

Outrage over *The New Age's* 'confidentiality agreements'

 Bylssa Sikiti da Silva

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The move by the management of pro-government newspaper *The New Age*, forcing journalists to sign contracts containing 'confidentiality clauses' to stop them from leaking information to the media, might have serious legal implications, experts have told Bizcommunity.com. Moneyweb reported earlier this week that its 27 October 2010 article, containing an insider's [chronology of events](#) leading up to mass news staff resignation shortly before launch, has resulted in bosses [cracking the whip](#).

But, veteran newspaper editor, journalist and media freedom campaigner [Raymond Louw](#) said requiring staff to sign a confidentiality agreement is unacceptable, if not illegal.

"Unwritten law of employment"

"A work contract does not normally embrace a confidentiality agreement, though it is implied in a news organisation that an employee will not pass on a company story, or one that one has been working on, to a rival publication or any other publication without permission. So, in a sense, confidentiality is an unwritten law of employment with regard to stories.

"I say illegal because an employee has the right to complain about what goes on in a company to other institutions apart from a union, including the police, and this agreement bans that right."

Money can't buy happiness. This saying could fit well into the ANC-aligned newspaper as Moneyweb's saucy revelations about the failed launch tell the story of Vuyo Mvoko and his 'rebels' complaining about not having enough cars and laptops, especially in provincial offices.

Moneyweb, an online financial news site which also supplies content for a business supplement published daily in *The Citizen*, also reports that sometimes *The New Age* journalists do not have enough petrol when they go out on assignment, and when they fill up, it becomes a cumbersome process to get reimbursed.

Could be immediately fired

This naked truth, among others, is said to have shocked the management, who on Wednesday last week gave staff contracts containing confidentiality clauses to sign. In these, one apparently said that a staff member could be immediately fired if he or she is found to have leaked any information. On Friday last week, management handed out a new IT policy which Moneyweb says essentially gives management the right to access staff email.

Louw, who is also the publisher of *Southern Africa Report*, said such practice will amount to unfair dismissal and may provide a platform to sue the company.

He said: "It is justifiable if it was a news story leaked to another paper, but under the general themes, such as conditions of employment - pay, leave, medical aid, pension or other benefits - it will be totally inappropriate and may produce the basis of a legal claim against the company for wrongful dismissal."

William Bird, head of Media Monitoring Africa (MMA), told Bizcommunity: "I am pretty sure that any such strong discipline would have to be in line with the Labour Relations Act and, if such an offence is part of the policy of the company, then it may be the case that people can be summarily dismissed - it does seem unlikely, though."

Alien to SA media industry

Furthermore, Louw said *The New Age's* 'undesirable' practice is alien to the South African media industry - of the past and the present.

"This appears to be new," he said. "I don't recall anything like this in the apartheid era or in other democratic countries. It probably happens in dictatorships."

"Don't forget there are certain commercial areas where confidentiality is demanded, such as banks, financial service institutions, health services but generally the confidentiality is limited to specifics - customer's bank account, loans, payment record in financial institutions, and patient's health records."

"Such clauses do not intrude on complaints about conditions of service such as pay and so on, by workers in those institutions."

And lastly he said: "Though pro-government may be a factor, the management's overriding consideration is bad publicity reducing credibility before the launch."

The New Age management could not be reached for comment.

ABOUT ISSA SIKITI DA SILVA

Issa Sikiti da Silva is a winner of the 2010 SADC Media Awards (print category). He freelances for various media outlets, local and foreign, and has travelled extensively across Africa. His work has been published both in French and English. He used to contribute to Bizcommunity.com as a senior news writer.

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