromised her safety, has caused her and her family great emotional distress, has jeopardised the reputation of her 13-year-old sangoma practice, and has made her vulnerable to cyber-bullying and -stalking.

1.2 *The cartoon*

Mkhize complains that the cartoon:

- falsely suggested that she was involved in a corrupt relationship between her family and the Mather family, and that she had somehow benefitted from that relationship;
- was defamatory of her; and
- has discredited her, has tarnished her reputation as a person, has compromised her safety, has caused her and her family great emotional distress, has jeopardised the reputation of her 13-year-old sangoma practice, and has made her vulnerable to cyber-bullying and -stalking.

1.3 *Relief sought*

Mkhize asks for:

- a retraction and an apology from the Daily Maverick on the same platforms where the story and the cartoon were published (website and Twitter);
- the journalist to publish his apology on his personal twitter account and delete the picture he tweeted of her and Ms Tahera Mather; and
- the cartoon and article to be removed from the Daily Maverick's website, the Twitter accounts of the Daily Maverick and its journalists and on any other social media platform where the article and cartoon were published.

2. Sections of the Press Code complained about

The relevant sections of the Press Code are:

- 1.1: *“The media shall take care to report news truthfully, accurately and fairly”*;
- 1.2: *“The media present news in context and in a balanced manner, without any intentional or negligent departure from the facts whether by ... material omissions ... ”*;
- 1.7: *“The media shall verify the accuracy of doubtful information, if practicable; if not, this shall be stated”*;
- 1.8: *“The media shall seek, if practicable, the views of the subject of critical reportage in advance of publication... Such a subject should be afforded reasonable time to respond; if unable to obtain comment, this shall be stated;*
- 3.3: *“The media shall exercise care and consideration in matters involving dignity and reputation... ”*; and

- 7.2: *“Comment or criticism is protected even if it is extreme, unjust, unbalanced, exaggerated and prejudiced, as long as it is without malice, is on a matter of public interest, has taken fair account of all material facts that are either true or reasonably true, and is presented in a manner that it appears clearly to be comment.”*

3. The texts

3.1 The article

3.1.1 The article said close associates of Health Minister Zweli Mkhize and other third parties pocketed roughly R90-million in suspicious payments emanating from a R150-million Covid-19 and National Health Insurance communications contract. “In what may turn out to be the most shocking case of alleged Covid-19 looting uncovered to date, contractor Digital Vibes even charged the Department of Health millions of rands for scheduling Mkhize’s media briefings during the Covid-19 pandemic,” the story went.

3.1.2 Myburgh wrote that the former personal spokesperson and long-time friend of Dr Zweli Mkhize, Ms Tahera Mather, and Mkhize’s former personal assistant, Ms Naadhira Mitha, were at the centre of a massive alleged looting frenzy enabled by a questionable communications deal from the Department of Health (DoH). “Digital Vibes, an obscure firm controlled by Mather and Mitha, received an eye-watering R150-million for questionable communications services linked to the DoH’s nascent National Health Insurance (NHI) programme and government’s fight against Covid-19,” he stated.

3.1.3 The following sentence (which was put in brackets) is the only time where the complainant’s name was mentioned in the article: “(Coincidentally, Suhaila and Nokulinda Mkhize, the minister’s daughter, are listed as co-directors in an entity called Aweh Consulting.)”

3.2 The cartoon

3.2.1 The cartoon depicted Dr Zweli Mkhize holding a bag full of money (with the words “Covid Funds R150 mill” on it). He threw out bundles of money, uttering the words “Mkhize Family! .. Mitha Family!.. Mather Family!... Offspring!.. Siblings!.. In-laws!.. Cronies!...).

3.2.2 Nokulinda Mkhize is sketched with both arms in the air, hands clutching, in an obvious attempt to catch some of the money.

4. Adjudicating the article

4.1 Involved in a corrupt, beneficial relationship; ‘used as evidence’

4.1.1 The crux of Mkhize’s complaint is that, by mentioning her name alongside that of Ms Suhaila Mather as well as monies transferred to her, the article falsely and without verification suggested that she was involved in a corrupt relationship between her family (the

then Minister of Health, Dr Zweli Mkhize, is her father) and the Mather family, and that she had somehow benefitted from that relationship.

4.1.2 She adds that she was merely “used as “evidence” of the friendship between the Mather family and her father.

4.1.3 At the time, the media extensively reported on an alleged corrupt relationship between her father and the Mather family. She says the article has implicated her in this alleged corrupt relationship – even though she had nothing to do with it and was not involved in any way with the Department of Health, nor in any way implicated in the Digital Vibes scandal.

4.1.4 Mkhize says that, in arriving at the conclusion that she has been involved in a corrupt relationship with her father and/or the Mather family, the Daily Maverick has seemingly relied on:

- information that Suhaila Mather and she were co-directors in Aweh Consulting, which was registered in 2008. (She says this company was temporarily deregistered on 19 October 2010, with the deregistered being final on 1 December 2013);
- a picture of herself and Tahera Mather; and
- the fact that the latter had attended her wedding.

4.1.5 In this regard she submits:

- She met Tahera Mather several years ago. “Although I am not necessarily very politically inclined, I have met several ANC members due to my father’s position. There is nothing corrupt about this”;
- Aweh Consulting never seriously intended to pursue any business endeavours with Suhaila Mather. “This is demonstrated by the fact that no annual returns were ever filed for the company. It was therefore deregistered for this reason.” She argues that the Daily Maverick should have reported this fact; and
- The Mather family, as associates of her father, attended her wedding. “However, many members of the ANC and friends of my father attended my wedding, most of whom I have no direct relationship. There is nothing wrong with this”.

4.1.6 Mkhize concludes, “The only basis for mentioning my name in the article ... is my father’s relationship with the Mather family. The logic is therefore that due to my relationship with my father and the tenuous association I have with the Mather family, I am somehow also involved in the corruption described in ... the article... This is a ludicrous and danger (sic) leap, especially if no evidence is placed to substantiate the allegation.”

4.1.7 Green says the link between Nokulinda Mkhize and Tahera Mather’s daughter (Suhaila) was not included at a whim or merely for the sake of stirring up sensation – the former’s co-directorship in Aweh Consulting alongside Suhaila, “is among a few important markers that underpin the close ties between the Mkhize and Mather families”. She submits, “It is a fact that she and Suhaila Mather are listed as co-directors in a company called Aweh Consulting, which fact certainly helps the public to make up their own minds regarding the nature of the links between the two families”.

4.1.8 She argues that, as one of the central figures in this saga, Dr. Zweli Mkhize, has repeatedly denied that he had been close to Digital Vibes’ alleged masterminds (Tahera Mather and Naadhira Mitha), it was and still is doubly important to provide the public with

information and evidence of the nexus between the two families.

4.1.9 She says Minister Mkhize is on record that he tried his utmost best to place distance between himself and the main beneficiaries of his former department's R150-million Digital Vibes contract. "It is our duty as an investigative news platform to present evidence to the public that counters such statements, should they prove to be questionable. The fact that then Minister Mkhize's daughter, Nokulinda, had at one point been a co-director in a business with one of Tahera Mather's children is an important piece of information that challenges former Minister Mkhize's utterances regarding the relationship between his family and the Mathers."

4.1.10 She says it stands alongside additional markers of this nexus, including the revelation that Dr. Zweli Mkhize and Nokulinda's brother, Dedani, had financially benefitted from the Department of Health's allegedly corrupt Digital Vibes contract.

4.1.11 Secondly, Green denies that the article, in any way, suggested that the complainant had financially benefitted from the Digital Vibes contract, or that she had been involved in Digital Vibes and the contract from the Department of Health.

4.1.12 Green also argues that the article was in the public interest, as R150-million of taxpayers' money went from Mkhize's former department to Mather and other role-players involved in the saga.

4.1.13 Green concludes that the above are vital snippets of information that allows the public to decide whether or not they should believe former minister Mkhize when he says he is not really all that familiar with Tahera Mather and her family.

Analysis

4.1.14 My most important consideration is that the ties between the complainant and Shaila Mkhize was not used to discredit the former – it was used to question Dr Mkhize's denial of friendship between the two families.

4.1.15 It is true that the complainant was used as "evidence" to prove the allegation of "close ties" between the two families. However, that could not have constituted a breach of the Press Code – as long as the reference to her was accurate and fair (which it was). Given the context, this "evidence" was justified and did serve a purpose.

4.1.16 My other considerations are:

- Given the Digital Vibes context, as referred to above, it was in the public interest to establish the possibilities of close ties between the Mkhize and Mather families;
- The (only) reference to the complainant in the article was accurate – it is true that she and Suhaila Mather were/are listed as co-directors in Aweh Consulting; and
- There is no trace of any statement, implication or suggestion in the article that the complainant was complicit in fraud and corruption.

4.1.17 The sentence in dispute is therefore squarely within the boundaries of fair journalism, as reflected in the Press Code.

4.2 *Misogynoir*

4.2.1 Mkhize complains that the reference to her was degrading/insulting to her as an adult, as well as misogynoir (which denotes misogyny directed towards black women). “As an adult, it cannot be expected that my father, or anyone else in my family, should speak on my behalf especially when I am implicated ... with serious allegations of this nature.”

Analysis

4.2.2 Mkhize has not explained her “misogynoir” part of her complaint, and I have no reason whatsoever to agree with her on this issue. I deal with the “speak on my behalf” part in the next sub-section.

4.3 *No right of reply*

4.3.1 Mkhize says that Myburgh, in his article, specifically mentioned that he requested comments from all the role players in the article – and yet, he did not give her a right of reply.

4.3.2 She says the publication could have easily obtained her contact details from a simple Google search, or from a direct message on her social media platforms. “The reality is that the clarification that I would have provided would not suit the narrative that the Daily Maverick and its journalists were aiming for.”

4.3.3 She says it is likely that Daily Maverick will argue that it had levelled no specific allegations of corruption against her. “However, by associating me with the Mather family, without including the clarification ... regarding the de-registration of my company with Ms Suhaila Mather, or the additional clarification I would have provided had the Daily Maverick requested comments from me, the public perception is that I am also involved in the corrupt activities which are specifically raised in the article and which are then reinforced in the cartoon.”

4.3.4 Green replies, “What we should do, however, is [to] amend the piece to include Nokulinda Mkhize’s input regarding her involvement with Suhaila Mather and Aweh Consulting, in which case Pieter-Louis Myburgh would ask her for further clarity in terms of her role in this business, her ties with the Mathers and the knowledge her father, Dr Zweli Mkhize, may have had about these dealings.”

4.3.5 Mkhize replies that the Daily Maverick had a duty to verify the accuracy of doubtful information, if practicable, and to seek the views of the subject of critical reportage in advance of publication. “In its response, the Daily Maverick states that it should have requested my input regarding my involvement with the Mather family and Aweh Consulting. This constitutes an acknowledgement of wrongdoing on their part,” she adds.

4.3.6 Furthermore, the concession made in their response that Myburgh would ask her for “further clarity” regarding her role is a clear indication that the information relied on was doubtful from the start.

Analysis

4.3.7 Daily Maverick is free to ask Mkhize for her comment on any matter, if it wants to do so. I do not believe, though, that it is dutybound to do so, as the complainant was not the subject of serious critical reportage. She was only mentioned in connection with Aweh Consulting, and no wrong-doing was implied in that reference (as I have said above).

4.3.8 This also means that I do not believe that Dr. Mkhize spoke “on behalf of” his daughter.

4.4 Tweet

4.4.1 Myburgh tweeted as follows: “ ‘Not friends’, says #ZweliMkhize RE ties to Tahera Mather from #DigitalVibes... here is Mather with the minister’s daughter. Mather also attended Nokulinda Mkhize’s wedding circa 2014.” A picture of the complainant and Suhaila Mather accompanied this text.

4.4.2 Mkhize complains that Myburgh used her named image online as a prop in his story, thereby exposing her to unnecessary scrutiny and frightening levels of cyber-bullying, cyber-stalking and overall humiliation, and asks that the tweet be removed.

4.4.3 “Even if the Daily Maverick argues that no allegations of corruption are being made against me in the article, the fact that Mr. Myburgh tweeted a picture of me and Ms. Tahera Mather after publishing the article ... is irrefutable proof of the specific narrative that he and the Daily Maverick were going for, despite the complete lack of proof. Besides, if the Daily Maverick submits that they have made no accusations of corruption against me in the article, then they should have no difficulty publishing a statement making this fact abundantly clear,” she submits.

4.4.4 Green rejects Mkhize’s request that the tweet be removed. “The fact that Tahera Mather had been pictured with Nokulinda Mkhize in a social setting, and the fact that Mather had attended Nokulinda’s wedding, serve as further proof that there is a strong bond or connection between these two families, which fact is undoubtedly in the public interest in the face of denials from Dr. Zweli Mkhize that he and Mather had been nothing more than ANC ‘comrades’ or colleagues.”

Analysis

4.4.5 Again, the relationship between Nokulinda Mkhize and Suhaila Mather was not used to discredit the former. Therefore, I see no reason why the tweet should be removed.

4.5 Material omissions

4.5.1 Mkhize also complains the journalist omitted to:

- state that the company with which she was associated, Aweh Consulting, was formed 15-16 years ago, that it has never done any business or received any funds or transacted in any way, and that it was deregistered eight years ago (she says the company is listed as inactive on CIPS); and
- clarify that she had not been involved in Digital Vibes, and that she had not been under investigation for anything relating to the Department of Health procurement processes.

Analysis

4.5.2 If the complainant was the subject of critical reportage (read: allegedly complicit in fraud and corruption), then I would have considered the omissions to be material. In this case, though, I do not believe that it was necessary to include the “omissions”, as she was not the subject of critical reportage.

4.6 Dignity, reputation

4.6.1 Mkhize complains that the article has tarnished her dignity and reputation.

4.6.2 She points out that, central to her as a sangoma being able to provide others with spiritual guidance, her clients should have complete faith in her ethics and integrity as a person. “This reputation that I have been building for many years has taken a huge knock due to these irresponsible and defamatory publications,” she concludes.

Analysis

4.6.3 Given all of the above, I have no reason to believe that the article has unnecessarily tarnished Mkhize’s dignity and reputation in any way.

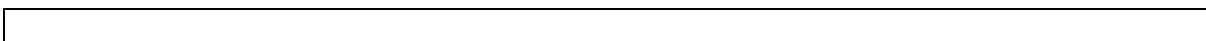
5. Adjudicating the cartoon

5.1 Involved in a corrupt, beneficial relationship

5.1.1 Mkhize complains that the “horrendous” cartoon falsely and without any verification suggested that she was involved in a corrupt relationship between her family and the Mather family, and that she had somehow benefitted from that relationship.

5.1.2 She says this has defamed her and argues: “The logic is therefore that due to my relationship with my father and the tenuous association I have with the Mather family, I am somehow also involved in the corruption described in both the article and the cartoon. This is a ludicrous and danger leap, especially if no evidence is placed to substantiate the allegation”.

5.1.3 She concludes that the article made no other allegations regarding her. “It is against this backdrop that I am deeply concerned and angered by the manner in which I have now been depicted [in the cartoon].”



5.1.4 Green replies the cartoon was “satire” and “art” and argues that cartoons should be viewed as commentary in the same way as opinion pieces are viewed.

5.1.5 She adds, “Zapiro and Daily Maverick believe the cartoon ... meets the requirements of the code in that it is reasonable to state that Zweli Mkhize’s family has benefitted from his alleged illegal activities. It is a protected opinion and we believe fully protected as such.”

5.1.6 Mkhize replies that the article and the cartoon cannot be viewed in isolation. She argues, “The Zapiro cartoon has not only interpreted the article, but also makes a clear and false accusation of corruption against me. Such a blatant accusation cannot be considered to fall within the confines of Section 7 of the Codes as there is no evidence to support it.”

Analysis

5.1.7 I have already decided that the article did not implicate the complainant in fraud and corruption in any way – all it did, was to use certain evidence to show a close relationship between the two families. It is noteworthy that Green emphatically denies that the article, in any way, suggested that Nokulinda Mkhize had financially benefitted from the Digital Vibes contract, or that she had been involved in Digital Vibes and the contract from the Department of Health – the cartoon, on the other hand, did portray her as having been complicit in fraud and corruption (without any substance or evidence to back it up).

5.1.8 This means that Zapiro has included her in the cartoon, without having “taken fair account of all material facts that are either true or reasonably true”, as required by Section 7.2 of the Press Code.

5.1.9 I hasten to add that the rest of the cartoon was in the public interest and that I consider it to be protected comment (in line with Section 7 of the Press Code). My finding, therefore, is not about the cartoon as such, but merely about Nokulinda Mkhize’s inclusion in that drawing.

5.2 Dignity, reputation

5.2.1 Mkhize complains that the cartoon has tarnished her dignity and reputation.

5.2.2 She points out that, central to her as a sangoma being able to provide others with spiritual guidance, her clients should have complete faith in her ethics and integrity as a person. “This reputation that I have been building for many years has taken a huge knock due to these irresponsible and defamatory publications,” she concludes.

Analysis

5.2.3 The depiction of the complainant eagerly trying to catch money thrown to people by her father, implied that she was complicit in fraud and corruption – with no evidence to support it (as Green herself points out).

5.2.4 That was unfair to Mkhize, and it stands to reason that it has unnecessarily tainted her dignity and reputation – with possible detrimental consequences to her professional and personal life.

5.2.5 The deluge of negative comments and questions about Mkhize on social media testifies to this.

6. Finding

6.1 Article

This part of the complaint is **dismissed**.

6.2 Cartoon

The inclusion of the sketch of Nokulinda Mkhize was **in breach of** the following sections of the Press Code:

- Sect. 7.2: “Comment or criticism is protected even if it is extreme, unjust, unbalanced, exaggerated and prejudiced, as long as it ... *has taken fair account of all material facts that are either true or reasonably true...*” (emphasis added); and
- Section 3.3: “The media shall exercise care and consideration in matters involving dignity and reputation...”

7. Seriousness of breach

7.1 Under the headline *Hierarchy of sanctions*, Section 8 of the Complaints Procedures distinguishes between minor breaches (Tier 1 – minor errors which do not change the thrust of the story), serious breaches (Tier 2), and serious misconduct (Tier 3).

7.2 The breach of the Press Code as indicated above is a **Tier 2** offence.

8. Sanction

8.1 Regarding the cartoon, Daily Maverick is directed **to apologise** to Nokulinda Mkhize for:

- depicting her as having been complicit in fraud and corruption;
- the unnecessary harm this has done to her dignity and reputation; and
- the negative effects this could have had on both her personal and professional life.

8.2 The newspaper is directed **to publish** the apology, as outlined directly above prominently on all the platforms where the cartoon was published. The headline to this apology has to include the word “apology” or “apologises”, and “Nokulinda Mkhize”.

8.3 The text should:

- be published at the earliest opportunity after the time for an application for leave to appeal has lapsed or, in the event of such an application, after that ruling;

- refer to the complaint that was lodged with this office;
- end with the sentence, “Visit www.presscouncil.org.za for the full finding”;
- be published with the logo of the Press Council (attached); and
- be prepared by the publication and be approved by me.

8.4 The publication is also directed either to:

- **remove** the whole cartoon; or
- **publish** a revised cartoon – this time, without a sketch of Nokulinda Mkhize.

8.5 While I prefer the latter, as the cartoon is otherwise in the public interest and within the boundaries of the Press Code, I leave this decision up to the Daily Maverick.

9. Appeal

The Complaints Procedures lay down that within seven working days of receipt of this decision, either party may apply for leave to appeal to the Chairperson of the SA Press Appeals Panel, Judge Bernard Ngoepe, fully setting out the grounds of appeal. He can be contacted at Khanyim@ombudsman.org.za.

Johan Retief

Acting Press Ombud