

Manto Tshabalala-Msimang vs. Sunday Times

Tuesday, 21 August 2007

Comment given to Cape Times

In our view, there exists a constitutional right to privacy, which should be respected regarding health matters. The disclosure of medical information without express, informed consent, is a gravely serious matter, and is not excused simply on the grounds of freedom of expression.

But, when it comes to the public figures, then it is possible that their right to privacy may be outweighed by overriding considerations of public interest. There is no magic formula when it comes to weighing up which comes first: the right to privacy or the public interest. Getting the balance right depends on the facts of a particular story.

We believe that in relation to the Sunday Times reporting on the Health Minister, the public interest outweighs her right to privacy. The articles raise questions about whether the Minister is fit, physically and ethically, for office. The paper does not delve gratuitously into private questions; the exposure of private facts is linked to public policy questions of considerable importance.

That is why the FXI supports the Sunday Times's right to publish such stories. The FXI would not necessarily support invasions of the right to privacy of public figures as a matter of course, and simply because they are public figures: but in this case, the disclosure of private facts raises questions about whether Manto Tshabalala-Msimang should remain in office. If an inappropriate person is in office, then the health of many people who rely on the public healthcare system may be affected negatively. And that, ultimately, is where the public interest in this matter lies.