

Naming and shaming the 'Freestate Four': Privacy, dignity and the public interest

The Freestate video

Media reports about the abuse of cleaning staff by students at the University of the Free State got horrified responses from various quarters. In this climate of public outrage, the print media had the choice of whether to make the identities of the offenders and victims public, or not. Most media seemed to have decided to publish the identities of the perpetrators, some media even added to the initial infringement on the victims' dignity by revealing their identities. This article explores the ethics and reasons around this decision.

This ten minute video, that was made in 2007 for a festive event at the university campus caught media attention in February 2008, shows an alleged "initiation ritual" performed on black cleaners working in the boarding house. Four white students made three black, middle-aged women and one man drink beer, dance around and eat food into which one of the students appeared to have urinated.

The demand for action against these four students was strong. Protest marches by students showed the public outrage. Petitions by prominent authors, judges and academics such as Nadine Gordimer, Andre Brink and Zapiro showed a demand for a trial from media quarters. They claim that "The video makers have dehumanized themselves by their own disgusting acts of inhumanity" "The perpetrators should face the truth and confront the enormity of what they have done" (*Saturday Star*, 06/03/2008, p.7 and *City Press*, 09/03/2008, p.10).

In their eagerness to report this event, the media have at some points crossed the line in identifying people involved. The names and photographs of the students were made public before charges were even laid. And by printing some of the most humiliating moments of the video in stills they show the faces the victims of this video too.

An analysis of the way the different written news media reported on this event will help answer the question whether the media have taken enough caution in their reporting on such an inflammatory case?

Analysing the media

From the first day the video was made public by the media, on the 27 February, to the 8 March 2008, many articles were published on this subject. To compare the ways the different media dealt with the identity of the people in the video, all articles were screened with the following questions in mind:

1. Is the article accompanied by recognisable pictures of one or more of the perpetrators?
2. Is the article accompanied by recognisable pictures of one or more of the victims?
3. Does the article give the name and/or additional information of one or more of the perpetrators?
4. Does the article give the name and/or additional information of one or more of the victims?
5. Does the article give a link to where the video can be found on the internet?

The following print media were monitored:

- Beeld;
- Daily Sun;
- Mail & Guardian;
- Saturday Star;
- Sowetan;
- Sunday Times;
- The Citizen;
- The Star;
- The Times; and
- The Weekender.

Most of the articles mentioned below were published in the first week of the research period, because it was the most crucial moment choosing to either reveal or protect the identity of the people involved. It is important to notice that, to obtain a complete view of media influence in this incident, other elements of reporting may prove to be important such as use of headlines or emotive language. In this analysis however, the focus is on identification. Because the consequences of identification for both the perpetrators and the victims can differ, they are explored separately.

The legal context

The intended purpose seems to have been to 'name and shame' these students. This seems reckless as it creates an environment where some might decide to exact revenge on these four individuals. The question to be answered is: Does the media have the right to name and shame if the crime does not fall within



criminal law? What if it later emerged that one of the perpetrators was incorrectly identified?

Public interest is in some cases even more important than the interests of the individual¹. This is particularly the case with public officials, where events in their private life have a bearing on whether or not they should be in office. However, private citizens have a greater right to privacy and dignity and this can only be overridden in very few circumstances. Clearly in this case, the identification of the perpetrators could have resulted in their deaths due to the atmosphere of moral outrage.

Possible confusion around the legality of identifying the perpetrators could be caused as this incident had not yet become a criminal issue. Although the university was contemplating pressing charges against the four students that made the video, no final criminal charge was made public during the research period. But since this incident had the potential of becoming a criminal case from the beginning, the newspapers that printed pictures and named the perpetrators were wrong in doing so according to the law.

Subsection 154.2 b) of the Criminal Procedure Act 51 of 1977 states: No person shall at any stage before the appearance of an accused in a court upon any charge referred to in section 153 (3) or at any stage after such appearance but before the accused has pleaded to the charge, publish in any manner whatever any information relating to the charge in question."

Subsection 335 A i) of the Criminal Procedure Act 51 of 1977 states: No person shall, with regards to any offence referred to in section 153 3) a) and b), as from the date on which the offence in question was committed or allegedly committed, until the prohibition in terms of section 154 (2) (b) of the publication of information relating to the charge in question commences, publish any info which might reveal the identity of the person towards or in connection with whom the offence was committed or allegedly committed, except with the authorisation of a magistrate granted on application in chambers, with due regard to the wishes of the person towards or in connection with whom the offence was committed.

Identifying the witnesses, besides being ethically wrong as it violates their dignity, is also legally prohibited. However, the identification of the perpetrators is more

¹ In so far as both news and comment are concerned, the media shall exercise exceptional care and consideration in matters involving the private lives and concerns of individuals, bearing in mind that the right to privacy may be overridden by a legitimate public interest. ('Code of Ethics', South African Media Council)



open to debate, since there were no charges yet laid. However, best media practice would have been not to identify the perpetrators until they had appeared in court. Moreover, the perpetrators should not have been identified because there were legitimate threats to their safety.

An argument might be made that since the video was already in the public domain, as it was on the internet, that the media are not guilty of putting the identities of those involved into public domain. However, internet content is not governed in the same way media content is and media producers are held up to higher standards of excellence and are, for this reason more credible than internet content producers.

Media and incidents of moral outrage

An example of why the media should be extremely cautious with mentioning personal information in issues of public outrage can be found in the reporting on the “Baby Tshepang” rape in 2002. After this nine-month old baby had been raped, the pressure to find the perpetrator was so great that the media rushed to reveal the identity of six suspects that had been arrested. These men were portrayed as ill-educated, belligerent drunks, as sadists and perverts and calls for about death penalty and castration that these men were made. It later emerged that they were innocent. The media changed their reporting immediately. But the image that was created by the sensationalist reporting followed the six men around and at least one of them lost his job and was forced to move.²

Although the nature of the crime is very different, the effect on the public and the pressure this puts on the media is quite similar. The MMP report on “Baby Tshepang” described the following situation:

“There is an enormous outpouring of anger and moral outrage among the public, and the media coverage reflected this. Reports of “mobs” gathering outside the courthouse, protestors waving placards at the accused rapists, email campaigns and signed petitions, offers of financial aid from concerned individuals all provide extensive copy.”³

The video made by the students of the Freestate University had a similar effect. From the day after the release of the video until the first week of March there were demonstrations at the Freestate University. Students were allegedly afraid to leave their houses, and “death threats and threats that white students had to leave campus immediately are also reported”. (Beeld 28/2/2008 p.4) Twenty eight students were arrested after a demonstration got out of hand (Beeld, 05/03/2008 p.1, and The Star, 05/03/2008, p.3). The situation had become very explosive, and the racist video turned out to be just the tip of the iceberg of an

² Media representations of baby rape: the case of “baby Tshepang”, W. Bird and N. Spurr, Media Monitoring Project

³ Media representations of baby rape: the case of “baby Tshepang”, W. Bird and N. Spurr, Media Monitoring Project



ongoing tension between black and white students at the Freestate University. Mail & Guardian quoted shocking letters of first year students that talked about abuse of black students in initiation rituals. (Mail & Guardian, 07/03/2008, p.6)

This case is different from the Baby Tshepang case because there is clear evidence of the identity of some of perpetrators. The four students are clearly identifiable in the video. Nevertheless, caution should have been practiced in this explosive situation. What if it later emerged that one of those identified was incorrectly identified? And even if the reporter was one hundred percent sure of the names, it could be argued that the media have a responsibility to not further incite the public outrage. The exact opposite effect could be obtained, by the way, in which some media portrayed the students.

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“Exposed: The four repugnant bastards. Faces of cruelty: The Reitz residence students who made the video.” This caption accompanied four portraits of the students that made video in *The Times* (28/02/2008, p.1). It is an example of the way some articles went overboard in their public shaming of the ‘Freestate four’. The newspapers call for revenge (“Do you know any of these video ‘stars’? Contact us at tellus@thetimes.co.za) (*The Times*, 28/02/2008, p.1) could possibly play a role in stirring up the racial tensions that occurred after the video was made public.

When such sensational language is combined with revealing too much information on individuals involved, it could encourage people to vigilantism. Four newspapers ignored the fact that names should not be released until perpetrators appeared in court by publishing both the names and pictures of the four students in the same explicit manner: four portraits with their names underneath (*Saturday Star*, 01/03/2008 p.4). In total, seven articles that make use of pictures that identify the students. Eight articles mention the names of one or more of the perpetrators. In most cases, they focus on the two students that are still at the university. There are two articles that were very incautious in revealing information on the students.

Saturday Star published not only the four portraits and names, but also a short introduction which reveals that one of the students lives in Namibia and mentions which faculty another belongs to (*Saturday Star*, 1/3/2008 p.4). *Beeld* adds even more personal information and mention the name, profession and residence of two of the students’ fathers (*Beeld*, 29/02/2008 p.4).

This disclosure of information not only violates the right suspects of a criminal act have to protection of their identity until their case is brought before court. It gives people who are hurt by the nature of the video and are possibly looking for revenge a tool in doing so. This makes it a dangerous type of reporting



Shaming the victims, again

Not only were the makers of the controversial video were identified by the media. As many as eight articles were accompanied by stills from the video in which the victims were visible. Although most of the time the faces were partially covered or not clearly visible, they would very possibly be recognisable for people who knew them.

In their attempt to show the readers the severity of the abuse, many of the newspapers use stills from some of the most humiliating moments in the video. They show some of the victims kneeled down on the floor, drinking the suspicious brew in front of a bucket. *Beeld* even shows the four stills in a row, as if it were a cartoon. We see one of the students urinating on the food, the cleaners sitting on their knees eating it, one of them receiving a bottle of whiskey as the 'prize' and the final cut which reads "Dis wat ons regtig van integrasie dink" ("this is what we truly think of integration") (*Beeld* 27/02/2008, p.1).

Seeing themselves like this in the newspaper, in the case of *Beeld* even on the front page, may be very hurtful to the victims and their families. Now they are not only being humiliated in the video, but the most humiliating scenes are on public display throughout the country. A victim has said "All I want is to be given back my dignity. I want to cleanse our tarnished names."⁴ It would seem that the media have been complicit in not respecting the dignity of the victims.

Both *Beeld* and *The Times* mention the full name and age of one of the women in the video. A radio station interviewed her just after the public release of the video, before she even realised she was in it. From this interview, the two newspapers learned her name and decided to publish it. (*Beeld*, 03/03/2008, p.1 and *The Times*, 28/02/2008 p.1) This woman has a daughter who is a student at the university and who is also mentioned in this article by *The Times*.

Some of the newspapers clearly have not taken the necessary caution in protecting the victims of the video. In their attempt to shame the perpetrators by publishing shocking stills from the video, they have harmed the subjects of the video. This shows lack of disrespect for their dignity.

Both *Beeld* and *The Times* show a continuous lack of caution in identifying people involved in the video and the aftermath. *Beeld* published the names of people that left messages on an internet forum about the video. A comment that was placed in the heat of the discussion could hurt the author by doing this (*Beeld*, 29/02/2008, p.4). *The Times* rightfully identified a spokesperson for the Reitz boarding house and the student affairs chairman since they are public figures at the university. But they also identify a second year student whom they quote about the racial tensions on campus (*The Times*, 07/03/2008, p.5). In such an inflammatory situation, the consequences of identifying people who give their

⁴ Workers 'tricked' to appear in video available
http://www.iol.co.za/index.php?set_id=1&click_id=105&art_id=vn20080302091745498C496514



opinion on the situation can be serious. In this situation, discrete reporting is preferable.

Anonymous human interest

Although newspapers made an effort to protect at least the identity of the victims, not many fully succeeded. *The Star* used black strips to cover the eyes of the four women in the video on a picture of them in court (*The Star*, 29/02/2008, p.2). Unfortunately, this would probably not be enough to protect them from being recognised by acquaintances.

The Citizen made a good attempt to preserve the anonymity of those involved by blurring the video stills. However, the perpetrators are still recognisable. The victims are not that easy to identify, but people who know them might recognise them. Moreover, the victims might suffer from seeing themselves in national papers in this humiliating pose. The best thing would have been to avoid this risk by using images that did not include them at all (*The Citizen*, 28/02/2008, p.3). Not many newspapers make an effort to protect the identity of the perpetrators. *The Citizen's* journalist refrained from naming the perpetrators. Yet their columnist did use the name of one of the students and his father when writing about this subject. (*The Citizen*, 03/03/2008 p.12)

An example of consistent respect for the privacy of the involved was given by *Sowetan*. While all other daily newspapers in some way identified the perpetrators, the victims or both, the *Sowetan* on no occasion revealed such information. The *Sowetan* did make use of photography. A still from the video shows one of the students standing with his back to the camera. From the text underneath, it is clear that this is the moment where he is urinating on the food that was allegedly later given to the cleaners. This image gives the reader of *Sowetan* a clear idea of the nature of the film. It gives a strong touch of human interest to the story. But no one is identified in doing so (*Sowetan*, 29/02/2008, p.6).

The Weekender published an informative article on the background of the racial tensions at the Freestate University, in which no one was identified. It proves that a journalist can inform the public on an important manner without identifying the involved (*The Weekender*, 01/03/2008, pp.1,2).

An interesting way of informing the public without publishing personal information was used by *Sowetan*. They referred to the internet link where the video could be found. This gives the reader the choice to inform him or herself by watching the video without endangering the perpetrators or shaming the victims directly by putting their identities on national display. *Beeld* and *The Times* also published a link to the video in one of their articles. But they used it in addition to identifying the perpetrators and victims. (*Sowetan*, 29/02/2008 p.6, *The Times*, 29/02/2008, p.1, and *Beeld*, 05/03/08, p14)

Minimising harm



In telling the public about the Freestate video, *Beeld* and *The Times* showed some clear examples of reporting that is sensational and might fuel public outrage. Although an incident such as this justifies a strong reaction towards the perpetrators, it does not justify violating their right to anonymity until their case is pleaded in court. It was clear that criminal charges might be laid from the beginning, and anonymity of both the accused and the victims is appropriate, at least until the case was pleaded in court.

'The society of professional journalists' code of ethics', used by international journalist associations, consists of four basic principles. One of those is the principle of minimising harm. It asks journalists to "recognize that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding public need can justify intrusion into anyone's privacy" and to "Balance a criminal suspect's fair trial rights with the public's right to be informed".

In the case of the Free State video, many journalists violated this ethical principle of minimising harm. And the right the 'Freestate Four' should have stayed anonymous until their case was pleaded court was ignored many times. Even if in this case the public interest could be used as an argument for their identification, unnecessary information was revealed by both *Beeld* and *Saturday Star* (1/3/2008 p.4). This could have lead to dangerous situations for these four students. Before their official charging, the media should have exercised care and caution because of the racist nature of the crime and the volatile nature of this issue.

Two other explanations of the principle of minimising harm are to "Show compassion for those who may be affected adversely by news coverage" and to "Be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief". By using stills from the video, the people that were humiliated in the video were humiliated again, this time on a national platform.

Sowetan showed that it is possible to show disapproval of the incident, to report extensively on the subject and to add a strong human interest layer to the story without identifying any of the involved. Although other elements like emotive language and the content of the articles can also stir up the tensions that appeared after the release of this video, refraining from revealing anyone's identity is the first step that should be taken in future incidents to secure the safety of the perpetrators and the dignity of the victims.

