What Meanings a Selection of South African Legal Practitioners Make of Their Role in the Emerging Digital Media Ecosystem

By Heather Robertson
Student Number 16R8915
Supervisor: Professor Harry Dugmore

Submitted in (partial) fulfilment of the requirements for the degree of
MASTER OF ARTS
SCHOOL OF JOURNALISM AND MEDIA STUDIES
FACULTY OF HUMANITIES
RHODES UNIVERSITY
13 DECEMBER 2018

WHAT MEANINGS A SELECTION OF SOUTH AFRICAN LEGAL PRACTITIONERS MAKE OF THEIR ROLE IN THE EMERGING DIGITAL MEDIA ECOSYSTEM

Submitted in (partial) fulfilment of the requirements for the degree of

MASTER OF ARTS

SCHOOL OF JOURNALISM AND MEDIA STUDIES

(FACULTY OF HUMANITIES)

RHODES UNIVERSITY

by

Heather Robertson

16R8915

Supervisor: Prof Harry Dugmore

14 DECEMBER 2018

WHAT MEANINGS A SELECTION OF SOUTH AFRICAN LEGAL PRACTITIONERS MAKE OF THEIR ROLES IN THE EMERGING DIGITAL MEDIA ECOSYSTEM

by

Heather Robertson

Abstract

This dissertation explores what a sample of South African lawyers understand about the roles they play in digital public spaces, and whether they perceive their contributions as impacting on journalism in general and legal knowledge among the public more broadly. The communications revolution triggered by web 2.0 interactivity has created a new media ecosystem in which mainstream media journalists co-exist with a variety of non-journalist content producers - including professionals like lawyers, who contribute to media content. This study specifically explores current debates about how the media ecosystem is changing in the digital age, including journalistic practices and routines and the role of journalism within a democracy and daily life. Thomas Hanitzsch and Tim Vos's recent taxonomy of journalistic functions and roles in society is adapted by combining the domains of politics and daily life, to better describe the roles of non-journalists like the eleven digitally active members of the South African legal community in this study. Using qualitative interviews and content analysis research methods, the study suggests lawyers' practices and routines challenge current theorisation about the new media ecosystem and digital public sphere in particular ways, suggesting that the affective nature of social media interactions between the lawyers and members of the public is more usefully understood via drawing on Chantal Mouffe's concept of agonistic public spaces and Axel Bruns and Tim Highfield's theorisation of 'public sphericules' than Jurgen Habermas's conceptualisation of a rational public sphere. The study found that all of the digitally active lawyers played one or more active roles in contributing news, opinion and debate about legal and social justice matters on different digital public spaces, even though most were reluctant to describe what they do as journalism. The study concludes that this select

group of lawyers do complement and enhance the work of journalists covering the legal field in the new media ecosystem in South Africa. It suggests that much more can be done by both journalists and the legal community to deepen co-operation to further enhance public knowledge about the workings of the South African legal system, in relation to legal rights and the rule of law.

KEYWORDS: user-generated content, produsage, new media ecosystem, gatewatching, affective news streams, social media, digital public spaces, public sphericules, we media, public spheres, taxonomy of journalism roles, digital journalism, democracy, liminality

Declaration

I declare that the half thesis entitled, WHAT MEANINGS SOUTH AFRICAN LAWYERS MAKE OF THEIR ROLES IN THE CHANGING DIGITAL MEDIA ECOSYSTEM, which I hereby submit for the degree, MASTER OF ARTS IN JOURNALISM AND MEDIA STUDIES at Rhodes University, is my own work. I also declare that this thesis/dissertation has not previously been submitted by me for a degree at this or any other tertiary institution and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

Heather Robertson

Name Surname (*signed*)

Acknowledgements

I wish to thank Professor Harry Dugmore, my supervisor and the coordinator of the first (hopefully not last), part-time Master's degree with a specialisation in digital journalism at Rhodes University's School of Journalism and Media Studies. This course introduced me to the world of local and global theory and research that helped me understand the context of digital disruption to our media industry, which I had personally experienced when I worked as the Editor of *The Herald* and *Weekend Post* in Port Elizabeth from 2010 to 2015.

I also want to thank my eleven other fellow guinea pigs in this Masters course, who like me, grappled with the often-exasperating rigours of the world of academia while still holding down full-time jobs in media and communications. It was a fascinating journey of exploration sharing our personal experiences from our newsrooms and relating these to the theories we encountered in the texts, assignments and research. Thanks Andre Gouws, Ettione Ferreira, Aasra Bramdeo, Tegan Bedster, Michael Salzwedel, Phumza Sokana, Sheena Adams, Ntombi Mlangeni, Nina Oosthuizen, Wendyl Martin, and Gus Silber for the friendship and mutual encouragement. Thank you, Andre Gouws and Rhodes Journalism and Media school lecturer Dr Jeanne du Toit, for giving me critical feedback and direction that eventually shed light on what seemed liked the interminable darkness of my vague research idea that had to do with lawyers making sense of the world like journalists do.

This thesis would not have been possible without the fifteen members of the legal community who took time out of their very busy schedules to discuss the state of South African legal journalism and their reasons for choosing to add or not add their voices online with regards to legal matters. I am indebted to legal academic Professor Pierre de Vos, attorneys Allison Tilley, Willie Spies, Dario Milo, Nerushka Bowan, a *pro bono* attorney who did not want her identity revealed, Denise Lenyai and Sheniece Linderboom; advocates Dali Mpofu, Vuyani Ngalwana and Faranaaz Veriava; a retired Judge who did not want his identity revealed, and Ntsiki Mpulo, a communicator for Section27 - a public law NGO. I am grateful for their candour and for sharing their experiences and ideas about what journalism in the public sphere of justice should be doing.

My completion of this masters was assisted by the financial sponsorship of my longest and last employer as a journalist and Editor, Tiso Blackstar. Thank you to MD Andy Gill for

this incredible parting gift of learning. Reading for this Masters has helped me to at last make some sense of the close to two decades of my life spent chasing news in all the nooks and crannies of South Africa, distilling, debating and crafting stories on the keyboards, behind the computer screens, in the various newsrooms, diary meetings and boardrooms of Times Media Ltd, Johnnic Communications, Avusa and Tiso Blackstar.

I also want to thank Patti McDonald and Best Edit for transcribing my interviews and Best Edit for proofreading the final draft of this thesis.

Last but not least, I am eternally grateful to my family: my life-partner Helen, our sons Neo and Kabi, my father Mac and our Gogo Joyce for their humour, support, encouragement and for putting up with my long late nights, early mornings and absences in mind and spirit. I hope to make up for this and the manic disruptions to family time like when I ruined our idyllic camping holiday in Winterton in the Drakensberg by charging my laptop with a noisy generator so that I could complete an audience assignment as part of the coursework component of this Master's degree.

Heather Robertson

7 December 2018

Table of contents

List of Figures and Tables

CHAPTER 1

Introduction and overview

1.1. So, what?

Writing several iterations of the proposal for this study felt like the intimidating "So what?" response I encountered when I pitched my first story at a diary conference as a cub reporter at the anti-apartheid alternative newspaper *South* in 1987. I learnt over the years that 'So what?' gets you to dig deep - and ask yourself if your story is of any significance to anyone other than yourself. To establish the academic significance of this research into what meanings a sample of South African lawyers make of their roles in the digital media ecosystem, I had to first deconstruct the nature of contributions they make online. Are they similar or dissimilar to what journalists do? Why do some lawyers actively engage online and others – indeed most lawyers – do not? Ultimately, it became clear that what I wanted to look at was how a selection of South African lawyers understand the role(s) they play or 'enact' online; and how their conceptions of what they are doing fits into the current theorisation about the changing media ecosystem. This is an ecosystem that combines the work of full-time journalists and amateurs, sometimes cooperatively and sometimes with all parties vying for the attention of audiences on multiple online platforms. In other words, what do these lawyers think they are doing, why do they do it, and how does it enhance journalism in general and legal knowledge among the public more broadly?

After further consideration and discussions with my supervisor, I started to hone in on how these lawyers' understanding of what they produce online might fit in with theoretical reworkings of what journalism is in the digital era and the changing role it plays in society and democracy, including journalism's own role conceptions. But as importantly, I had to be clear about why I am so interested in all this and in doing this study, regardless of and in addition to any possible academic significance.

1.2. A gap that continues to widen

Some of my reasons for doing this study are personal. They relate to one of my few regrets regarding my five years as editor of South Africa's oldest commercial newspaper. One of the most popular topics of interest for readers surveyed in audience research (Hooper 2011) at *The Herald* in Port Elizabeth where I was editor from August 2010 to December 2015, was the social drama that happened in the courts. But we had only one court reporter and were only able to cover the bigger and often, admittedly, salacious cases, such as the trial of Christopher Panayiotou for the murder of his wife Jayde (Kimberley 2015, 2016, 2017). We neglected what happened in the district, magistrate, commercial, labour and equality courts because of our lack of reporters. The legal community has been extremely critical of these omissions, which they see as mainstream journalism favouring the sensational, i.e. focusing on what is interesting to the public over what is in the public interest (de Vos 2010, Moseneke 2015). University of Cape Town (UCT) Constitutional Law Professor Pierre de Vos's scathing critique of the media's lack of attention to important judgements reflects this view:

> **I suspect the media do not focus attention on the judiciary at least partly because they think (without ever having asked anyone) that their readers, listeners and viewers are not interested in this. They often assume that we are all stupid, lazy and ignorant and that we really want to listen to Solly[1] every day, that we are only interested in the breast size of Advocate Barbie [2]and, at a push, the sex life of our President…. Perhaps media people – especially editors – fail to understand that the judiciary now make decisions that may have far-reaching political ramifications for all of us. And because the media do not report on the work of the judiciary in this way, ordinary people may not understand how important it is and how it may affect their lives (De Vos 2010).**

[1] Comedian Solly Philander who hosted a reality TV show 'Let's Fix It' in which the host is challenged to fix people's problems (TVSA 2015).

[2] Lawyer Cezanne Visser was dubbed Advocate Barbie by the media because of her breast enlargements and blonde hair. She was sent to jail in 2010 for molesting children together with her former lover, lawyer Dirk Prinsloo. He skipped the country and she got sentenced to seven years in prison, but was released on parole after serving just over three years in jail (Pillay 2013).

This criticism is partly valid, because comprehensively covered news about the courts is important for all citizens to be informed about their rights and to see justice being served (Moseneke 2015). But this criticism is also unfair as it does not acknowledge the challenges editors and journalists face due to financial pressure caused by digital media's disruption of the traditional business model.

As editor of *The Herald,* I experienced the impact of digital disruption to the commercial journalism business model first hand. We battled to stem the loss of print copy sales which generated the bulk of circulation and advertising revenue, while the audience for the newspaper's website, Twitter and Facebook page grew rapidly and eventually exceeded the print readership. However, the digital platforms brought in little to no revenue as new digital advertising revenue was diverted to Facebook and Google. The little revenue we did make from digital advertising and subscriptions to e-editions of the newspaper could not make up for the print losses in terms of income. In response, the newspaper's owners and managers cut costs, increased cover prices and retrenched journalists, making it a Sisyphean task to serve our audiences on print and digital platforms with the quality content they deserved. The decline of *The Herald's* print circulation was part of a national and global trend reflecting the flight by news audiences to free digital platforms (Moodie 2015a; Dugmore 2018: 33; Jenkins and Nielsen 2018). The cost cutting resulted in over-stretched newsrooms which were reliant on lower paid, inexperienced junior reporters who in most cases just did not understand the complexities of subjects like law.

The shrinking of newsroom staff and the replacement of more expensive and experienced senior journalists with less knowledgeable but cheaper juniors is not just a South African phenomenon but a global one (Newman et al. 2017). This has led to a decline of journalism as a mechanism for institutional accountability in areas such as court reporting. Court reporting, Simons et al. (2017) argue, is one of the key areas of 'civic forum'[3] journalism. In a Melbourne, Australia case study, Simons found that the courts were expending more resources to assist increasingly inexperienced and stretched journalists to access information and accurately report cases. As a result, some courts were considering producing their own media content on their websites, including video content, summaries of judgements and even commentaries on judgements written by retired judges (Simons et al. 2017: 11).

[3] Journalism that focuses on the processes, proceedings and activities of public institutions such as parliaments, courts and local councils constitutes civic forum journalism (Simons et al. 2017: 10).

The declining fortunes of mainstream media businesses and the public broadcaster in South Africa has in a way left a vacuum for this kind of public service information provision. I noticed this gap being partially filled by civil rights NGO's like the more left-leaning civic rights NGO Section27[4] and the more right-leaning minority rights NGO Afriforum[5], who have lawyers working with experienced journalists in their communications teams for human rights and civil rights advocacy work. Public service journalism is also being practised by non-journalism professionals in the academic sector. *The Conversation*[6], which started its Africa edition in 2016, formalised some of these contributions, but many more were already 'on the go' via social media and direct blogging.

It is for this combination of personal and academic reasons that I chose to explore this topic. Might these kinds of new practices and new models (such as *The Conversation*) be the new frontiers of journalism practice? The most obvious way to understand the complexities was to explore them with a cross-section of members of the South African legal community. I was able to contact some people in the legal sphere and eventually was able to talk in depth with three advocates, one retired judge, one communications specialist for a legal rights NGO and ten attorneys. Eleven of these legal practitioners make 'frequent', regular but 'occasional', or fairly frequent but 'random' use of digital media to create and share content about the law in South Africa. Additionally, they used these platforms to engage in ongoing discussions, mostly online, with audiences about legal issues, while four of them choose to be 'digitally disengaged'.

1.3. Why do lawyers create online content?

My initial assumption was that the phenomenon of lawyers producing what I saw as 'sense-making' content, 'curating' news or engaging online to debate and explain legal matters has emerged because traditional news media were increasingly less able to provide comprehensive coverage of the courts or meaningful analysis of legal issues. In other

[4] SECTION27 is a public interest law centre that seeks to achieve substantive equality and social justice in South Africa. Guided by the principles and values in the Constitution, SECTION27 uses law, advocacy, legal literacy, research and community mobilisation to achieve access to healthcare services and basic education. (Section27, 2018)
[5] Afriforum is a non-governmental organisation, registered as a non-profit company, with the aim of protecting the rights of minorities. Afriforum has a specific focus on the rights of Afrikaners as a community living on the southern tip of the African continent (Afriforum, 2018)
[6] *The Conversation* is an independent, not-for-profit media outlet started in Melbourne, Australia. Articles are authored by academics, edited by professional journalists and freely available online, and for republication through creative commons license (Moodie:2015b)

words, the lack of experienced court reporters in newsrooms has led to legal experts 'filling in' and playing the role of explainers and curators of complex legal matters.

As this study shows, this 'gap filling' role that I assumed was too simplistic an approach. What emerged instead was a wide range of other reasons and motivations for lawyers to engage and create online content, which cover a spectrum of roles. For example, Thomas Hanitzsch and Tim Vos's (2018) further re-conceptualization of journalistic functions and roles argues that journalists exercise their roles in two domains: political life and everyday life. For the domain of political life, Hanitzsch and Vos identified and outlined 18 roles that address what they see as six essential functions of journalism. As is explored in greater depth in Chapter 2, these functions are: *informational-instructive, analytical-deliberative, critical-monitorial, advocative-radical, developmental-educative, and collaborative-facilitative.* In the domain of everyday life, Hanitzsch proposes that journalists carry out roles that map onto three distinct areas: *consumption, identity*, and *emotion.*

For the purposes of this study, and as is explored in Chapter 2 and Chapter 5, I draw heavily on Hanitzsch and Vos's theorisation, but also critique their dichotomy of journalistic functions into political and everyday life. I argue their theorisation privileges the more political forms of journalism over other forms such as the lifestyle, inspirational and advisory forms of journalism he outlines. I have thus somewhat adapted elements of Hanitzsch and Vos's taxonomy to fit in with the explanations and choice of descriptors revealed by my interviewees, in explaining their involvement in digital and social media and derived from their observations of what they believed they are doing. I note that many of the participants may play more than one role at the same time and/or at different points of engagement.

The lawyers who are totally disengaged from the digital public space do not fit into any of Hanitzsch and Vos's categories, so I have created a separate category for them which I have called 'The Digitally Disengaged'. In this category, there are three kinds of disengaged: 1) The lurker – online, aware, but engaging infrequently or not at all (Nonnecke, Preece, Andrews, & Voutour 2004: 6). 2) The digital antagonist - totally disengaged and consciously stays totally offline, often in both private and professional lives. 3)The personal connector - only uses social media to keep in touch with friends and family and therefore only engages online in their private capacity. These 'non' roles help illuminate the counter-vailing motives of those more actively engaged in using social media.

1.4. The new media ecosystem

There has been a seismic shift in the South African media ecosystem over the past ten years. At the epicentre of this shift, has been the rapid rise in internet use that has been facilitated by the quicker than expected acquisition of smartphones by more than half the population, or about twenty-nine million South Africans (Goldstuck 2017). This has enlarged South African internet use levels to over 30 million people or about 53,7% of the population by the end of 2017 (Goldstuck 2017). In comparison, only around 4 million or 8.1% of the population had access to the internet in 2007 (Memeburn 2007). This does not mean that 30 million South Africans are reading news or making news or even commenting or liking news on their smartphones. On the contrary *World Wide Worx* "Internet Access in South Africa Study" (Goldstuck 2017) found that only a quarter of internet users reported using the internet for social networking (24.9%) and information seeking and consumption (23.7%). And equally importantly, as reported in the World Wide Worx study (Goldstuck 2017) the 'digital divide' between rich and poor, urban and rural South Africans is exacerbated by the high cost of data. What is significant about the seismic shift in the media ecosystem is that despite the 'digital divide', large portions of the middle and working classes who can afford some data, either via ADSL or workplace (or via their place of study) 'free' Wi-Fi, have gained an unprecedented freedom to express themselves and access infinite amounts of information and entertainment online. Facilitated by the rapid changes in the ICT environment, particularly the mobility and internet connectivity afforded by smartphones and mobile social media, everyone who owns a smartphone can potentially capture, or create and then share content. In that way, they get to be some kind of journalist, publisher or, in the broadest sense, some kind of media owner (Dugmore 2018: 39).

1.4.1. 'We the Media'

One of the most striking features of this new media ecosystem has been the blurring of roles between producers and consumers of news. Members of the audience have changed from being passive consumers of news, in the sense of only receiving news and information, to becoming potential and actual producers, amplifiers, annotators of news in addition to being consumers of news. Dutch digital media theorist, Marc Deuze (2006), called this 'participation, bricolage and remediation'. Axel Bruns (2003, 2005, 2007, 2008, 2009, 2010a,b,c, 2014, 2016a,b,c) called the news by people who both produce and consume content 'produsage'. Jane Singer and Alfred Hermida (2011) preferred the term

'participatory journalism' Pavlíčková & Kleut, (2016) call it co-creation between people; Hernández-Serrano, Renés-Arellano et al. (2017) call it pro-design; while others have preferred terms such as "user generated content" or citizen journalism (Wall 2015: 797-813). What this refers to is the two-way interactive communication afforded by Web 2.0 technology, which gives everyone the potential to be more than receivers of information, but to also comment on, share, edit, add facts or collaborate with professional journalists in content creation. The theorising about the participatory affordances of digital media has its origins in the 'Citizen Journalism' movement which preceded the popularity of social media from about 2007 onwards. Other dimensions of this were developed into the notions of 'pro/am' or professional amateurs as articulated by two landmark books: Dan Gillmor in 'We the Media' (2004) and Clay Shirky in 'Here comes everybody' (2008).

1.4.2. The role of professionals such as lawyers in the new media ecosystem

Professionals like lawyers, doctors and scientists, who contribute their expertise to media content are starting to play a significant role in this new media ecosystem in which mainstream media co-exist with a variety of other content creators and disseminators (Anderson et al. 2012). In South Africa, there are professionals like sports health scientist Professor Tim Noakes who via his social media interactions, has become a major source of knowledge and debate, and journalism-like assessment with regards to sports science and low-carb, high fat diets (News24 2018). Like journalists do, Noakes and other professionals break news about events in their fields on Twitter, provide background context and explainers and act as the go-to experts on social media for the latest information in their fields.

Likewise, the eleven South African lawyers in this study all contribute to the media ecosystem in diverse ways, for different motives, while the four who opt not to participate online, still observe news or keep informed by reading news online, without revealing much about their digital presence to others. Seven of the participants in this study make use of so-called Web 2.0 technology for creating longer form explanatory content on websites and blogs. However, all of the eleven use the fast interactive affordances of social media - in particular Facebook and Twitter - to make their views heard or to share links to content that they view salient, funny or just plain absurd. Through the latter social media platforms, lawyers are able to more than write letters to an editor which may or may not be published, they engage in debates with non-legal people on multiple platforms, debates

which are ‘always on’, flowing back and forth in real-time about both seemingly mundane and more obviously vital civic matters.

1.4.3. From public spheres, to public sphericules to public spaces

The changes in the news ecosystem have had a substantial impact on public participation in discussions of common concern. The people that journalists are meant to serve, are in many ways rejecting the top down hierarchical model of newspapers deciding what is significant to read for the day and are moving on to search, engage, share and create their own sense-making of important events from multiple sources and platforms (Siapera and Veglis 2012: 46). Media scholars Pablo Boczkowski, Eugenia Mitchelstein (2010) and Brazilian editor and journalism scholar Ricardo Gandour (2016: 9-10) have cautioned that this digital ‘fragmentation’ and the creation of silos or filter bubbles of like-mindedness could lead to the disappearance of broadly shared national concerns, diminishing the ability of the public to come together to make sense of and act on common issues. As is further explored in Chapter 2, Jurgen Habermas’s (1989) conception of a deliberative democratic public sphere, has been critiqued and updated by theorists to describe the role digital media can play in bringing citizens together to debate common concerns in a ‘networked public sphere’ (Benkler 2006), a ‘virtual public sphere’ (Papacharissi 2009) and smaller issue or interest based ‘public sphericules’ (Bruns and Highfield 2016: 98).

This study draws on Bruns and Highfield’s view that the digital fragmentation of mass media has led to many different smaller ‘sphericules’ as opposed to the larger ‘virtual town hall’ that Papacharissi, in part, alludes to. As is explored below, I have not found the rigid and broad rational and ‘universal’ deliberative strictures of Habermas’s public sphere a particularly helpful theoretical lens to analyse the digital and social media activity of this small group of South African lawyers. Instead I draw on South African media scholar Glenda Daniels’ reworking of Chantal Mouffe's concept of ‘radical democracy’ (Daniels 2014: 300), as more appropriate than Habermas's consensus building through deliberation.

It is this digital fragmentation of the audience, and of news and news platforms and its impact on this core role of journalism, to facilitate democratic discussion or deliberation on important common concerns, that have provided the impetus for this study.

1.5 Problem statement and research questions

The advent of digital communication platforms has spread the load from journalists on to what Jay Rosen refers to as 'the people formerly known as the audience' (2006) and this has had particular implications for the legal profession. It is this phenomenon – of legal experts who construct a role for themselves within the public arena (supplementing a role that has traditionally been the almost exclusive domain of journalists) by making use of the affordances of digital media – that I examine in this study, particularly within the South African context. The key research question is: How do South African lawyers think about and describe the role they play in the online public space with regards to news about legal matters and events? An additional area of interest is what implicit normative roles for journalism do lawyers hold and what do they think journalists 'should' be doing with regards to legal reporting online? And do they think journalists are or are not playing those roles? Related axillary questions that are explored include looking at why some lawyers create content and what is the nature of the information shared, the journalism or journalist-like work lawyers produce online? The other question explored is why so many lawyers do not create online content, as beyond this sample it is clear that this kind of participation is very limited and the vast majority of lawyers in South Africa use social media, if at all, only for personal use and not in a professional way, although this is based on anecdotal evidence only.

This study also explores how these select few South African lawyers' understanding of the role(s) they play online, fits into or modifies our understanding of current theories about the changing media ecosystem that combines both the work of full-time journalists and amateurs all vying for the attention of audiences on multiple online platforms. Finally, the study explores how these lawyers' understanding of what they produce online fits in with broader theoretical understandings and empirical studies of what journalism 'is' and the role it plays in society and democracy.

1.6. Overview of the methodological approach

I was interested in finding out how the lawyers think they are entering the conversation (the national discourse) online, particularly on social media like Twitter, Facebook and YouTube, what they are doing in contesting particular issues, and questions about how empowering this is or is not for them and the public, and how this relates to our

understandings of journalism in the digital era. To that end, I was sure I would need 'thick descriptions', a phrase coined by cultural anthropologist Clifford Geertz to refer to a rich detailed description in contexts understandable to the actors (Babbie and Mouton 2001: 272). The main method of research for this study has been semi-structured, open ended qualitative interviews. The recorded interviews were used to develop ways of thinking about lawyers' roles in the digital public sphere (Babbie & Mouton, 2001: 272; Cole 2017). Criterion purposive sampling - searching for participants who meet a certain criterion (Palys 2008: 697) - was used to source fifteen members of the legal community, most of whom created or contributed to journalistic type digital content.

I also interviewed four legal professionals (three lawyers and a retired judge), two who observe social media and use it for personal reasons like catching up with family and friends and two others who do not use social media at all. As all four generally do not engage or create content online or via social media, I wanted to understand their views on the role of journalism with regards to the law, their views of lawyers who engage online and why they chose not to engage in online debate.

1.7. Thesis Structure

This thesis is divided into six chapters.

In this *Chapter One*, I mostly explain the rationale for this study and the initial sets of ideas and working theory and assumptions that spurred this research.

Chapter Two explores recent debates about what journalism 'is' and how this might be changing in the digital age (Anderson, Bell, and Shirky 2012; Zelizer 2017; Deuze and Witschge 2018). The chapter further explores the role of journalism within a democracy, contrasting Chantal Mouffe's notion of 'agonistic pluralism' (Mouffe 2000) with Jurgen Habermas's idea of 'deliberative democracy' (1989). Habermas's concept of a public sphere in relation to media is examined through various contemporary digitally-infused revisions and critiques of his theory before exploring Hanitzsch and Vos's (2018) broad taxonomy of journalistic roles and the needs they serve in political and daily life.

Journalistic practices and routines in a digital era, such as described by Zizi Papacharissi's concept of affective liminal news streams (Papacharissi 2015) and Axel Bruns' concept of 'gatewatching' (Bruns 2017, 2018) are examined. This is done in order to not only provide some sort of a benchmark of actual journalistic practices with which to compare the digital

content work of the legal practitioners in this study, but to argue for the necessity of non-journalist professionals playing a role in the new media ecosystem. I also look at the lawyers' motivation from the theoretical prism of uses and gratification theory (Whiting and Williams 2013: 362) and social movement participation theory (Klandermans 1993; Hertel, Niedner & Herrmann 2003).

Chapter Three explains the qualitative exploratory research design and qualitative interview method to collect data for the study in some depth. This chapter substantiates and problematises why a qualitative design and interview method was the most appropriate research approach for this study and explains how the interview samples were chosen, explains the thematic content analysis that was used to deconstruct and analyse the interview transcripts and evaluates its efficacy.

Chapter Four presents the research findings, focusing on the routines and practices of the legal professionals in creating content and engaging online. The thematic content analysis of the lawyers' routines and content makes use of recent theorisation about user-generated content and digital journalism, drawing on a wide range of contemporary reworkings of this theory (Anderson, Bell, and Shirky 2012; Bruns 2017; 2018, Deuze and Witschge 2018; Domingo 2008; Papacharissi 2015; Zelizer 2017).

Chapter Five explores and explains the lawyers' motives for producing content and engaging online, drawing partly on the theoretical prism of uses and gratification theory (Whiting and Williams 2013: 362) and social movement participation theory (Klandermans1993; Hertel, Niedner & Herrmann 2003). This chapter also discusses the interviewees' views on what journalism is and what journalism should be. What they do in the digital public space is analysed and categorised, drawing on the taxonomy of functions and roles developed by Thomas Hanitzsch and Tim Vos (2018) and their concept of journalistic roles as discursive constructions of journalism's always fluid identity and always uncertain place in society. The role these lawyers play in the digital public space is analysed in the context of contemporary updates and revisions of Jurgen Habermas's public sphere and Chantal Mouffe's concept of agonistic democratic public spaces.

Chapter Six concludes the study by reflecting on the significance of the findings, outlining the limitations of the study and offering some suggestions for future research.

CHAPTER 2

Review of Literature

2.1. Introduction

At the heart of this study is an attempt to explore the changing nature of journalism's role in South African society as rapid advances in digital communications blurs the boundaries of what journalism is; and complicates how, where and why journalism is produced and, with particular reference to the legal profession, who produces it. It is thus important to outline and deconstruct the theoretical location of this study and to start this location with explorations of understanding of what constitutes journalism in this digital age, i.e. how scholars have been reconceptualising journalism theoretically and studying it empirically.

This study focuses on lawyers' content creation and online activity in some semblance of a journalistic space, or at least something of a public space when shared with an accepted audience of friends or members of the public on a website, blog or private social media page or feed such as Facebook, LinkedIn or Twitter as opposed to their 'private' use of social media. It explores the contours of recent debate about journalism, particularly as discussed by Chris Anderson, Emily Bell and Clay Shirky in their seminal Post Industrial Journalism manifesto (Anderson, Bell, and Shirky, 2012); Barbie Zelizer's broad metaphysical conception of what journalism could be (Zelizer 2017); and Mark Deuze and Tamara Witschge's analysis of journalism in transition (2018).

The most dominant normative role ascribed to journalism in mainstream South African media by journalists and much of the public is still that of "liberal" monitorial "watchdog" of democracy (Wasserman 2006). The next section contrasts Chantal Mouffe's "radical democracy" and her idea of a variety of democratic public spaces (Mouffe, 2016) as opposed to Jurgen Habermas's idea of "deliberative democracy" and his concept of a public sphere. Habermas's concept of a public sphere in relation to the media will be examined through various contemporary digitally-infused revisions and critiques of his theory. This section then discusses South African critiques of Habermas before exploring Thomas Hanitzsch and Tim Vos's (2018) broad taxonomy of journalistic roles and the needs they serve beyond the confines of the democracy in political and daily life. The

prism of the recent reworking of the 'uses and gratifications' theory (Whiting and Williams 2013: 362) and social movement participation theory (Klandermans 1993; Hertel, Niedner & Herrmann 2003) is then discussed as theoretical insights into the motives that have spurred the lawyers in this study to create digital content about legal matters, especially when it is not part of their jobs.

The discussion of what journalism is in a digital age and the role it plays in society is followed by an attempt to locate this study of South African lawyers understanding of their role in digital public spaces through an examination of the fluid nature of journalistic practices in a digital age. Contemporary theories around non-journalist user-generated content is surveyed. Journalistic practices in a digital era, such as described by Zizi Papacharissi's concept of affective liminal news streams (2015) and Axel Bruns concept of gatewatching (Bruns 2017, 2018) is explored. This is done to not only provide conceptual perspectives on the journalistic practices and a way to categorise and compare the digital content work of the legal practitioners in this study, but to argue for the increasing necessity of including, theoretically and empirically, non-journalist professionals as part of the new media ecosystem.

2.2. What is journalism in a digital age?

In order to make sense of how South African lawyers think about and describe the role they play in the online public space, it is important to explore the existing contemporary theories that attempt to define what we mean by journalism in a digital age.

2.2.1. Post-Industrial Journalism

A key change to journalism in the digital age is that journalism is no longer produced in a linear fashion, nor can it any longer be seen as producing anything like a finite and finished product. Steensen and Ahva (2015) highlight the new ways of viewing journalism from a number of authors. They cite Sue Robinson who sees journalism as much more of a 'process' in the digital age that involves many iterations and authors involved in its making; Anderson who sees news as an 'ecosystem'; Peters and Broersma who see it as a 'landscape'; Hermida who sees it as an 'ambient' environment; and Heinrich and Russell who see it as a 'network' (Steensen and Ahva 2015:1). In this environment, as Jane Singer (2016:12) puts it, journalism is understood as "a fluid, iterative process in which 'messages' are ubiquitous and multi-directional, and the roles of 'senders' and 'receivers'

are perpetually reciprocal." Collectively, this is a fairly radical reconceptualisation of the way journalism is made, the way it is consumed and how it creates or accommodates a space for professionals - like the lawyers in this study who play a small part contributing to this journalism landscape, network or ecosystem.

Journalism now is a set of activities by both a core of full-time practitioners and an increasing group of people working part time, often as volunteers. They emphasise that this work is distributed by people who care less about questions of what is news and what isn't than on questions like "Will my friends or followers like this?" (Anderson et al. 2012: 56)

2.2.2. What Journalism Could Be

Leading North American journalism theorist Barbie Zelizer argued in *On the shelf life of democracy in journalism* (2013) that "the idea that democracy is the lifeline of journalism has not been supported on the ground" (Zelizer 2013: 465). She points out that journalism scholars have focussed much more attention on investigative and political journalism, areas that reinforce and emphasize the role of journalism as a watchdog of democracy - neglecting and often ignoring other more prevalent forms of journalism such as leisure, entertainment, service i.e. health and science educational and informational journalism. Zelizer's view is supported by the work of Folker Hanusch (2017). In his study of 600 Australian lifestyle journalists, he identified four key roles that these journalists see themselves as fulfilling: *service providers, life coaches, community advocates and inspiring entertainers.*

In her recent monograph, *What Journalism Could Be* (2017:31), Zelizer expands on this all embracing definition of journalism beyond the conception of its centrality to democracy. She argues that journalism is, "a phenomenon that can be seen in many ways – as a sixth sense, a container, a mirror, a story, a child, a service, a profession, an institution, a text, people, a set of practices"; providing metaphors for each role that journalism plays as "a glimpse of a phenomenon that is rich, contradictory, complex and often inexplicable" (Zelizer 2017: 31). Zelizer provides a generous and indeed catholic expansion of the confines of journalism beyond that of 'watchdog of democracy' into one that reflects a variety of roles journalism can and does fulfil in society. It is useful for this study as it is a broad enough concept that more aptly captures what the lawyers in this

study 'produse'[7] online and helps us understand where they engage and interact with journalism and when they 'do' journalism themselves.

Zelizer's definition complements Mark Deuze and Tamara Witschge's (2018) recent study of journalism in a state of transition from a fairly coherent industry into a highly varied and diverse range of practices. In his earlier work[8], Deuze expounded on the concept of "liquid journalism" (2008b:859) consumed mostly on smartphones by more 'monitorial' citizen/consumers – critical, more self-expressive, more anti-hierarchical, and who scan all kinds of news that matters to them personally as opposed to being part of a passive mass audience. In their more recent study, Deuze and Witschge revisit the question of what journalism is, given the "increasingly fragmented, networked, and atypical nature of the labour market for news- work" (Deuze and Witschge 2018: 168). Of relevance to this study of lawyers and the doing of journalism-like work, is their argument that the emphasis on the processes and roles in traditional newsrooms cannot serve as the only model for fieldwork as "the very definition of journalism is being contested on a daily basis" (Deuze and Witschge 2018 citing Anderson 2011).

Deuze and Witschge are critical of the dominant interpretation of the role of journalism based on elite institutions in large cities of the Western world and argue for the need to broaden the focus of journalism studies in order to understand what journalism is becoming and what working as a journalist is like. They argue that journalism studies need to focus on the role of both organisations (beyond the larger and relatively stable news institutions) and individuals (beyond notions of the entrepreneur as the saviour of journalism), as well as moving the notion of the audience (beyond just the more or less avid consumer of news) (Deuze and Witschge 2018: 176-177). Journalism is "liquid", in that it takes place in multiple contexts, both informal and formal across multiple platforms. It can take place (i.e. be produced) in newsrooms, internet cafes, in lawyers' chambers – basically anywhere – and it can be 'ambient' and produced in real-time on public transport or while walking to a court. It now more routinely involves a wider range of participants

[7] Produse is a verb derived from the term produsage -a combination of production and usage coined by Australian media scholar Axel Bruns (2007) which describes user-led content creation and usage that takes place in a variety of online environments.

who are not paid and who either compete with each other or collaborate, and sometimes do both at the same time.

Journalism, according to Deuze and Witschge, is a field that needs to be looked at as "a moving object and as a dynamic set of practices and expectations – a profession in a permanent process of becoming" (Deuze and Witschge 2018: 176-177). They nonetheless agree with Zelizer that even though it is liquid and embracing of non-professional journalists as contributors to its ecology, journalism still exists as a practice that has some kinds of notions of both verification and critical third-party engagement.

2.3. The role of journalism

2.3.1. Variations of the liberal watchdog

In their exposition about the essential 'elements' of journalism Kovach and Rosenstiel (2001) espouse the view of journalism's key traits as: 1) public service (as watchdogs, disseminators of information); 2) a striving towards 'objectivity': (journalists are impartial and credible); 3) the necessity of autonomy (journalists as 'independent' and un-influenced); 4) traits of immediacy i.e. journalists record the latest happenings as fast as possible; 5) and in terms of particular routines and standards of verification, which is key to their conception of journalism. The determinations by Kovach and Rosenstiel's and others of this narrow role of journalism is of course an idealized version of some aspects of journalism. While it exists in pockets in some parts of the world, it arguably inadequately covers the multiple interactive and dialogic mutations that social media platforms like Facebook, YouTube, Twitter and web 2.0 technology has afforded non-journalist professionals like the lawyers in this study who are able to do media work that sometimes closely resembles the news breaking and analytic work of journalists. And who do this, in most instances, for free. This definition also does not account for different cultural or ideological frameworks of journalism that are more developmental, constructive or solutions oriented.

South African journalists mostly support the idea of watchdog journalism, namely to monitor and scrutinize political leaders, as well as to monitor and scrutinize business (de Beer et al. 2016a, 2016b). But this role is limited in new democracies such as South Africa with "fragile identities, deep social divisions and unfinished nation building" as Voltmer (2006: 5, cited in Chuma et al. 2017: 106) observes. Voltmer argues that in unequal societies like South Africa, the media may amplify the voices of those who are able to

access the media most effectively to the exclusion of the marginalised. Also, she argues that despite political change, social transformation can lag behind and the media itself may remain untransformed. Thus, instead of the media being a platform for democratic deliberation, they may instead act in favour of entrenched powerful political or commercial interests. This certainly has been a theme of critique both by some political formations and various academic studies of journalism in South Africa since 1994 (Chuma et al. 2017; Friedman 2011).

2.3.2. Jurgen Habermas's public sphere theory

The most influential conceptualisation of journalism and of the media's role in a democracy is that based on Jurgen Habermas's concept of a public sphere. In his book *The Structural Transformation of the Public Sphere* (1989), Habermas described the structural shift from a culture debating society to a culture consuming society; as the industrial era mass media of the 20th century took the place of bourgeois coffee societies, where artists, writers, shopkeepers and aristocrats would engage in fairly 'critical' and 'rational' debate about the issues of the day. Habermas has been criticised for romanticising the bourgeois public sphere which excluded what has been dubbed the subaltern counter-publics such as women (Fraser 1992), homosexuals, the working class, and plebeians (Warner 1992, Negt et al. 1993). However, his implied nostalgia for a time and space for rational discussion, debate and consensus stems from his critique of dominant elites' control of public opinion through ownership and control of mass media or at the very least, their ability to influence it via the dominant advertising revenue model in liberal democracies.

In a South African context, Wallace Chuma, Herman Wasserman, Tanja Bosch and Rebecca Pointer (2017) argue that the Habermasian ideal of media facilitating deliberative democracy in South Africa is impossible. The media cannot claim to represent the citizenry in all its diversity, unless it allows a greater role for citizens to co-construct news agendas and collaborate in the narrativisation of everyday lived experiences (Chuma et al. 2017: 124). This is a powerful point that gels with the empirical reality of life in South Africa, where half of all citizens are still poor (Stats SA 2017). This study explores journalistic co-construction with legal professionals, fully acknowledging that they are an elite group of citizens who already have influence and authority within their own legalistic field.

The post Habermasian digital public sphere theories range from what could be termed 'techno–optimistic' views (Benkler 2006; Rosen 2006; Papacharissi 2009; Bruns and Highfield 2016), to concerns that the internet is fragmenting the public sphere into

dispersed and polarized 'echo chambers' (Sunstein 2009 as cited in Rasmussen 2016:18-19; Gandour 2016). Yochai Benkler introduced the concept of a networked public sphere: "The network allows all citizens to change their relationship to the public sphere. They no longer need be consumers and passive spectators. They can become creators and primary subjects. It is in this sense that the Internet democratizes" (Benkler and Nissenbaum 2006: 272). Zizi Papacharissi builds on Benkler's networked public sphere in her description of the emergence of a "virtual sphere 2.0", in which citizen-consumers participate and express "dissent with a public agenda […] by expressing political opinion on blogs, viewing or posting content on YouTube, or posting a comment in an online discussion group" (Papacharissi 2009: 244). Papacharissi (2010) has suggested that social media has expanded the number and range of individuals who may enter the "privately public space of the private sphere" (Papacharissi 2010: 140) and it has led to engagement and participation by "affective publics" (Papacharissi 2015). These publics bring highly individual interpretations to discussions and private public platforms such as Facebook. This perspective is useful because it helps understand the engagements of lawyers like Matthew van der Want who has expressed his discomfort with the disregard for the rule of law in his public private intersections on Facebook.

Axel Bruns and Tim Highfield's theorisation of public spheres in the digital era (2016) proposes that the concept of a unified domestic public sphere no longer exists because even the leading mainstream media outlets no longer command a truly "mass" audience. With particular reference to Twitter, they argue that a single sphere has been replaced by smaller "public sphericules" which do not claim to reflect public discourse back to society at large (Bruns and Highfield 2016:98). Echoing this shift to smaller sphericules of debate, Chris Peters and Tamara Witschge propose a move from "grand narratives" towards "small expectations" in understanding the role of journalism in democratic participation (Steensen and Ahva 2015: 14). They argue for the necessity of an audience-inclusive aspect to theorising journalism and democracy. In a South African context, UCT media scholar Tanja Bosch (2017) illustrated the empowerment of the student social media audience in a public sphericule in her study of students' uses of Twitter in the #RhodesMustFall campaign. Bosch showed that the students actively created and narrated on Twitter and in so doing influenced and set the mainstream news agenda, thus shaping the public debate.

While I agree that the internet has enabled more participation in public debate (although less so than sharing of cat videos, i.e. the proliferation of entertainment and leisure uses), research by Hindman (2008), Rasmussen (2016), Turow and Draper (2014) shows that the networked and virtual sphere is not as democratising as Benkler and Papacharissi hoped for, with elites, like politicians, journalists and lawyers fairly easily dominating the online public sphere.

2.3.3. Chantal Mouffe's agonistic public spaces

South African media scholar Glenda Daniels (2014) argues that Belgian political scientist Chantal Mouffe's concept of 'radical democracy', with its "greatest inclusion possible of voices and diversity in the many public spheres, with fights, contestations and difference or dissension, in action rather than unity and consensus" (Daniels 2014: 300), is more appropriate a theoretical lens through which to analyse social media platforms like Twitter than Habermas's consensus building through deliberation. She writes:

> **The premise is this: it[9] is better for a more all-encompassing, more inclusive and plural democracy with greater participation from all kinds of citizens, genders, from different ideological perspectives and class strata (Daniels 2014: 301).**

In their book *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics*, Chantal Mouffe and Ernesto Laclau (1985) claim that liberal democracy in the West does not sufficiently accommodate difference, or the worldviews of different races, classes, genders, etc. As digital media scholar Eugenia Siapera explains, for Laclau and Mouffe, the role of journalism is to keep open the space within which different social groups struggle for hegemony[10] (Siapera and Veglis 2012: 158). In an interview with Nico Carpentier (2008: 11), Mouffe clarified that the role of the media should precisely be to contribute to the creation of an agonistic public space in which there "is the possibility for 'dissensus'[11] to be expressed or different alternatives to be put forward" (Carpentier and Cammaerts 2006: 11). It is in this interview that Mouffe explains why she avoids the term public sphere and elaborates further on the concept of agonistic public spaces.

[9] Radical democracy as defined by Mouffe
[10] In Mouffe and Laclau's interpretation, hegemony is seen as the imposition of a set of ideas and values by one group over another, but which can never be totally successful in being unquestionably endorsed by all (Siapera and Veglis 2012:158)
[11] A lack of consensus; disagreement within a group (Collins dictionary 2018)

> **I tend to avoid using 'the public sphere' as much as possible. I prefer 'public space', in order to differentiate between the Habermasian model and the view I am trying to put forward. I also never speak of the public space, but rather of public spaces, because I think there is a multiplicity of public spaces. There are many different forms of articulation between all the different public spaces and it is important to work at all those different levels. The idea of the public sphere in Habermas is of course basically rationalist. I am particularly interested in the role of what I call 'passion' in politics. For Habermas, this is exactly what the public sphere should not be; it is not the place where passion should be expressed. (Carpentier and Cammaerts 2006: 11.)**

It is clear from this quote that what differentiates Mouffe from Habermasian rationalist consensus is what she calls 'passion' - expressive views of dissonance in politics. This study will draw on Mouffe's framework of multiple public spaces to accommodate the dissent, diversity and passion that is a very striking feature of the complex South African social and political landscape - a feature which emerges in the interviews with the lawyers in this study. In a society which in 2015-2016 recorded 14,693 actual protests (strikes, pickets, marches, sit ins and other forms of demonstration) nationwide (Bruce 2016), and which is alleged to be the highest number in the world, a foregrounding of dissent and passion is arguably ever more necessary.

2.3.4. Hanitzsch and Vos's taxonomy of journalistic roles

In their paper, *Journalism Beyond Democracy*, Thomas Hanitzsch and Tim Vos (2018: 149) postulate that journalism as an institution has found or claimed legitimacy and journalists have found meaning and 'direction' for their work in socially situated and discursively constructed 'norms'. Hanitzsch and Vos (2018: 149) argue that the liberal hegemony in the West has led to a hierarchy of journalistic roles with the public sphere (largely political) taking precedence over the private sphere (which includes home life and consumption). The author's attempts to cut through the public–private binary has led to the perpetuation of the same binary and indeed the dominance of the political by compartmentalising journalistic roles into two domains: 1) political life (to which they ascribe six functions, enacted through eighteen 'roles'); and 2) everyday life – a domain that cuts across spheres and points to the lived realities of all persons (to which they ascribe three 'needs' and seven 'roles').

Figure 1: Hanitzsch and Vos's *Functions and roles of journalism in political life*

Despite my earlier critique that their framework still perpetuates the privileging of the political over the everyday or private, Hanitzsch and Vos's taxonomy is a useful tool to categorise and understand what meanings the subjects in this study make of their journalist-like work online. Indeed, they have done a remarkable job of filtering and breaking down into actual functionary components the previously discussed conceptions of what is journalism and the role it plays in democracy and in daily life. By doing this they not only define the different normative dimensions of the role of journalism, but they illustrate how these normative ideas are manifested in actual journalistic roles in practice by describing exactly what it is that journalism does and journalists do. In Chapter Five, I both draw from their taxonomy and adapt it to develop my own taxonomy or spectrum to describe the range of journalistic functions and roles the lawyers in this study do or do not

perform with their digital content and engagement. Hanitzsch and Vos identified 18 roles addressing six journalistic functions for the domain of political life. They are *informational-instructive*, *analytical-deliberative*, *critical-monitorial*, *advocative-radical*, *developmental-educative*, and *collaborative-facilitative*. Figure 1 illustrates these functions and roles in the political domain. These need to be briefly outlined, as the study draws on them extensively later on.

2.3.4.1. INFORMATIONAL INSTRUCTIVE

The *informational-instructive* function is based on the idea that citizens *need* to have the relevant information at hand to act and participate in political life (Hanitzsch and Vos 2018: 153). There are three different journalistic roles related to meeting this need: *1. The Disseminator*: detached bystanders who reports things as they are (Hanitzsch and Vos 2018: 153). *2.The Curator*: organises, contextualises, and shares the most relevant content on a given topic from a variety of digital sources (Hanitzsch and Vos 2018: 153). *3. The Narrator*: puts the world into perspective by providing explanation, background and context contextualising the news of the day into larger narratives that often extend over time, taking into account the past, the present, and the (envisaged) future (Hanitzsch and Vos 2018: 153).

2.3.4.2. ANALYTICAL DELIBERATIVE

This refers to the journalistic function that is linked to the democratic public forum theories around journalism, such as Habermas's public sphere (1989) or Mouffe's democratic public spaces (Carpentier and Cammaerts 2008: 11). It includes roles that are politically more active by engaging the audience in public conversation, by empowering citizens or by providing means for political participation (Hanitzsch and Vos 2018: 154). Hanitzsch and Vos's roles related to this function are: *1. The Analyst:* subjective and opinionated analyses of events in the news (Hanitzsch and Vos 2018: 154). *2. The Access Provider*: engages the public in conversation by giving people with different expertise, interests, background and views a platform to debate (Hanitzsch and Vos 2018: 154). *3.The Mobilizer*: frames the news in a way that invites and spurs people into civic action (Hanitzsch and Vos 2018: 154).

2.3.4.3. CRITICAL MONITORIAL

The *critical-monitorial* function encapsulates the most dominant normative journalism role in liberal democracies with journalists providing oversight (ostensibly on behalf of the public) over those in power. The roles include: *1. The Monitor*: responds to political misconduct when becoming aware of it (Hanitzsch and Vos 2018: 154). *2. The Detective*: uses investigative practices to scrutinize claims and statements of the government and to verify and authenticate information given by sources, (Hanitzsch and Vos 2018: 154). *3. The Watchdog*: proactively scrutinizes political and business leaders and provides an independent critique of society and its institutions (Hanitzsch and Vos 2018: 154).

2.3.4.4 ADVOCATIVE-RADICAL

This function sees journalists taking an active part in political discourse as opposed to being or trying to be objective observers. The roles include: *1. The Adversary*: takes a position in opposition to political authority (Hanitzsch and Vos 2018: 155), acting as a voice of the people democracy is meant to serve but marginalises in favour of elites. *2. The Advocate*: identifies with a particular group and acts as their voice (Hanitzsch and Vos 2018: 155). This involves taking a stand and actively campaigning for the causes of specific groups of people. *3. The Missionary*: does not act on behalf of others but engages in campaigns to propagate a certain political ideology (Hanitzsch and Vos 2018: 155).

2.3.4.5. DEVELOPMENTAL -EDUCATIVE

This function sees journalism aimed at educating and developing societies in transition. Roles include: *1. The Change Agent*: advocates for social change and drives political and social reform and empowerment, quality of life, social equity, citizen participation in public life, and human development (Hanitzsch and Vos 2018: 155). *2. The Educator*: raises public awareness and knowledge about a perceived problem or issue (Hanitzsch and Vos 2018: 155). *3. The Mediator*: focuses on reducing social tension and serves as a bridge in heterogeneous societies by forging commonality of values and by contributing to conflict resolution (Hanitzsch and Vos 2018: 155).

2.3.4.6. COLLABORATIVE FACILITATIVE

The function sees journalists acting as partners of the government and supporting it in their efforts to bring about development and social well-being (Hanitzsch and Vos 2018: 156). The roles include: *1. The Facilitator:* assisting the government in its efforts in nation

building and the preservation of national unity (Hanitzsch and Vos 2018: 156). *2. The Collaborator:* acts as public communicator who defends the government and its policy to the extent that press freedom should be limited according to the nation's economic priorities and development needs (Hanitzsch and Vos 2018: 156). *3. The Mouthpiece*: similar to the disseminator, the journalist shares official government information by explaining political decisions to the people and guiding public opinion (Hanitzsch and Vos 2018: 156).

2.3.4.7. JOURNALISM'S ROLE IN EVERYDAY LIFE

Hanitzsch and Vos (2018: 156-157) argue that by providing a form of navigational guidance through a multi-optional society, the media has to some extent filled the void left by the decline in influence of social institutions. These include for example religious organisations, trade unions or tribal authorities which were previously the custodians of the normative life framework for different communities and groups. Journalism steps into the breach by regularly providing help, advice, guidance and information about the management of self and everyday life through lifestyle news, consumer news and 'news-you-can-use'. Hanitzch and Vos map the roles of journalism in everyday life onto three

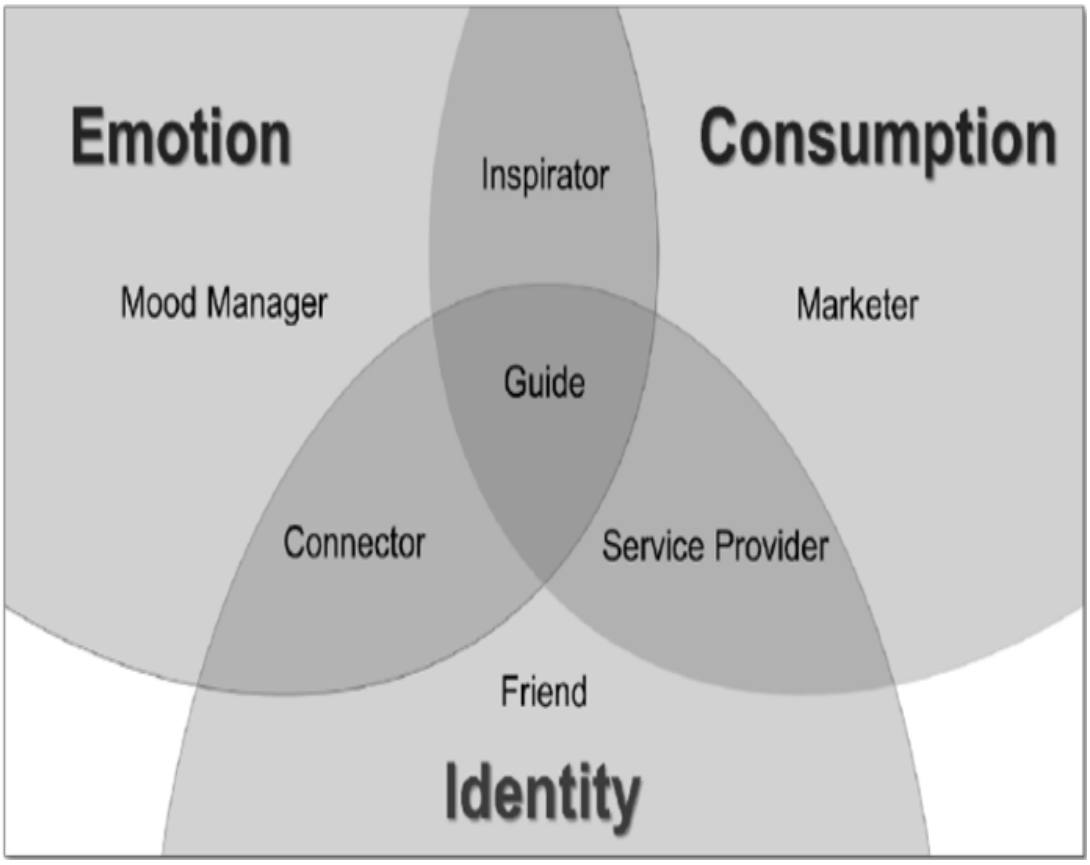


Figure 2: Hanitzsch and Vos's Roles of journalism in everyday life mapped onto needs of emotion, consumption and identity

interrelated spaces of everyday needs: consumption, identity and emotion as illustrated in Figure 2.

This binary compartmentalisation of political and everyday life still, I argue, privileges the political and neglects a deeper exploration of public and social elements in everyday life and the private identity, emotional and consumer elements, in political life. In chapter 5, I draw on and adapt Hanitzsch and Vos's taxonomy in exploring my empirical data and to describe the functions, roles and practices that the lawyers are involved in that approximate journalistic equivalents. In doing this I will attempt to navigate and somewhat reduce the binary distinction between political and every day, and converge the needs, functions and roles Hanitzsch and Vos describe under one domain of everyday life.

HANITZSCH AND VOS'S JOURNALISM ROLES IN DAILY LIFE

1) The Marketer: Promotes lifestyles and purchasable products of various kinds
2) Service Provider:offers practical information and advice on services and products
3)The Friend: As a companion helps people navigate the complex world of relationships
4)The Connector: Connects people to each other other and communities by providing a sense of belonging and by contributing to shared consciousness and identity.
5)The Mood Manager: Helps manage and regulate emotional well being as an entertainer or provider of positive experience.
6)The Inspirator: Provides inspiration for new lifestyles and products, linked to positive attitude towards life.
7)The Guide:Provides orientation in a multi-optional world in daily life.

(Hanitzsch and Vos 2018: 159)

Figure 3 Hanitzsch and Vos's journalism roles in daily life.

2.4. Motives

2.4.1. Uses and Gratifications Theory

In Chapter 5, I will also explore non-journalists' motivations for produsage, which Hanitzsch does not cover in his taxonomy. As the lawyers in this study are members of a news audience who both consume and produce journalist-like content, the study will also use the lens of the 'uses and gratifications' theory to explain what needs of the users propels them to make journalism-like content. Uses and gratification theory has a long history in media studies and suggests that people seek out media that fulfil particular discernible needs and leads to some kind of gratification, a broad term denoting enjoyment and satisfaction (Whiting and Williams 2013: 362).

Anita Whiting and David Williams' (2013: 366-367) ten uses and gratifications for using social media are applicable to the lawyers in this study who use social media for a wide range of motivations which I describe in Chapter 5 (see Figure 4). I will be using these various categories to make sense of and describe my empirical data relating to the

Whiting and William's ten uses and gratifications for social media engagement:

1. ***Social interaction*** - Using social media to connect and keep in touch with family and friends, they do not regularly see and meet new friends.

2. ***Survey, information seeking*** - Finding information about sales, deals, or products and self-education.

3. ***Pass time*** - Use social media when bored or have idle time

4. ***Entertainment*** - Use social media for humour and comic relief, games, watching videos and movies

5. ***Relaxation*** - Use social media to help escape the stress of the real world.

6. ***Communicatory utility*** – Using social media to have something about which to talk to others

7. ***Expression of opinions*** - Using social media to express thoughts, opinions and to vent.

8. ***Convenience utility*** - Social media gives people things to talk about with others. is convenient and accessible anytime and anywhere

9. ***Information sharing*** - Using social media to share information about you and about what you are interested in with others. Unlike television and the internet, social media is interactive in nature and allows consumers to communicate and share information via a two-way dialogue.

10. ***Surveillance and watching of others*** -Social media is used to try and keep up with others and see what others are doing.

Figure 4: Whiting & William's ten uses and gratifications for social media engagement

lawyers' motives for why they get actively involved in journalist-like digital content making and engagement.

2.4.2. Motives for creating user-generated content

Research into motives for user-generated content (UGC) in the field of human computer studies software and information science are useful to understand what makes users get involved in content creation when it is not their primary work. A great deal of research into user participation in open software development shows that only a limited number of active users actually participate (Crowston and Fagnot 2018: 90). In seeking to understand the motives of these few users who actively engage in UGC, Kevin Crowston and Isabelle Fagnot looked at theories of 'helping behaviour' that studied the motives for participation in social movements to explain developer volunteer involvement in open software projects, such as Wikipedia. Both Crowston and Fagnot's study into the motives of Wikipedia editors and a 2003 study by Guido Hertel, Sven Niedner and Stefanie Herrmann into the motives of software developers in the Linux open source project found that Bert Klandermans 1997 theory of motivation for participation in a social movement strongly applied to participation in user-generated content. Klandermans' theory of motivations suggests four distinct areas of motivation for participation in a social movement: *collective motives*, *identification with the group or a subgroup*, *reward motives* and *social motives*. Klandermans theory is based on the expected costs and benefits that participating in a social movement entail. The higher the motivation to contribute to a movement, the more likely the expected gains are perceived (Klandermans 1997 as cited in Hertel et al 2003:1163).

Hertel, Niedner and Herrmann (2003:1163) found that the Linux kernel community seemed to be driven by similar motives as volunteers within social movements, such as the civil rights movement citing the extended Klandermans model of voluntary action in social movements (Klandermans 1997). The main motivational factors for Linux UGC were: (a) a more general identification with the group; (b) a more specific identification with a sub-group; (c) pragmatic motives related to the improvement of one's own software and career advantages; (d) norm-oriented motives related to positive reactions of relevant others (family, friends, colleagues); (e) social and political motives related to supporting independent software and networking within the Linux community; (f) hedonistic motives such as pure enjoyment of programming; and (g) motivational obstacles related to time losses due to Linux-related activities.

This categorisation of needs and motives in voluntary media work is considered when analysing the motives of the lawyers who produse journalist-like content in this study.

2.5. The fluid nature of digital media

None of the subjects of this research are employed full-time as journalists, but mostly engage in some way in the media ecosystem that includes company or NGO websites, news websites blogs, Facebook, Twitter and Instagram. As such, it is important to locate what they 'do', firstly in the context of contemporary theories around non-journalist user-generated content, and secondly in terms of journalistic work routines and practices which might fit into or feed into something that is more discernibly journalism.

2.5.1. Theories about non-journalist user-generated content

Media scholar Seth Lewis traces the theoretical roots of participatory culture to Pierre Lévy's (1997) notion of collective intelligence, the idea that knowledge is richest and most accurate when it reflects the pooled inputs of a distributed population, as opposed to one expert (Lewis 2012:18). This concept has been popularised by James Surowiecki (2004) as the "wisdom of crowds" (as cited by Lewis 2012: 18.) Its central thesis is that a diverse collection of independently deciding individuals make better decisions and predictions than individuals or experts.

As discussed in the introductory chapter, much of the theorising about the participatory affordances of digital media has its origins in the 'Citizen Journalism' movement which preceded the invention of web 2.0 technology and the digital era. This was further developed into the notions of 'pro/am' or professional amateurs as articulated by Dan Gillmor in *We the Media* (2004) and Clay Shirky in *Here comes everybody* (2008). African media scholar Bruce Mutsvairo asserts, when a group of people, which American media scholar and foremost proponent of citizen journalism, Jay Rosen, famously referred to as "formerly known as the audience" (Rosen 2006) are involved in "producing and sharing content, then citizen journalism is likely at work" (Mutsvairo 2016: 16). Mutsvairo further argues that the global social media explosion has actually expanded the market for citizen journalism by providing an indispensable platform for technology-savvy citizen journalists to report eyewitness accounts and share stories immediately. For Mutsvairo,

citizens have "benefited through the use of hashtags, retweets and image shares in a powerful citizenry collaboration and engagement that intriguingly rivals reports provided by mainstream circulating on social media networks" (Mutsvairo 2016:18).

Axel Bruns and Tim Highfield (2012) refer to citizen journalism as:

> **an assemblage of broadly journalistic activities (what J. D. Lasica [2003] has described as "random acts of journalism") which are characterized by specific practical and technological affordances: they draw on the voluntary contributions of a wide-ranging and distributed network of self-selected participants rather than on the paid work of a core team of professional staff, and they utilize Internet technologies to coordinate the process and share its results (Bruns and Highfield 2012).**

This term which includes tweets, Facebook posts, photographs, video clips, live feeds as well as long form features or opinions which make up "the random acts of journalism" is the most accurate description of the range of digital content produced by the legal professionals in this study who contribute to the media ecosystem but are not paid at all to do so.

There are two strands of research in journalism studies with regards to user-generated content or participation. One follows Axel Bruns's extensive work on "produsage" (Bruns 2003, 2005, 2007, 2008, 2009, 2010a,b,c, 2014, 2016a,b,c; Bruns and Highfield 2008); and focuses on the blurring of boundaries between producers and users. The other strand looks at the ways in which audiences participate (or not) in the news production process (Lewis, 2012; Lewis & Westlund 2015; Loosen & Schmidt 2016; Papacharissi 2015; Peters 2016).

Bruns's initial concept of "produsage" is broad and extends beyond users doing journalistic interpretative work by blogging. As is further explored below, he casts his net wide to include everyone who likes something on Facebook, links or clicks and drags text, video and sound, or tags with a label to be found in searches by others, as a meta-journalist, a curator, or guide of what is worthwhile in news (Bruns 2007).

The one social media platform that a range of theorists argue offers the greatest ease of participation and closely approximates a virtual or networked public sphere is Twitter

(Bruns 2012; Bruns and 2018; Lewis 2012; Maireder and Ausserhofer 2013; Wall 2015). Maireder and Ausserhofer point out that Twitter allows those who are not affiliated to political parties "to become integral actors within the sphere of discourse of the political centre", and more so it "allows casual citizens to observe conversations of the political elite and, if they like, to participate in those conversations" (Maireder and Ausserhofer 2013: 9).

Lewis (2012) emphasises how the engagement affordances of digital platforms like Twitter enable diverse members of the public, experts, non-experts and journalists to debate in what he frames as a networked variation of Habermas's public sphere.

This more engaged, representative and collectively intelligent society that is the ideal of a participatory culture can only be truly tested through empirical quantitative and qualitative research into user-generated content. A great deal of research on user-generated content has focussed on the relationship between journalists and audiences (Lewis and Westlund 2014; Holton et al. 2013; Verweij & van Noort 2014). As Holton, Coddington and de Zúñiga (2013) point out, less is known about the non-journalist content creators themselves, how they view the work they are doing, what values they ascribe to it and how they compare this to understanding what good journalism is. There are also a number of North American news consumption studies (Hermida et al. 2012; Lewis 2012; Lewis & Westlund 2015; Hernández-Serrano et al. 2017) that show the increase in user participation in news creation and the centrality of social media as the key initial source where news is encountered first. However, these too do not focus on production or engagement but on news consumption.

What is pertinent to this study is Hermida's urging of the need to investigate how networked publics are reframing the news and shaping news flows. In South Africa, there has been some interesting research in this vein by Bosch (2017), who found that despite the digital divide, Twitter was central to youth participation during the #RhodesMustFall anti-colonial student protests which both set the mainstream news agendas and shaped the public debate. Both this and her work (2013) on subaltern youth voices finding a space on Facebook to express their political views which were counter to the mainstream provide great local insight into how youth counter-democracy operates on these two social media platforms.

There are however no studies into professionals in the legal field as non-journalistic content creators, asking as Holton, Coddington and de Zúñiga suggested: How do they view the work they are doing? What values do they ascribe to it? How do they compare this to what they believe is 'good' journalism? This research aims to contribute to the field by exploring these questions with the lawyers in this study.

2.5.2. Journalism practices in a digital era

Mark Deuze (2008a) argued that the complexity of the new media ecosystem where media work takes place both within and outside of institutions by both professionals and amateurs requires a holistic, integrated perspective on the nature of media work. This section aims to describe exactly what practices could contribute towards a holistic integrative perspective.

2.5.2.1. Five stages of news production

Domingo et al. (2008:329-333) defined five stages of news production in work done to evaluate the relative openness of newspapers to citizen participation. These were: 1) access and observation (accessing sources and witnesses and reporting); 2) selection/filtering (journalists deciding what to report on, news editors and editors vetoing or filtering those stories and assigning stories that fit the in house style); 3) processing/editing (sub-editing for grammatical, editing according to the house style); 4) distribution (circulation copy sales, broadcast or posting of stories online or on social media); and 5) interpretation (making sense of news and providing background, context and opinion). While Domingo's study found that journalists were reluctant to open up to citizen participation beyond reader opinion, these stages are useful to ascertain whether the 'random acts of journalism' by the legal professionals in this study approximate any of the stages described.

2.5.2.2. Papacharissi's liminal affective news streams

Zizi Papacharissi (2015) adds to Domingo's stages the ambient, hybrid, and 'produsued' practices of "liking, retweeting, liveblogging, endorsing, and opining" that is blended into social reactions to news events (Papacharissi 2015: 33). She uses the term "liminality" to describe the 'in-between' place and space that is occupied by the social media posts of both citizens' and journalists' flows of information as they experience, observe and report on events in the making. In other words, smartphones allow novel experiential possibilities

for news audiences, creating a liminal space that Papacharissi (2015: 36) terms electronic 'elsewheres'. This refers to geo-social, hybrid media environments that permit citizens to "access content in transition and find their own place in the story, alongside journalists, who already possess an institutionally assigned place in the story" (Peters 2016: 377). These reports appear on a variety of platforms from Instagram, to Twitter, Facebook and Reddit and they may not be accurate, but she argues that they should be read as affective news streams which present "paths to accuracy".

> **They are driven by intensity and not factuality, instantaneity and not graduality. Thus, they may often be inaccurate, because they are liminal, provided we understand accuracy, structure and liminality as the transitory path to attaining accuracy (Papacharissi 2015: 33).**

Papacharissi (2015) uses the illustration of the hashtag #muslimrage, which through funny memes satirising Muslim stereotypes, challenged a Newsweek magazine cover featuring the same headline. Even though #muslimrage did not contain any current news, it was a creative expression of opposition to a dominant news frame.

2.5.2.3. Bruns's notions of produsage and gatewatching

Australian digital journalism scholar Axel Bruns's initial concept of "produsage" (2007: 3) fuses the roles of news consumers and users. Bruns's definition of this produser is broad and extends beyond users doing journalistic interpretative work by blogging. He includes, as produsers, everyone who even 'likes' something on Facebook, or who links or clicks and drags text, video and sound, or tags with a label to be found in searches by others, as a meta-journalist, a curator, or guide of what is worthwhile in news (Bruns 2007).

Bruns has argued that due to the widespread availability of mobile devices and connectivity, social media collectively composes "a first draft of the present" (Bruns and Weller 2016 cited in Bruns 2018: 4) ahead even of journalism's "first rough draft of history" (Bruns 2018: 4). Such news sharing follows on naturally from what he dubs 'gatewatching' processes through which users come across news stories; through this process, they decide whether these items warrant further dissemination to their own "personal publics" i.e. their Facebook friends or Twitter followers or whether they are "shareworthy" as well as newsworthy. This process is similar to the access and

observation, processing and editing that Domingo et al. described in their stages of news production.

Bruns further insists that contrary to the limited amount of engagement in the earlier blog and website form of citizen journalism, news sharing has now become more routine and 'habitual' for a majority of Internet users. Ultimately, those users who engage most consistently in such news sharing activities might also emerge as "niche authorities", who are known and respected for their news curation efforts on their topics of interest and expertise (Bruns 2018: 5).

Bruns (2018: 8) describes a multi-layered contemporary media ecosystem as comprising professional journalists, non- professional news users, citizen journalists, politicians, celebrities, experts, niche authorities, ordinary users, platform operators, designers, and algorithms, who interact largely on social media platforms. In this ecosystem described by Bruns, both news users and journalists play the roles of gate-watcher, news-sharer and news curator. This is done within the spaces operated by the major social media providers, which affect how they can post, find, access, share, curate and otherwise engage with news, rumours, analysis, comments, opinion, and related forms of information. Bruns cautions that this multi-layered ecosystem - in which 'fake news' and algorithms compete with verified fact-based engagement - makes it incumbent on every media participant to fact-check and call out inaccuracies and propagandistic manipulation when it happens (Bruns 2018: 11).

This call by Bruns comes at a time when industrial era journalism is buckling under financial pressure and digital era journalism has been assaulted by mis-information[12], dis-information[13] and mal-information [14], so named by Claire Wardle and Hossein Derakhshan (2017) to describe global information pollution, glibly coined fake news which has not just misled the public, but jeopardised lives and democracies. Globally, we have seen the Cambridge Analytica mining of Facebook accounts to promote Brexit (Golec de Zavala 2017, Al Jazeera 2018) and the fake news websites, often produced for profit by young people in Eastern Europe promoting Donald Trump over Hillary Clinton (Vargo et al. 2018). Locally in South Africa, we have seen the WMC (White Monopoly Capital) Twitter

[12] Mis-information is when false information is shared, but no harm is meant (Wardle and Derakhshan 2017: 5)
[13] Dis-information is when false information is knowingly shared to cause harm (Wardle and Derakhshan 2017: 5).
[14] Mal-information is when genuine information is shared to cause harm, often by moving information designed to stay private into the public sphere (Wardle and Derakhshan 2017: 5).

bots and paid Twitter accounts which defended former president Jacob Zuma and his friends, the Gupta family, who are being investigated for defrauding the South African state and the Indian government (Cronje 2017).

In this climate, for Bruns, it becomes apparent that the core purpose of journalism is to tell the 'truth' *as best can be worked out at the time*. And, critically, the truth can no longer be left to journalists alone to tell. This is why this study into South African lawyers produsage and participation in digital media is important. As Bruns says in the introduction to his latest book:

> **Yes, winter is coming for journalism, but the existing, emerging, and potential practices of journalistic and para- journalistic news engagement documented in this volume also show that a vast number of news users are now prepared also to report, disseminate, discuss, and curate the news, with or without the help of professional news workers. This will not and cannot replace conventional journalism, but it has the potential to facilitate the critical engagement with the news that an industry operating under conditions of precarity can no longer reliably undertake on our behalf—especially in the new social media spaces where a substantial amount of everyday news engagement now takes place. Such developments are a source of hope, even in our troubled times (Bruns 2018: 15).**

CHAPTER 3

Research Methodology

3.1 Introduction

This chapter begins with some insights into the philosophical and theoretical assumptions that inform the approaches to the research in study, and then discusses the qualitative research design chosen to answer the key research question "What do South African lawyers understand about the role they play in the online public space with regards to news about legal matters?". This is followed by a discussion of the data collection method - in the form of semi-structured questions and interviews. Later on in the chapter, I explain the sample selection of participants who provided the data for this research and why they were the most appropriate selection of participants. The data collection instruments i.e. interview questions are discussed in terms of how they align with the research objectives, which are also outlined and elaborated on. Finally, this chapter explains the thematic content analysis method that is used for data analysis of the interviews and present ethical considerations. The chapter concludes with a brief consideration of possible research bias and the limitations of this short 'half thesis' component of the Master of Arts degree.

3.2. Research paradigm

The essence of any research enquiry is the search for understanding and insight into phenomena about which we do not yet have enough knowledge. Exploration, description, explanation and evaluation are the four most common purposes of social science research (Babbie and Mouton 2001: 79-84). These research purposes are all located within a worldview and assumptions that make up the research paradigm. Denzin & Lincoln (2005: 33) define a paradigm as "epistemological, ontological and methodological premises that guide the researcher's actions". Krauss (2005: 758-758) explains that epistemology relates to how we come to know about reality or the researcher's theoretical perspective. Ontology involves the philosophy of reality, categorisation of what reality is, why and how; and methodology comprises the practices and tools we use to attain knowledge of reality.

There are different schools of qualitative research but in general they all differ from quantitative approaches in that they are more concerned with how humans make sense of their worlds and the research methodology is more subjective, delving deeper into the human experience. The phenomenologist school of thought, explain Babbie and Mouton, is concerned with the way in which we "continuously interpret, create and give meaning to, define, justify and rationalize our actions" (Babbie and Mouton 2001: 28). The task of interpretivist research is, as Deacon states “to make sense of how other people make sense of the world” (Deacon1999: 6). This is achieved through transcripts of conversations, photographs, video recordings, and observational notes.

This study aims to explore, describe and explain what meanings legal professionals make of their roles in digital public spaces with regards to legal news and events. It also aims to explore related questions about what implicit normative roles for journalism lawyers hold and what they think journalists “should” be doing with regards to legal reporting online that they are not doing. In an attempt to shed light on these questions, the study will use an interpretivist paradigm to describe the meanings the subjects ascribe to their roles and journalism’s role within the broader social context of digital public spaces in the South African democracy. The interpretivist paradigm will also be used to determine whether the products by legal professionals online fit in with theoretical understandings of what journalism is and the role it plays in society and democracy.

3.3 Research Design

Research design is the blueprint describing the way in which the study is structured. It includes the plan for what data is needed, the methods to be used to collect and analyse data and how all of this will answer the research questions (Babbie & Mouton 2001: 74).

The primary aim of this research is to explore the understanding that members of the legal community play with their online content creation and engagement, and the role they think journalism and journalists should be playing (observable everyday life World 1 phenomena). I have chosen a qualitative exploratory research design in which to understand this phenomena in so-called ‘World 2’ (scientific enquiry) terms (Babbie & Mouton, 2001: 270). According to Babbie and Mouton (2001: 80), exploratory studies can be undertaken if the field to be studied is relatively new or to get a better understanding of the phenomenon. Qualitative studies of the digital user-generated content by a clearly defined professional group such as members of the

South African legal community, as far as I have ascertained through desktop research, has not yet been done in South Africa. Figure 5 below shows a flow diagram that I have created that depicts the research process I followed after choosing the research design.

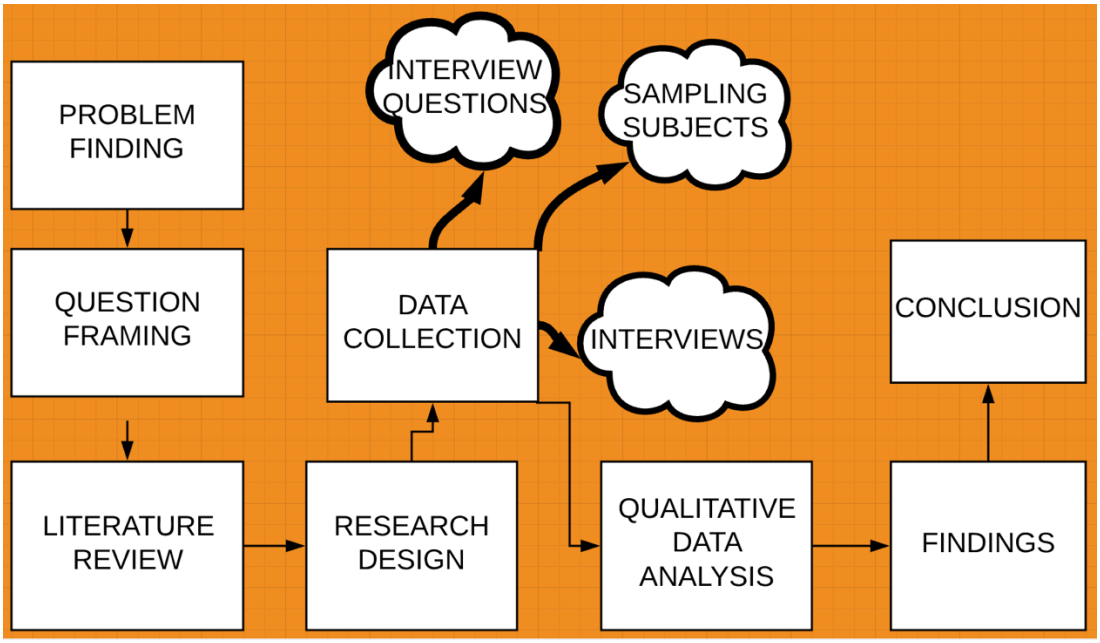


Figure 5: The research process followed in this study

My focus is on understanding and describing the meanings and interpretations of the social phenomenon of lawyer's engagement in digital public spaces, as opposed to counting or extrapolating them to statistically reflect how their views contrast or reflect South African society as a whole. As Babbie and Mouton (2001: 274) state, "researchers within the qualitative paradigm understand that the aim of their study is to provide an understanding of the meaning which one or two people attribute to a certain event and not to generalize". Instead of counting and quantifying patterns of behaviour, the emphasis in qualitative research is on "thick description", a term coined by cultural anthropologist Clifford Geertz (1973) to refer to a "rich, detailed description of specifics as opposed to a summary" (as cited by Babbie and Mouton 2001: 270). The rising influence of phenomenology (the theory that all humans are in the constant process of making sense of their worlds through interpretation, rationalisation, etc.) which gained currency in the late sixties, marked a major challenge to the orthodoxy of quantitative research (Bryman 2004; Babbie and Mouton 2001). The idea is to "understand" as opposed to "explain" people and as such people are conceived first and foremost as "conscious, self- directing, symbolic human beings" (Babbie and Mouton 2001: 2).

The research approach is idiographic and contextual, which as explained by Cole (2017) infers that it is specifically focused on a particular phenomenon designed to derive meanings particular to the research target, and not for extrapolating generalisations. Even though this is the case, it does not imply that I cannot draw some suggestive conclusions about how the broader world is working from insights gained from the course of these interviews. The qualitative research approach is applicable to this study because, as Palys (2008: 697) asserts, it is concerned with why particular people feel particular ways, the processes by which these attitudes are constructed and the roles they play.

3.4 Methods

As this is a qualitative as opposed to quantitative study, I as the researcher who composed the questions for the interviews, researched the literature and theory, selected and sourced the sample of interview subjects, conducted the interviews and recorded the interviews, had the data generated from the interviews transcribed and then analysed the transcribed data, I am "the primary instrument for both collecting and analysing the data" (Terre Blanche, Durrheim and Painter 2006: 276).

3.4.1 Sampling

The ideographic, contextual research strategy enabled me to use a smaller purposive sampling strategy for in depth focus on each of the participants, so that I could gather rich data from their point of view (Mouton, 1996: 133). Criterion purposive sampling (searching for participants who meet a certain criterion) (Palys 2008: 697) involved me sourcing eleven members of the South African legal community who met the following key criteria: anyone who produces any kind of journalistic type content or social media engagement related to the legal and justice field on digital platforms. I was cognisant of sampling legal professionals from a range of different race, gender and political backgrounds to attain a greater variety of responses. I also attempted to select professionals from different levels of the justice system i.e. communications staff, prosecutors, attorneys, advocates, magistrates and judges. In the end, I was unable to find prosecutors or magistrates to interview and I found just one retired judge who was willing to be interviewed. I interviewed four legal practitioners who are not active in digital or social media engagement pertaining to the law (two who do not even look at social media and two who do for personal reasons). I did this in order to get the perspective of legal practitioners who opt out of utilising the affordances of digital media to compare with those who are digitally engaged.

3.4.1.2. Criterion purposive sampling and snowball sampling methods

I contacted all the participants both telephonically and via email, explaining the research topic and research questions. I deliberately chose high profile, publicly known lawyers and advocates who are active on Twitter and other social media platforms, like left-leaning advocates Dali Mpofu and Vuyani Ngalwana. Mpofu is a former CEO of the SABC and chairperson of the radical Economic Freedom Fighters (EFF)[15] political party. He is a senior advocate at the Johannesburg Society of Advocates with the Duma Nokwe Group of Advocates. Advocate Vuyani Ngalwana, is also a senior advocate and a self-styled political 'devil's advocate' and the former pensions fund adjudicator. I also contacted legal professionals who publish blogs and content in digital news media like Professor Pierre de Vos, the Claude Leon Foundation Chair in Constitutional Governance who teaches in the area of Constitutional Law at the University of Cape Town Law Department (De Vos 2010, 2013, 2014, 2017) and Dario Milo, a partner in the Dispute Resolution Practice at Webber Wentzel in Johannesburg, who leads a team that focuses on corporate and tax dispute resolution, auditing and accounting regulatory work, and media and information law (Milo: 2008, 2017).

I discovered three interviewees through their Twitter feeds. They are 1) Allison Tilley, an attorney and the head of advocacy at the Open Democracy Advice Centre, which is a law centre based in Cape Town. She is also the coordinator of the Judges Matter[16] campaign, which is a project of the Democratic Governance and Rights Unit at UCT; 2) Attorney Justine Limpitlaw, an adjunct professor of law at the University of Witwatersrand and an independent communications law consultant specialising in the media, broadcasting, telecommunications law, space and satellites; and 3) new technology attorney Nerushka Bowan, an attorney who is an emerging technology law specialist, legal technology innovator and speaker. She is a co-chair of the Johannesburg chapter of the International Association of Privacy Professionals.

My fellow master's student Gus Silber alerted me to the Facebook posts of family law attorney Matthew van der Want, a musician and an attorney who runs his own private practice specialising in commercial drafting, mining law, family law and litigation. He

[15] Mpofu belonged to the majority governing party The African National Congress but left to join the EFF, a breakaway from the ANC led by the ousted firebrand ANC Youth League leader Julius Malema (Van Onselen 2013).
[16] Judges Matter is a campaign to educate the public about the importance of judges, it comprises a website, Facebook page, Twitter handle and is a funded project of the Democratic Governance and Rights Unit at UCT (Judges Matter 2018a).

agreed to be interviewed after I messaged him on Facebook. Afriforum[17] activist and lawyer Ernst Roets, who turned down an interview for this study referred me to attorney Willie Spies, former conservative Freedom Front Plus [18]member of parliament, who acts as Afriforum's full-time legal representative and as one of their spokesmen.

I emailed several attorneys at Section27, Equal Education, Lawyers for Human Rights, The Women's Legal Centre, The Black Lawyer's Association and the Johannesburg Bar Council from their contact emails on their websites but had no response. I managed to meet Ntsiki Mpulo, the communication officer at Section27, the social justice NGO, after she answered my call when I phoned the Braamfontein head office trying to find attorneys and advocates to interview. As a typical example of snowball sampling (a method of expanding the sample by asking one informant or participant to recommend others for interviewing (Dudovskiy 2018), Mpulo agreed to be interviewed and introduced me to fellow Section27 colleagues: advocate Faranaaz Veriava, an advocate who works as a senior researcher and legal counsel for Section27, focusing on the education sector; and attorney Sheneice Linderboom, who prefers to *lurk* or observe as opposed to participate in digital democratic spaces.

The retired judge (who asked for his identity not to be revealed) who opts out of the affordances of digital media for communicating about legal matters is a patient and friend of my father who agreed to be interviewed by me after he was introduced to me by my father.

I chose to interview the *pro bono* attorney as she was a great source with regards to labour tenant evictions and human rights cases when I was a journalist. I had no idea whether she engaged online or not with regard to legal matters, but after emailing her for an interview, she also turned out to only use Facebook to keep track of friends and avoided other digital and social media platforms for engagement about legal matters.

The fourth subject who avoided online engagement was Chair of the South African Law Society's De Rebus website, attorney Denise Lenyai, with whom I secured an interview after getting her contact details via the De Rebus head office in Pretoria.

[17] Afriforum is a non-governmental organisation, registered as a non-profit company, with the aim of protecting the rights of minorities. Afriforum has a specific focus on the rights of Afrikaners as a community living on the southern tip of the African continent (Afriforum, 2018)

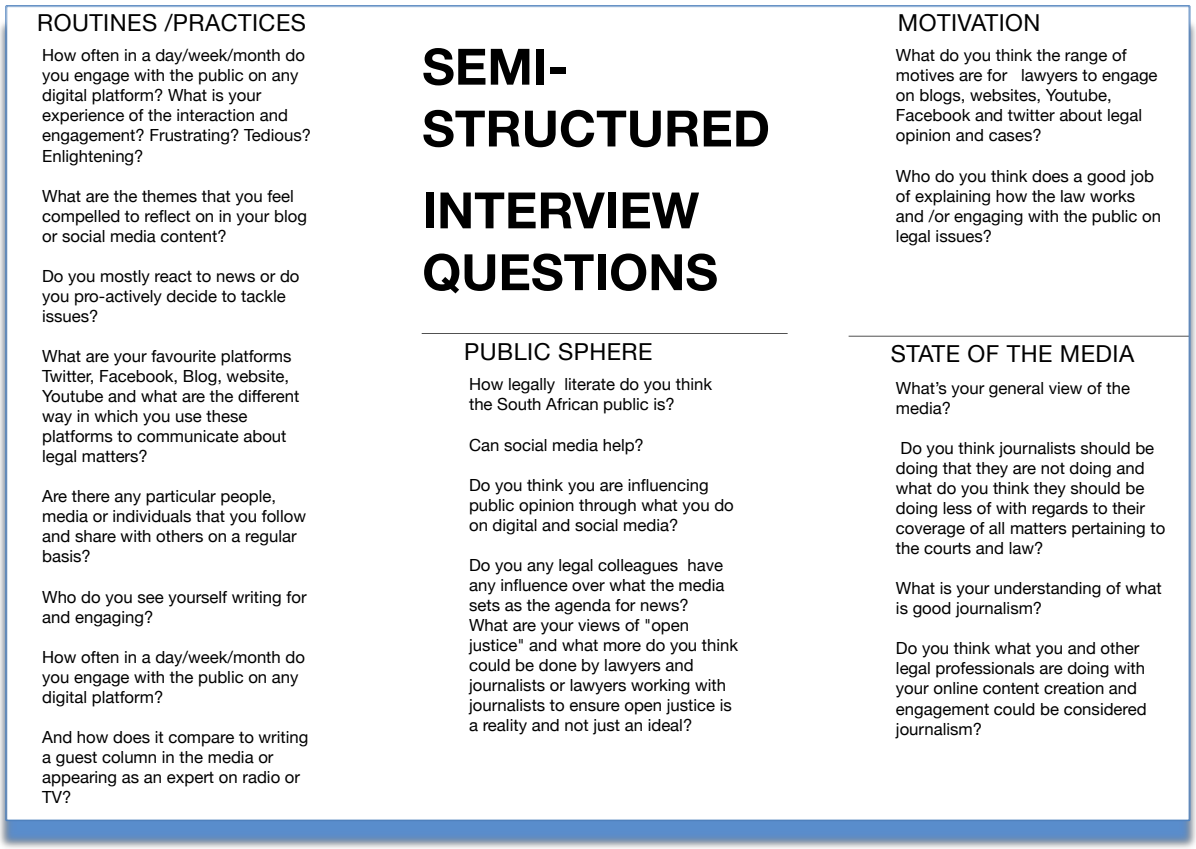
[18] The Freedom Front Plus is a national South African political party that was formed (as the Freedom Front) in 1994. It is led by Pieter Groenewald. Its mission as on 17 May 2018 states: "The FF+ is irrevocably committed to the realisation of communities', in particular the Afrikaner's, internationally recognised right to self-determination, territorial or otherwise" (Freedom Front Plus 2018).

This sampling process I used was focused and time-effective and appropriate to answer my research question, but it is not without its flaws. I had to be cognisant of not introducing bias as a researcher, which is why I selected participants from different backgrounds and worldviews, very conscious of not swaying the outcome of the enquiry through the participants I chose. To avoid this bias, any theories or conclusions in this study had to be based on clear criteria (Dudovskiy 2017).

3.4.2 Semi-structured face to face interviews

The term qualitative interview refers to in-depth, loosely or semi-structured interviews referred to as 'conversations with a purpose' (Burgess cited in Byrne 2004: 181). This differs from the realist approach of survey-based interviews which follow a structured format in the form of a questionnaire and are designed to elicit specific information from enough people to make the results statistically representative of a population. Focus group interviews are useful for allowing participants to pursue their own priorities on their own terms and allows the researcher to explore how accounts are changed through social interaction (Barbour and Kitzinger cited in Byrne 2004: 181). I prefer in-depth interviews to focus groups as group dynamics tend to silence those who are shy and favour the more

Figure 6: Semi-structured interview questions and themes



confident, and thus push a conversation into the direction of the dominant voices. I chose to use semi-structured open-ended face to face interviews with participants in environments they chose, which ranged from offices, to homes, to public restaurants, so that they felt comfortable and free to express themselves. As Bridgette Byrne (2004:183) asserts, qualitative interviews are useful for accessing individual attitudes and values, and can achieve a level of depth and complexity that is not available to survey-based approaches. She further explains that interviews are a form of communication, a means of extracting different forms of information from individuals and groups. Because of their interactive nature they are also highly flexible and unpredictable forms of social research which means researchers have to be cognisant of the different variables which might affect the outcome (Byrne 2004: 180). In qualitative interviews the approach is seen as data generation in which the researcher is a co-producer. I composed open-ended and flexible questions (See Figure 6) as they are more likely to elicit interviewees' views, interpretations of events, understandings, experiences and opinions to produce a particular representation in their own voices (Byrne 2004: 182).

The greatest advantage of qualitative interviews is that it enables the research to attain a level of complexity and depth, to notice subtle differences in people's positions and perspectives, and to respond to this both at the time of interviewing and in the ensuing analysis (Byrne 2004: 182).

3.4.3. Thematic content analysis (TA).

Psychology lecturers and scholars Virginia Braun and Victoria Clarke argue that thematic analysis can be applied within a range of research interest and theoretical frameworks, from essentialist to constructionist (Clarke and Braun 2013: 3), and is useful in a number of ways. First, it works with a wide range of research questions, from those about people's experiences or understandings to those about the representation and construction of particular phenomena in particular contexts. Second, it can be used to analyse different types of data, from secondary sources such as media to transcripts of focus groups or interviews (Clarke and Braun 2013: 4). Bengtsson (2016) outlined four stages of content analysis which I followed for the purposes of analysing the interview transcripts in this research:

Stage 1. The decontextualization; the researcher is familiarised with the data, and has to read through the transcribed text to obtain a sense of the whole; that is, to learn "what is going on?" (Bengtsson 2016: 11).

Stage 2. The recontextualization; the original text is re-read alongside the final list of themes. Coloured pencils were used to distinguish each theme in the original transcripts. Unmarked text that did not answer the research questions were excluded and casual conversational dross from interviews were excluded (Bengtsson 2016: 12).

Stage 3. The categorisation; the material was divided on the basis of the questions used when the data were collected and on theoretical assumptions from the literature (Bengtsson 2016: 12).

Stage 4. The compilation; once the categories were established, the analysis and writing up process began. In the phenomenological approach, which I used, the researcher focuses on exploring how the informants make sense of experience. This research uses firstly, a manifest analysis, using the informants' words, and referring back to the original text and in this way stays closer to the original meanings and contexts. And, secondly, a latent analysis in which I immersed myself in the text to identify its 'hidden' meanings (Bengtsson 2016:12).

3.5. Objectivity and trustworthiness of this study

According to Babbie and Mouton (2001:276), trustworthiness in qualitative research is earned by striving for credibility. They argue that objectivity in qualitative research is near impossible to attain completely, but there are checks and balances that we can implement to support the credibility of our research outcomes. I have used prolonged engagement (spending as long as it takes to interview participants), I recorded the interviews with an unobtrusive digital recorder on my I-phone and had them transcribed by a professional academic transcription service *Best Edit,* after which I listened to the recordings again and cross checked with the transcriptions to ensure the interviews were accurately reflected (Babbie and Mouton, 2001: 274 -276).

3.6. Ethical considerations

As human participants were involved in this research, I have observed the Rhodes University protocol (Gobel:2015) for involving human participants in academic research by identifying my

association with the University as a Master's student to participants, acquiring fully informed consent from the participants and showing the participants the final research so that they could view the context in which their interviews were used. This was done to avoid disputes over the use, publishing and ownership of data and research. I also concealed the identity of the retired judge who asked not to be identified as he is still active on the bench and called for judicial duty as well as the *pro bono* attorney, who preferred anonymity. I submitted my research proposal for ethical clearance with the Rhodes School of Journalism and Media Studies and permission was granted without additional conditions.

3.7. Conclusion

Despite the limitations of this study, the fifteen interviews conducted with the selected legal professionals were able to produce rich and thick descriptions of their thinking about what they were doing by participating in social media (and other) public discussions about the law, why they do it, and about issues related to the broader issues of the role of journalism in society and democracy within a South African context. The themes covered by the interviews made it possible to shed some light on the key question of what a select few South African lawyers understand about the specific roles they play in online public spaces with regards to news about legal matters. These are deconstructed in the ensuing two data analysis chapters. Through their candour in the interviews, the lawyers were able to give the researcher some insight into the roles they are playing in the new digital media ecosystem which was further analysed and made sense of, deploying the various theoretical prisms outlined in Chapter 2.

CHAPTER 4

FINDINGS: ROUTINES, PRACTICES AND CONTENT

4.1. Introduction

In the next two chapters, I use the qualitative research methodology described in chapter 3 to discuss and analyse the main themes that emerged from my interviews with selected South African lawyers. In doing so, I explore the central research question of this study: what do the selected South African lawyers understand about the role they play in online public spaces with regards to news about legal matters and events?

In order to get an understanding of the digital activities the lawyers in this study are engaged in, this chapter focuses on the first question I introduced in chapter 1 - what is the nature of contributions legal professionals make online? Are they very similar or dissimilar to what journalists do? The chapter begins descriptively, establishing and describing what the lawyers do in terms of their online content creation routines and practices and compares this to what journalists do (Domingo 2008). It then provides an overview of their content themes and samples of their online work. This is discussed in the context of recent theorisation around user-generated content and digital journalism (Bruns 2017, 2018; Papacharissi 2015) and current theorisation about the changing media ecosystem that combines both the work of full-time journalists and amateurs all vying for the attention of audiences on multiple online platforms (Anderson, Bell, and Shirky 2012; Bruns 2018; Deuze and Witschge 2018; Domingo et al. 2008; Papacharissi 2015; Singer 2016; Zelizer 2017).

4.2. Routines and Practices

Eleven of the South African lawyers in this study all contribute to the media ecosystem in different ways. This includes a variety of digital and social media platforms that range from personal and company blogs to law firm and mainstream media websites to a range of social media platforms including Twitter, LinkedIn, Facebook and YouTube. Three lawyers, Pierre de Vos, Willie Spies and Allison Tilley, and social justice NGO Section27 communications officer Ntsiki Mpulo, make regular use of platform-enabled technology.

This is used to create longer form explanatory and opinion-based content on blogs and websites, where user/audience interaction is enabled in addition to curating particular kinds of law related content. They use the near-instant interactive affordances of social media sites, in particular Facebook and Twitter, while the others are less routine and perhaps more spontaneous in informing and actively engaging in debates with members of the public and power elites, irregularly sharing their views and links to content that they view salient, funny or just plain absurd on social media platforms. Through these social media interactions, lawyers are able to do much more than write letters to an editor which may or may not be published; they engage in debates with non-legal people on multiple platforms, debates which are 'always on', often flowing back and forth in real-time about both mundane and more consequential matters.

In terms of the intensity of participation, I have observed three categories of content creation, engagement routines and practices of interviewees. They are:

1) 'The Regulars' - legal professionals and a communicator (law professor Pierre de Vos, attorneys Allison Tilley, Willie Spies, and Section27 communications manager Ntsiki Mpulo) who follow a set routine and produce, edit or share content on a regular organised basis, be that weekly, biweekly or monthly. Often their routines are based on a mainstream media production cycle. They are active on social and digital media, often at set times.

2) *'The Occasionals'* - (attorneys Dario Milo and Nerushka Bowan and advocate Faranaaz Veriava) lawyers who tweet or post occasionally when they think it relevant, and write for blogs and websites when they have the time or feel compelled to do so based on a case, precedent or legal development that they think might need explaining or highlighting to a wider public.

3) '*The Social Butterflies'* - legal professionals (advocates Dali Mpofu and Vuyani Ngalwana; attorneys Matthew van der Want and Justine Limpitlaw) who are frequently and enthusiastically active on social media, tweeting and posting on all kinds of topics from political topics to marketing of their personal brands, joking with followers, commenting on sports players, promoting their political party or events. Sometimes this includes tips or posts on legal matters and sometimes they write longer form content on law firm blogs, Facebook pages or websites, but they do so somewhat haphazardly, without any set routine and unlike 'The Regulars' and 'The Occasionals', without any obvious set 'legal' purpose.

4.2.1. 'The Regulars'

UCT Professor of Constitutional Law Pierre de Vos (De Vos 2010, 2013, 2014, 2017, 2018), Allison Tilley (Judges Matter 2016a, 2016b, 2017, 2018b, Tilley 2018), Willie Spies and Ntsiki Mpulo (Spies 2018; Mpulo 2017) all 'produse' variations of digital citizen journalism. This closely follows what Axel Bruns and Tim Highfield (2012:4) refer to as "an assemblage of broadly journalistic activities" or what J. D. Lasica (2003) described as "random acts of journalism" (cited by Bruns and Highfield 2012:4), on a regular basis even though the frequency of publishing varies from weekly (De Vos, Tilley and Mpulo) to bi-weekly (Spies). From the interviews with them, it is clear that they all follow the five stages of news production outlined by Domingo et al. (2008) in ways that journalists would recognise. As outlined in Chapter 2, these are access and observation, processing and editing, selection/filtering, distributing online and interpretation. While they do not veto or filter content according to a house style, all of them carefully select content according to their own niche interests.

4.2.1.1 Pierre de Vos

De Vos, who is the most prolific online 'produser' of all 'The Regulars' and indeed all the interviewees, said he often feels the need for more editing and cross-checking when his *Constitutionally Speaking* blog is republished by *The Daily Maverick,* as he is a second language English speaker and the editors sometimes let grammatical errors slip through. De Vos says he takes about five hours to write a blog post because each article is a substantial explanatory and analytical piece of work, which requires research, curation, narrativisation, observation, sense-making and the deconstruction of complex legal ideas in order to make them understandable to the ordinary member of the public. He has also on occasion written for *The Conversation*, when they have approached him to write. He reports that *The Conversation* editing is much more rigorous than *The Daily Maverick,* which he appreciates because as an Afrikaans speaker writing in English, he sometimes confuses tenses (P. de Vos 2017, Interview, 7 November).

This production cycle, which also includes daily interactions on Twitter (de Vos has 115 000 followers), is time-consuming, but de Vos can commit to this routine because part of his job description as The Claude Leon Chair in Constitutional Governance at UCT is to increase the university's public profile, by playing a role as public intellectual[19] (P. de

[19] An intellectual, often a noted specialist in a particular field, who has become well-known to the general public for a willingness to comment on current affairs (Collins 2010).

Vos 2017, Interview, 7 November). De Vos's routines and practices are very similar to the five stages Domingo describes as borne out by his description of his daily process:

> **On weekdays I will spend at least half an hour in the morning and then maybe at lunchtime, unless, once again it depends, say there is a Constitutional Court Argument about the President and Nkandla then I will sit in front of the computer, I will listen to the arguments, because I think that is also really part of my quote "real job" to know what is happening there, to have practical knowledge of what happens in the court and then I will be on social media interacting because it is sort of a fun way of doing it. But I spend at least an hour a day on doing social media things and engaging in some way (P. de Vos 2017, Interview, 7 November).**

4.2.1.2. Allison Tilley

Unlike De Vos, who is able to dedicate time to his blog and public engagement on radio, tv and through his social media platforms through his professorial chair at UCT, Allison Tilley juggles a number of social justice advocacy roles[20], one of which is the digital platform Judges Matter[21]. Tilley is the editor and coordinator of the Judges Matter website and social media platforms but because she can only afford a regular contribution of one day a week of her time to the site, she has commissioned a social media agency, Edge Digital, to generate social media and to repackage content for the website. Under Tilley's editorship and direction, a researcher from the Democratic Governance and Rights Unit (DGRU) based at UCT and staff from Edge Digital update the website, edit the videos, write opinion pieces and profiles of the judges, design graphic depictions of facts relating to the appointment of judges and publish this throughout the year. In addition, Tilley and the agency engage with the public on Twitter and Facebook through regular posts and tweets. Like editors do, she assigns content ideas to the agency and the agency tweets and posts on behalf of Judges Matter and repackages material from Judicial Service Commission (JSC) interviews that are recorded in April and October when the JSC selects judges. Over the two to three weeks that the JSC meets in April and October, Tilley hires and briefs video production company, Gear House to professionally film the live streaming

[20] *Alison Tilley* is an attorney and the head of advocacy at the Open Democracy Advice Centre, which is a law centre based in Cape Town.
[21] Judges Matter is a campaign to educate the public about the importance of judges. It comprises a website, Facebook page, Twitter handle and is a funded project of the Democratic Governance and Rights Unit at UCT (Judges Matter 2018a).

of the judges interviews so that they can be edited and repackaged as high-quality video, shared on the Judges Matter website, Facebook and YouTube by staff at Edge digital. During the JSC sessions Tilley supervises, assigns and works with a team of freelancers to record the process and interviews. The team includes a freelance writer, photographer, The Gear House live stream videographers, representatives from Edge Digital and a researcher from the Democratic Governance and Rights Unit (DGRU), based at UCT, who reports and researches different judicial candidates (A. Tilley 2017, Interview, 06 November).

The video recordings of the judges' interviews posted on YouTube have greater mileage and reach than the Judges Matter Twitter account which at the time of writing had 6 278 followers and its Facebook page which had 32 000 likes. The YouTube videos are high quality and their reach ranges from 800 views to the most popular JSC interview with Limpopo Judge Kgomo in 2016 which has a record 247 477 views at the time of writing this study.

Tilley's personal Twitter account has 1 035 followers while Judges Matter has 6 278 followers. She actively curates, shares and engages on Twitter in her personal capacity on a daily basis, about legal matters. She also retweets *Judges Matter* tweets, but this is more spontaneous and does not happen at set times like Pierre de Vos. When asked to describe her routine she opted for a monthly routine:

> **A week's routine, I can describe a month. So, in a month … Edge[22] would be chopping up the content we have for a certain number of Facebook posts and a certain number of Twitter posts which we would be saying "These are, these interviews, and these are these transcripts" so as our transcripts come in, those go up, so video, transcript, what Niren[23] wrote, and then the photo's the photographer took. So, in a month I would usually generate on average one, two as a rule, sort of opinion pieces on issues that are happening … (Alison Tilley 2017 Interview, 06 November).**

Similar to most beat journalists, Tilley has a Google alert set up for any content related to judges and keeps an eye out for comment and articles on judges in the Law Society newsletters and the De Rebus legal website. She is an active curator of any content related

[22] Edge Digital who are hired by Judges Matter to disseminate their content on social media.
[23] Legal journalist Niren Tolsi

to judges which goes through her Facebook feed and the Twitter feed. For example, in the week I interviewed her, the Human Sciences Research Council Report on the application of the Constitutional Court decisions was released, so she posted the original speech by the Justice Minister from the press conference and shared a piece on the report from *Business Day* on the Judges Matter social media pages (A. Tilley 2017, Interview, 06 November). Tilley spontaneously responds to news about judges when it happens. As an example, she described how she attended a meeting that looked at the functioning of Magistrate's Courts in relation to sexual offences, which she then posted on Twitter (A. Tilley 2017, Interview, 06 November). Through her sharing and curation of news on both Judges Matter and her personal Twitter account with anything pertaining to do with judges, Tilley plays an active part in the news ecosystem. This could be said to be composing "a first draft of the present" (Bruns and Weller 2016 cited in Bruns 2018: 4) and doing some active 'gatewatching' (Bruns 2018:5), emerging as what Bruns calls a 'niche authority', who is known and respected for her news curation efforts on everything to do with judges, her topic of interest and expertise. By combing through news stories about judges and deciding on whether these warrant further dissemination as shareworthy and newsworthy to her audience, she practises the access and observation, processing and editing that Domingo et al. (2008) described in their stages of news production.

4.2.1.3. Willie Spies

Like De Vos, Willie Spies's routine is shaped by his biweekly column for *Beeld,* a local Afrikaans language newspaper, which is published behind an online paywall on Netwerk 24. However, being a practising attorney, his engagement with online followers is less prolific. When his column is published, Spies shares it on his personal Facebook page, his firm's Facebook page which has 1912 followers, and automatically distributes it to Twitter. Speaking about the social media posts linked to his columns, Spies says:

> **I normally get reaction and debate surrounding that, but it creates a nice routine. I think about what I'm going to write next for 2 weeks and the deadline for writing is 12 o'clock on the Wednesday afternoon, so I normally start writing at sometimes 6 o'clock in the morning or sometimes I come into the office, I close my door from 8 o'clock till 10 o'clock. Normally it takes me about 2 hours to write (W. Spies 2017, Interview, 30 November).**

Spies's use of the practices of verification, research, analysis and distribution on social media platforms are similar to Domingo's description of journalistic routines, albeit on a much less frequent basis. His social media activity is linked to his column as he reposts and cross references to his Netwerk 24 articles on his personal and company Facebook page, which automatically posts to Twitter. Spies' favourite media platform is Facebook. Although he posts to his 2658 followers on Twitter, he considers himself a "slow news" writer in comparison to the journalists he sees giving continuous updates in high profile court cases (W. Spies 2017, Interview, 30 November).

4.2.1.4 Ntsiki Mpulo

Unlike the other three 'Regulars', and indeed all the other interviewees, Ntsiki Mpulo is the only trained journalist. However, she was selected because she currently works as a communicator for public law centre, NGO Section27, which is guided by Section27 of the South Africa Constitution, which recognises various socio-economic rights. On a daily basis, Mpulo does a roundup of all the online news from a variety of sources that relates to Section27's work: health, education, rule of law, and then this circulates to internal audiences of staff and donors. Mpulo and the communications team also engage in two-way conversations with the public on social media "daily, multiple times" (N. Mpulo 2017, Interview, 14 November).

Figure 7: Section27s Michael Komape poster

If Section27 is mentioned in the news, the piece or a link to it is immediately tweeted and posted on Facebook with a link to the article. On a weekly basis, they send out a 'week ahead' newsletter published on a Monday morning that goes out to a database of 500 subscribers, which includes Section27's media database, supporters, partner organisations, and friends of Section27. Mpulo chooses not to engage on Twitter because she personally finds it too incendiary. As such, a team of three communications staff, which excludes Mpulo, are the only staff allowed to tweet and engage with the @Section27 Twitter handle, but all staff on the communications team contribute to Facebook on a daily basis (N. Mpulo 2017, Interview, 14 November). Even though Mpulo stays away from Twitter, she says for her organisation it is the most effective medium for quick engagements.

The organisation engages in a multi-pronged media strategy which includes engaging with 13 000 Facebook followers, 31 000 Twitter followers, offering articles to mainstream news websites, newspapers and broadcasters, producing a bi-annual magazine called *Spotlight* and staging awareness raising events and protests. Mpulo says the most in depth discussions occur on Facebook, where the organisation and audience post longer posts (N. Mpulo 2017, Interview, 14 November). A case in point is the campaign for safer sanitation at schools, which has pivoted around Michael Komape - a boy who died in 2014 after falling into a pit latrine. The communication staff produce opinion pieces as part of the campaign work that they do. Komape's family is Section27's client. During the settlement hearing from late November to December 2017, the journalists in the Section27 team discussed the campaign strategy with the lawyers, raising awareness of the issue and also getting people to sign up in support of the campaign.

One of the journalists produced a four-minute video of what happened on that day and did a two-week campaign leading up to the start of the settlement hearing in court. A graffiti artist was commissioned to do a mural, one of the communications team members drew Michael's face as a graphic which was used on a poster with the details of the trial and what happened (see figure 7).

4.2.2. 'The Occasionals'

Advocate Faranaaz Veriava, and attorneys Dario Milo and Nerushka Bowan are similar to the interviewees described as 'The Regulars' in that they all write well-researched, long-form journalistic pieces. They mostly write about their specialised legal areas of focus for digital platforms: Milo has his own media law blog on the Webber Wentzel law firm website (Milo 2008, 2016, 2017a, 2017b) and Veriava occasionally writes about education rights cases for *The Mail & Guardian* online (Veriava 2014a, 2014b, 2015) and *The Daily Maverick* (Veriava 2017). Veriava, Milo and new technology lawyer Nerushka Bowan, like de Vos and Tilley, are also 'gatewatchers' and niche experts in the Brunsian conceptualisation of the term, who curate, share and engage on social media about their particular fields of law. They differ however from 'The Regulars' in that they do not have regular routines. This is largely due to time constraints and the fact they are not forced to conform to the routines imposed by deadlines of commercial journalism publication outlets, as Pierre de Vos and Willie Spies do.

4.2.2.1 Advocate Faranaaz Veriava

Advocate Faranaaz Veriava heads up the education advocacy unit at Section27. She is both an advocate and is in charge of strategy, so when she is not arguing a case, she would retweet from Section27 or make a comment, but she is quite cautious about the comments she makes and ensures she frames them quite legalistically. As a media savvy lawyer, she follows social media posts in the education sector, but all her engagements are related to advocacy for education rights.

> **So, I know when Equal Education for example has a case on, I will support it, I will re-tweet their case, because it's also about collegiality, it's about working in a broader movement together (F. Veriava 2017, Interview, 28 November).**

She also directly tweets government officials on education issues. For example, she has been working on the fact that government is supposed to put out a protocol on corporal punishment for many years, so if there's a corporal punishment case that's big in the news she would tweet "@DBE where's the corporal punishment protocol? So, it's very much part of our advocacy strategy all the time." (F. Veriava 2017, Interview, 28 November).

4.2.2.2. Dario Milo

Milo is one of the best-known media and freedom of expression lawyers in South Africa, who has written columns in various newspapers and digital publications including *Mail & Guardian* (Milo 2015), *Business Day* (Milo 2016) and The Daily Maverick (Milo 2017a, Milo and Kekana 2018b). He republishes all these articles with links to other related articles and court papers on his Webber Wentzel blog: Musings on Media (Milo: 2008, 2017b) and on a UK media blog called Inforrm (Milo and Kekana 2018a). Milo addresses his content to lawyers and journalists and enjoys the interactive nature of Twitter, where he has 11 700 followers. However, because of time constraints his engagement is not regular. He goes on Twitter every day and tweets a couple of times every week, but unlike Pierre De Vos, this does not follow a set routine as he admits: "It's random, it depends when I've got time" (D. Milo 2017, Interview, 20 November).

4.2.2.3 Nerushka Bowan

Nerushka Bowan is a younger generation new technology lawyer who has used the digital toolkit of apps and social media since she started working. She left the law firm Norton Fullbright in April 2017 and from May that year has been independent, running her whole legal consulting business from social and digital media. This includes her website (Bowan 2017), LinkedIn, Facebook, Twitter, which she uses to share as much as possible, as often as possible, as well as to market her services and events (N. Bowan 2017, Interview, 28 November). She prefers LinkedIn as her professional platform of choice (she has over 500 connections) even though she does have her own blog and has 2400 followers on Twitter. Explaining her preference for LinkedIn, she says:

> **I think maybe because it's more professional and my audience seems to be quite corporate in nature, whereas Twitter seems to be everybody who seems to be interested in everything. I think Twitter's more fun, but I feel LinkedIn's better for me from a work perspective (N. Bowan 2017, Interview, 28 November).**

The three legal professionals I have categorised as 'The Occasionals' only have a lack of regular routine produsage, to use Axel Bruns's term, to describe those who both produce and consume news, in common. Each have very different specialist fields and like Pierre De Vos and Allison Tilley could be viewed as gatewatchers in terms of Bruns's definition of people who develop a following based on their field of knowledge: Milo's media law; Veriava's education rights; and Bowan's new technology, social media and privacy law expertise.

4.2.3. 'The Social Butterflies'

Four legal professionals (Advocates Dali Mpofu and Vuyani Ngalwana and attorneys Matthew van der Want and Justine Limpitlaw) are categorised as 'Social Butterflies'. Not because of their brevity or levity (although they do tend to be more frivolous and humorous than the previous two categories), but because they flit around on social media from one topic, idea, debate, mood and tone to another, without any recognisable schedule or routine. All (apart from attorney Van der Want) prefer the fast interactive affordances of Twitter as their platform of engagement.

4.2.3.1 Advocate Dali Mpofu

Dali Mpofu has the largest following on Twitter out of all the interviewees and indeed all South African legal professionals, with 400 000 followers. This is partly because he is a leader (Chairperson) of the Economic Freedom Fighters (EFF), a party which in 2014 received about 8% of the popular vote. Mpofu tweets twice or thrice a day, sometimes initiating a conversation, other times reacting or retweeting something he considers interesting, challenging, important or occasionally humorous, but if there is a lively debate it could increase to twenty times, more so if he is not at work. His contributions are as Zizi Papacharissi describes 'affective' and 'liminal': he reacts to news, arguments and debates when they happen, or he uses Twitter to disseminate his opinions (D. Mpofu 2017, Interview, 01 December). Mpofu's followers comprise supporters of his party, as well as people who may oppose it from various political persuasions, (D. Mpofu 2017, Interview, 01 December). Twitter is his platform of choice because of its "time, space and availability" (D. Mpofu 2017, Interview, 01 December). He finds the messaging on Twitter more impactful than a radio or television interview, which although it has the largest audience reach, the Twitter character restriction makes him more focused. In a half an hour interview he'd only remember two or three points that he made because it's just more convoluted. He also finds that Twitter helps prepare him for interviews on mainstream media: "Sometimes I'm asked a question on TV and I will basically answer it in relation to a tweet that I did on the same thing two or three days ago, just because it's the same, whatever view I hold it's the same view, I just now have a bigger audience" (D. Mpofu 2017, Interview, 01 December).

4.2.3.2 Justine Limpitlaw

Justine Limpitlaw is an adjunct Professor of Law at the University of Witwatersrand and runs her own legal practice from home. Twitter is her platform of choice as: "Its quicker to tweet than to write an opinion piece, and a Twitter thread lasts longer than a five-minute radio slot" (J. Limpitlaw 2017, Interview, 5 December). She tweets early in the morning and then in the evening lying in bed - what she calls her "downtime". She sees her audience of 3586 followers as "All South Africans. Anyone," emphasising her desire to connect with people from different cultural, class and social backgrounds. Even though her focus as an attorney and legal adviser is electronic communications law, broadcasting, telecommunications, space and satellite, media and access to information law, she follows a wide range of people on Twitter, particularly, she says, as she uses Twitter to keep up to

date with international news. So, she would follow people in her communications and broadcasting smaller issue or interest based 'public sphericule' (Bruns and Highfield 2016:98) but she follows a range of other interests which she categorises in hashtags like #Lebanon #LifeEsidemeni #Zimbabwe (J. Limpitlaw 2017, Interview, 5 December). She loves Twitter for its serendipitous encounters of engagement with people who are not part of an echo-chamber.

4.2.3.3. Advocate Vuyani Ngalwana

Former pension fund adjudicator and former chairman of the General Council of The Bar of South Africa, Advocate Vuyani Ngalwana finds Twitter a much faster and more immediate platform to share his views than a long form blog or column. Ngalwana used to write a blog on constitutional issues titled Constitutionally Understood (Ngalwana 2014), but as a practicing advocate he does not have the time to write or publish regularly. He does occasionally write in mainstream media as he did in a *City Press* column which was republished as a news24.com column (Ngalwana 2018). In the column he expressed his disagreement with a majority vote by the General Council of the Bar which favoured the challenging of an Appeal Court ruling which overturned a High Court ruling that senior NPA advocates Nomgcobo Jiba and Lawrence Mrwebi should be struck off the roll of advocates (Ngalwana 2018). His tweets follow an affective stream as described by Papacharissi and Deuze, i.e. he tweets whenever he is moved to comment and does not follow any particular routine: "I don't keep track really. I don't go out of my way to think of an issue to raise every day. If it comes readily to me then I'll put it down and that's it… Like I'd wake up in the morning with some idea and I'd put it down on Twitter or Facebook, but there's no pattern" (V. Ngalwana 2017, Interview, 01 December).

4.2.3.4. Matthew van der Want

Attorney Matthew van der Want set up his own legal practice five years ago, after leaving a big corporate law firm and has found that owning his own practice has given him the freedom to be truer to his authentic self and this particularly includes the freedom to be less formal and more relaxed, humorous and intuitive on his social media platform of choice, *Facebook*. He posts throughout the day as he admits that "impulse control has never been a very strong point" for him, which is one of the appeals of Facebook as he can immediately share what has happened in court. Sometimes he would secretly take a picture

of his opponent in court or outside court and post it with a funny comment (M. Van der Want 2017, Interview, 14 November).

4.3. Content Themes And Samples

4.3.1 'The Regulars'

The thematic content of 'The Regulars' ranges from constitutional matters (Pierre de Vos), the importance of judges (Allison Tilley), social justice issues (Ntsiki Mpulo), to land and minority rights (Willie Spies). All content is coloured by the political leanings of the creators, with Pierre de Vos, Allison Tilley and Ntsiki Mpulo who usually express views that could be described as liberal democratic and Willie Spies aligning more with a conservative right-wing perspective.

4.3.1.1 Pierre de Vos

Pierre De Vos focuses on themes of social justice, exploring what we mean by liberal rights and how people in positions of power abide or do not abide by the constitution and the rules and the ethos of the constitution (P. de Vos 2017, Interview, 7 November). His tweets are often focused on alerting journalists and the public to news events and to help the public make sense of legal issues. He has taken on the role of legal commentator and explainer of constitutional court judgements, both popular celebrity cases and also less popular ones. With a Twitter following of 111 900, and regular appearances on radio and TV news shows, he is a public influencer, arguably having as much or more influence with his audience than the average South African daily newspaper. De Vos on Twitter has the advantage of direct immediate 24/7 engagement with his audience. His tweets are largely retweets of news about Constitutional Court cases (See Figure *8*), curating and sharing of news from various media sources both local and international, explanations of legal terms, debates with journalists and lawyers about current cases (see Figure *8, Figure 9 and Figure 10*). He also uses Twitter to alert readers to his long form articles on his blog and on *The Daily Maverick.* An example of this is his critical piece on the motives of another interviewee - Advocate Dali Mpofu, who argued on behalf of his client Tom Moyane that the Nugent Commission of Enquiry into the South African Revenue Service should be scrapped (see Figure 11).

Figure 8: sharing news about a constitutional court judgement

Figure 9: Curating - sharing a column by journalist Jacques Pauw

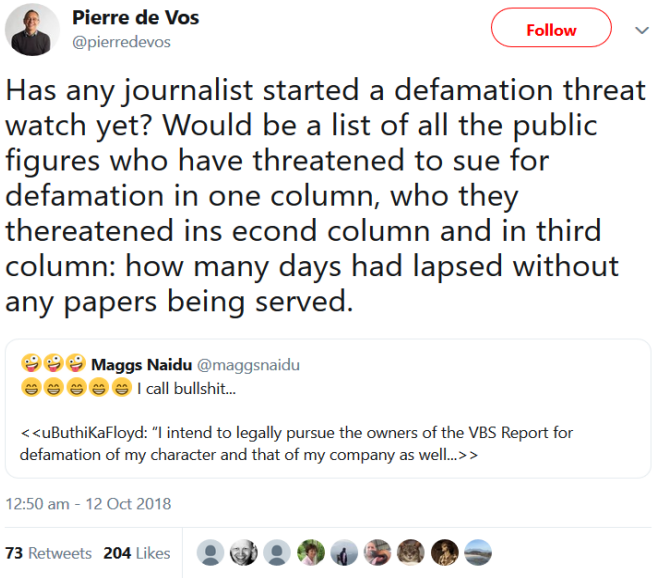


Figure 10: De Vos engaging journalists - Suggesting a story idea

3 JULY 2018

ATTACKS ON SARS COMMISSION HAVE NO LEGAL BASIS, MUST BE POLITICALLY MOTIVATED

From a legal perspective, the attempts by former SARS Commissioner Tom Moyane and his legal representative Dali Mpofu to paint the SARS Commission of Inquiry as "grossly unfair" to Moyane, and the demand that the Commission cease its work, are rather odd as the arguments have no valid legal basis and are based on false claims. But – while unethical – it may make sense from a political perspective to try and create an impression in the minds of ordinary people (and governing party leaders) not knowledgeable about the law, that the Commission is biased against Moyane.

A Commission of Inquiry is not a court of law. Neither is it a tribunal that can make binding findings against any individual. In terms of our law, the President has the power to appoint a Commission of Inquiry on any topic of public importance and to decide on its terms of reference.

The Commission then gathers evidence in an inquisitorial manner, which means it gathers information on its own steam, and also invites interested individuals to make submissions to it. Anyone can approach the Commission with information, so it would be absurd for any person to argue that he or she was not given the opportunity to present his or her perspective on the range of issues being investigated.

Ideally the aim is to get as much information as possible to assist the Commission to write a thorough report that will assist the President to make informed policy decisions on the issue investigated. The findings and recommendations are not binding. The President, at his or her discretion, can do with the findings and recommendations as he or she sees fit.

At its best, a Commission of Inquiry is a process aimed at assisting the President and his or her government to make informed policy decisions about a specific matter, assisted by the well informed and knowledgeable findings and recommendations of the Commission. A Commission of Inquiry is a policy enhancing tool. The President has a wide discretion on who to appoint to serve on the Commission. Because a Commission of Inquiry is policy oriented, it makes no legal sense to argue that a Commission of Enquiry is grossly unfair to a particular individual.

While its findings and recommendations can be reviewed and set aside by a court of law if these are irrational, it is a legal nonsense to attack the Commission because it allegedly favours a certain policy perspective. It is the President's prerogative to appoint people whose views he or she trust to assist him or her to make policy decisions.

Moreover, the President appoints the Commission of Inquiry and the Commission has the legal duty to do its job in accordance with the terms of reference provided by the President. Only the President can change its terms of reference, withdraw its mandate, or change any of the personnel serving on it.

To ask the Commission to cease its activities and for one of its participants to recuse himself (as advocate Dali Mpofu did last week) therefore makes no legal sense as the Commission does not have the power to do any of these things. It is like someone approaching me and demanding that I score the winning goal in the Soccer World Cup final. It is sadly not something I am entitled to do or will ever be able to do.

This process is very different from the accusatorial process followed in court and tribunal proceedings where different parties present evidence in an accusatorial process. In court proceedings accusations are made by one party against another and the person being accused then gets the opportunity to try and rebut those accusations. In such proceedings the court or tribunal will make a finding against one or more of the parties who were part of the accusatorial process.

In this regard, the SARS Commission is no different from the many other Commissions appointed over the years. As the chairperson of the Commission made clear, at the outset he invited all interested parties to make submissions to the Commission. The Commission then looks at the written submissions and if it so wishes (but there is no duty to do so) it can call some of those who made submissions to give oral evidence to the Commission.

Mr Moyane (or anyone who supports him – whether they worked at SARS or not) therefore has an open invitation to make submissions to the Commission. The chairperson of the Commission has also stated that if Mr Moyane requested to give oral evidence, this will be arranged. For some inexplicable reason Mr Moyane has refused to do so.

In other words, given the opportunity to provide his perspective on the matters being investigated by the Commission, Mr Moyane declined, instead falsely arguing that the Commission was grossly unfair (partly because he was not given the opportunity to give his perspective) and demanding the impossible – namely that the Commission stop doing what the President has instructed it to do, an instruction the Commission has a legal duty to comply with.

In the absence of any other reasonable explanation, it will be difficult not to conclude that Mr Moyane is not keen to provide his perspective on the issues being considered by the Commission. Mr Moyane's lawyer advanced a reason of sorts for this reluctance to provide the Commission with his perspective, namely that he is facing a disciplinary tribunal and that the Commission amounts to him being subjected to "double jeopardy".

Legally, this is an odd claim. "Double jeopardy" is a procedural defence that prevents an accused person from being tried again on the same (or similar) charges and on the same facts, following a valid acquittal or conviction. A Commission of Inquiry can never subject any person to "double jeopardy" as it is a policy enhancing inquisitorial process and not an accusatorial "trial" that can make binding findings on the guilt or innocence of any individual. As the Commission is not a criminal trial (nor a disciplinary tribunal), the principle of double jeopardy does not apply.

Figure 11: Pierre de Vos's blog that spurred Dali Mpofu to threaten legal action against him

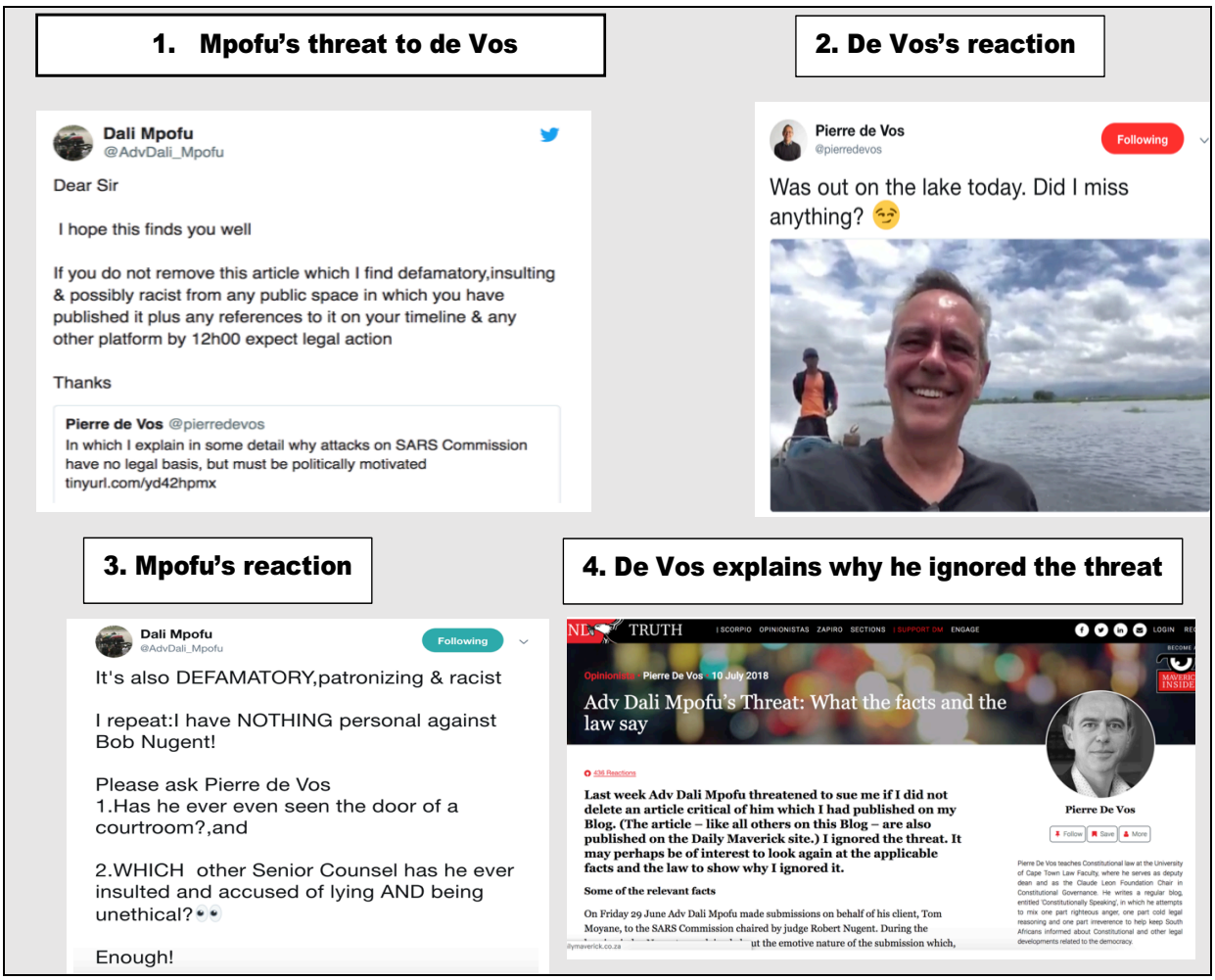


Figure 12: The Twitter war or 'twar' between Pierre de Vos and Dali Mpofu

Figure 12 above shows the Twitter reaction from Advocate Dali Mpofu and counter reaction from de Vos on Twitter and The Daily Maverick. De Vos wrote an opinion piece on his blog based on an analysis of the facts at hand, he tweeted an alert to his blog (see Figure 10). Mpofu read it, disputed its argument and used his tweet to serve De Vos a legal notice of warning to remove his critique or face a legal challenge in court of defamation, *see Figure 12 (1).* De Vos responded with a video of himself on a boat trip on a lake, indicating that he didn't take the threat of legal action seriously, *see Figure 12 (2)* Mpofu reacted further, accusing De Vos of being racist and patronising and questioned his legal credentials, *see Figure 12 (3)* to which De Vos responded in *The Daily Maverick* (De Vos 2018b) with a legal argument as to why he ignored Mpofu's threat.

The ‘twar’, as a ‘Twitter war’ is colloquially known, between De Vos and Mpofu is an illustration of the ecology of the contemporary digital journalism milieu, reinforcing Jane Singer’s (2016;12) depiction of journalism as “a fluid, iterative process in which ‘messages’ are ubiquitous and multi-directional, and the roles of ‘senders’ and ‘receivers’ are perpetually reciprocal”. It also illustrates how engagement affordances of digital platforms like Twitter enable diverse members of the public, experts, non-experts and journalists to debate in what Lewis frames as a networked variation of Habermas public sphere (Lewis 2012).

Some might argue that this Twitter war between two members of the legal elite in itself constitutes an echo chamber. However, the fact that over 1 100 members of the public on Twitter (800 followers of Mpofu and 300 of de Vos) participated by commenting on both lawyers’ views, shows how the interactive affordances of digital and social media has made it possible for members of the public, who may not have had access to engage with members of the elite, to participate in the debate. This interaction on multiple digital public spaces illustrates Maireder and Ausserhofer’s contention that Twitter allows those who are not affiliated to political parties “to become integral actors within the sphere of discourse of the political centre” and more so it “allows casual citizens to observe conversations of the political elite and, if they like, to participate in those conversations” (Maireder and Ausserhofer 2013: 9).

4.3.1.2 Allison Tilley

Allison Tilley and Judges Matter play an important role as a lighthouse of legal fact in a wild ocean of social media opinion. Tilley’s interpretation, intervention and presentation of facts seek to debunk the populist rhetoric that pervades a lot of social media debate in a way that is easily understandable, using written text both on the Judges Matter website and other platforms like *The Daily Maverick* (see Figure 14) and visual explainers such as the infographic showing the racial and gender demographic of South Africa judges (see Figure 13). This graphic makes creative use of data and visual journalism to inform the

public about a subject that is open to populist rhetoric from political parties who are uncomfortable or threatened by decisions made by an independent judiciary.

One of the aims of the Judges Matter website is to make the appointment of judges through the Judicial Service Commission transparent and Tilley regularly tweets and engages on Facebook on behalf of Judges Matter. Tilley is adamant about the focus of Judges Matter being restricted to the importance of judges to a functioning democracy: "We are only interested in judges, the disciplining of judges, we are interested in the governance of judges, so those are the sort of, those are the issues that we focus on" (A. Tilley 2017, Interview, 06 November).

This adherence to the strict content parameters is what makes Tilley and Judges Matter such effective niche gatewatchers (Bruns 2018), in my opinion. Judges Matter videos, allow the public to see how judges are selected and put through their paces during interviews. An example is [their most watched YouTube video](), see screengrab on the left, the JSC interview with Judge NF Kgomo for Limpopo Deputy Judge President which at the time of writing had 346 795 views (Judges Matter 2016b). As Tilley explained, the popularity of this video is related to Kgomo being exposed for patent paternalism and sexism towards women lawyers (A. Tilley 2017, Interview, 06 November).

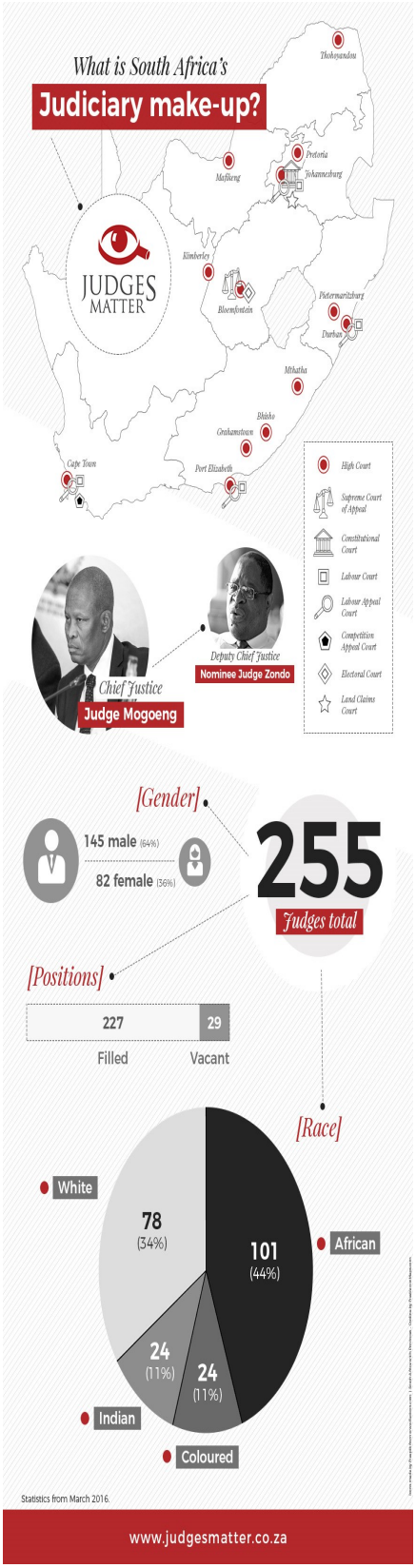


Figure 13: Judges Matter infographic on the demographics of the judiciary (Judges Matter 2017a)

43 Reactions

The Department of Social Development conceded in a committee meeting in Parliament last week that they would not be spending R500-million in 2018/2019 which had been allocated to them for social grants. A majority party going into an election doesn't often tolerate such delays in rolling out a surefire vote winner.

Alison Tilley

Follow Save More

Alison Tilley is the head of advocacy and special projects at the Open Democracy Advice Centre.

To be sure, the ongoing slow train wreck that is Sassa has taken up most of the public's attention. But the current grants administered by Sassa are being paid, and there is every indication that they will be paid. It's this R500-million in grant money that will never be paid to beneficiaries that is the real loss.

What on earth went wrong? And why was this amount set aside in the first place? Well, you won't be surprised to hear there is court order involved – despite the pleas by the Chief Justice that Social Development stop making him do their work. How did the courts get dragged into this one? Inappropriate use of the foster care system is the culprit. It fell over under the weight of the HIV/AIDS crisis, which you may think we had put behind us.

When parents started dying of HIV, the children left behind were left with the grannies. They single handedly pulled us back from the brink of having to start orphanages in every community. The grannies needed financial support, and in the early 2000s the late Zola Skweyiya proposed the foster child grant as the solution. The wrinkle is that the foster care system is designed to deal with a small number of children at risk, where the child needs to be taken away from their family, and put in state alternative care. In most of the cases where the parents died of HIV, the children were already living with their extended family, and did not need the state to intervene in their care arrangements.

Fast forward, and the foster care system, staggering under the weight of 500 000 children who need financial support while being cared for by their extended family, fell over. The social workers and children's' court magistrates needed to administer the correctly burdensome bureaucracy, designed for children in abusive situations and very vulnerable, ran out. Day zero for the foster care system was 11 May 2011– the day 120 000 children were discovered to have lost their foster child grants because there weren't enough social workers to process their two yearly court order extensions.

The Centre for Child Law took DSD to court to find a solution. The DSD, recognising they had a serious problem, asked to settle. The proposed settlement asked the court to allow DSD to ignore the law, and pay the grants anyway, despite the majority of children not having court orders sanctioning their placements and their grants. The court did so – surprisingly given that this is a likely violation of the principle of separation of powers. – and gave them three years to fix the problem. In a hint of the chaos to come in Sassa, the Department then basically ignored that deadline, and in December 2014 in a last minute urgent application to court, asked for another three years to fix the problem. This brought us to 31 December 2017. And – yes, you guessed it – they then announced that they still needed another 2 years, until 2019. The court, no doubt with its head in its

concern from civil society, put an order in place (by agreement with civil society) which required reports from the Department on progress made, and a result in 15 months. And, by the way, held the Minister's delay in fixing the problem as unconstitutional unlawful and invalid.

So, with the clock ticking, where are we? The plan, reached after much handwringing, is essentially to create a half way grant – not as administratively burdensome as the foster child grant, but paying out more than the child support grant. Legislation is needed to do that, and the Social Assistance Act Amendment Bill required to do that was only tabled on 13 April this year and almost a month later seems not to have yet piqued the Portfolio Committee of Social Development's interest as there are no dates set yet for public hearings or deliberations. This bill contains provisions which give the Minister authority to make additional amounts available to certain categories of beneficiaries based on need. It will enable her to pay a higher valued child support grant to relatives caring for orphans. But it isn't law yet. Treasury has meantime had already put money aside to deal with paying these larger child support grants to relatives caring for orphans, which it anticipated coming on stream this year. But, the Department has conceded it cannot spend the R500 million in 2018/2019 which had been allocated to them. So back to Treasury the money goes.

The new Minister spoke to the Portfolio Committee twice in the last two weeks and managed to avoid mentioning what must be seen as an unmitigated political disaster. After a VAT increase, you would think that this option of getting more cash to actual voters – political gold, surely – would be one that she would grab with both hands. Instead, it is being quietly ignored. Is all of this a sign that the Minister is backtracking on this hard- won solution to the foster care crisis? The weight of previous policy disasters continues to crush the foster care system – the surge in numbers of children whose parents died, most obviously. Then there are the children who need social workers, who don't get them, at least in anything like the number they need. The social workers are frantically trying to keep renewing the grants for children who don't actually need a social work intervention.

And the children really at risk of abuse or being abused, going to bed hungry or in pain in our angry, alcohol fuelled, gravely unequal society? Well, they won't vote in 2019. But though the wheels of justice grind slow, they grind exceedingly sure, and the Minister will soon need to explain why the unconstitutional, unlawful and invalid actions of the department in relation to foster care have not been remedied. Her first progress report to the Court and the Centre for Child Law is due at the end of May – how will she explain the lack of progress in implementing a legal solution to the crisis with seven years already passed since the Court first ordered the Department to implement a solution? Tick tock. **DM**

Figure 14: Tilley writing for The Daily Maverick (Tilley 2018) on the legal wrangle over foster care grants

4.3.1.3. Willie Spies

Willie Spies lies to the right of the political spectrum compared to Allison Tilley and Pierre de Vos. He is a former Freedom Front Plus [24], member of parliament who left to establish his own legal practice, Hurter Spies, whose major client is the Afrikaner civil and minority rights organisation Afriforum. Spies is media savvy, he is also the managing director of Pretoria FM radio station and writes a bi-weekly column for the Gauteng-based Afrikaans daily *Die Beeld,* which is accessible behind a paywall on Media 24's Netwerk24 website and app *(*see Figure15*)* and the Maroela media website (Spies 2018). His articles are also published on his firm's Facebook account to share his writing and engage with members of the public about themes like "civil rights, human rights and flowing from that property rights as well" (W. Spies 2017, Interview, 30 November). Spies uses these two media platforms, his Twitter account and his firm's Facebook page to share his column with his followers (he has 2 709 on Twitter) and posts by Afriforum. These social media posts could be Afriforum public relations for example members fixing potholes (see Figure 16) or political commentary, such as a remark on radical economic transformation through a reference to the collapse of the Venezuelan economy (see Figure 17). Other posts are largely about the legal and publicity battle against land expropriation for restitution and land grabs and farm murders.

Figure 15: Willie spies explaining the different perspectives on land tenure

NETWERK24

TUIS NUUS SPORT SAKE STEMME VERMAAK LEEFSTYL MOTORS E-PUBLIKASIES

MENINGS

Willie Spies: Grondbesit in SA het só begin

Deur Willie Spies | 12 Julie 2018 00:01

Elke eerstejaar-regstudent leer dat die reg uiteenval in twee hoofafdelings: privaatreg en publieke reg.

Privaatreg gaan oor die verhouding tussen regsubjekte onderling en hul regte ten opsigte van regsobjekte. Regsubjekte van die privaatreg is persone en regsobjekte is sake soos eiendom, geld, beleggings en grond.

Die publieke reg gaan weer oor die verhouding tussen owerhede en hul onderdane, en ook die onderlinge verhoudinge tussen state, organe van die staat, provinsies en munisipaliteite.

Grond se belang vir die publieke reg is dat dit 'n regsgebied bepaal. Met ander woorde, in die privaatreg is grond 'n saak of kommoditeit. In die publieke reg is grond 'n gesagsgebied of deel van 'n gesagsgebied van 'n munisipaliteit, 'n provinsie, 'n staat of 'n heerser.

In die feodale bedeling van Europa in die Middeleeue, asook elders in die wêreld was die onderskeid tussen die publieke regtelike en privaatregtelike belang van grond nie so duidelik nie, want feodalisme het behels dat die eienaar van die grond ook die gesaghebber oor die gebied is waar die grond geleë is.

Die adellike grondbaron het reg en orde op sy grond toegepas; hy was die koning se verteenwoordiger en belastinggaarder. Die feodale stelsel het in Europa plek gemaak vir demokrasie en individuele grondbesit. Daarmee saam het die klassestelsel in sekere gevalle deur bloedige revolusies, soos in Frankryk en in ander gevalle soos Brittanje, evolusionêr vir groter gelykheid van klasse en opwaartse sosiale mobiliteit plek gemaak.

"Vir Afrika was dit anders. Grondbesit was en is steeds in tradisionele gebiede kommunaal."

Die welvarende burgerstande wat ontwikkel het, het ook eiendomsreg oor grond verkry en sodoende het die onderskeid tussen die publieke regtelike en privaatregtelike aard van grond 'n vanselfsprekende realiteit geword – maar nie vir die hele mensdom nie – slegs vir diegene vir wie die geskiedenis van Europa se oorgang van feodalisme na gelykheid deel van hul erfenis is.

Vir Afrika was dit anders. Grondbesit was en is steeds in tradisionele gebiede kommunaal. Konings en stamhoofde het stamgrond aan onderdane beskikbaar gestel en weggeneem indien 'n onderdaan in onguns verval.

---

24 The Freedom Front Plus is a national South African political party that was formed (as the Freedom Front) in 1994. It is led by Pieter Groenewald. Its mission as on 17 May 2018 states: "The FF+ is irrevocably committed to the realisation of communities', in particular the Afrikaner's, internationally recognised right to self-determination, territorial or otherwise" (Freedom Front Plus 2018).

Most of Spies's columns, posts and tweets reflect his political beliefs, the civil rights cases he is arguing and Afriforum's campaigns. These all constitute a right wing public sphericule (Bruns and Highfield 2016: 98) for Afriforum and Afrikaner engagement on matters that are of most concern to this grouping, which at the moment is the fear of farm seizures, farm murders and land claims. Sometimes this sphericule collides or interacts with other public spaces, but the digital space this happens on is Twitter. For example, there was the incident of the massive South African uproar triggered by Donald Trump's announcement that he asked the Secretary of State to study South African farm seizures after Kallie Kriel and Ernst Roets from Afriforum and Frans Coetzee, CEO of the Institute of Race Relations, went on a lobbying trip to the USA, peddling the narrative that white farmers were being murdered and their farms seized (du Toit 2018). The highlight of this trip was Roets and Kriel appearing on Fox News, which led to Trump's fake news claim, which Spies tweeted as a "very important development" see Spies tweet Figure 18. This was followed by a massive backlash from South Africans across the political spectrum, including the reaction by former public protector Professor Thuli Madonsela (Figure 18) followed by a justification by Afriforum CEO Kallie Kriel (see Figure 20) and a weigh-in by News24 editor in chief Adriaan Basson to state the facts (Figure 21).

Figure 16: Spies sharing Afriforum pothole fixing exercise

Figure 17: Spies commentary about radical economic transformation

Figure 18: Spies announcing Trump's farm seizure in SA

Figure 19: Thuli Madonsela response to Trump

Figure 20: Afriforum CEO Kallie Kriel justifying Trump's tweet

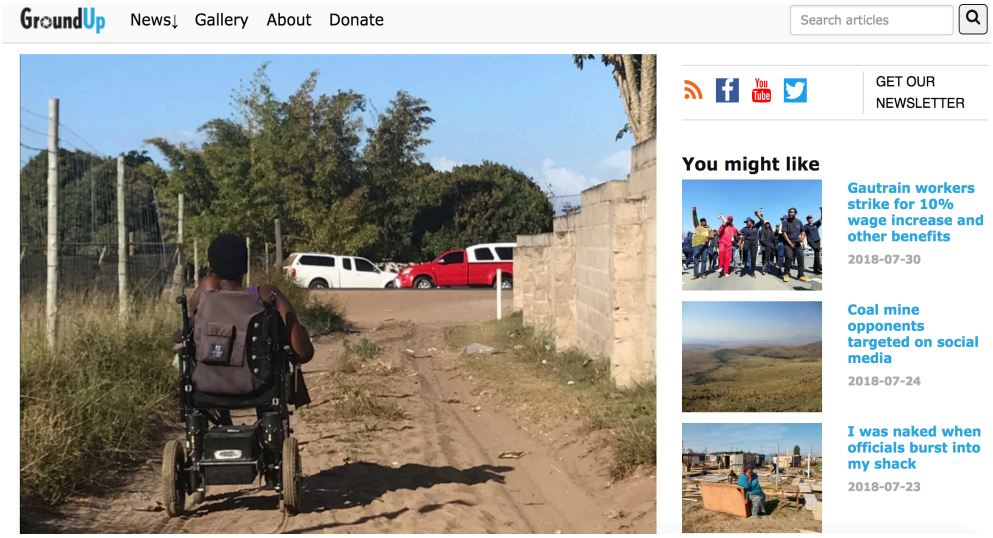
Figure 21: News24 editor Adriaan Basson clarifying the truth about farm seizures

4.3.1.4. Ntsiki Mpulo

While Afriforum, and its supporters like Willie Spies, use social media to disseminate a right wing ideological narrative that protects the vested interests of a particular white minority, the NGO Section27 focuses on using the constitution to fight for human rights for access to basic education and healthcare for the poor. Ntsiki Mpulo and advocate Faranaaz Veriava illustrate how NGO's fill a gap in coverage on human rights and social justice issues by mainstream media through highlighting human rights cases through multi-pronged campaigns involving a multi-disciplinary team of attorneys, advocates, campaigners, journalists and marketers. The main themes which Mpulo and her Section27 colleagues focus on are health and education, like the Life Esidemeni case where hundreds of mentally ill patients died after they were moved from a private hospital to ill-equipped community-based care. They also retweet like-minded influencers like former radio journalist Redi Tlhabi and civil society colleagues who share the same values (N. Mpulo 2017, Interview 14 November). Mpulo explains that the aim of the articles they publish is not only to sensitise the public, but to change policy.

Speaking about a piece she wrote about children's rights to school transport on the *GroundUp* website (see Figure 22), she explains that though she writes human interest stories "the result is that people must think about what policy changes must be made in order to fix this." (N. Mpulo 2017, Interview 14 November).

This work is reflective of Papacharissi's (2015) ambient, hybrid, and 'produsued' practices of "liking, retweeting, liveblogging, endorsing, and opining" that is blended into social reactions to news events (Papacharissi 2015: 33). Where Mpulo and her colleagues go further than what Papacharissi describes is the way in which she and the Section27 team keep a story alive until the ultimate outcome in policy change or justice to the victims of the human rights abuse is achieved. In addition to publishing on digital and social media platforms, printed copies of Spotlight magazine are hand-delivered to government departments and distributed at protest and awareness marches like World Aids Day where activists and policy makers are present (N. Mpulo 2017, Interview, 14 November). Engagement with the public on social media is important to Section27 because, as Mpulo explains, the NGO gets a lot of leads or cases through social media. They will take these on if it could help with systemic or policy changes, or they refer them to other lawyers or legal advice offices if they can't handle the case (N. Mpulo 2017, Interview, 14 November).



By Ntsiki Mpulo

The sand at the end of the dirt track that leads from her home makes it difficult for Makhosi Ndabande, 25, to reach the tarred road which runs from Manguzi Town in northern KwaZulu-Natal to Sizamnqubeko Combined School. Ndabande is a wheelchair user.

She is the oldest of four children and the only one with a physical disability in her household. She was born with muscular dystrophy, a group of diseases that cause progressive weakness and loss of muscle mass. She cannot dress herself or sit upright without help. Doctors have told her that her muscles would get progressively worse as she grows older. As a result of her illness, she started school much later than any of her siblings.

She entered Manguzi Primary, a mainstream school, at 11 and completed grades 1 to 3 before transferring to Sisizakele Special School, a primary school in Bambanani where she spent several years in grade 4 and 5. She fought to be admitted to a mainstream school and now attends Sizamnqubeko Combined School, a few kilometres from her home.

School begins at 8am, so Ndabande's day starts at 4am. She gets up early to ensure that she is washed and ready, with help from her sister, by the time the van comes to collect her from home at 7am. For the van she pays R300 per month; R150 for herself and R150 for her wheelchair. Often the van driver does not arrive. She is left stranded and forced to drive herself five kilometres to school on her motorised wheelchair. Many learners with disabilities face similar challenges, as SECTION27 found in research in the Umkhanyakude District in 2015. The research, which looked at conditions for children attending the 11 full service and three special schools in the district, found that many children requiring wheelchairs in rural areas without good roads and without transport provided, simply cannot attend school at all. At the special schools, the Department of Education has provided funding for two small buses for each school that transport a small proportion of learners to and from school each day. But Sisizakele Special School now has only one functional bus. These are mostly ordinary buses, not specifically equipped to accommodate learners who cannot sit up straight or who are in wheelchairs. The buses often break down, which means learners who usually use the transport simply cannot come to school.

Of the 11 full-service schools, only two currently receive direct support from the KwaZulu-Natal Department of Education for learner transport.

The buses cover a limited area, and only specific routes, so even learners who live a similar distance away from the school but in a different direction are required to stay in hostels. Buses at both special and full-service schools leave learners at a central point in towns or villages; the learners – including those with disabilities – have to go the rest of the way themselves

Most learners at full-service schools, who do not benefit from any transport, must either be brought to school privately through a system described as "Umalume Transport" ('Uncle Transport'), or make their own way. These 'uncles' are merely men with cars (often bakkies) who attempt to load as many children as possible into their vehicles and are often uncaring and rude towards children with disabilities. Both of these options carry the risks of sexual violence, theft, and physical danger from accidents.

Parents have reported that the prices for private transport are very high and there are months when they are forced to choose between sending their children to school and a family emergency.

Since 2014, Equal Education has been campaigning for safe, government-subsidised scholar transport in KwaZulu-Natal and the rest South Africa. EE has now brought a case against the KwaZulu-Natal Departments of Education and Transport in relation to 12 schools in Nqutu, which will be heard on 7 November.

SECTION27 is intervening as friend of the court (amicus curiae) in this case, to bring to light the examples of learners with disabilities uncovered during the course of our research. SECTION27 will support the demand for a plan that also addresses the needs of learners with disabilities. In the interim, learners like Ndabande continue to put their lives in danger in order to access a quality education. Ndabande is fortunate to have received a motorised wheelchair last year. This allows her to be more independent. But she still faces significant challenges in getting to school when her mother cannot afford to pay for private transport.

Mpulo is senior communications officer at SECTION27. Views expressed are not necessarily those of GroundUp.

Figure 22: Mpulo's article on children's rights to transport in GroundUp

4.3.4. 'The Occasionals'

The thematic content of 'The Occasionals' is very focused on their core legal offerings. Faranaaz Veriava adheres to her Section27 playbook of education rights and social justice; Dario Milo to his media law specialisation; and Nerushka Bowan to privacy law and new technology.

4.3.4.1. Advocate Faranaaz Veriava

Veriava is an advocate for Section27 and works closely with Ntsiki Mpulo and the communications team. As she explains, the journalists and lawyers work closely on shaping the ultimate story or message that is presented to the public.

> **Our view is that a legal strategy should always inform the communications strategy, so we work closely as a team. Whenever we have legal strategy meetings one of our comms people are there, we often talk about what our message should be. So for example, you know the organisation Solidarity, they challenged government's Funza Lushaka bursary scheme which seeks to create a greater number of black teachers going to rural areas and we intervened in that case and for me the message had to be that it's very necessary because learner outcomes are the poorest in the rural areas, so that's why we need to spin a positive message, support the department, because the department always thinks we're anti-government, so those are the kinds of messages we want to put out (F. Veriava 2017, Interview, 28 November).**

Veriava says she does not write often because she is too busy and she cannot comment on cases she is working on. She last wrote an opinion piece about single religion schools which was published in The Daily Maverick (Veriava 2017*)* as an op-ed *(Figure 23).* This was a case she wasn't arguing, so she felt comfortable writing about it (F. Veriava 2017, Interview, 28 November). She retweets positive messages from government when she thinks they deserve it, but she is equally critical. For example, if there's a corporal punishment case that is big in the news she will tweet "@DBE where's the corporal punishment protocol?" (F. Veriava 2017, Interview, 28 November).

A case that has the potential to clarify the appropriate role of religious observances in public schools is set to be heard in the Gauteng High Court early next week. It is unfortunate however that the case appears to have been largely characterised as being part of an "atheist" agenda seeking to "sanitise" all public schools of religion.

SOUTH AFRICA

Op-Ed: Is the observance of one religion at schools a form of religious apartheid?

By Faranaaz Veriava • 12 May 2017

FARANAAZ VERIAVA'S OPINION PIECE IN THE DAILY MAVERICK 12/05/2017

This case was initiated more than two years ago by an organisation somewhat irreverently calling itself the Organisasie vir Godsdienste Onderrig en Demokrasie(OGOD). OGOD challenges various Christian-only religious practices at the respondent schools on the basis that these practices are a violation of the Constitution and the National Policy on Religion and Education (the "Religion Policy"). While OGOD does appear to have a secular bent, sanitising schools of religions is not what the case is about or – at least – it is not what it should be about. Rather, the case is about whether single-faith, in this instance Christian-only, practices should be permitted in public schools. The Christian-only practices at the respondent schools are being defended in the case by the Federation of Governing Bodies (Fedsas), an organisation that has been a repeat player in much of the school governance litigation seeking autonomy for school governing bodies to set policy in respect of language, admissions and now religion.

In recent years, there has been a flurry of such litigation between provincial education departments and historically advantaged or former model-C schools contesting the issue of autonomy of SGBs to make such policies. Also stepping into the fray in this case, are a plethora of other parties with positions that straddle the ideological divide on the role of religion in public schools. The Council for the Advancement of the South African Constitution (Casac), for example, argue that religious observances at public schools must conform to the Religion Policy and the Constitution, which they allege the Christian-only practices at the respondent schools do not. On the other hand, organisations such as Solidarity support Fedsas' stance.The papers generated by the parties are voluminous and the arguments seemingly manifold. At the heart of the dispute however are two core concerns. First, whether SGBs are the "sole" authority to make rules relating to religious observances in public schools or whether these rules comply with the norms developed by the Minister of Basic Education in the Religion Policy. Second, whether single-religion practices are permissible in terms of the religious freedom guaranteed in the South African Constitution and in terms of the Religion Policy.Section 15(1) of the Constitution guarantees the freedom of religion or freedom from religion as the case may be. The Constitutional Court has held this provision to include the right to entertain and express the belief of one's choosing and to manifest that belief in worship and practice. Section 15(2) provides that religious observances may be conducted at state or state-aided institutions provided that these observances (a) follow rules made by the appropriate public authorities; (b) are conducted on an equitable basis; and (c) attendance at them is free and voluntary. Section 7 of the Schools Act then provides that religious observances may be conducted at public schools under rules issued by SGBs provided such observances meet the requirements of equity and voluntariness.

Integral too, to resolving the dispute, is an understanding of the National Religion Policy published in 2003. The policy seeks to redress the religious privileging and discrimination that arose under Christian National Education by promoting religious diversity in public schools. The policy further affirms that religion does have a role in public schools through the explicit adoption of a "co-operative model" of religion. Thus, unlike the strict separation of church and state as in the United States, the South African model, while separating spheres for religion and the state, nevertheless acknowledges that there is scope for interaction between the two. At issue here, however, is the precise scope for that interaction. The Christian-only practices in the case broadly include collective religious observances such scripture reading during the formal school assembly; Bible Study during formal school time albeit as a non-promotional subject at certain of the respondent schools; the promotion of a Christian ethos at the schools; the establishment of voluntary religious associations and the utilisation of religious symbolism such as the decoration of wall coverings with coats of arms that have a historic overtly Christian meaning. The first issue of whether the SGBs of the respondent schools are the "sole" authority to make rules regarding religious observances must be answered with reference to the long line of school governance cases that have occurred in recent years. The jurisprudence established in these cases have established clear principles in respect of a statutory regime of cooperative governance in schools. Thus, in the context of the facts of this case, the Minister has the power to make policy that must be general in nature to ensure uniformity to basic principles. SGBs may then make "particularised" rules in accordance with the statutory regime's commitment to "grass roots democracy". Underlying this carefully coordinated regime is the recognition by the Constitutional Court that public schools are a public resource "which must be managed not only in the interests of those who happen to be learners and parents at the time but also in the interests of the broader community in which the community is located and in light of the values of our Constitution". The second question in respect of whether the religious freedom guarantee permits the Christian-only practices in public schools requires an understanding of the qualifications in Section 15(2) of the Constitution as well as Section 7 of the Schools Act in respect of whether a practice is equitable and participation therein is voluntary. OGOD alleges that the Christian-only practices of the respondent schools directly or indirectly coerces pupil to participate in them and as such violate pupils' rights. On the other hand, parties advocating for such Christian-only practices argue that "equitable" requirement does not require equal treatment of all religions, particularly in schools where a single religion is in the majority. Instead these parties suggest that pupils who do not want to participate in these practices be granted an exemption to enable pupils to opt-out from such practices. The Constitutional Court appears to have adopted a different approach. In the case of S v Lawrence, S v Negal; S v Solberg, a case that addressed religious observance, the court stated: "The requirement of equity in the conception of freedom of religion as expressed in the interim Constitution is a rejection of our history, in which Christianity was given favoured status by government in many areas of life regardless of the wide range of religions observed in our society. Sachs J in his judgment in this case has provided a valuable account of the ways in which Christian principles were endorsed by legislation and its practices often imposed upon all South Africans regardless of their beliefs… The explicit endorsement of one religion over others would not be permitted in our new constitutional order. It would not be permitted, first, because it would result in the indirect coercion…. And secondly because such public endorsement of one religion over another is in itself a threat to the free exercise of religion, particularly in a society in which there is a wide diversity of religions.

Accordingly, it is not sufficient for us to be satisfied in a particular case that there is no direct coercion of religious belief. We will also have to be satisfied that there has been no inequitable or unfair preference of one religion over others." The court then specifically spoke directly to religious observance at public schools: "Compulsory attendance at school prayers would infringe freedom of religion. In the context of a school community and the pervasive peer pressure that is often present in such communities, voluntary school prayer could also amount to the coercion of pupils to participate in the prayers of the favoured religion." The test therefore appears to be whether the particular religious observance constitutes a state endorsement of one religion over others. Within the context of this case, it would appear that the Christian-only practices at the respondent schools appear to be tantamount to a state endorsement of a single religion, in this case Christianity, and should therefore not be permitted at public schools. To be clear, neither the Constitution nor the Religion Policy prohibits religious observances in public schools. What is required is that public schools apply some out-of-the box thinking to conducting religious observance at public schools so as to ensure that such observances are conducted in a manner that ensures that pupils are not discriminated against by being overtly or covertly excluded from the schooling environment or are victimised or harassed for not sharing the beliefs of the majority. In its current guise the practices at the respondent schools may be deemed to be a form of religious apartheid. DM

Faranaaz Veriava is a public interest lawyer at the organisation SECTION27 that is representing the amicus curiae, Casac in the case.

Figure 23: Faranaaz Veriava's article on religion in schools (Veriava: 2017)

4.3.4.2 Dario Milo

Dario Milo's tweets and blog posts on the Webber Wentzel website, which he republishes on the UK based media law website, Inforrm (Milo 2018a) and occasionally on South African news websites like *The Daily Maverick* (Milo 2018b) (see Figure 25), are as he recalls about 85% focused on media law, 10% on politics and other areas of law, and 5% on social things like a movie he watched or music he listened to (D. Milo 2017, Interview, 20 November).

Figure 24A: Dario Milo tweeting news of signing of the secrecy bill

Figure 24B: Milo agreeing with amaBhungane journalists that parliamentary committees should be open to the media

The audience for whom he imagines he is writing are journalists, lawyers, students of law, and editors. His audience also depends on the publication, for example, businessmen, as he has written a few pieces in the *Financial Mail* and the *Business Day* to do with access with company act registers (D. Milo 2017, Interview, 20 November).

Milo started blogging around the broad theme of media law and freedom of expression four to five years ago because: 1) he wasn't limited by the 1000 to 800-word limit that he'd get from editors at newspapers; 2) he could write his own headlines as he had experience with newspapers where they would place headlines that did not describe the original content and context; and 3) the device of linking to judgements, opposing views or articles which makes the article more readable and digestible for the audience (D. Milo 2017, Interview, 20 November). He does not blog or write long form articles as consistently as de Vos and the other 'Regulars' do, because he is too busy working on cases**.** As an expert in his field of media law, he does curate and share both local and global content on Twitter (see Figures 24A and 24B) about legal developments, making him a gatewatcher in his field as well.

DAILY MAVERICK | SCORPIO OPINIONISTAS ZAPIRO SECTIONS | SUPPORT DM ENGAGE | THE GATHERING

OP-ED

Cliff Richard and the BBC – when is the identifying of a person suspected of committing a sexual offence permitted?

By Dario Milo and Molebogeng Kekana • 13 August 2018

In South Africa, there is no statutory prohibition that a person who is suspected of a committing a sexual offence and who has not been arrested or summoned to appear in a criminal court – like Cliff Richard in the English case – cannot be named before they appear in court.

In the middle of July 2018, the UK High Court handed down a judgment in a privacy case brought by Sir Cliff Richard, the rock 'n roll star who began his career in the late 1950s.

In 2014 the Metropolitan Police Service was in the process of conducting investigations into allegations of historic child sex abuse against a number of individuals, including public figures. Richard was one of those being investigated arising from allegations that in the 1980s that he conducted himself inappropriately towards an adolescent boy. The Metro Police handed the investigation over to the South Yorkshire police.

A BBC journalist got a tip-off about the investigation into the allegations against Richard and reached out to the South Yorkshire police to find out more.

The police believed that the BBC would imminently broadcast a story on the allegations and decided that they would co-operate with the journalist to avoid any premature reportage on the investigation. As part of this strategy, the police gave advance notice to the journalist of a planned search of Richard's property in Berkshire. The BBC booked a helicopter to get shots of the search and positioned their news teams at Richard's other homes in Portugal and Barbados.

The BBC broadcast live footage of the property, the police officers walking to the property in the process of the search as well as Richard's identity.

On the issue of truth (a defence to a defamation claim), the BBC was satisfied that an investigation was indeed taking place into the allegations. On the issue of privacy, the BBC believed that there was a public interest in news about a police investigation into a celebrity who was the subject of allegations of sexual assault of a minor.

Richard was in Portugal at the time of the broadcast of the search on his property and found out that the search had become public knowledge when he started receiving calls about the news.

The police investigation ultimately came to an end in 2016, with a decision by the prosecution services not to institute charges. Richard then brought legal proceedings for damages against the police and the BBC as a result of an infringement of his right to privacy. The police accepted liability and apologised to Richard in open court and settled the claims by payment of £400,000 in damages as well as £300,000 of his legal costs. The BBC, however, defended its case.

The court was tasked with balancing Richard's rights to privacy, on the one hand, and the BBC's freedom of expression, on the other. The main question was whether Richard had a "reasonable expectation of privacy" and, if so, whether there was, as argued by the BBC, a public interest that justified the broadcast of the investigation and search, and of his identity as a suspect.

The court held that whether or not there is a reasonable expectation of privacy, privacy relating to a particular police investigation will depend on the facts of each case. There is no universal test or single determinative factor.

Here, the relevant factors included the effects of the broadcast on the emotional, physical and financial well-being of Richard, who is a public figure and "one of Britain's most successful performers"; the seriousness of the allegations; the climate and context in which the allegations were investigated; and the reporting style and coverage of the story by the BBC (which the court considered to be dramatic and sensationalist).

A final important factor was the failure of the public to maintain the presumption of innocence of a suspect throughout an investigation "so that there was no risk of taint either during the investigation or afterwards (assuming no charge)": in other words, members of the public may well equate suspicion with guilt. Therefore, Richard had a *prima facie* reasonable expectation of privacy in relation to the police investigation. Public figures, the court held, are not necessarily deprived of a legitimate expectation of privacy by virtue of their fame. Nor does the fact that private information has landed up in the hands of the media *per se* affect the nature of the information as private or remove the reasonable expectation of privacy. Reporting on the investigation and the search was a serious invasion of Richard's privacy and required an equally serious justification, which the court found did not exist.

Any public interest in the broadcast was heavily outweighed by the seriousness of the invasion. In any event, even if the investigation was a matter of public interest, it did not follow that the identity of the subject of the investigation was also of any genuine public interest (other than of interest to "the gossip mongers").

The result was that the court found the BBC liable for infringing Richard's privacy rights, awarded damages of £210,000 and apportioned the damages to be paid at a ratio of 65:35 between the BBC and the South Yorkshire police. The BBC also confirmed that it would also pay Richard £850,000 in legal costs, and would not appeal the judgment to the Court of Appeal.

The effect of the Richard judgment is to in effect create a general rule that a person who is the subject of a police investigation has a reasonable expectation of privacy and cannot be named or identified by the media (at least unless a compelling justification for doing so exists). And while the BBC most certainly did not cover itself in glory in its reportage, the judgment poses a threat to freedom of speech.

In this context, it is illustrative to consider the South African position. There is a journalistic myth in South Africa that an accused person who has been arrested cannot be named in a news report until the first court appearance. This is not correct in law – there is no general statutory prohibition on naming an arrested suspect until the first court appearance (which usually happens within 48 hours of arrest).

However, in cases concerning sexual offences or extortion, the Criminal Procedure Act states that no person may publish "any information" relating to the charge until the accused has pleaded. This means that not even information about the accused's identity may be published until he has pleaded in these kinds of cases. So, in the case of a person arrested facing a sexual offence charge, it is unlawful under South African law for the media to identify the person until he has pleaded. This is a highly restrictive approach which is most likely unconstitutional – it admits of no exceptions.

But this restrictive approach does not apply until a person has been arrested or summoned in connection with a sexual offence (or extortion) – in other words, it only applies once the formal criminal process has kicked in. There is no statutory prohibition that a person who is suspected of a committing a sexual offence and who has not been arrested or summoned to appear in a criminal court – like Cliff Richard in the English case – cannot be named before they appear in court. Instead, the common law of defamation applies in this situation– which provides that if there is a public interest in naming a suspect, then the media can do so. Our law in this context appears to be more felicitous to free speech than the position as set out in England in the Richard case.

So to take a current example, the recent book by Mark Mannie and Chris Steyn *The Lost Boys of Bird Island*, publishes allegations that three former National Party ministers, Magnus Malan and John Wiley (both now deceased), an unnamed minister (who is still alive), and Dave Allen, a Port Elizabeth businessman (deceased), were involved in a paedophilia ring that operated during apartheid and perpetrated ghastly sexual crimes against children. There is no law prohibiting the naming of even the minister who is alive provided there is a public interest in doing so – which in our view there clearly would be.

However, once the criminal process has kicked in, the provisions of our Criminal Procedure Act ban reportage of any information until an arrested person charged with a sexual offence has pleaded. This ban is most probably unconstitutional. It does not optimally balance privacy and media freedom and instead has the result that there will be secrecy as to the identity of the accused for what may be many months, until the accused has formally pleaded. This prioritises privacy over freedom of expression even in cases where the public interest in knowing the identity of the suspect – who might be a high-ranking politician or public official, for example – is manifest. **DM**

Figure 25: Milo and Kekana's Daily Maverick (2018b) article on Cliff Richard and the BBC

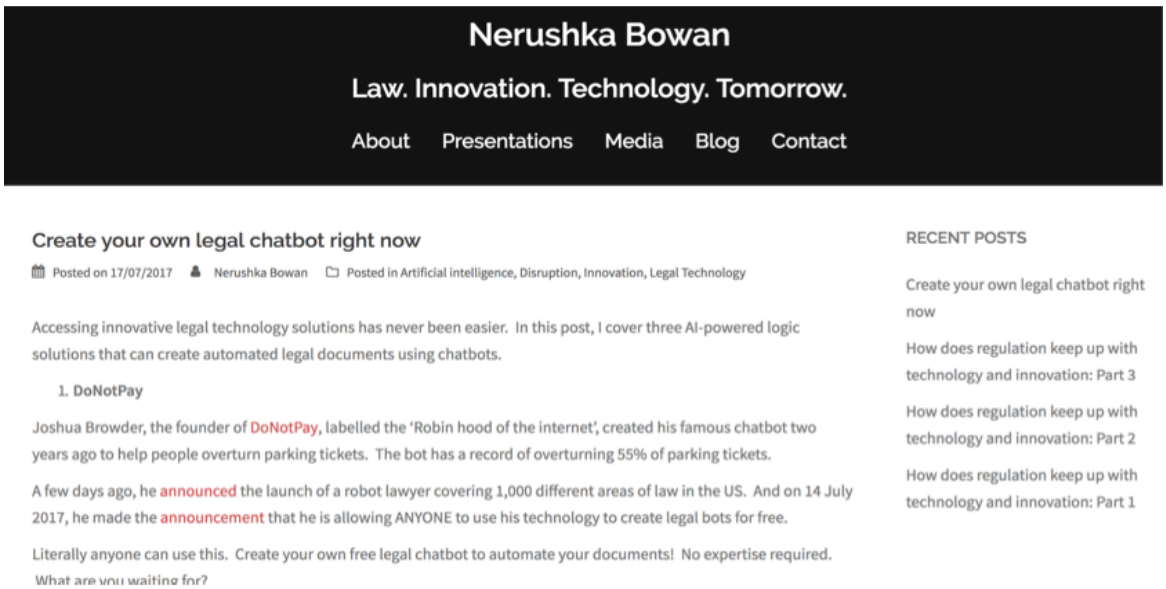
4.3.4.3 Nerushka Bowan

Nerushka Bowan's main themes on her blog (Bowan 2017) (see Figure 26) and social media platforms are trends in privacy, social media, new technology and their legal implications (N. Bowan 2017, Interview, 28 November). Though her themes on privacy and technology law are niche, her goal is to make her content relevant to a wider public (N. Bowan 2017, Interview, 28 November).

Bowan plays the role of curator in terms of the application of the law around new technology, she retweets and shares commentators in the tech, privacy law and social media sphere. In 2014, when the legal firm she used to work for, Norton Rose Fulbright, started establishing their own blogs, she became a co-editor of the global social media blogs. She and a co-editor based in New York tried to get other lawyers from around the globe to contribute content because it was very US-heavy, which led to her passion for getting others to create content. To encourage others, she played a very similar role that editors, section editors and news editors in mainstream media organisations play. She would, for example, send links to juniors in the team about new developments in FinTech or medical technology and guide them to write blogs on issues that would resonate in a South African context (N. Bowan 2017, Interview, 28 November).

She held talks with junior lawyers about how to create thought leadership content, and if they were anxious about creating their own content, to share content that they were reading. If they were energy lawyers, she would assume they were already reading a lot of the industry news anyway because they have to keep up to date with their client's sector and would encourage them to share the content they were consuming with their networks.

Figure 26: Nerushka Bowan's blog



Her social media engagement routine is similar to that of Pierre De Vos's and Allison Tilley's, as she manually curates shares on LinkedIn and Twitter on a daily basis, and when she is at events she also live tweets. Bowan won an award for live tweeting in 2016 at the IT Web Digital Economy Summit, winning a Chief Information Officer management course from the University of Witwatersrand. As shown in Figure 27, Bowan's live-tweeting at events performs a similar function to that of journalists, reporting on events as they immediately happen, "a first draft of the present" (Bruns and Weller 2016 cited in Bruns 2018: 4).

Figure 27: Bowan live tweeting at a SA Reserve Bank Cyber Security Innovation conference in August 2018

4.3.5. 'The Social Butterflies'

'The Social Butterflies' flit from personal to political to global to local in their posts and tweets. However, the nature of their profession and the niche legal service they offer does in a very loose way define their thematic content. All (apart from attorney Matthew van der Want) prefer the fast interactive affordances of Twitter as their platform for engagement.

4.3.5.1 Advocate Dali Mpofu

The broad themes that Dali Mpofu speaks to on Twitter are mostly retweets of EFF tweets (see Figure 29), political opinion, and events he attends, for example Figure 28, which is a humorous post of him posing with leading politicians from the Democratic Alliance, United Democratic Movement and African National Congress at the 90th birthday of IFP leader Mangosuthu Buthelezi. One can also see his jibes at ANC leadership (Figure 30) and disagreements with opponents, like the previously discussed clash with Pierre de Vos (Figure 12) and a clash with journalist Ferial Haffajee who was defending Treasury official Ismail Mamoniat after EFF member Floyd Shivambu attacked him, questioning why a non-African was representing Treasury in a parliamentary sub-committee meeting (Figure 31).

Figure 28: Mpofu (second left posing with UDM leader Bantu Holomisa to the left of him, DA leader Mmusi Maimane, to the right of him, and Zweli Mkhize from the ANC to the right of Maimane.

Figure 29: EFF sharing cake with school pupils

Figure 30: Mpofu making fun of ANC SG Ace Magashule

Speaking about the themes he focuses on Mpofu says:

> **Well it's mostly on the political side it would be issues about the future of South Africa, ideological issues on land, those kinds of issues. The legal stuff would be normally, I mean with the constitutional, human rights, public profile cases that are prevalent now in South Africa you always find that people have complete misconceptions about what has happened in court or what's about to happen or its implications, so I can clarify stuff like that. But again, inevitably that also gets into arguments of opinion, somebody might think that the judgement means this, someone else thinks that it means that, so I try to gently, without being overbearing, because if I bring in a soft way, but still accessible but still correct if misconceptions if there are any (D. Mpofu 2017, Interview, 01 December).**

Figure 31: Mpofu's Twitter spat with journalist Ferial Haffajee and members of the public over his defence of his EFF colleague Floyd Shivambu's attack on treasury official Ismail Momoniat

Ferial Haffajee @ferialhaffajee
#IsmailMomoniat began his serious activism in 1979
@FloydShivambu was born in 1983

I think we all owe each other the honour and duty of knowing each other's story before we attack and harm. We might find we are borthers and sisters in arms. 🙏🇿🇦✊✌

Dali Mpofu @AdvDali_Mpofu
This is the worst form of AGISM!Unbefitting of you Ferial

Whats the difference between your statement and:
1.U can't criticise apartheid unless you are black
2.U can't criticisise patriarchy unless you are a woman

Can u give us permission to criticize Verwoerd (born 1901)?

Russel Grinker @grinker1
Come on Dali, your guys screwed up. They're sounding like the worst, nativist, bantustan bigots. By all means criticise Momo's politics but not his "Indianness". The #Fanon you claim to love must be turning in his grave

Dali Mpofu @AdvDali_Mpofu
Bulldust!

Unlike you I have known Momo for more than 30 years

I worked with him in the UDF in the EARLY 80s..We were thoroughly assaulted by the SA Police in Lenasia on the day of the Tricameral "elections" in 1984

I have NEVER cared about his "Indianness",whatever that means!

4.3.5.2. Justine Limpitlaw

While Dali Mpofu largely uses his Twitter account to promote EFF activities and tackle his foes, Justine Limpitlaw uses her Twitter account, which has 3568 followers, to correct fallacies about the law, educate the public, cross racial and class barriers, and connect with people she may not have encountered in her white suburban middle-class life. She focuses on politics, media freedom, media independence, and she says she is particularly interested in "good governance and a pro-poor political agenda," which she elaborates as "a proper developmental state," completely focused on overcoming apartheid "that tackles equality genuinely" (J. Limpitlaw 2017, Interview, 5 December) - see her tweet of #LifeEsidemeni in Figure 32. As Limpitlaw's primary legal focus is on media freedom and communications and she is involved in NGO's like the SOS coalition set up to ensure the public broadcaster fulfils its mandate to the public, a number of her tweets and retweets are related to this (J. Limpitlaw 2017, Interview, 5 December).

Even though she could be considered a curator and gatewatcher of news related to the public broadcaster and media law, she does not just focus on media. Sometimes she

Figure 32: Limpitlaw's tweet on Life Esidemeni asking why South African officials could not accept responsibility as did this US homeland official

tweets about the music she's listening or the food that she's cooking. She does this because she believes South African's don't talk to each other; black and white friendships are rare because there's still such apartheid geography, so her Twitter interactions are about "sharing her life and of getting others' lives shared" which she finds quite interactive:

> **If I want it to go to a particular person, I retweet to that person. I look out for interesting people that say interesting things, and I quite like it if it isn't an echo chamber, which mostly it is. So, I'm looking for the non-echo chamber bit (J. Limpitlaw 2017, Interview, 5 December).**

4.3.5.3 Advocate Vuyani Ngalwana

Advocate Vuyani Ngalwana and attorney/musician Matthew van der Want use Facebook and Twitter to satirise and poke fun at what they see as politically correct orthodoxies, albeit from different perspectives. Ngalwana, whose Twitter handle is aptly called Scaramouche[25], stirs up minor and sometimes major skirmishes against the orthodoxy of neo liberal economics, tackles journalists and politicians, 'white monopoly capital', and the lack of transformation in the legal profession, as he did with his tweet on the failure of reconciliation in South Africa (Figure 33) which led to the General Council of the Bar distancing themselves from him (Etheridge 2018).

Figure 33: Ngalwana's Time for War tweet

[25] In the commedia dell'arte, Scaramouch was a stock character who was constantly being cudgelled by Harlequin, which may explain why his name is based on an Italian word meaning "skirmish," or "a minor fight." The character was made popular in England during the late 1600s by the clever acting of Tiberio Fiurelli. During that time, the name "Scaramouch" also gained notoriety as a derogatory word for "a cowardly buffoon" or "rascal."(Mariam-Webster 2018)

Ngalwana used to write a blog on constitutional issues titled Constitutionally Understood (Ngalwana 2014) to challenge Pierre de Vos, but as a practising advocate he did not have the time to write or publish regularly. He does occasionally write in mainstream media as he did in a *City Press* and News24.com column (Ngalwana 2018) expressing his disagreement with a majority vote by the General Council of the Bar (Ngalwana 2018).

Figure 34: Ngalwana takes on journalist Tom Eaton

Figure 35: Ngalwana's skirmish with journalist Sikonathi Mantshantsh

Ngalwana's Twitter feed is a catalogue of sarcasm aimed at mainstream media journalists (see Figure 34 and Figure 35), but he says his main theme and concern is the lack of differentiation between the three spheres of government, with the dangers of judicial over reach leading to political interference in the judiciary (V. Ngalwana 2017, Interview, 01 December).Ngalwana finds Twitter a much faster and more immediate platform to share his views than a long form blog or column, and his tweets follow an affective stream as described by Papacharissi and Deuze in that he tweets whenever he is moved to comment:

> **I don't keep track really. I don't go out of my way to think of an issue to raise every day. If it comes readily to me then I'll put it down and that's it. But in the past, this past week I've been posting at least once daily. Like I'd wake up in the morning with some idea and I'd put it down on Twitter or Facebook, but there's no pattern (V. Ngalwana 2017, Interview, 01 December).**

4.3.5.4. Matthew van der Want

Matthew van der Want, who is both a lawyer, a musician and songwriter (who still produces solo albums while practicing law), admits that he delights in the use of social media to convey content which he finds firstly entertaining; secondly funny; and thirdly good material to try and put across an image of the way that he practises law that might be different from the norm. For example, he posts ultra-serious photographs of himself in his court gown, looking very aggressive and saying "ready for the fight", being satirical, but also, by revealing his personality in these sorts of ways he manages to get a lot of work via Facebook (M. Van der Want 2017, Interview, 14 November).

Figure 36: Van der Want satirising lawyers' role

Figure 37: Van der Want recounting his experience in the Pretoria High Court, in a very self-effacing style

This approach is purposefully different from the big law firms who have communications teams to post "excerpts of articles or an article that is fairly useful, with a view to get people to click it and then contact them for more information" (M. Van der Want 2017, Interview, 14 November). For Van Der Want, law is very much personality driven and Facebook allows one to present either who you are or who you pretend to be. Van der Want's Facebook posts (see Figures 36 and 37) are honest, funny and thoughtful and typify Papacharissi's (2015) concept of affective news streams.

In direct contrast to Nerushka Bowan, Van der Want finds LinkedIn "excruciatingly boring", as he "really struggles with the restraint that seems to characterize it" adding that it is "very seldom that you see people being honest; really, everything is painted in this

sort of corporatized, self-aggrandizing light" (M. Van der Want 2017, Interview, 14 November).

The tweets, posts and engagements of 'The Social Butterfly' lawyers stray the furthest away from the conventional western liberal notion of journalism (Kovach and Rosenstiel 2001) with its fundamental elements of objectivity, verification, impartiality and independence. The only trait they exhibit is immediacy i.e. recording or retweeting the latest happenings as fast as possible. In their tweets and Facebook posts, 'The Social Butterflies' fit Deuze and Witschge's description of journalism as 'liquid' (2018: 176 - 177), in that it takes place in multiple contexts, both informal and formal across multiple platforms. What they do is what Zizi Papacharissi defined as the ambient, hybrid and 'produsedʼ practices of "liking, retweeting, liveblogging, endorsing, and opining" that are blended into social reactions to news events (Papacharissi 2014: 33). Their posts fit her term "liminality" the 'in-between' place and space that is occupied by the social media posts of both citizens and journalists flows of information as they experience, observe and report on events in the making driven by "intensity and not factuality, instantaneity and not graduality" (Papacharissi 2015: 35).

4.4. Conclusion

The digital activities of the lawyers in this study can be viewed in terms of what Deuze called "liquid journalism", in that their routines, practices, content, and roles are constantly shifting (Deuze 2008b: 859). As Anderson et al. (2012) wrote in their seminal review of the journalism profession at the start of the 21st century, journalism is transitioning from a more or less coherent industry to a highly varied and diverse range of practices. They suggested that "the journalism industry is dead but … journalism exists in many places" (Anderson et al. 2012: 76).

From the descriptions in this chapter of the varied content and social media engagement that the lawyers in this study have been actively involved in with regards to legal news, some of the places that journalism exists is on these lawyer's and legal NGO's blogs, websites and social media feeds. In this digital work, the lawyers in this study also approximate the affective news streams of "liminality", something that is moving fluidly through categories described by Papacharissi (2015) and they form part of the new more multi-faceted media ecosystem described by Anderson (2013) with its multi-directional

engagement described by Singer (2016). The range of content the lawyers produse online can also be viewed in the context of Barbie Zelizer's generously eclectic encapsulation of journalism as "a phenomenon that can be seen in many ways – as a sixth sense, a container, a mirror, a story, a child, a service, a profession, an institution, a text, people, a set of practices," (Zelizer 2017:31). While the lawyers are often too busy to perform *all* the journalistic functions of access and observation, processing and editing, selection/filtering, distributing online and interpretation described by Domingo (2008), the one function they all do perform is what Bruns (2018) described as "gatewatching" -the curatorship and sharing of content in their areas of expertise, either through hashtags or individual Facebook and Twitter posts.

The next chapter will explore the lawyers' motivations for their online content creation and engagement, and their understanding of how the roles they play either differ from, are similar to or complement the roles of journalists in this constantly shifting role - inter changing "liquid" digital media ecosystem.

CHAPTER 5

FINDINGS, MOTIVES AND ROLES

5.1. Introduction

In this penultimate chapter, I further explore the research question into what meanings a selection of South African lawyers make of their roles in the changing media ecosystem. As part of this exploration, I test my original theory that lawyers are creating content to fill the gap left by inexperienced journalists with poor knowledge of the law. I do this by discussing the eleven lawyers' varied stated motivations and their 'uses and gratifications' in terms of creating digital content about legal matters, drawing on the theoretical framework of uses and gratifications theory and social movement theory (Klandermans 1997, Crowston and Fagnot 2018). I also explore the question I raised in Chapter 1: why some lawyers actively engage online and others – indeed the vast majority of lawyers – do not?

Thereafter, the chapter explores the lawyers' critique of South African journalists' coverage of the court and legal matters, followed by an analysis of how the lawyers' understanding of what they produce online fits in with theoretical understandings of what journalism *is* and the role it plays in society. This segues into an adaptation of Hanitzsch and Vos's taxonomy of journalistic functions and roles into a spectrum of what I call 'everyday life'. This is opposed to their dichotomy of 'political' and 'everyday' domains, to accommodate descriptors for the journalist-like roles played by the legal practitioners who are non-journalist produsers in this study.

The chapter concludes with an extended discussion of whether the lawyers' online engagement constitutes what Chantal Mouffe called democratic public spaces, Habermas's notion of the public sphere or Bruns and Highfield's conception of public sphericules. Finally, the chapter explores how the selected lawyers digital produsage on legal matters might supplement or complement that of journalists.

5.2. Lawyers' Motives, Uses and Gratifications for Creating Digital Content

One of the methods for testing my initial theory that lawyers are creating sense making content to fill the gap left by inexperienced journalists with poor knowledge of the law, was to ask each of the eleven digitally active lawyers to elaborate on their motives for creating online content about the courts, justice and the law. The question that I asked each interviewee was open-ended but direct: *"Writing, sharing, linking explaining the law is over and above what you get paid to do - why do you do it?"* In addition, I also asked the four digitally disengaged lawyers why they steer away from digital platforms of engagement to create content and lead conversations about legal matters.

As discussed in Chapter 2, Crowston and Fagnot define 'motives' in the context of the likelihood to produce user-generated content as "factors that increase the probability that an individual will make a contribution" (2017: 89). Crowston and Fagnot found different motives for different stages of participation in Wikipedia editing. Initial, early Wikipedia contributions were driven by curiosity; more sustained contributions and current contributors are motivated more by intrinsic interest; and meta-contributions – very regular content creators or editors - increasingly by social motives. The 'Occasionals' and 'Regulars' in this study are respectively similar to Crowston and Fagnot's more sustained and meta-contributors in user-generated software (Crowston and Fagnot 2017: 98), with 'Occasionals' showing intrinsic interest in sense-making and explaining the complexity of the law in a way that the ordinary member of the public can understand; while the 'Regulars' are driven slightly more by social and political motives which they all describe in some way as defending and building democracy through engaging in the national conversation about justice. Many lawyers in this study corroborate Bert Klandermans' (1997) theory that the motivation to contribute to a social movement is higher, the more likely the perceived expected gains are attained. The lawyers conform in particular to the reward motives (Bert Klandermans cited in Crowston and Fagnot 2017: 92). These include pragmatic motives related to career advantages and marketing of services through building a profile as an expert (Pierre de Vos, Nerushka Bowan, Matthew van der Want); norm-oriented motives related to positive reactions of relevant others (Justine Limpitlaw); and hedonistic motives such as pure enjoyment of engaging on social media and writing (all).

Some of Anita Whiting and David Williams (2013: 366-367) ten uses and gratifications for using social media as discussed in Chapter 2 (See Figure 4) offer further insights into why some lawyers are particularly active on social media. Klandermans' theory of motivation and Williams and Whiting's uses and gratification will now be analysed in terms of the three categories of frequency of lawyers produsage discussed in Chapter 4: 'The Regulars', 'The Occasionals' and the 'Social Butterflies'. This will be followed by a discussion of why the four 'Digitally Disengaged' lawyers choose not to participate.

5.2.1. 'The Regulars'

As can be seen in Table 1, in the appendix, the driving motive behind all eleven lawyers in all three categories of frequency of produsage, is stated as the personal gratification they each derive from writing and engaging online. All of 'The Regulars' have social and political motives for creating digital content and they all, apart from Willie Spies, have what Bert Klandermans (1997) described as "pragmatic career motives" for produsing online. In other words, produsing online content is considered an extension of their professional work and helps contextualise their more regular and more prolific online engagement and produsage.

As outlined in Chapter 1, Pierre de Vos is one of the fiercest critics of sensationalist journalism and the omissions that the news media is guilty of in its coverage of the law. The motives he attributed for writing his blog and engaging with the public with regard to legal matters did not overtly support my original theory. De Vos's first reason for starting his blog was related to his frustration with the limited reach of his academic writing - and a suggestion from a judge for him to play a role in democracy by being a public intellectual. This political motivation led him to start the blog with a few short pieces, which then grew into more substantial, researched pieces in which he raises constitutional issues (P. de Vos 2017, Interview, 7 November).

Allison Tilley too is driven by what Klandermans describes as social and political motives - her belief in the fundamental importance of public understanding of the work, selection and performances of judges to a democracy.

Attorney Willies Spies's primary motive is more political, driven by the values that he wants to promote of "the rule of law, good governance, good mutual relations intergroup relations, the protection of property rights once again, and the protection of a culture of

mutual recognition and respect between the communities within the country" (W. Spies 2017, interview, 30 November).

Ntsiki Mpulo is very open about the fact that her primary motive for working at Section27 was financial and according to Klandermans' theory, her social media engagement is 'pragmatic', related to career advancement. But in the interview, she also has a clear social and political motive which attracted her to work for a social justice NGO.

The broad values of Section27 were aligned with her own interests i.e. using Section27 of the Constitution, which outlines socio-economic rights to fight for human rights for access to basic education and healthcare.

5.2.2. 'The Occasionals'

The motives for 'The Occasionals' are very similar to that of 'The Regulars', but as can be seen in their quotes in Figure 38, two of 'The Occasionals', Faranaaz Veriava and Dario Milo support my theory by arguing strongly that they decided to produse content about legal cases because inexperienced journalists were getting the facts wrong. As she works through the lens of her Section27 education rights portfolio as a strategist and advocate, Veriava has a more political and social motive, while Dario Milo has a personal gratification and social motive. For Veriava, engaging on social media and writing content online is part of her advocacy work and when she writes it is about "educating people" about their rights, legal literacy and public interest law (F. Veriava 2017, Interview, 28 November).

While Dario Milo writes columns and engages on social media because he derives personal pleasure from writing and teaching - Klandermans' hedonistic motive, and William and Whiting's' personal gratification - he is equally driven by a desire to get accurate legal content in the public because he believes there is a need to explain important issues for democracy in a way that is accessible (D. Milo 2017, Interview, 20 November).

Klandermans' pragmatic and career enhancing motive partly describes and helps explain why Nerushka Bowan started blogging and tweeting, as she uses her posts on social media and her blog to market her services and build her personal brand as a lawyer and as an expert in her field of law. However, she says the main reason she started blogging and tweeting was social, to help make technology and social media law more understandable to the public (N. Bowan 2017, Interview, 28 November).

5.2.3. 'The Social Butterflies'

All of the lawyers who I categorised as Social Butterflies *(*Dali Mpofu, Justine Limpitlaw, Vuyani Ngalwana, and Matthew Van der Want) often use social media for the expression of opinions - using social media to express thoughts, opinions and to vent. Dali Mpofu, Vuyani Ngalwana and Matthew van der Want occasionally do make and consume social media for entertainment i.e. they use social media for humour and comic relief. Justine Limpitlaw stands out as the only interviewee who uses social media for social interactions (Whiting and Williams 2013: 366-367).

Dali Mpofu's main motive for using Twitter has very little to do with the law and everything to do with promoting both his personal and political interests as the chairman of the EFF. This is a pity because with over 400 000 Twitter followers he could play a much bigger role in communicating to the public how the justice system and the law works.

The context that underpins Justine Limpitlaw's Twitter engagements is a sense of deep concern she feels for her future and that of her eight-year-old daughter, as a member of a very visible privileged white minority who benefited from her grandparents being invited from the UK to be part of a settler community. In the light of this, she says her main reason for engaging on Twitter is to have conversations, "just connecting, person to person, human to human" (J. Limpitlaw 2017, Interview, 5 December). What she likes about Twitter is that it keeps her involved in the world and allows her a level of interaction with a vast array of people that she just wouldn't ordinarily come into contact with (J. Limpitlaw 2017, Interview, 5 December). Her main motive is thus what Whiting and Williams (2013) describe as social interaction.

Vuyani Ngalwana's motive for engaging on Twitter is largely to share the opinions that he holds very dearly, without being fanatical. What he means by this, he says is that he engages "cerebrally but there are certain instances which call for pragmatism and so if you were to follow your cerebral engagement you will come up short" (V. Ngalwana 2017, Interview, 01 December). His gratification and need are in line with Williams and Whiting's notion of expression of opinion category.

Matthew van der Want's initial motive for posting on Facebook was pragmatic --aimed at promoting his legal practice and music, but the medium also enabled him to distinguish his private practice from the big monolithic corporate culture of commercial law firms where he "cut his teeth" (M. Van der Want 2017, Interview, 14 November). Part of the joy

he finds in this independence is the personal gratification, what Williams and Whiting call entertainment, which he calls **"**taking a bit of a delight in" poking fun on Facebook, which he could not do when he worked for the corporates. For Van Der Want, his primary motive for engaging on Facebook (apart from marketing) is because it is entertaining, and it allows him to be both humorous and provocative (M. Van der Want 2017, Interview, 14 November).

5.2.4. 'The Digitally Disengaged'

The reasons for the four legal practitioners I interviewed who do not engage on social media platforms or produse digital content with regard to legal matters and their work as legal practitioners, ranged from a distaste of what they saw as narcissistic self-promotion and of personal brand marketing by users of social media, and a dislike of what they saw as destructive spats on social media. Some also expressed a desire to uphold the independence of the judiciary and not to be seen to influence the outcome of cases. I suggest it is useful to categorise three kinds of *disengagers*: the *digital antagonist:* those who steer clear of any digital engagement, personally or professionally; *the personal connector:* only using social media to keep in touch with close friends and family; and the *lurker:* online, aware, but engaging infrequently or not at all.

Mabaeng Denise Lenyai, who is a member of the Black Lawyers Association and a member of the De Rebus editorial board, Law Society of South Africa, is a good example of the *digital antagonist* who avoids the digital space because she finds social media negative and hostile and she finds people are bragging, focusing on "the useless stuff, they are not focusing on what really matters" (D. Lenyai 2017, Interview, 30 November):

> **Like I say personally what I see there, people tend to lose their minds, they, it's like a trashing game, I don't understand it, I also don't understand this thing of following somebody, why would I want to see what you ate for breakfast? (D. Lenyai 2017, Interview, 30 November).**

The retired Judge I interviewed chooses not to communicate on social media or digital platforms with colleagues about cases that either he presided over or which his colleagues are presiding over because "language is not an instrument of mathematical precision and therefore people can often misinterpret" (Retired Judge 2017, Interview, 29 November).

He used the example of Judge Mabel Jansen [26]whom he did not really think meant to say that it is a part of the psychological and anatomical make up of African men to rape, but intended to say the majority of the rape cases that she presided over in the High Court largely had African accused. "So, you know, I do think that people can sometimes misinterpret what you try to paraphrase so I stay far away" (Retired Judge 2017, Interview, 29 November). Both Lenyai and the retired judge are typical *digital antagonists* who choose to stay totally offline, in both their private and professional lives, largely because they argue that the digital marketplace[27] of attention-seeking leads to misinterpretation and misunderstanding.

The *pro bono* attorney uses Facebook for personal use, to catch up with friends but steers clear of social media platforms for work. I have termed her a *personal connector.* She says she has never thought about engaging online with clients as "kinds of clients would not be clients that are on Twitter and Instagram, they may be on Facebook, but they certainly wouldn't be on Twitter or Instagram …" (A *pro bono* attorney 2017, Interview, 08 November), but on deeper probing she saw some lawyers who are active on social media as self-serving, who set themselves up as experts. She thinks that loneliness and perhaps a desire for positive reinforcement is a motive for some lawyers (A *pro bono* attorney 2017, Interview, 08 November). Similar to the retired judge, the other reason for her reluctance is that she would not want to appear in public prejudging a certain outcome and in that way trying to subtly or not so subtly influence the judge that is going to hear this case. She is happy to establish relationships with journalists that she trusts and passes on information about interesting cases, what she called "the old school way" as opposed to using social media. The *pro bono* attorney's offline method of engagement with journalism typifies the relationship that most lawyers still have with professional journalists and journalism.

Sheniece Linderboom a junior attorney at Section27, sees herself as an unapologetic 'lurker'[28] (Nonnecke, Preece, Andrews, & Voutour, 2004: 6), who uses social media to

[26] Judge Mabel Jansen resigned as a judge in 2017 after facing a judicial disciplinary process over private Facebook comments she made to a filmmaker Gillian Schutte about why there is a propensity of black men raping in South Africa. Jansen said the posts were related to the large number of rape cases she had presided over, but she faced a backlash on social and mainstream media (Chabalala 2017).

[27] In his book *The Marketplace of Attention (2014)*, James Webster explains how audiences take shape in the digital age. Webster claims, we typically encounter ideas that cut across our predispositions. In the process, we will remake the marketplace of ideas and reshape the twenty-first century public sphere.

[28] Lurkers according to Nonnecke et al (2004:6) observe, read and follow others online but they choose not to comment, engage or share

find out what other lawyers in her sector are doing, observe and keep abreast of trends and be exposed to completely new subjects, because she prefers not to expose herself in the online debates and hence has no desire to get involved in the conversation (S. Linderboom 2017, Interview, 28 November). As discussed in Chapter 1, Nonnecke et al. explain that many 'lurkers' get their needs met through observation rather than public participation (Nonnecke, Preece, Andrews, & Voutour, 2004: 6).

The four *digitally disengaged* legal practitioners provide some insights that might help explain why so few lawyers in South Africa choose to create content and engage with the public about legal matters online. The lawyers in this study who do create content that resembles journalism are *outliers*[29] whose practices, engagements and content could possibly pave the way for a new collaborative interface between journalism and lawyers. This will be further elaborated and reflected on in the conclusion to this study. As revealed by the range of diverse motives the legal practitioners have for their produsage and the needs and gratifications this served, it is evident that my initial gap-filling theory was far too simplistic. Only two of the lawyers in this study, Faranaaz Veriava and Dario Milo, explicitly cited their dissatisfaction with the way journalists cover the law as their *primary* motive for produsing online content. As will be discussed next, it will be seen that most of the lawyers are critical of the way the law is covered and court cases are analysed by the media and this view certainly colours their engagement on social media and their reasons for doing so.

5.3. The meanings lawyers make of journalism roles

In *Tables 2 to 5* (See appendix), the lawyers are organised into the four categories of digital engagement frequency: 'The Regulars', 'The Occasionals', 'The Social Butterflies' and 'The Digitally Disengaged' and they explain their understanding of what is good journalism. In addition, they share their views on what they think of the quality of journalism on legal matters, the coverage of court cases on all levels and the level of knowledge and understanding that journalists have about the law. They then discuss whether those lawyers who do create online content and engage about legal matters on social media are playing any kind of role that resembles journalism online and whether

[29] This term is not used in a statistical quantitative analysis sense, but strictly in terms of the Merriam-Webster dictionary definition b: a person or thing that is atypical within a particular group, class, or category https://www.merriam-webster.com/dictionary/outlier

more lawyers should get involved in playing journalism roles or contribute to improving public knowledge about legal matters by working in collaboration with journalists. Finally, they discuss their views on whether digital media opens up democratic spaces, or provides a forum for multiple voices to discuss legal matters that are in the public interest.

5.3.1. Lawyers critique of how South African journalists cover legal matters

While only two of the lawyers (Dario Milo and Faranaaz Veriava) explicitly attributed their motive for produsing content about legal matters and court cases online to 'fill the gap' created by the lack of experience, skills and knowledge in the news media, the majority of lawyers in this study i.e. ten out of the eleven digitally engaged and all four of 'The Digitally Disengaged' lawyers definitively argued that journalists' coverage of the court and law beat was lacking in some way (see Tables 2 to 5, second column from the right).

The lawyers did praise a handful of legal journalists who were mentioned for their well-researched, accurate and knowledgeable reportage and sense-making of court cases –these included veteran journalist Carmel Rickard who now writes a column for the Tiso Blackstar paywall business site *Business Live*, former *Business Day* journalist Franny Rabkin, who no longer reports as she is now a news editor for the *Mail & Guardian*, *The Independent's* Zelda Venter, Netwerk 24's Jean Marie Versluis and radio journalist Barry Bateman from 702. But they all mentioned a need for more journalists to be trained in understanding how the law works, with Advocate Vuyani Ngalwana going so far as suggesting a need for journalists covering the law to have a law degree, like journalists in India who cover the Indian supreme court.

Some of the lawyers' i.e. Matthew van der Want, Vuyani Ngalwana and Dali Mpofu's critique referred to the media's middle-class bias which could be construed as supporting a particular 'white monopoly capital agenda' (M. Van der Want 2017, Interview, 14 November; D. Mpofu 2017, Interview, 1 December; V. Ngalwana 2017, Interview, 1 December).

The interviewees were often critical of the media's omission to cover less sensational criminal cases, constitutional cases or human rights, family and succession law and civil cases, that affect the poor majority in areas outside of the main metropoles (Pierre de Vos, Denise Mabaeng Lenyai, Dario Milo, Sheniece Linderboom and the retired judge). Attorney Nerushka Bowan also pointed out that areas of the law that might be of import

and interest to business people in the middle class, such as new technology law, commercial law and privacy law, are also barely covered by the media. Additional critiques included journalists' reliance on Facebook and social media as sources, as opposed to actual interviews (A *pro bono* attorney), a lack of research, lack of scrutiny, follow up and investigation of issues that emerge from judicial selection at the Judicial Service Commission (Allison Tilley), lack of depth and critical analysis (Pierre de Vos, Dario Milo, Faranaaz Veriava and Ntsiki Mpulo).

The only lawyer who thought journalists were doing a great job of covering the law in the Pretoria High Court in particular was Attorney Willie Spies. This might be explained by his focus on one particular senior court in the country's capital, which would be assigned to senior journalists from the media houses.

5.3.2. The lawyers' view of the role of good journalism and whether they in any way play this role online

All the lawyers in the study believe that journalism's main role is public service, to act as watchdogs, educators and disseminators of accurate information to the public. Key to their understanding of 'What is good journalism?', (as seen in the first column on the left of tables 2 to 5) is 'objectivity': (what they call 'fairness', 'balance'), the necessity of autonomy (journalists are 'independent', un-influenced, and what Allison Tilley described as 'dispassionate') coupled with the traits of immediacy, described again by Tilley as 'timeous and concise' and the routines of verification which they often refer to as 'fact-checking' and 'accuracy' , all of which as discussed in Chapter 2 is key to Kovach and Rosenstiel's (2001) description of the main traits of journalism. Several of the digitally engaged interviewees viz. Pierre de Vos, advocates Dali Mpofu and Faranaaz Veriava, attorneys Dario Milo and Justine Limpitlaw and Section27 communicator Ntsiki Mpulo also emphasised the importance of journalism to make sense of current events and provide informed analysis, to go beyond reporting what happened to explain how and why it happened and of what relevance it is to a citizen/consumer.

All 'The Regulars', except Willie Spies, all 'The Occasionals' and three of the 'Digitally Disengaged' (except the *pro bono* attorney) acknowledged that the online sense-making work on the blogs, websites and sites like *The Daily Maverick* of lawyers like Pierre de Vos, Allison Tilley, Dario Milo and Faranaaz Veriava could be construed as being part of the journalism landscape or ecosystem.

As De Vos aptly described it:

> **We are a small part of a bigger picture. So, we do that part that we can do, but it is a small aspect of the bigger picture, so we try, maybe not always successfully, but we try and do that (P. de Vos 2017, Interview, 7 November)**

Allison Tilley, who reluctantly accepted that what she did was related to journalism, made the distinction that while journalism has "that long leash, that you just run, and you find the story and you run after it," practising lawyers do not have to do that 'running after', partly because they can't, because of their other commitments (A. Tilley 2017, Interview, 06 November). She explained that what she and her team at Judges Matter do is desktop work and analysis, for example she mentioned that there were at least three stories at the last round of the judicial service commission hearings which should have had investigative journalists working on them. She passed on tips to investigative journalists she knew but at the time they were too busy with bigger investigations like that into state capture. What she believes distinguishes what Judges Matter does from what journalists do is the legwork and digging. As she says:

> **And all I can do, I can put the stuff up there, but I can't take it any further. There is some stuff I can do, I have got a researcher and we can do some work. But it will be desktop stuff. And actually, somebody needs to go and get out in a car and drive round and find out what's going on … (A. Tilley 2017, Interview, 06 November).**

Despite some hesitance to view what they do as being anything like journalism, all of 'The Regulars' and 'Occasionals' both create and contribute towards the journalism 'ecosystem' of Anderson (2013) as cited in Steensen and Ahva (2015:1). As an illustration, Tilley's work at Judges Matter breaks news, provides analysis in the very accessible, easy to understand form of infographics and video clips, includes well-written, verified and researched features, in addition to facilitating a platform for debate and engagement on the topic of the importance of judges and their selection on YouTube, Facebook and Twitter. This work fits into the broader reconceptualisation of the way journalism is made and the way it is consumed, as described by contemporary digital media theorists like Peters and Broersma, Anderson and Russell as cited by Steensen and Ahva (2015:1).

All four of the 'Social Butterflies', Willie Spies of 'The Regulars' and the *pro bono* attorney of the 'Digitally Disengaged' had great reluctance to associate their opinion

writing, and even more so their social media 'engagement', with audiences as part of the journalism ecosystem, only going so far as calling lawyers' like de Vos and Milo's column writing as 'legal analysis' or 'legal interpretation' (see column 3 of Tables 2 to 5). Spies said the similarity between lawyers, journalists and priests was that they all engaged with words and texts, but they do not perform the same role.

> **A lawyer promotes his client's case; a journalist needs to report on it objectively…Writing an article every second week is not journalism, that's an opinion piece. An opinion piece is not journalism. Journalism is filtering through facts and creating a story that stands on its own legs, writing an opinion piece is not that, so I do not see what I'm doing as journalism. It's linked to journalism but it's not journalism. I'm contributing to the national debate (W. Spies 2017, Interview, 30 November).**

As we know from the various research studies into the contemporary digital media landscape discussed in Chapter 2, Spies's understanding of what journalism is, is only part of the fuller picture. This is because not only his bi-weekly columns, but his tweets and Facebook posts - which are both opinion-based and often also explicitly factual, albeit slanted to his political bias as was shown in the samples of his posts in Chapter 4 - can be considered to be part of the multi-layered contemporary media ecosystem. All of the digitally engaged lawyers in this study are part of the ecosystem which Bruns described as comprising professional journalists, non- professional news users, citizen journalists, politicians, celebrities, experts, niche authorities, ordinary users, platform operators, designers, algorithms, who interact on social media platforms (Bruns 2018: 8). All four 'Social Butterflies', who also do not consider any of their social media engagements as part of a news media ecosystem, fit Bruns's description of news users who along with journalists play the roles of gatewatcher, news-sharer, and news curator. This is done within the spaces operated by the major social media providers, which affect how they can post, find, access, share, curate and otherwise engage with news, rumours, analysis, comments, opinion, and related forms of information (Bruns 2018: 11). The lawyers' news sharing follows on naturally from what Bruns dubs 'gatewatching' processes through which users come across new news stories; decide on whether these items warrant further dissemination to their own "personal publics" i.e. their Facebook friends or Twitter followers or whether they are "shareworthy" as well as newsworthy. Quite a few of the digitally engaged lawyers in this study, who are consistently active in news sharing

activities, are exemplars of the "niche authorities" role that Bruns proposes, i.e. they are known and respected for their news curation efforts on their topics of interest and expertise (Bruns 2018: 5).

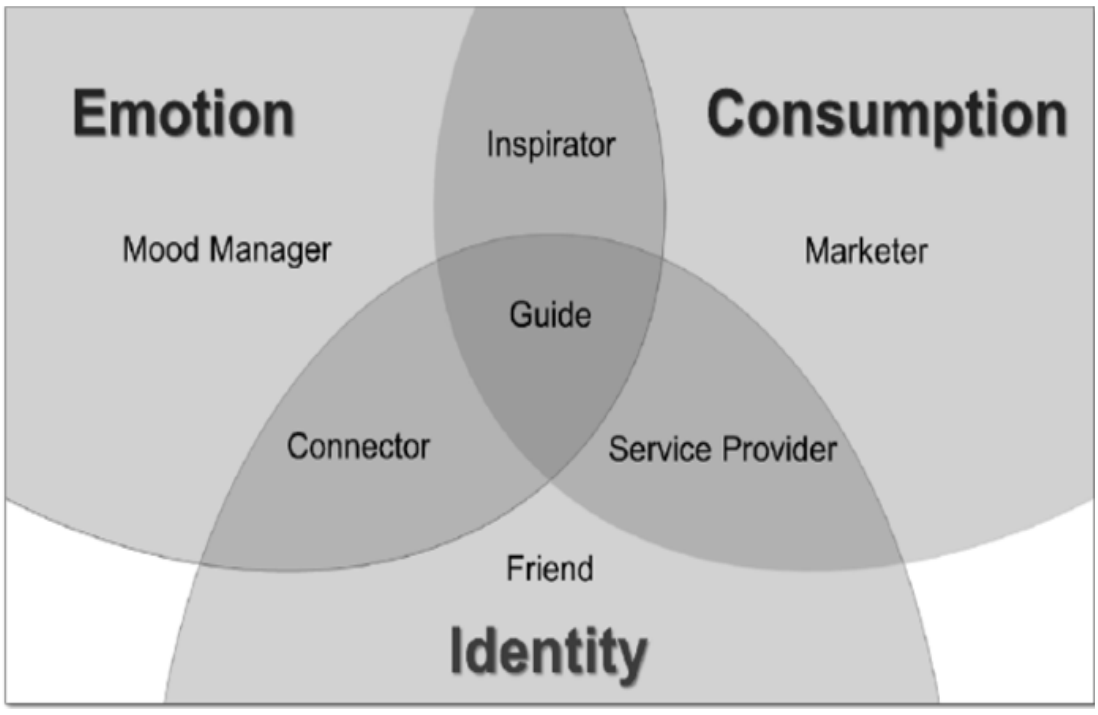
5.3.3. Adaptation of Hanitzsch and Vos's Functions and Roles of Journalism

As outlined in Chapter 2, an attempt was made by Hanitzch and Vos to create a more inclusive classification of journalism roles, so that journalism's relevance to the domains of political and everyday life in a contemporary digital media ecosystem is better articulated (2018). The authors identified 18 roles addressing six essential higher functions of journalism in political life viz: Collaborative-Facilitative, Informational-Instructive, Analytical-Deliberative, Critical-Monitorial, Advocative-Radical and Developmental-Educative (see Figure 38) and seven roles in the domain of everyday life that map onto three distinct areas: consumption, identity, and emotion (see Figure 39). As discussed in Chapters 1 and 2, Hanitzsch and Vos's attempt to create a more inclusive classification of journalism roles, does not, in my view, go far enough.

It still privileges the more political forms of journalism over other forms like lifestyle, inspirational and advisory forms of journalism. This is not a study of journalists but of lawyers who's practice in some ways resembles functions and roles normally performed by journalists, however I suggest it is worthwhile to take Hanitzsch and Vos's attempt to dispense with the public-private binary further. This can be done by viewing journalism and journalism-like roles through the lens of journalism as a liquid, ever-changing kaleidoscope of what Barbie Zelizer described as a "phenomenon that is rich, contradictory, complex and often inexplicable" (Zelizer 2017:31). This kaleidoscope shapes and shifts in multi-coloured fractals, to serve the social, political, economic and deeply private individual needs of audiences as both consumers and in some instances, as is explored in this study, as produsers or co-creators. To achieve this, I propose to dismantle the public/private dichotomy and amalgamate Hanitzch and Vos's six political order functions and roles for journalists (see figure 38) with his areas of consumption, emotion, and identity (see figure 39). This will create a new spectrum (Figure 40) which puts the political and the everyday at the same level of importance in a spectrum of eight high order functions and expands on existing functions to incorporate the everyday into the political.

Figure 38: Hanitzsch and Vos's journalism functions and roles in political life

Figure 39: Hanitzsch and Vos's areas of Emotion, Consumption and Identity and roles in everyday life



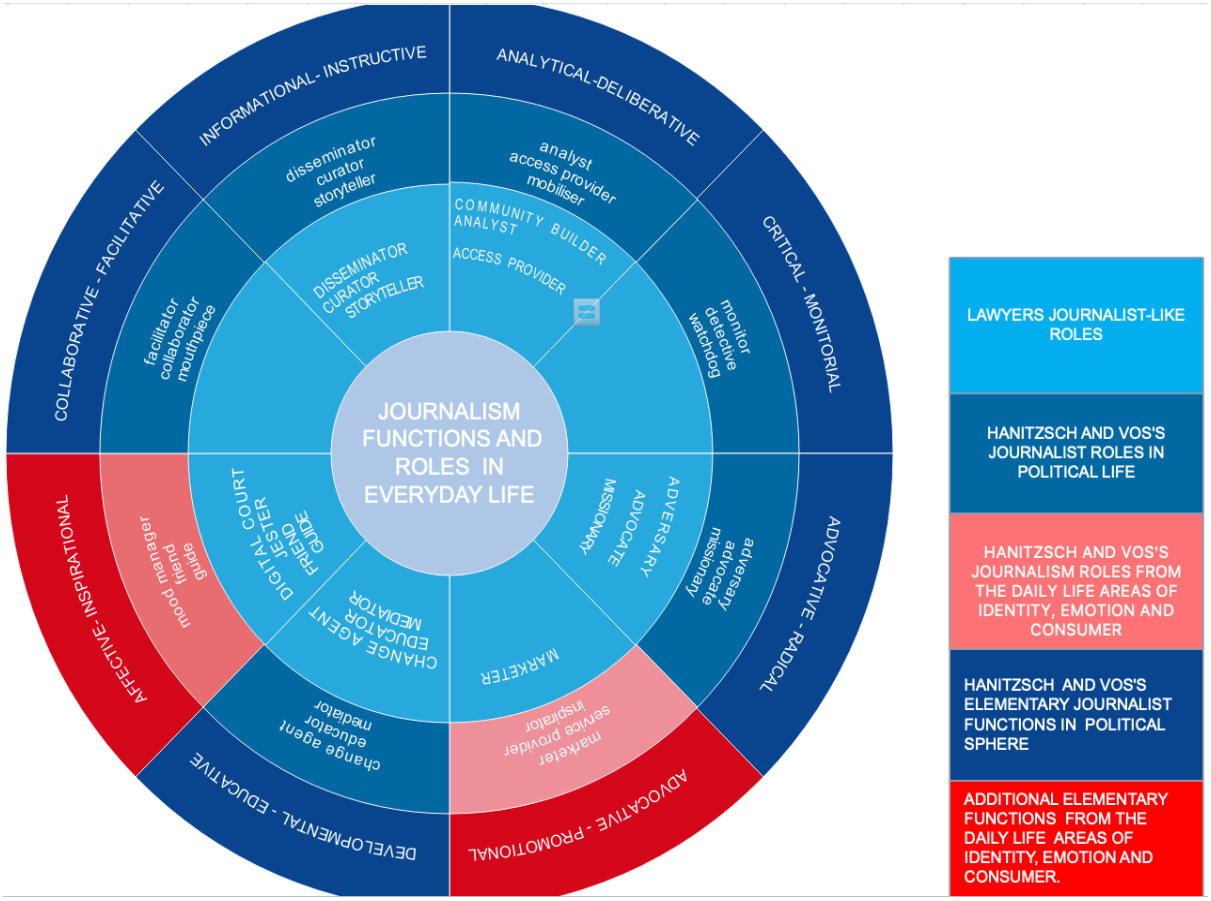


Figure 40: Adaptation of Hanitzsch and Vos's Functions and Roles into 8 Functions of Everyday Life

I try and frame this complex kaleidoscope within the lived context of the eleven digitally engaged legal practitioners in this study, who all in some way serve eight of the ten journalism functions in the spectrum I created. There are two functions that Hanitzsch and Vos determined in their taxonomy: the *collaborative-facilitative* function (Hanitzsch and Vos 2018: 156) on the one hand and the *critical-monitorial* function on the other hand (Hanitzsch and Vos 2018: 154) that none of the lawyers in this study believe they serve.

The *collaborative-facilitator* function with the roles of *mouthpiece*, *collaborator* and *facilitator*, are most associated with journalists in parts of Eastern Europe, The Middle East, Asia and Africa, who play a role serving the developmental or other agendas of governments by acting as mouthpieces, facilitators and messengers of government's plans or other social cohesion projects. None of these roles were performed by any of the lawyers in the study, nor did they perform much or any of the *critical-monitorial*

Figure 41: Hanitzsch and Vos's journalism roles in daily life.

HANITZSCH AND VOS'S JOURNALISM ROLES IN DAILY LIFE

1) The Marketer: Promotes lifestyles and purchasable products of various kinds
2) Service Provider:offers practical information and advice on services and products
3)The Friend: As a companion helps people navigate the complex world of relationships
4)The Connector: Connects people to each other other and communities by providing a sense of belonging and by contributing to shared consciousness and identity.
5)The Mood Manager: Helps manage and regulate emotional well being as an entertainer or provider of positive experience.
6)The Inspirator: Provides inspiration for new lifestyles and products, linked to positive attitude towards life.
7)The Guide:Provides orientation in a multi-optional world in daily life.

(Hanitzsch and Vos 2018: 159)

function, the 'iron core' of journalism that most people associate as journalism's primary roles as *monitor, detective* and *watchdog*. It is the fact that the lawyers recognise that they do not perform this essentially traditional liberal western *critical-monitorial* journalistic role (Kovach and Rosenstiel 2001), that the lawyers hesitate to see what they do, including their sense-making, educating, community building, and entertaining, as being a part of a spectrum of journalism roles.

The two new high-level functions (see red categories in the outer ring of the circle in Figure 40 were created from Hanitzsch's area of consumption, emotion and identity. I have called these two proposed new functions *affective-inspirational* and *advocative -promotional.* These are worth examining in some detail.

5.3.3.1. The AFFECTIVE-INSPIRATIONAL function is elevated from Hanitzsch and Vos's areas of identity and emotion area (2018:159). I have adapted The *mood manager* (see Figure 41-5) role to better describe what two of the lawyers in this study do, which I reframed as a *digital court jester.* The *digital court jester* provides entertainment and comic relief through use of satire, poking fun at and challenging social norms or orthodoxies, parodying both themselves and people in the news, be they celebrities or the powerful. Advocate Vuyani Ngalwana plays this role on Twitter and attorney Matthew van Der Want plays this role on Facebook. This role is linked to what they both describe as their motives for engaging online (Table 1): Ngalwana's "stirring crap" and Van Der Want's seizing the opportunity to be "fun and quirky".

The other two journalism roles I have identified from Hanitzsch and Vos's roles in daily life for the affective-inspirational function are *the friend* and *the guide* (see Figure 41). As described in her motives for online engagement in Table 1 and in her further elaboration of her motives, Justine Limpitlaw plays *the friend* role online. She uses Twitter to better understand people from different social and cultural backgrounds and help people navigate life's challenges. In their different ways all the digitally engaged lawyers who are active on social media also play *the guide* role on Facebook and Twitter, some overtly and others less so by acting as navigators or interlocutors of the arcane legal world for members of the public they engage with.

5.3.3.2. The ADVOCATIVE-PROMOTIONAL function adapted from Hanitzsch and Vos's consumption area, sees journalists select particular consumer products or services and advocate or endorse them through reviews, listicles be it fashion, or beauty products, technology, car and product testing and comparison, apps, services or travel destinations. While the *radical advocative* function, which will be discussed later, sees journalists participate in advocacy for social and political change, the *promotional-advocative* function sees journalists actively advocating commercial and consumer products and services. This function always existed in lifestyle and consumer magazine journalism but has grown in quantum leaps with the mushrooming of social media, blogs and websites.

Three roles defined by Hanitzsch and Vos from daily life (see Figure 41) fit in this category: 1) *the marketer*; 2) *the service provider*; and 3) *the inspirator.* While it could be argued that all the lawyers in this study use their online engagement and content to promote their personal brands and expertise, two lawyers, Matthew Van der Want and Nerushka Bowan admitted (see Table 1) that they aim to and successfully play *the marketer* role to promote their expertise and legal services on social media platforms. Van Der Want effectively uses his satirical Facebook posts and Bowan uses her LinkedIn posts to secure clients, i.e. to promote their business. This explicit marketing might differ only subtly from the more implicit and generalised 'promotional' advantage the other lawyers get from engaging on social media/blogging etc., but it is an important distinction to make.

5.3.3.3. THE ANALYTICAL-DELIBERATIVE function pertains to journalistic roles that are more active and assertive by making a direct intervention in political, civic, social economic, community, identity or consumer discourse. This is done by engaging the audience in public conversations, by empowering people and creating a sense of

belonging, mutual support and identity through participation and engagement in public spaces and by building communities around shared interests and concerns. This expansion of Hanitzsch and Vos's definition, which was restricted to political deliberation, takes into account the intersection of identity and emotion, connects the members of the audience to their communities and to society in the broadest sense, by providing a sense of belonging, and by contributing to shared consciousness and identity. Hanitzch and Vos's *analyst* role associated with this function is primarily focused on providing analyses of events in the news and in the case of the lawyers in this study on events in the news related to the law, court cases, judgements, precedents and judicial commissions of enquiry. It places a strong emphasis on subjectivity and opinion, by tracing causes and predicting consequences. Pierre de Vos plays this role on platforms like *The Daily Maverick* and Willie Spies does so on Netwerk 24 and Marula Media. The *access provider* role Hanitzch and Vos describe in the political domain is expanded to the everyday and features participative elements by providing a platform and a forum for people to express their views on all matters. Thus engaging the people in public conversation by giving various stakeholders in society a chance to articulate their interests and thus contribute to public deliberation.

In relation to this study, the forum provided is to discuss legal matters in particular. Allison Tilley plays this role very effectively with regards to everything to do with judges, their selection at the JSC, their conduct, and their past judgements on all the Judges Matter platforms. *The Mobiliser* proactively encourages audience members to participate in the political domain, acting as agents of empowerment and inviting people into civic activity. While *the connector* connects the members of the audience to their communities and to society in the broadest sense, by providing a sense of belonging, and by contributing to shared consciousness and identity. For this study, to describe the role of two of the participants I have combined Hanitzsch's *connector* and *mobiliser* to create what I call the *community builder.* The *community builder* proactively recruits and encourages members of a community to participate in activities that create a sense of purpose, belonging and solidarity, empowering communities to actively engage in activities that are beneficial to them as individuals and as a community. Section27 communications specialist Ntsiki Mpulo plays this role with Section27 community members on Facebook, on the Section27 newsletter and website. Willie Spies plays this role with likeminded Afriforum members on Facebook and Twitter.

5.3.3.4. THE INFORMATIONAL INSTRUCTIVE function, according to Hanitzsch and Vos, pertains to the idea that citizens need to have the relevant information at hand to act and participate in political life. Central to this function is the understanding of journalism as an exercise of information transmission, information (re-)packaging, and storytelling. My inclusive adaptation of this expands the definition of the *informational-instructive* function to the idea that people as individuals, members of groups and communities, consumers and citizens need to have the relevant information at hand to act and participate in daily life. Central to this function is the understanding of journalism as an exercise of information transmission, information (re-)packaging, 'gatewatching' and storytelling. The roles associated with this function are the *disseminator*, *curator* and *storyteller.* The *disseminator* function is based on the idea that as journalists should, and can, report things 'as they are', they tend to see themselves as detached bystanders, adhering to strict neutrality. Journalists then often depend on official sources, serving society in the capacity of an 'official register' or a 'minute taker'. Allison Tilley who disseminates anything to do with the Judicial Service Commission on Twitter, Facebook, YouTube and *The* Daily *Maverick* plays the *disseminator role.* By video or audio recording important interviews with potential candidates for the judiciary and publishing them on The Judges Matter website so that the public can scrutinise prospective appointees at a later stage when they are appointed and the videos of what judges say in their interviews are saved for posterity and can be scrutinised at any stage by journalists or researchers or any many of the public.

Indeed, all the digitally engaged lawyers i.e. 'The Regulars', 'The Occasionals' and 'The Social Butterflies' play *the curator* role by what Bruns called 'gatewatching'. That is finding, organising, contextualising and sharing the most relevant content in their areas of legal specialisation for their various audiences. Hanitzsch and Vos's *storyteller* or *narrator* role puts the world into perspective by providing explanation, background and context. It could be confused with the *analyst* role but it differs in that it is not opinionated and subjective but places the news of the day into larger narratives that extend over time, taking into account the past, present and the envisaged future. Ntsiki Mpulo, from Section27 plays this role with her articles on GroundUp. Allison Tilley, Faranaaz Veriava and Dario Milo also play this role with their legal explanatory pieces on *The Daily Maverick.*

5.3.3.5. The ADVOCATIVE-RADICAL function according to Hanitzsch and Vos, compels journalists to conceive of themselves as 'participants' in political discourse who bring an

ideological bias to the discussion. My slight adaptation to their definition expands this participation to include group or individual identity, social, economic struggles, in addition to political struggles. A defining feature of this function according to Hanitzch and Vos is the journalist's position toward loci of power in society and I would add that this power could be political, economic religious, cultural or social.

The adversary role is played by journalists who pose as a countervailing force to authority and who position themselves as the mouthpiece of the people. Advocate Dali Mpofu plays this role on Twitter to his more than 400 000 followers. His adversarial stance is embedded in his role as chairperson of The EFF. Additionally some of his adversarial engagements, such as his spat with Pierre de Vos, are related to cases he is working on and other cases that he may not be working on but have wider constitutional implications. Advocate Vuyani Ngalwana also plays this role on Twitter, but his tweets and comments are not always aligned to any political party agenda.

According to Hanitzsch and Vos, *the advocate* role applies to journalists who act as spokespersons for specific groups of people and their causes. Identification with group, acting as campaigner, lobbyist, voice as a supporter for a specific cause. Section27 Advocate Faranaaz Veriava and Section27 Communications officer Ntsiki Mpulo play this role on behalf of social justice campaigns championed by Section27 on the Section27 website, on radio, Facebook, Twitter and a variety of digital and traditional media platforms. The *missionary* role according to Hanitzsch and Vos, is primarily about the promotion of particular ideals, values and ideologies. Different from the advocate, the missionary does not act on behalf of others but engages in campaigns out of a personal motivation. Journalists embracing this role may propagate a certain political ideology or cultural, spiritual and moral values. Willie Spies admitted to playing this role when describing his motives for his online engagement on Facebook, Netwerk24 and Twitter:

> **I'm an activist apart from the fact that I'm a lawyer so my engagement, or my driving force is my activism and my opinions and my convictions. The values that I want to promote are the rule of law, good governance, good mutual relations intergroup relations, the protection of property rights once again, and the protection of a culture of mutual recognition and respect between the communities with the country, those are more or less the values that I would like to promote and that I would say is more the driving force for my social**

media engagement than being a lawyer (W. Spies 2017, Interview, 30 November).

5.3.3.6. THE DEVELOPMENTAL-EDUCATIVE function, in Hanitzsch and Vos's spectrum, compels journalists not to stay apart from the flow of events but to participate, intervene, get involved and promote social change by intervening beyond the discursive realm of journalism by promoting real-world change. This breaks down into these roles: the *change agent* role foregrounds quality of life, social equity, citizen participation in public life, and human development, which is an apt description for the work that Ntsiki Mpulo does at Section27 as a communicator, journalist and activist. Media lawyer Dario Milo, when discussing his motives for his digital writing and engagement, said that he sees himself playing *the educator* role which involves teaching the public, raising public awareness and knowledge about a perceived problem, *(*see Table 1*)*. *The mediator* role is primarily concerned with social integration and reducing social tension serving as a bridge, especially in heterogeneous societies by reinforcing social harmony and attachment to society, by forging commonality of values, and by contributing to conflict resolution. Justine Limpitlaw plays this bridge-building role across class and culture on many levels with her Twitter interactions. Sometimes her legal expertise is used to clarify matters that might be a cause of conflict or misunderstanding.

This extrapolation and expansion of Hanitzsch and Vos's functions and roles to include non-journalist produsers, allows us to see that even though they might not always consider themselves doing journalistic work, they are actually complementing and adding their expertise to the broader news media ecosystem. They do this by performing occasionally or often, simultaneously or at different times or contexts, one or many of the roles that journalists play with their social and digital media produsage.

5.4. Are the lawyers contributing to opening up democratic public spaces?

Part of the impetus for this study was to assess the impact of the digital fragmentation of news and news platforms on the core role of journalism to facilitate democratic discussion or deliberation on important common public concerns. In line with this, all of the lawyers were asked whether they thought digital media and social media in particular 'opened up' spaces for democratic participation. There were four responses to this question. Firstly, as can be seen in

the final column on the far right of Tables 2 to 5 in the appendix, practically all of the lawyers acknowledged that social media and chat platforms with their interactive, dialogic capabilities have opened up digital democratic spaces for many more voices to have a say. Voices that may not have been heard when private media companies and the public broadcaster monopolised the discourse through their dominant reach. As Allison Tilley put it:

> **I think it allows people to talk directly to other groups of people in a way that they imagine is less managed than through media, formal media, so they imagine that it's truer, it's not truer but its feels truer because it's my peers, and my colleagues… (A. Tilley 2017, Interview, 06 November.)**

The second response reflected a wariness with the balkanisation and polarising effect of social media, which lawyer Dario Milo described as an "echo chamber" of one's own likes and dislikes, and one's own biases which prevents real deliberation and debate with those who might have a completely different take or world view. Milo, for example, would not encounter Willie Spies because he doesn't follow Afriforum. As he explains:

> **So, I think we are selective a bit naturally as to what we follow and there will be that element of the echo chamber coming through you know listening to voices that we want to hear. I'm not sure how much it's opened up democratic space certainly for the masses. I think for the middle class and upwards it's a great way of engaging and of being able to express your view provided you can find someone that will listen to it, but I don't know if it's really at across the board democratising effect (D. Milo 2017, Interview, 20 November).**

Willie Spies laments the fact that the personal publics which South Africans have as Facebook friends or Twitter followers generally follow old racial networks of black and white, which means the country remains polarised. However, he also dubbed social media "the people's parliament", which opens democratic space in the sense that you get more honest views of people. Despite coming from diametrically opposite poles of the political spectrum, Spies echoes Mouffe's notion of democracy when he says:

> **...democratic space is not always space where people start relating to each other, democratic space is often space where people are polarised. If I use the example to support that, if you look at parliament with the different political parties within parliament, the one thing that I learned from being in**

parliament is that political parties need to distinguish themselves at all costs so …where normal people normally try to find compromise in talking to each other, politicians try to distinguish themselves from the rest by what they're saying. It's funny and it makes politics a very different ball game, that's why many people would say politics is dirty but it does open up the democratic space, it goes with stress and it goes with tension, but together with that tension the democratic space is also developed (W. Spies 2017, Interview, 30 November).

Mouffe emphasises that democracy is not about trying to put together all the different views that are present in society but "should create the conditions for the conflict to find its expression in agonistic (respectful conflict) terms, avoiding that it becomes antagonistic" (Carpentier and Cammaerts 2008: 10). As discussed in Chapter two, Mouffe's notion of radical democracy, which accepts and indeed depends and thrives on difference, dissent and antagonisms to challenge oppressive power relations captures the dissent and conflict on active social media fora like Twitter.

The third response to the democratic public space created by social media is its irrationality, which is the main deterrent to participation by 'The Digitally Disengaged' like Sheneice Linderboom and Denise Lenyai. Lenyai said she avoided social media because of its hostility:

People don't think before they write, they just say what comes and the main point is to try and hurt the next person but what they don't realize is that once it is on Twitter and it goes viral everybody can see that and that becomes your opinion and that's why a lot of these people get in trouble, they get held in court for all sorts of ...and they don't understand how significant and important it is to be careful of what you write and what you post because now there are laws that are being formulated to deal with these things (D. Lenyai 2017, Interview, 30 November).

Nerushka Bowan reflects that while social media gives people a place to put their point of view across, "people just become very dumb on social media, they cross the line, become racist…" (N. Bowan 2017, Interview, 28 November). She refers to *Cyber Psychology* a book by Dr Mary Aiken which talks about why people act differently on social media.

Dr Aiken explains that what someone would say to you in your face and what they would say to you on Twitter are completely different things, because of working on a screen leads to a similar loss of inhibition you have when you drink alcohol. The screen acts almost like a safety net, your inhibitions lower, and then you type things really without thinking because you've lowered that inhibition level (N. Bowan 2017, Interview, 28 November).

Pierre de Vos adds that some people are never going to be prepared to engage in any rational debate, "some people just shout, and they are not persuadable by facts, it's emotions." However, he chooses to engage because he reflects that "like an atom, there is a core where there is rational debate and then there is all the noise outside and that can sort of shift along with the core, so the madness can be toned down slightly by the rational debate in the middle." De Vos elaborates further:

There will always be all the shouting and the screaming but there comes a point, maybe also with the help of what is happening in the courts where people stop saying "it was a fire pool". And because everything that has happened in the media, on the social media it has moved the debate, it has dragged those people who are not prepared to admit to anything, slightly away from the dark side (P. de Vos 2017, Interview, 7 November).

Both de Vos and Matthew van der Want say the closest public space to the rational public sphere that Habermas spoke about is the courtroom, where people and even political parties feel it is really possible to have a real reasoned debate based on facts and principles. Van Der Want says he has become increasingly uncomfortable with social media being used to address issues like the viral #metoo global anti-rape campaign because he is not entirely sure they are appropriately addressed on these platforms. He relates the example of his friend and fellow musician Jennifer Ferguson posting about her alleged rape by ANC politician Danny Jordaan on Facebook.

Because firstly rape in a criminal law context is a very problematic crime, it involves one person's subjective, what was going on with one person, and the perpetrator's subjective as to his intention…. It is very hard to prove and very difficult and women have a horrible time in court with it. So what Jennifer is saying is that that's broken so we need to find another way to address this. And in some ways for me as a lawyer I find that a bit dangerous because …once

> **you forsake the law as not being the ultimate thing that is going to set things right, even if it is flawed, and difficult, and sometimes horrendous, and sometimes even unjust, once you reject the law as a way of resolving crime basically, I don't know where that leaves you. (M. Van der Want 2017, Interview, 14 November).**

What Van der Want argues is that once the rule of law is forsaken, once you reject the law as a way of resolving crime, we are in danger of descending into vigilantism and anarchy. This is an important caveat to the much heralded democratising effects of social media. As discussed in Chapter 2, Papacharissi (2010) has suggested social media has expanded the number and range of individuals who may enter the "privately public space of the private sphere" (Papacharissi 2010: 40) and it has led to engagement and participation by 'affective publics'. Publics who express their views emotionally and viscerally and not necessarily factually (Papacharissi, 2015), who bring highly individual interpretations to discussions on private public platforms such as Facebook. The harm that can be caused by accusations from these 'affective publics' on social media without following the tried and tested structures of the law which places the onus of the burden of proof on the prosecution before someone is found guilty, leads to mass social media vigilantism and lynch mobs, which could dangerously spill over into the physical world. This 'free for all' on social media leads to wild untested statements being spewed out by members of the public who are not held accountable by the self-regulatory mechanisms which keep journalists in check; mechanisms like the Press Ombudsman. It is thus essential for members of the public to be held accountable by the rule of law, be it the laws of defamation or laws around hate speech. Van der Want's concerns highlight the need for digitally vigilant members of the legal community or profession who care about maintaining the rule of law, to play an active educative online role on these digital public platforms, making the public aware of the legal consequences to dangerous online utterances. Suggestions of how this can be achieved will be discussed in Chapter 6.

It is clear, as outlined in Chapter 2, that in the wide spectrum between rationality and irrationality, passions and dissensus that is a regular feature of the daily discourse that the lawyers in this study encounter whether on blogs, websites or social media platforms like Twitter and Facebook, that Chantal Mouffe's notion of 'multiple' 'conflicting' and agonistic democratic public spaces is a more suitable theoretical construct than Jurgen Habermas's idealised rational national public sphere. This traditional public sphere valorises both the "universal" and the "rational" over diversity, difference and emotional

subjectivity, what Mouffe calls "passion". I also prefer Mouffe's simpler, less academic jargon term 'democratic public spaces' to Habermas' public sphere and Bruns and Highfield's 'public sphericules' (Bruns and Highfield 2016: 117). However, because she is a political theorist as opposed to a media theorist, Mouffe does not describe in as much detail as Bruns and Highfield how these 'public sphericules', which I will refer to as 'public spaces' interweave and overlap with each other, both within specific platforms such as Twitter and Facebook and from one platform to another.

Bruns and Highfield also aptly describe the multiple ways in which technological features like the hashtag and retweets assist participation by people possibly unknown to each other but who are interested in a particular topic. They note that:

> **...the various public spaces which have come to replace it as a result of the continuing structural transformations of 'the' public sphere following the decline of the mass media's hegemony, is today highly complex, dynamic, and changeable – more so than orthodox Habermasian public sphere theory can account for (Bruns and Highfield 2016: 124).**

The media ecosystem in which the lawyers engage is thus a range of digital public and private/public spaces and micro-publics, which as Bruns and Highfield (2016) observe are not mutually exclusive but which "co-exist, intersecting and overlapping in multiple forms."

5.5. Do digitally engaged lawyers supplement or complement the role of legal journalists online?

As can be seen in the fourth column from the left of Tables 2 to 5, most of the lawyers in this study believe that journalists and lawyers could and should collaborate to ensure more comprehensive and accurate coverage of legal principles and court cases, but also to provide news tipoffs, sources and experts to make news stories and analysis thereof more legally accurate and accessible. Advocates Vuyani Ngalwana and Dali Mpofu and attorney Denise Lenyai went so far as to suggest a formal relationship being established between legal bodies like the General Council of the Bar, the Black Lawyers Association and the South African Editors Forum:

> **..I'm sure many more people would be willing to assist if maybe there should be some kind of relationship between the profession and the media**

profession at a high level so that for that for arguments sake if, I'm sure that when I was the chair of the Johannesburg Bar Council if somebody phoned me to say there's been a criminal case, who would you recommend, I would be very happy to say speak to so and so, which might help them having to go to speak to someone who has no clue on the subject but who might want to appear on TV… I think there should be engagement at that level, the professional bodies and the media, I don't think the problem is only on one side, it needs to be done at a particular level for the public interest (D. Mpofu 2017, Interview 01 December).

Collaboration already does happen in different ways. Allison Tilley, for example, in her discussion of the shrinking pool of legal journalists who were available to cover the Judicial Service Commission, argued that if the few legal journalists in that pool were not able to focus on a particular topic, "then there is nothing out there" (A. Tilley 2017, Interview, 06 November). So, her work at Judges Matter ensures that a public record is kept of the JSC hearings which provides journalists with documentary source material from the judges' interviews to use if they are unable to attend the hearings due to resource constraints. In this sense, she is explicitly assisting journalists in their key tasks.

Faranaaz Veriava and Ntsiki Mpulo's work at Section27 also exemplifies the way in which journalists and lawyers can work together in identifying the narrative of stories aligned to a legal strategy, ensuring accuracy and facilitating a platform for public debate. Mpulo admitted that the relationship between the journalists and lawyers working at Section27 is not always easy as there is a tension around "what information we can and cannot produce," with some lawyers erring on the side of legal caution, but apart from that, she says "we actually work pretty well together." Veriava confirms that the legal strategy always informs the communications strategy, so they work closely as a team. For example, Section27 acted as *amicus curiae*[30] in the Equal Education transport case that they brought against the MEC of education in KZN. Mpulo drafted a press statement that would go out about the case, stating the heads of argument that the lawyer had produced, the lawyers check if she accurately depicted the legal argument and then the release went out to the media. Mpulo then asked one of the lawyers to write a blog post or an opinion piece that

[30] "Friend of the court"; plural, **amici curiae**) is someone who is not a party to a case and may or may not have been solicited by a party and who assists a court by offering information, expertise, or insight that has a bearing on the issues in the case

she had placed in the Right to Education blog - which is a UK based blog - and then Mpulo wrote a human interest story which she got placed on Ground Up. Mpulo then briefed two journalists that she knows in KZN and arranged interviews with the lawyers and parents while they were in court so that the client or the human face of the court case becomes the narrative angle of the story (N. Mpulo 2017, Interview, 14 November).

This multipronged approach to news, says Mpulo, helps fill the gap in overstretched commercial, philanthropically funded and public sector newsrooms and ensures social justice stories do get told.

> **I understand that …they (newsrooms) are stretched, there are so many stories to cover, there are so many people, like a handful of people that they have in the newsroom that they can afford to pay, so we fill that gap, I mean that's how I look at it, is that we help to produce the content, we help to highlight the issues with a deeper understanding from having the trust of the lawyers in here and I think it works, for us as an organisation certainly it does (N. Mpulo 2017, Interview, 14 November).**

The examples from Judges Matter and Section27 show that these organisations are an active part of the wider news media ecosystem that Bruns (2018) described. Even though they play a role in creating a public record of JSC hearings in the case of Judges Matter and in the case of Section27, constructing a social justice counter narrative to the largely middle class issues of the mainstream media, neither see themselves replacing journalists, but rather as Anderson, Bell and Shirky suggested "overlapping with the individuals (and crowds and machines) whose presence characterizes the new news environment" (Anderson, Bell and Shirky 2012:4).

5.6. Conclusion

While most of the lawyers' stated motives for 'produsing' opinion, tweets and posts, curating and sharing news was not directly attributable to my initial assumption, it is clear from their critique of the sensationalism, omissions and errors in legal journalism that there is a need for more collaboration between journalists and lawyers to ensure the public is better informed about their basic legal and constitutional rights, and to see justice in action.

Many of the lawyers were also reluctant to define their digital 'produsage' as playing a journalist-type role, but this is because the older, more linear, industrial-era product-based 'liberal watchdog' normative role of journalism, is still the prevailing view of journalism in South Africa. This chapter however found that when journalism is viewed through the lens of contemporary digital media theorists such as Papacharissi (2010, 2014, 2015), Deuze and Witschge (2018) and Bruns (2018), who have 'widened' the way we understand what journalism is, the lawyers in this study do play at very least journalism-like roles. Establishing a more exact nature of these roles and how similar they are to journalist's roles was the main objective of creating an expanded spectrum of what the lawyers do online in terms of elaborating and modifying Hanitzch and Vos's taxonomy (2018).

This chapter has also suggested that the sometimes passionate, sometimes rash and irrational, sometimes rational and factual, often arbitrary nature of social media interactions between the lawyers and members of the public is more in line with what Chantal Mouffe called agonistic public spaces, and Bruns and Highfield's explanation of the multiple interwoven 'public sphericules' than Jurgen Habermas' rational public sphere. As some lawyers argued, the last vestige of rationality in a public sphere in South Africa is the courtroom, which is being heavily burdened with the task of mediating political disputes, or as advocate Vuyani Ngalwana puts it, the "overjudicialisation of politics".

As will be elaborated further in the concluding chapter, organisations like Judges Matter and Section27 are illustrative of some of the ways that a collaborative relationship between lawyers and journalists could be developed to ensure the public is better informed about their rights, the law and open justice.

CHAPTER 6

Conclusions and contributions

6.1 Introduction

A year has passed since I climbed the stairway at the Open Democracy Advice Centre (ODAC) in the windy suburb of Observatory in Cape Town to conduct my first interview for research into what meanings a selection of legal professionals make of their roles in the changing digital media ecosystem. I was there to interview attorney Allison Tilley, coordinator of the Judges Matter website and the head of advocacy at ODAC, which is a law centre based in South Africa, specialising in access to information and whistleblowing law.

Much has shifted in the political life of South Africa[31] since that first interview in early November 2017. An ethically compromised President Jacob Zuma was replaced by President Cyril Ramaphosa in February 2018. After extensive investigations by the South African media uncovered evidence of corruption and manipulation of state departments for the benefit of President Jacob Zuma's friends - the Gupta family, two judicially led commissions of enquiry were appointed to investigate state capture on the one hand (Mailovich 2018), and the emasculation of the South African revenue service on the other (Marrian 2018).

The state capture revelations also highlighted a crisis of confidence that is besieging South African journalism due to a loss of trust and financial challenges. The leading national newspaper *The Sunday Times* lost credibility after being forced to repeatedly apologise for publishing false stories fed by informants who were set on destabilising The South African Revenue Service (SARS) and the police's special investigations unit, The Hawks (Phakgadi 2018). Tiso Blackstar, the owners of *The Sunday Times* closed *The Times* newspaper (Timeslive 2017). The Zuma-supporting *Afrovoice*, formerly the Gupta-owned

[31] President Cyril Ramaphosa replaced the ethically compromised President Jacob Zuma in February 2018. We have had three Ministers of Finance – Ramaphosa replaced Malusi Gigaba with Nhlanhla Nene, who was exposed for lying about his association with the Gupta family in the state capture commission headed by deputy chief justice Raymond Zondo. Nene apologised and resigned and was replaced by Tito Mboweni who had to deliver the dire mid-term budget speech in late October (Cronje & Niselow 2018; Nicolson 2018; Perper 2018)

New Age newspaper was also closed after a brief ownership by controversial former government spokesman Jimmy Manyi (Citizen reporter 2018). The financial crisis at the SABC caused by overspending, corruption and promotion of cronies has led to a notice of retrenchment that might affect a third of the public broadcaster's staff complement (McCleod 2018).

From these examples, which all happened in the year it took me to complete this study, it is clear that South African journalism is under great stress, not just because of the digital disruption to its business model which I described in Chapter 1, but also because of media capture, mismanagement and multiple ethical failures. Because of and in spite of these challenges, much more responsibility has been placed on lawyers, judges and journalists to keep a check on the powerful (including themselves) and ensure that the rule of law and the quest for justice is not just pursued and abided by, but also understood by every person in the country.

It in this context of precarity for both journalism and justice that this study is located. This final chapter provides an overview of the research findings by revisiting how the central questions about what meanings the sample of lawyers make of the role they play in digital public spaces were considered and answered. It then focuses on possible key contributions made by the study, discusses the study's limitations and concludes with recommendations for further research.

6.2. THE RESEARCH QUESTIONS REVISITED

6.2.1. How do South African lawyers think about and describe the role they play in the online public space with regards to news about legal matters and events?

Many of the lawyers in this study were initially reluctant to define their digital 'produsage' as a journalist-type role. After further discussion in the interviews, all the lawyers that I described as 'The Regulars', except Willie Spies, all 'The Occasionals' and three of the four 'Digitally Disengaged' (except a Cape Town-based *pro bono* attorney) acknowledged that their online sense-making work on blogs, websites and news sites like *The Daily Maverick* could be construed as being part of a broader journalism landscape or ecosystem. Pierre de Vos captured this when he described their role in the online public space as being "a small part of a bigger picture." (P. de Vos 2017, Interview, 7 November)

All four of the 'Social Butterflies', Willie Spies of 'The Regulars' and the *pro bono* lawyer of the 'Digitally Disengaged' were reluctance to associate other activities – such as opinion writing and even more, social media engagement - as being part of the journalism ecosystem, only going so far as calling lawyers like de Vos and Milo's column writing as 'legal analysis' or 'legal interpretation'.

Overall, they saw their role not so much in journalistic terms or even in broader media terms but rather as some kind of useful social contribution, some kind of indication and facilitation of building democracy in South Africa and some kind of commitment to a more inclusive South Africa where the rule of law is paramount.

6.2.2. What implicit normative roles for journalism do lawyers hold?

All the lawyers in the study believe that journalism's main role is one of public service, and in particular that the news media should act as watchdogs, educators and disseminators of accurate information to the public. Key to their understanding of 'What is good journalism?' is 'objectivity' (what they mostly call 'fairness', 'balance'), and the necessity of autonomy (journalists are 'independent', uninfluenced, and what Allison Tilley described as 'dispassionate'), coupled with the traits of immediacy, described again by Tilley as 'timeous and concise'. This includes an adherence to the routines of verification which they often refer to as 'fact-checking' and 'accuracy', all of which as discussed in Chapter 2 via Kovach and Rosenstiel's (2001) description of the main elements of journalism. Several of the digitally engaged interviewees also emphasized the importance of journalism to make sense of current events and provide informed analysis, to go beyond reporting what happened to explain how and why it happened and of what relevance it is to a citizen/consumer. There were no strong views expressed about more developmental or patriotic roles for journalism and new media: they pretty much all wanted there to be more and better journalism covering more legal material, in a more 'professional way'.

6.2.3 What do the lawyers think journalists 'should' be doing with regards to legal reporting online that they are not doing?

Chapter Five outlined how ten out of the eleven digitally engaged and all four of 'The Digitally Disengaged' lawyers found journalists' coverage of the law lacking in some respects. While Faranaaz Veriava and Dario Milo specifically pointed out that reporters sometimes did not understand the law and occasionally made factual errors when covering

cases. All the lawyers mentioned a need for more journalists to be trained in understanding how the law works. Some of the lawyers interviewed made pointed reference to much of the news media's middle-class bias and its alignment with big business and even with a capitalist class. They were critical of the media's lack of coverage for less 'sensational' criminal cases, and for important constitutional cases or human rights, family and succession law and civil cases. The cases that affect the poor majority in areas outside of the main metropoles. Attorney Nerushka Bowan also pointed out that areas of the law that might be of import and interest to business people in the middle class such as new technology law, commercial law and privacy law are also barely covered by the media. Additional critiques included journalists' reliance on Facebook and social media as sources as opposed to actual interviews; a lack of research; a lack of careful scrutiny; and often the lack of longer term follow up and investigation of issues that emerge from judicial selection at the Judicial Service Commission for example; and a general lack of depth and critical analysis.

6.2.4. Why do some lawyers create content and not others?

In Chapter 5, it was clear that the motivations to create digital content were wide ranging. The most common and prominent, at least as expressed, was the gratification, expressed as enjoyment that the lawyers get out of writing and researching articles and interacting with members of the public - and other professionals - on social media. This resonated with Whiting and Williams (2013: 362) study on the uses and gratifications of social media use more broadly in society. This research confirms key elements of Klandermans' theory of motivations for participation in social movements which suggests four distinct areas: *collective motives*, *identification with the group or a subgroup*, *reward motives* and *social motives*. Because the lawyers are not part of a common group (other than being lawyers), the first two motives are not as applicable to them (in terms of Klandermans more restrictive sense of group identification, but of course they all are part of broader profession) but all of the active lawyers mentioned the satisfaction and *reward* they feel and all mentioned some kind of *social motives.* The 'Occasionals' and 'Regulars' in this study are respectively similar to Crowston and Fagnot's more sustained and meta-contributions (Crowston and Fagnot 2017: 98), with 'Occasionals' showing more intrinsic interest in sense-making and explaining the complexity of the law in a way that the ordinary member of the public can understand. The 'Regulars' in turn are driven by social and political motives which they all describe in some way as defending and building democracy through engaging in the national conversation about justice.

The four *digitally disengaged* legal practitioners reasons for avoiding social media platforms or produsing digital content with regard to legal matters and their work as legal practitioners ranged from a distaste of what they saw as narcissistic self-promotion and personal brand marketing. Additionally, a dislike of what they saw as destructive spats on social media, and a desire to uphold the independence of the judiciary and not to be seen to influence the outcome of cases. For these the motivations that Klandermans and also Crowston and Fagnot suggest might have some appeal at some level, but not enough to get them to publicly use social media to enter the public fray. What might 'trigger' some to participate and other not to, and how these triggers might work over time is something that other interested researchers might want to investigate.

6.2.5 What is the nature of the information shared, the journalism or journalist-like work lawyers produce online?

Chapter 4 illustrates - through actual samples of the lawyers' online work and engagement - that their digital activities can be most usefully viewed in terms of what Deuze (2008b) called "liquid journalism" in that their routines, practices and content are constantly shifting (Deuze 2008: 859). The lawyers described as 'The Regulars' produce blogs at relative set times, or write opinion pieces or produce videos and infographics or features about court cases and legal processes for multiple platforms and engage with their followers on social media. They all also engage on Twitter. 'The Occasionals' also write sense-making and explanatory columns about cases and interpretations of the impact of judgements, but their participation is more erratic. All 'The Social Butterflies' engage on Twitter and Facebook about legal and other largely political matters. In this digital work, the lawyers in this study also approximate the affective news streams of "liminality", something that is moving fluidly through categories described by Papacharissi (2015) and they form part of the new more multi-faceted media ecosystem described by Anderson (2013) with its multi directional engagement described by Singer (2016). While the lawyers are often too busy to perform *all* the journalistic functions of access and observation, processing and editing, selection/filtering, distributing online and interpretation described by Domingo (2008), the one function they all do perform is what Bruns (2018) described as "gatewatching"- the curatorship and sharing of content in their areas of expertise, either through hashtags or individual Facebook and Twitter posts.

6.2.6 How the lawyers understanding of the role(s) they play online, fits into the existing theories about the changing media ecosystem.

Chapter 5 demonstrated that despite some hesitance to view what they do as being anything like journalism, all of 'The Regulars' and 'Occasionals' both create and contribute in and towards the journalism 'landscape' described by Peters and Broersma (2013) or the broader news 'ecosystem' described by Anderson (2013) as cited by Steensen and Ahva (2015:1). Their work fits into the recent and often radical reconceptualisation of the way journalism is made and the way it is consumed as described by contemporary digital media theorists. All of the digitally engaged lawyers in this study are part of the news ecosystem, often in fairly direct ways (that is, directly interacting with news, or bringing items into newsworthy focus, and pointing out, often, what had been 'missed') which Bruns described as comprising professional journalists, non- professional news users, citizen journalists, politicians, celebrities, experts, niche authorities, ordinary users, platform operators, designers, and algorithms, all who interact on social media platforms (Bruns 2018:8). All four 'Social Butterflies' who also do not consider any of their social media engagements as part of a news media ecosystem, fit Bruns's description of news users who together with journalists play the roles of gatewatcher, news-sharer, and news curator. This is done within the spaces operated by the major social media providers, which affect how they can post, find, access, share, curate and otherwise engage with news, rumours, analysis, comments, opinion, and related forms of information (Bruns 2018:11). The lawyers' news sharing follows on naturally from what Bruns dubs 'gatewatching' processes through which users come across news stories; decide on whether these items warrant further dissemination to their own "personal publics" i.e. their Facebook friends or Twitter followers or whether they are "shareworthy" as well as newsworthy.

6.2.7. How these lawyers' understanding of what they produce online fits in with theoretical understandings of what journalism is and the role it plays in society and democracy.

As explored in Chapter Five, the lawyers' motives for their online 'produsage' and their understanding of journalism's role in society and democracy was largely restricted to the Kovach and Rosenstiel independent and objective, *critical-monitorial* role. Later on, in Chapter Five, I drew heavily on Thomas Hanitzsch and Tim Vos's recent expansive work on the functions and roles of journalism in political and daily life to elaborate on the roles

the lawyers were playing in society and democracy. In order for the political function not to be privileged over the private or daily life functions, which I contend their current formulation slips into, I partially 'disassembled' Hanitzch and Vos's public/private dichotomy and amalgamated their six 'political order' functions and roles for journalists with his areas of consumption, emotion, and identity to create a new spectrum. This new formulation places the political and the everyday at the same level of importance in a spectrum of eight higher order functions. There were two functions that Hanitzsch and Vos determined in their taxonomy, the *collaborative-facilitative* function (Hanitzsch and Vos 2018:156) on the one hand and the *critical-monitorial* function on the other hand (Hanitzsch and Vos 2018:154) that none of the lawyers in this study served, or at least which didn't describe their function and roles with enough precision. I argued in Chapter 5 that the fact that the lawyers recognise that they do not perform the essentially traditional liberal western *critical-monitorial* role (Kovach and Rosenstiel 2001), made them hesitate to even see what they do as also being part of a spectrum of journalism roles. Two new high-level functions were created from Hanitzsch's area of consumption, emotion and identity which I labelled *affective-inspirational* and *advocative -promotional.* Through examples, I showed that the digitally active lawyers in this study served the *affective-inspirational* function which, in general, serves to enhance and uplift emotional moods and esteem and entertain through the roles of *digital court jester* (providing comic relief through parody), a *friend* role (helping people navigate life's challenges, and a *guide* role (navigating people through the often-time arcane legal world). In addition, I suggested that the lawyers who served the *advocative-promotional function* used social media to market their services.

The lawyers who performed the *analytical-deliberative* function, I argued, could be better captured, as *analysts*, providing expert opinion on court cases and judgements; *access providers,* acting as agents of empowerment inviting people to understand for example how judges are selected; and the *community builder* who encourages and recruits people to participate in activities that create a sense of common purpose. The lawyers who performed the *informational-instructive* function provide citizens with relevant information to participate in daily life and perform the roles of *disseminator* (reports things as they are); *curator*, finding and sharing relevant content about legal matters); and the *storyteller* (places the news of the day within a larger narrative). Finally, the *advocative-radical* function in which the lawyers see themselves as participants in political discourse was served by some of the lawyers who acted as *adversaries* to government and 'white

monopoly capital'; *advocates* of social justice; and *missionaries* who propagated a particular ideology. The *developmental-educative* function was performed by lawyers who acted as what I termed *change agents* who campaign for social justice; *educators* who raise public awareness of the law; and/or as a *mediator* who acts a bridge in heterogenous society, helping bring understanding between opposing sides.

Chantal Mouffe's notion of multiple conflicting agonistic democratic public spaces was found to be a more powerful and resonant theoretical construct than Jurgen Habermas's rational national public sphere. It's inherent boisterousness more accurately portrays the hostility and irrationality that the lawyers encountered in the digital public spaces like Twitter. The media ecosystem in which the lawyers engage was found to be a range of digital public and private/public spaces and micro-publics, which as Bruns and Highfield observe are not mutually exclusive but which "co-exist, intersecting and overlapping in multiple forms" (Bruns and Highfield 2016:98)

6.3. Key contributions

6.3.1. Research into non-journalist content creators

Holton, Coddington and de Zúñiga (2013), pointed out that very little is known about non-journalist content creators, how they view the work they are doing, what values they ascribe to it and how they compare this to understanding what good journalism is. This has not changed significantly since their article in 2013. As discussed, this study in a small way, provides some insight into a purposive sample of lawyers' content creation motives, the values they ascribe to their work, and how they relate what they do to journalism and the news media more broadly.

6.3.2 Research into how non-journalists influence news flows

Although the way in which non-journalists influence news flows was not the main focus of this study, as far as I am aware, this is the first study of its kind in South Africa that looks at how professionals like lawyers and legal NGOs like Section27, Judges Matter and Afriforum do contribute and somehow shape news flows. UCT researcher Tanja Bosch (2013, 2017) has done extensive research on how students involved in Rhodes Must Fall and Fees Must Fall, shaped news flows with their Twitter feeds, but there have been no in-depth studies locally into how professional groupings use social media or shape (gatewatch) news agendas and news coverage.

6.3.3. Suggestions to improve public access to justice

A critical thread of this study was how lawyers and journalists could enhance public access and understandings of the law and justice. In this vein, a few of the lawyers came up with interesting solutions that could have an impact.

6.3.3.1 Digitize court records

Attorney Dario Milo suggested that the biggest advance would be for the courts to be digitised "for court records to be digital, because at the moment journalists will go to a court and they will ask for a file and it will be lost or be stolen." This is a solution which should be taken up by the Chief Justice, as accessing court records as Milo explained could be "a simple case of even having an open website where you could click on a particular matter and get all the papers in that matter" (D. Milo 2017, Interview, 20 November).

6.3.2.2 Legal Chatbots

Attorney Nerushka Bowan noted that the very poor in South Africa are served by NGOs like Section27 and *pro bono* lawyers and the very rich corporates can afford expensive law firms. However, people in the middle class and in small to medium business cannot afford legal service and hence are excluded. She suggested that technology can solve a lot of access to justice problems, citing the example of Jason Weston from Stanford, who created a chatbot that helps people contest parking tickets. The Weston bot can, for example, tell you whether or not you have a case and then it drafts a court document for you that you can submit to court, it tells you exactly where you stand, and it's achieved a 66% success rate. Bowan suggest that technology like this could be leveraged to bridge the gap for the middle class and give them entry level services through these chatbots or online forms (N. Bowan 2017, Personal Communication, 28 November).

6.3.2.3 Cooperation between lawyers and journalists

One of the key findings of this study was the absolute agreement of all the lawyers both *digitally engaged* and *disengaged* on the need for greater collaboration and cooperation between lawyers and journalists in the interest of providing the public with greater access to accurate information about the law. There was a suggestion from Advocate Dali Mpofu that professional journalism organisations like The South African National Editors Forum

(SANEF) and the General Council of The Bar should have a formal relationship so that advice can be given by legal experts in particular fields for journalists to quote and use as sources.

As discussed in Chapter 5, the lawyers in this study who do create content that resembles journalism are *outliers* whose practices, engagements and content could possibly pave the way for a new collaborative interface between journalism and lawyers. Both Alison Tilley's work with freelance journalist Niren Tolsi, social media agency Edge Digital at Judges Matter, and Faranaaz Veriava and Ntsiki Mpulo's work at Section27 are examples of the way in which journalists and lawyers can work together in identifying the narrative of stories aligned to a legal strategy, ensuring accuracy and facilitating a platform for public debate about the story on social media.

It is possible that another digital media organisation could be established in a similar vein to *The Conversation* or even as a funded subsection of *The Conversation,* which is focussed on journalists and lawyers working together to cover court cases, explain legal matters to the public and engage in dialogue with the public about legal matters. This would be a true 'public sphericule' or 'issue public sphere' involving lawyers and journalists collaborating with members of the public to 'produse' news that would investigate, inform and empower its audience.

6.5. Limitations of the study

Journalism scholar Stephen Reese (2016: 820) argues that journalism is an assemblage which is a part of other assemblages that exist both inside and outside institutionalised structures which allows us to identify the mix of both media and non- media elements, like the lawyers in this study, NGO's, government policy makers, grassroots groups and citizens (Reese 2016: 822). The limitations of this study unfortunately prevented me from conducting more expansive and in-depth research locating the lawyers' journalist-like work in a larger news media ecosystem considering socio-political and economic contexts. This study is also narrow in its focus on the journalism-expert nexus and could benefit from investigating the relationship between experts and audiences using audience reception questions or network analysis. I did not have the time (nor was it appropriate for a dissertation of this nature) and nor did the lawyers

afford me the opportunity to go back to them and observe them *in situ* and to ask further questions. I also did not have the research funding, resources or experience to conduct and triangulate a mixed methods study which would need me to conduct quantitative questionnaires followed up by focus groups and one on one interviews with a wide range of print, broadcast and digital editors and legal journalists, communications managers in law firms and officials in the justice department; do content analysis of formal journalistic coverage of legal matters; as well as conduct network ethnography and digital mapping. But elements of this kind of work could provide for a number of other interesting and useful topics of research for other students' advance degrees.

6.6. Recommendations

Further quantitative and qualitative research into the digital public spaces and media ecosystem connected to the law and the justice system would help shed light on whether lawyers and journalists working together to comprehensively cover the civic fora of the courts, engaging and collaborating with the public, would improve public knowledge of the law and access to justice.

Research that I've thought about while concluding this study could include:

1) A quantitative countrywide survey-based study of the challenges faced by editors, news editors and journalists assigned to the legal beat followed up by qualitative interviews.

2) A mixed methods study incorporating comparative content analysis, audience reception and network study of lawyers' and legal journalists' interactions with each other and members of the public with regard to legal news on Twitter.

3) An ethnographic study of how Section27 lawyers and journalists collaborate to shape and frame the narrative about social justice court cases on multiple platforms.

4) A qualitative study into the gatewatching practices of the ten most followed lawyers on Twitter based on an analysis of week-long digital diaries.

5) An investigation into whether the South African discourse on #metoo on Facebook challenges, undermines or reinforces the rule of law.

6.7 Conclusion

As discussed in the introduction to this concluding chapter, traditional South African journalism, indeed like journalism the world over, is facing a crisis of confidence and capacity. More than ever before, it needs help and renewal. In this digital era, which features interchangeable, intersecting, overlapping and separate silos of experts, journalists and ordinary members of the public engaging in a multiplicity of what Axel Bruns and Tim Highfield call online issue based "public sphericules" (2016:98) and Chantal Mouffe calls "public spaces" (Carpentier 2008), journalism roles are no longer performed by paid professional journalists alone. Help and renewal for journalism can come from outside the professional journalist domain. It can, as this study shows, come from other players in the media ecosystem as Anderson (2013) describes it, like the legal professionals in this study.

As Bruns emphasised, yes, journalism globally may be under threat but "a vast number of news users are now prepared also to report, disseminate, discuss, and curate the news, with or without the help of professional news workers" (Bruns 2018: 15). The digitally engaged lawyers in this study are disseminating, discussing, and what Bruns (2018) described as "gatewatching", that is, curating and sharing content in their areas of legal expertise, either through hashtags or individual Facebook and Twitter posts and on different digital platforms.

While the lawyers in this study are definitely not watchdog or critical monitorial journalists in the sense that Kovach and Rosenstiel (2001) outlined in their seminal work on the basic elements of journalism, they do practise what media theorist Mark Deuze termed "liquid journalism" in that their routines, practices, content, and roles are constantly shifting and changing (Deuze 2008b: 859).

By adapting Thomas Hanitzsch and Tim Vos's (2018) functions and roles of journalism to incorporate political and daily life, this study shows that the small sample of digitally engaged lawyers are definitely performing what JD Lasica called "random acts of journalism" (2003) particularly in roles that fall within the spectrum of functions that are *affective-inspirational*, *advocative-promotional, informational-instructive, analytical-deliberative* and *developmental-educative*.

The digitally engaged lawyers in this study are also active participants in affective news streams of "liminality" (Papacharissi 2015:33) contributing to various narratives about

rights, justice and court cases with both journalists and ordinary people. They move fluidly in and out of public courtrooms and lectures to private public social media sharing, opining and liking on their smartphones, to in depth thought leadership articles published on digital news platforms like The Daily Maverick, GroundUp and The Mail and Guardian online. In this way all the digitally active lawyers do complement the work of journalists covering the legal field in the expanding new media ecosystem in South Africa. This is not to say that lawyers and other professionals could ever replace journalists. As constitutional law expert Pierre de Vos reflects in this study:

> **We are a small part of a bigger picture. So, we do that part that we can do, but it is a small aspect of the bigger picture, so we try, maybe not always successfully, but we try and do that (P. de Vos 2017, Interview, 7 November)**

This small part played by lawyers and other experts in their fields could be further enhanced by more meaningful reciprocity and co-operation with journalists to deepen public knowledge about their rights, justice in action, the rule of law and the workings of the South African legal system

References

Afriforum, 2018. About AfriForum - AfriForum. *www.afrofurm.co.za*. [Online]. Available at: https://www.afriforum.co.za/about/about-afriforum/ [Accessed October 7, 2018].

Al Jazeera, 2018. Cambridge Analytica and Facebook: The scandal so far | News | Al Jazeera. *Aljazeera.com*. [Online]. Available at: https://www.aljazeera.com/news/2018/03/cambridge-analytica-facebook-scandal-180327172353667.html [Accessed March 28, 2018].

Anderson, C W; Bell, Emily; Shirky, C. 2012. *Post Industrial Journalism: Adapting to The Present*. Addleton Academic Publishers.

Babbie, E. & Mouton, J. 2001. *The practice of social research*. Cape Town: Oxford University Press.

Bengtsson, M. 2016. How to plan and perform a qualitative study using content analysis. *NursingPlus Open*, 2, pp.8–14. Available at: http://dx.doi.org/10.1016/j.npls.2016.01.001.

Benkler, Y. & Nissenbaum, H. 2006. Commons-based peer production and virtue. *Journal of Political Philosophy*, 14(4), pp.394–419.

Bosch, T. 2013. Youth, Facebook and politics in South Africa. *Journal of African Media Studies*, 5(2), pp.119–130. Available at: http://openurl.ingenta.com/content/xref?genre=article&issn=2040-199X&volume=5&issue=2&spage=119.

Bosch, T. 2017. Twitter activism and youth in South Africa: the case of #RhodesMustFall. *Information, Communication & Society*, 20(2), pp.221–232. Available at: http://dx.doi.org/10.1080/1369118X.2016.1162829.

Bowan, N. 2017. Nerushka Bowan – Emerging Technology Law Specialist | LegalTech Innovator. *nerushkabowan.com*. [Online]. Available at: http://nerushkabowan.com/ [Accessed January 5, 2018].

Breitenbach, D. 2018. Newspapers ABC Q2 2018: Static, with some highlights. *www.bizcommunity.com*. [Online]. Available at: http://www.bizcommunity.com/Article/196/90/180526.html [Accessed September 15, 2018].

Bruce, D. 2016. Public order transparency of protest. *South Africa Crime Quarterly*, 1(58), pp.23–33.

Bruns, A. 2003. Gatewatching, Not Gatekeeping: Collaborative Online News. *Media International Australia*, (107), pp.31–44.

Bruns, A. 2005. Some Exploratory Notes on Produsers and Produsage. *SnurBlog, 3-Nov-2005*. Available at: http://snurb.info/node/329.

Bruns, A. 2007. Produsage : Towards a Broader Framework for User-Led Content Creation. , *In Proceedings Creativity & Cognition*, 6. Available at: http://eprints.qut.edu.au/6623/1/6623.pdf (Accessed: 4 December 2018)

Bruns, A. 2008 Who Controls the Means of Produsage? *Re-Public: Re-Imagining Democracy*.

Bruns, A. 2009. From Prosumer to Produser: Understanding User-Led Content Creation. *Journal of Education Policy*, 25, pp.717–727. Available at: http://eprints.qut.edu.au/27370/.

Bruns, A. 2010a The Key Characteristics of Produsage. *Blogs, Wikipedia, Second Life, and Beyond: From Production to Produsage*, pp.9–36. Available at: file://localhost/Users/Josh/Documents/Papers/Bruns/2008/Bruns 2008 Blogs Wikipedia Second Life and Beyond From Production to Produsage.pdf%5Cnpapers://96acde8e-e484-4337-91da-bb6fb1bbb6a0/Paper/p509.

Bruns, A. 2010b News Produsage in a Pro-Am Mediasphere: Why Citizen Journalism Matters. In *News Online: Transformations and Continuities*. pp. 181–203.

Bruns, A. 2010.c From Reader to Writer: Citizen Journalism as News Produsage. In *International Handbook of Internet Research*. pp. 119–133. Available at: http://www.springerlink.com/index/10.1007/978-1-4020-9789-8.

Bruns, A. 2013. From prosumption to produsage. *Handbook on the Digital Creative Economy*, pp.67–78..

Bruns, A. 2014. Chapter 3 Beyond the Producer/Consumer Divide: Key Principles of Produsage and Opportunities for Innovation. In Peters, Michael A., Besley, Tina, & Araya, Daniel (Eds.) *The new development paradigm : education, knowledge economy and digital futures.* Peter Lang, New York, pp. 51-65. http://snurb.info/files/2014/Beyond the Producer-Consumer Divide.pdf [Accessed April 18, 2018].

Bruns, A. 2016a. Prosumption, Produsage. *The International Encyclopaedia of Communication Theory and Philosophy*, pp.1–5. Available at: http://doi.wiley.com/10.1002/9781118766804.wbiect086.

Bruns, A. 2016b. User-Generated Content. In *The International Encyclopaedia of Communication Theory and Philosophy*. Available at: http://doi.wiley.com/10.1002/9781118766804.wbiect085.

Bruns, A. 2017. Future: Global Development in Media Uses and Effects. *The International Encyclopaedia of Media Effects*. Available at: http://doi.wiley.com/10.1002/9781118783764.wbieme0017.

Bruns, A. 2018. *Gatewatching and News Curation: Journalism, Social Media, and the Public Sphere* 1st ed. S. Jones, ed., New York, Bern, Berlin, Brussels, Vienna, Oxford, Warsaw: Peter Lang. Available at: www.peterlang.com [Accessed March 20, 2018].

Bruns, A. & Highfield, T. 2012. Blogs, Twitter, and breaking news: the produsage of citizen journalism. *Produsing Theory in a Digital World: The Intersection of Audiences and Production in Contemporary Theory*, 30, pp.15–32.

Bruns, A. & Highfield, T. 2016. Is Habermas on Twitter? Social Media and the Public Sphere. *The Routledge Companion to Social Media and Politics*, (1962), pp.56–73.

Bryman, A. 2004. Quantity and Quality in Social Research. *Social Research Today*, 18(18), p.212. Available at: http://books.google.nl/books?id=7pyt0yqQAcQC.

Byrne, B. 2004. Qualitative interviewing. *Researching society and culture*, 2, pp.179–192.

Carpentier, N. & Cammaerts, B. 2008. Hegemony, democracy, agonism and journalism: an interview with Chantal Mouffe. *LSE Research Online*, 7(6), pp.964–975. Available at: http://eprints.lse.ac.uk/3020/ [Accessed January 4, 2018].

Chabalala, J. 2017. Judge Mabel Jansen resigns | News24. *news24*. Available at: https://www.news24.com/SouthAfrica/News/judge-mabel-jansen-resigns-20170504 [Accessed September 29, 2018].

Chuma, W. Wasserman H, Bosch T and Pointer R 2017. Questioning the media-democracy link: South African journalists' views. *African Journalism Studies*, 38(1), pp.104–128. Available at: https://www.tandfonline.com/doi/full/10.1080/23743670.2017.1292703.

Citizen reporter. 2018 AfroVoice newspaper, formerly The New Age, shuts down abruptly. *The Citizen*. [Online]. Available at: https://citizen.co.za/news/south-africa/1966147/afrovoice-newspaper-formerly-the-new-age-shuts-down-abruptly/ (Accessed: 4 November 2018).

Clarke, V. & Braun, V. 2013. Teaching thematic analysis: Over- coming challenges and developing strategies for effective learning. *The Psychologist*, 26(2), pp.120–123. Available at: http://eprints.uwe.ac.uk/21155 [Accessed April 18, 2018].

Cole, N. 2017. Definition of Idiographic and Nomothetic. *ThoughtCo.com*. Available at: https://www.thoughtco.com/nomothetic-3026355 [Accessed June 22, 2017].

Collins English Dictionary, 2018. Dissensus definition and meaning. *Collins Dictionary*. [Online]. Available at: https://www.collinsdictionary.com/dictionary/english/dissensus [Accessed September 24, 2018].

Collins English dictionary, 2010. Public intellectual definition and meaning | *Collins English dictionary*. Available at: https://www.collinsdictionary.com/dictionary/english/public-intellectual [Accessed July 17, 2018].

Cronje, J. (2017) EXCLUSIVE: Indian IT guru linked to fake WMC sites. *New24*. [Online]. Available at: https://www.news24.com/SouthAfrica/News/exclusive-indian-it-guru-linked-to-fake-wmc-sites-20170726 (Accessed: 14 November 2018).

Cronje, J; Niselow, T. (2018) Nhlanhla Nene back as finance minister. *Fin24*. [Online]. Available at: https://www.fin24.com/Economy/just-in-nhlanhla-nene-back-as-finance-minister-20180226 (Accessed: 8 November 2018).

Crowston, K. & Fagnot, I. 2018. Stages of motivation for contributing user-generated content: A theory and empirical test. *International Journal of Human - Computer Studies*, 109(2018), pp.89–101. http://linkinghub.elsevier.com/retrieve/pii/S107158191730126X [Accessed May 17, 2018].

Daniels, G. 2014. How far does Twitter deepen democracy through public engagement? An analysis of journalists' use of Twitter in the Johannesburg newsroom. *Journal of African Media Studies*, 6(3), pp.299–311.

De Beer, A.S; Beckett, S; Malila, V; Wasserman, H, 2016a. *Worlds of Journalism Study-1-Country Report: South Africa Journalists in South Africa*, Available at: http://asdebeer.wixsite.com/southafricanjournos. [Accessed September 24, 2018].

De Beer, A.S, Malila V, Beckett, S; Wasserman, H, 2016b. Binary opposites - can South African journalists be both watchdogs and developmental journalists? *Journal of African Media Studies*, 8(1), pp.35–53. Available at: 10.1386/jams.8.1.35_1%5Cnhttp://search.ebscohost.com/login.aspx?direct=true&db=cms&AN=112232845&site=ehost-live.

De Vos, P.,2010. Anti-intellectual South Africa deserves the media it has » *Constitutionally Speaking*. [Online]. Available at: http://constitutionallyspeaking.co.za/anti-intellectual-south-africa-deserves-the-media-it-has/ [Accessed June 22, 2017].

De Vos, P. 2013. Oscar Pistorius: Criminal Law 101. *Constitutionally Speaking*. [Online]. Available at: https://constitutionallyspeaking.co.za/oscar-pistorius-criminal-law-101/ [Accessed October 24, 2017].

De Vos, P. 2014. Pistorius and dolus eventualis: do the facts support the finding? *Daily Maverick*. [Online]. Available at: https://www.dailymaverick.co.za/opinionista/2014-09-11-pistorius-and-dolus-eventualis-do-the-facts-support-the-finding/#.We9k2ROCyCQ [Accessed October 24, 2017].

De Vos, P. 2017. SABC: What the High Court said about its independence and how it will limit government interference. *Constitutionally Speaking*. [Online]. Available at: https://constitutionallyspeaking.co.za/sabc-what-the-high-court-said-about-its-independence-and-how-it-will-limit-government-interference/ [Accessed October 25, 2017].

De Vos, P. (2018a) *Attacks on SARS Commission have no legal basis, must be politically motivated » Constitutionally Speaking*, *Constitutionally Speaking*. Available at: https://constitutionallyspeaking.co.za/attacks-on-sars-commission-have-no-legal-basis-must-be-politically-motivated/ (Accessed: 7 December 2018).

De Vos, P. (2018b) *Adv Dali Mpofu's Threat: What the facts and the law say*, *Daily Maverick*. Available at: https://www.dailymaverick.co.za/opinionista/2018-07-10-adv-dali-mpofus-threat-what-the-facts-and-the-law-say/ (Accessed: 7 December 2018).

Deacon, D. 1999. *Approaching research*, London: Arnold.

Denzin, N. K., & Lincoln, Y. S. (Eds.). 2005. *The Sage handbook of qualitative research* (3rd ed.). Thousand Oaks, CA: Sage Publications Ltd.

Deuze, M. 2006. Participation, Remediation, Bricolage: Considering Principle Components of Digital Culture. *The Information Society*, 22(2), pp.63–75.

Deuze, M. 2008a 'Understanding Journalism as Newswork: How It Changes, and How It Remains the same', *Westminster Papers in Communication & Culture*, 5(2), pp. 4–23. doi: 10.1016/S0304-5412(14)70738-3.

Deuze, M. 2008b. The Changing Context of News Work: Liquid Journalism and Monitorial Citizenship. *International Journal of Communication*, 2, pp.848–865. Available at: http://ijoc.org/ojs/index.php/ijoc/article/view/290/197.

Deuze, M. & Witschge, T. 2018. Beyond journalism: Theorizing the transformation of journalism. *Journalism*, 19(2), pp.165–181. Available at: https://doi.org/10.1177/1464884916688550 [Accessed March 20, 2018].

Domingo, D., Quandt, T., Heinonen, A., Paulussen, S., Singer, J.B. and Vujnovic, M., 2008.

Participatory journalism practices in the media and beyond: An international comparative study of initiatives in online newspapers. *Journalism practice*, *2*(3), pp.326-342.

Dudovskiy, J. 2017. Purposive sampling. *research-methodology.net*. Available at: http://research-methodology.net/sampling-in-primary-data-collection/purposive-sampling/ [Accessed June 22, 2017].

Dudovskiy, J. 2018. Snowball sampling. *research-methodology.net*. [Online]. Available at: http://research-methodology.net/sampling-in-primary-data-collection/snowball-sampling/ [Accessed June 22, 2017].

Dugmore, H. 2018. *Paying the Piper: The sustainability of the news industry and journalism in South Africa in a time of digital*, Grahamstown.

du Toit, P. 2018 Expropriation without compensation: Fact-checking Tucker Carlson and Donald Trump. *News24.com*. Available at: https://www.news24.com/Analysis/expropriation-without-compensation-fact-checking-tucker-carlson-and-donald-trump-20180823 (Accessed: 23 September 2018).

Etheridge, J. 2018. "Time for war": Advocates' body distances itself from Vuyani Ngalwana's tweet. *News24.* [Online]. Available at: https://www.news24.com/SouthAfrica/News/time-for-war-advocates-body-distances-itself-from-vuyani-ngalwanas-tweet-20180706 [Accessed September 17, 2018].

Fraser, N. 1990. Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy. *Social Text*, (25/26), p.56. Available at: http://www.jstor.org/stable/466240?origin=crossref.

Freedom Front Plus, 2018. *Freedom Front Plus*. [Online]. Available at: http://www.vfplus.org.za/ [Accessed July 18, 2018].

Friedman, S. 2011. Whose freedom? South Africa's press, middle-class bias and the threat of control. *Ecquid Novi: African Journalism Studies*, 32(2), pp.106–121. Available at: https://www.tandfonline.com/doi/full/10.1080/02560054.2011.578887 [Accessed October 23, 2017].

Gandour, R. 2016. *A New Information Environment: how digital fragmentation is shaping the way we produce and consume news*, Austin.

Gillmor, D. 2004. *We the Media: Grassroots Journalism by the People, for the People.* O'Reilly (Free online access: O'Reilly Media).

Gobel, M. 2015. Which activities require ethics approval? *Rhodes University*. [Online]. Available at: https://www.ru.ac.za/media/rhodesuniversity/content/research/documents/2015-08_Introduction-to-Ethics-involving-Humans.pdf (Accessed: 22 June 2017).

Goldstuck, A. 2017. *Internet Access in South Africa 2017*, Johannesburg. [Online]. Available at: http://www.worldwideworx.com/wp-content/uploads/2017/07/Exec-Summary-Internet-Access-in-SA-2017.pdf [Accessed January 2, 2018].

Golec de Zavala, A., Guerra, R. and Simão, C. 2017 The Relationship between the Brexit Vote and Individual Predictors of Prejudice: Collective Narcissism, Right Wing Authoritarianism, Social Dominance Orientation. *Frontiers in Psychology*. Frontiers, 8, p. 2023. doi: 10.3389/fpsyg.2017.02023.

Habermas, J. 1989. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society.* Cambridge: Polity Press.

Hanitzsch, T. & Vos, T.P. 2018. Journalism beyond democracy: A new look into journalistic roles in political and everyday life. *Journalism*, 19(2), pp.146–164. Available at: https://doi.org/10.1177/1464884916673386.

Hanusch, F. 2017. Journalistic Roles and Everyday Life. *Journalism Studies*, pp.1–19. Available at: https://www.tandfonline.com/doi/full/10.1080/1461670X.2017.1370977 [Accessed April 19, 2018].

Hermida, A., Fletcher, F., Korell, D. and Logan, D., 2012. Share, like, recommend: Decoding the social media news consumer. *Journalism Studies*, *13*(5-6), pp.815-824.

Hermida, A., 2012. Social journalism: Exploring how social media is shaping journalism. *The handbook of global online journalism*, pp.309-328.

Hertel, G., Niedner, S. & Herrmann, S. 2003. Motivation of software developers in open source projects: An Internet-based survey of contributors to the Linux kernel. *Research Policy*, 32(7), pp.1159–1177.

Hindman, M. 2008. What is the Online Public Sphere Good For? *The Hyperlinked Society*. Available at: http://groups.dowire.org/groups/exchange/files/f/18730-2010-10-04T030532Z/hindman_online_public_sphere_pre.pdf [Accessed September 30, 2017].

Holton, A.E., Coddington, M. & Gil de Zúñiga, H. 2013. Whose News? Whose Values? *Journalism Practice*, 7(6), pp.720–737. Available at: http://www.tandfonline.com/doi/abs/10.1080/17512786.2013.766062 [Accessed May 5, 2017].

Hooper, G. 2011. *The Herald research presentation*, Bataleur Brand Planning

Hurlbut. W.B. 2018. *An Assessment of Drivers, Constraints and Opportunities Overcoming Poverty and Inequality in South Africa.* Available at: www.worldbank.org (Accessed: 14 November 2018).

Jenkins, J. & Nielsen, R.K. 2018. *The Digital Transition of Local News - Reuters Institute Digital News Report*. Available at: http://www.digitalnewsreport.org/publications/2018/digital-transition-local-news/ [Accessed August 18, 2018].

Judges Matter, A. 2016a. How does the JSC deal with complaints against Judges – Judges Matter. *Judges Matter*. [Online]. Available at: http://www.judgesmatter.co.za/opinions/complaints_against_judges/ [Accessed November 20, 2017].

Judges Matter. 2016b. JSC interview of Judge N F Kgomo for the Limpopo Deputy Judge President (Judges Matter) - YouTube. *YouTube*. [Online]. Available at: https://www.youtube.com/watch?v=q5wJuhi4Tuo [Accessed May 17, 2018].

Judges Matter. 2017a. The make-up of South Africa's judiciary. *Judges Matter,* [Online]. Available at: http://www.judgesmatter.co.za/opinions/south-africa-judges/ (Accessed: 11 December 2018).

Judges Matter. 2017b. October 2017 Interviews. *JudgesMatter*. [Online]. Available at: http://www.judgesmatter.co.za/interviews/october-2017-interviews/ [Accessed October 26, 2017].

Judges Matter. 2018a. About us. *Judges Matter*. [Online] Available at: https://www.judgesmatter.co.za/about-us/ (Accessed: 9 December 2018).

Judges Matter. 2018b. The role of NGOs in the Courts – Judges Matter. *Judges Matter*. [Online]. Available at: http://www.judgesmatter.co.za/opinions/the-role-of-ngos-in-the-courts/ [Accessed May 17, 2018].

Klandermans, B. 1997. *The Social Psychology of Protest*. Basil Blackwell, Oxford.

Kapoor, I. 2002. Deliberative democracy or Agonistic Pluralism? The Relevance of the Habermas-Mouffe debate for Third World Politics. *Alternatives: Global, Local, Political*, 27(4), pp.459–487. Available at: http://www.jstor.org/stable/40645059.

Kimberley, K. 2015. Jayde trial takes new turn for suspect. *HeraldLive*. [Online]. Available at: http://www.heraldlive.co.za/news/2015/06/06/jayde-trial-takes-new-turn-suspect/ [Accessed September 30, 2017

Kimberley, K. 2016. Last person in contact with Jayde called as state's first witness. *HeraldLive*. [Online]. Available at: http://www.heraldlive.co.za/panayiotou-trial/2016/10/12/last-person-contact-jayde-called-states-first-witness/ [Accessed September 30, 2017].

Kimberley, K. 2017. Panayiotou trial – state to reopen its case -. *HeraldLive*. [Online]. Available at: http://www.heraldlive.co.za/news/2017/09/30/panayiotou-trial-state-reopen-case/ [Accessed September 30, 2017].

Kovach B. and Rosenstiel, T. 2001. *The Elements of Journalism: What Newspeople Should Know and the Public Should Expect*, New York: Three Rivers Press.

Krauss, S.E. 2005. The Qualitative Report Research Paradigms and Meaning Making: A Primer. *The Qualitative Report*, 10(4), pp.758–770. Available at: http://nsuworks.nova.edu/tqr [Accessed May 13, 2018].

Laclau, E, & Mouffe, C. 1985. *Hegemony & socialist strategy: towards a radical democratic politics.* Verso.

Lewis, S. C., Holton, A. E., & Coddington, M. 2014. Reciprocal journalism. *Journalism Practice*, 1-13. (online first) doi:10.1080/17512786.2013.859840

Lewis, S.C. & Westlund, O. 2014. Actors, Actants, Audiences and Activities in Cross-media news work. A Matrix and a research agenda. *Digital Journalism*, 3(1), pp.19–37.

Lewis, S.C. 2012. The Tension between Professional Control and Open Participation: Journalism and Its Boundaries. *Information, Communication & Society*, 15(6), pp.836–866. Available at: http://www.tandfonline.com/doi/abs/10.1080/1369118X.2012.674150.

Loosen, W. & Schmidt, J. 2016. *Between proximity and distance: Including the audience in journalism (research)*, Bremen. Available at: www.communicative-figurations.org.

Mailovich, C. 2018. Zondo state capture commission has two years, court confirms, *Business Day.* Available at: https://www.businesslive.co.za/bd/national/2018-10-02-zondo-commission-aims-to-finish-hearing-state-capture-evidence-by-august-2019/ (Accessed: 8 November 2018).

Maireder, A. & Ausserhofer, J. 2013. Political discourses on Twitter: Networking topics, objects, and people. *Twitter and Society*, (3), pp.305–318.

Marrian, N. 2018. How SARS went from tax hero to zero, *Business Day*. Available at: https://www.businesslive.co.za/bd/opinion/editorials/2018-06-29-natasha-marrian-how-sars-went-from-tax-hero-to-zero/ (Accessed: 11 December 2018).

McCleod, D. 2018. Mass retrenchments at the SABC: up to a third of staff to go – *TechCentral.* Available at: https://techcentral.co.za/mass-retrenchments-at-the-sabc-up-to-a-third-of-staff-to-go/84770/?utm_source=TechCentral&utm_campaign=244060f454-Newsletter&utm_medium=email&utm_term=0_a2fb843635-244060f454-17549153 (Accessed: 4 November 2018).

Memeburn (2007) Despite broadband growth, SA internet grows marginally – Goldstuck. *Memeburn*. Available at: https://memeburn.com/2007/07/despite-

broadband-growth-sa-internet-access-grows-marginally-goldstuck/ (Accessed: 9 December 2018).

Merriam-Webster, 2018. Scaramouch | Definition of Scaramouch by Merriam-Webster. *Merriam-Webster*. [Online]. Available at: https://www.merriam-webster.com/dictionary/scaramouch [Accessed September 17, 2018].X86

Milo, D. 2008. Judges give journos good news; Court decisions of late have celebrated the freedom to publish, but with freedom comes responsibility. *Musings on Media*. [Online]. Available at: http://blogs.webberwentzel.com/2008/02/judges-give-journos-good-news-court-decisions-of-late-have-celebrated-the-freedom-to-publish-but-with-freedom-comes-responsibility/ [Accessed October 25, 2017].

Milo, D., 2016. Resounding win on parliamentary broadcasts. *businesslive*. [Online]. Available at: https://www.businesslive.co.za/bd/opinion/2016-10-07-resounding-win-on-parliamentary-broadcasts/ [Accessed October 25, 2017].

Milo, D. 2017a. Op-Ed: The right to broadcast court cases – Henri Van Breda, Visvanathan Ponnan and open justice. *Daily Maverick*. [Online]. Available at: https://www.dailymaverick.co.za/article/2017-06-25-op-ed-the-right-to-broadcast-court-cases-henri-van-breda-visvanathan-ponnan-and-open-justice/#.WZdI_5MjGCQ [Accessed August 18, 2017].

Milo, D. 2017b. The Hate Speech Bill and satire. *Webber Wentzel Blogs*. [Online]. Available at: http://blogs.webberwentzel.com/2017/03/the-hate-speech-bill-and-satire/ [Accessed Milo, September 19, 2018].

Milo,D; Kekana, M. 2018a. Cliff Richard and the BBC, a South African perspective. *Inforrm's Blog, Inforrm*. Available at: https://inforrm.org/2018/08/20/cliff-richard-and-the-bbc-a-south-african-perspective-dario-milo-and-molebogeng-kekana/ (Accessed: 11 December 2018).

Milo, D; Kekana, M. 2018b. OP-ED: Cliff Richard and the BBC – when is the identifying of a person suspected of committing a sexual offence permitted. *Daily Maverick*. Available at:

http://firstthing.dailymaverick.co.za/article?id=116820#.XAqXjBMzZo4 (Accessed: 7 December 2018).

Milo, D., Winks, B. 2015. SMS ruling muddies the waters. *Mail&Guardian*. [Online]. Available at: http://mg.co.za/article/2015-01-22-sms-ruling-muddies-the-waters/ [Accessed September 19, 2018].

Mitchelstein, E. & Boczkowski, P.J. 2010. Online news consumption research: An assessment of past work and an agenda for the future. *New Media & Society*, 12(7), pp.1085–1102. Available at: http://nms.sagepub.com/content/12/7/1085.abstract.

Moodie, G. 2015a ABC circulation 10-year comparison: how the mighty have fallen - BizNews.com. *BizNews.* [Online]. Available at: http://www.biznews.com/briefs/2015/02/19/abc-circulation-10-year-comparison-mighty-fallen/ [Accessed May 22, 2017].

Moodie, G. 2015b The Conversation to launch in Africa. *www.journalism.co.za*. [Online]. Available at: http://www.journalism.co.za/blog/conversation-launch-africa/ [Accessed May 22, 2017].

Moseneke, D. 2015. The Media, Courts and Technology: Remarks on the Media Coverage of the Oscar Pistorius Trial and Open Justice. *Advocate*, pp.29–36. Available at: http://www.sabar.co.za/law-journals/2015/august/2015-august-vol028-no2-pp29-36.pdf [Accessed August 18, 2017].

Mouffe, C. 2000. *Deliberative Democracy or Agonistic Pluralism Political Science Series*, Working Paper 72, Institute for Advanced Studies, Vienna: http://www.ihs.ac.at/publications/pol/pw_72.pdf

Mouffe, C. 2016. The populist challenge *OpenDemocracy*. [Online]. Available at: https://www.opendemocracy.net/democraciaabierta/chantal-mouffe/populist-challenge [Accessed March 29, 2018].

Mouton, J. 1996. *Understanding social research*. Van Schaik Publishers.

Mpulo, N. 2017 Children with disabilities battle to get to school. *GroundUp*. Available at: https://www.groundup.org.za/article/children-disabilities-battle-get-school/ (Accessed: 11 December 2018)

Mutsvairo, B. 2016. *Participatory politics and citizen journalism in a networked Africa*, Houndmills, Basingstoke, Hampshire: Palgrave MacMillan. Available at: https://play.google.com/store/books/details/Bruce_Mutsvairo_Participatory_Politics_and_Citizen?id=2XP-CgAAQBAJ [Accessed May 5, 2017].

Negt, O, and Kluge, A. 1993. *Public Sphere and Experience: Toward an Analysis of the Bourgeois and Proletarian Public Sphere*. Minneapolis: U of Minnesota P.

Newman, N. 2017. Journalism, Media and Technology Trends 2017. *Digital News Project*, pp. 37. doi: 10.1177/2056305116662395.

News24. 2018. Noakes clears final hurdle, not guilty says HPCSA appeal committee. *News24*. Available at: https://www.news24.com/SouthAfrica/News/noakes-clears-final-hurdle-not-guilty-says-hpcsa-appeal-committee-20180609 (Accessed: 9 December 2018).

Ngalwana, V. 2018. Truth about decision on Jiba appeal. *News24*. [Online]. Available at: https://www.news24.com/Columnists/GuestColumn/truth-about-decision-on-jiba-appeal-20180720 [Accessed September 17, 2018].

Ngalwana, V. 2014. Constitutionally Understood. *Constitutionally Understood*. Available at: http://constitutionallyunderstood.blogspot.co.za/ [Accessed November 21, 2017].

Nicolson, G. 2018. Ramaphosa accepts Nene resignation, appoints Tito Mboweni as finance minister, *Daily Maverick*. Available at: https://www.dailymaverick.co.za/article/2018-10-09-ramaphosa-accepts-nene-resignation-appoints-tito-mboweni-as-finance-minister/ (Accessed: 8 November 2018).

Nonnecke, B., Andrews, D., Preece, J. and Voutour, R. 2004. 'Online Lurkers Tell Why', *Proceedings of the Tenth Americas Conference on Information Systems*, New York, New York, August 2004 1, (August), pp. 1–7.

Palys, T. 2008. Purposive sampling. In M. Given, ed. *The Sage Encyclopaedia of Qualitative Research Methods*. Los Angeles: Sage, pp. 697–8. Available at: https://www.sfu.ca/~palys/Purposive sampling.pdf [Accessed June 22, 2017].

Papacharissi, Z. 2009. The Virtual Sphere 2.0: The Internet, the Public Sphere and beyond. In, Chadwick, A. & Howard, P.N. (Eds). *Handbook of Internet Politics*. London: Routledge, pp.230-245

Papacharissi, Z. 2010. *A Private Sphere: Democracy in a Digital Age*. Cambridge: Polity.

Papacharissi, Z. 2015 Toward New Journalism(s): Affective news, hybridity, and liminal spaces. *Journalism Studies*, 16(1), pp.27–40.

Pavlickova, T. & Kleut, J. 2016. Produsage as experience and interpretation. *Participations. Journal of Audience & Reception Studies*, 13(1). Available at: http://www.participations.org/Volume 13/Issue 1/S2/5.pdf.

Perper, R. 2018. Cyril Ramaphosa replaces Jacob Zuma as South Africa's president. *Business Insider*. Available at: https://www.businessinsider.com/cyril-ramaphosa-replaces-jacob-zuma-as-south-africa-president-2018-2?IR=T (Accessed: 8 November 2018).

Peters, C. & Witschge, T. 2015. From grand narratives of democracy to small expectations of participation: Audiences, citizenship, and interactive tools in digital journalism. *Journalism Practice*, 9(1), pp.19-34.

Peters, C. 2016. The spatiotemporal dynamics of digital news audiences, in Franklin, B. & E. I. (ed.) *The Routledge Companion to Digital Journalism Studies*. London: Routledge, pp. 375–384. doi: 10.4324/9781315713793.

Phakgadi, P. 2018. 'Sunday Times' parts ways with Mzilikazi wa Afrika and Stephan Hofstatter, *Eyewitness News.* Available at: https://ewn.co.za/2018/10/14/sunday-times-parts-ways-with-mzilikazi-wa-afrika-and-stephan-hofstatter (Accessed: 4 November 2018).

Pillay, V. 2013. Crib notes: Who is Cezanne Visser? *Mail & Guardian*. Available at: https://mg.co.za/article/2013-08-22-crib-notes-who-is-advocate-barbie (Accessed: 14 November 2018).

Rasmussen, T. 2016. The Idea of a Networked Public Sphere. *The internet soapbox*, pp.65–78.

Reese, S.D., 2016. The new geography of journalism research: Levels and spaces. *Digital Journalism*, *4*(7), pp.816-826.

Rosen, Jay. 2006. The People Formerly Known As the Audience. *PressThink*. http://archive.pressthink.org/2006/06/27/ppl_frmr.html.

Section 27. 2018. Home - *Section 27*, *section27.org.za*. Available at: http://section27.org.za/ (Accessed: 4 December 2018).

Severin, W. J. & Tankard, J. W. 1997. *Communication theories: Origins, methods, and uses in the mass media.* Pearson College Division.

Shirky, C. 2008. *Here Comes Everybody*. New York: Penguin.

Siapera, E., Veglis, A. & Siapera, Eugenia; Veglis, A. 2012. *The Handbook of Global Online Journalism*. Chichester: Wiley-Blackwell.

Simons, M., Tiffen, R., Hendrie, D., Carson, A., Sullivan, H., Muller, D. and McNair, B. (2017) 'Understanding the civic impact of journalism: A realistic evaluation perspective', *Journalism Studies*, 18(11), pp. 1400–1414. doi: 10.1080/1461670X.2015.1129284.S

Singer, J. B., Hermida, A., Domingo, D., Heinonen, A., Paulussen, S., Quandt, T., Reich, Z. and Vujnovic, M. 2011. *Participatory Journalism. Guarding Open Gates at Online Newspapers*. John Wiley & Sons. doi: 10.1080/02560054.2014.886666.

Singer, J.B. 2016. Transmission Creep: Media effects theories and journalism studies in a digital era. *Journalism Studies*, 19(2), pp. 209-226.

Spies, W. 2018. Willie Spies. *Maroela Media*. [Online]. Available at: https://maroelamedia.co.za/author/williespies/ [Accessed September 22, 2018].

Steensen, S. & Ahva, L. 2015. Theories of journalism in a digital age: An exploration and introduction. *Digital Journalism*, 3(1), pp.1–18. Available at: http://www.tandfonline.com/doi/abs/10.1080/17512786.2014.928454.

Terre Blanche, M., Durrheim, K., & Painter, D. (2006). *Research in Practice Applied Methods for the Social Sciences*. Cape Town: UCT Press.

Tilley, A. 2018. Social grants: Let's look at the crisis of beneficiaries..., *Daily Maverick*. Available at: https://www.dailymaverick.co.za/opinionista/2018-05-10-social-grants-lets-look-at-the-crisis-of-beneficiaries-who-are-losing-out-on-r500m/ (Accessed: 11 December 2018).

Timeslive (2017) The Times considers closing print edition, *Timeslive*. Available at: https://www.timeslive.co.za/news/south-africa/2017-11-03-the-times-considers-closing-print-edition/ (Accessed: 4 November 2018).

Turow, J. & Draper, N. 2014. Industry Conceptions of Audience in the Digital Space. *Cultural Studies*, 28(4), pp.643–656. Available at: http://www.tandfonline.com/doi/abs/10.1080/09502386.2014.888929.

TVSA. 2015. Let's Fix It. *TVSA*. Available at: https://www.tvsa.co.za/shows/viewshowseasons.aspx?showId=237&season=1 (Accessed: 16 November 2018).

Van Onselen, G. 2013. The top 10 Dali Mpofu controversies. *Business Day*. [Online]. Available at: https://www.businesslive.co.za/bd/opinion/columnists/2013-11-04-the-top-10-dali-mpofu-controversies/ [Accessed September 23, 2018].

Vargo, C. J., Guo, L. and Amazeen, M. A. 2018 The agenda-setting power of fake news: A big data analysis of the online media landscape from 2014 to 2016. *New Media & Society*, 20(5), pp. 2028–2049. doi: 10.1177/1461444817712086.

Veriava, F. 2014a Our courts are schooling the state. *Mail&Guardian*. [Online]. Available at: https://mg.co.za/article/2014-03-14-our-courts-are-schooling-the-state [Accessed September 19, 2018].

Veriava, F., 2014.b Learning to live in a material world. *Mail&Guardian*. [Online]. Available at: https://mg.co.za/article/2014-10-23-learning-to-live-in-a-material-world [Accessed September 19, 2018].

Veriava, F. 2017. Op-Ed: Is the observance of one religion at schools a f..., *Daily*

Maverick. Available at: https://www.dailymaverick.co.za/article/2017-05-12-op-ed-is-the-observance-of-one-religion-at-schools-a-form-of-religious-apartheid/ (Accessed: 7 December 2018).

Verweij, P. & van Noort, E. 2014. Journalists' Twitter networks, public debates and relationships in South Africa. *Digital Journalism*, 2(1), pp.98–114. Available at: http://www.tandfonline.com/doi/abs/10.1080/21670811.2013.850573.

Wall, M. 2015. Citizen Journalism: A retrospective on what we know, an agenda for what we don't. *Digital Journalism*, 3(6), pp.797–813.

Wardle, C. and Derakhshan, H. 2017. Information disorder: Toward an interdisciplinary framework for research and policy making *Council of Europe report. DGI (2017), 9*.

Warner, M. 1992. The Mass Public and the Mass Subject, in Calhoun, Craig (ed). *Habermas and the Public Sphere*, Cambridge Mass.: MIT press, pp. 377–401, ISBN 978-0-262-53114-6.

Warner, M. 2002. *Publics and Counterpublics*. New York: Zone Books

Wasserman, H. 2006. Globalized values and postcolonial responses. *International Communication Gazette*, 68(1), pp.71–91.

Webster, J.G. 2014. *The marketplace of attention: how audiences take shape in a digital age* 1st ed., Massachusetts: MIT Press. Available at: https://www.jstor.org/stable/j.ctt9qf9qj [Accessed October 20, 2018]..

Whiting, A. and Williams, D. (2013) 'Why people use social media: a uses and gratifications approach', *Qualitative Market Research: An International Journal,* 16(4), pp. 362–369. doi: 10.1108/QMR-06-2013-0041.

Zelizer, Barbie. 2013. "On the Shelf Life of Democracy in Journalism Scholarship." Journalism 14 (4): 459–473.

Zelizer, B. 2017. *What Journalism Could Be*. 1st edn. John Wiley & Sons.

APPENDIX

Table 1: Digitally engaged legal professionals' motives for online produsage

LAWYERS	QUOTES ABOUT STATED MOTIVE
REGULARS	
Pierre de Vos	"So, then I had dinner one evening with a colleague from abroad, Judge Dennis Davis, and he said, "you know you academics, you have to be part of the conversation, you have to become public intellectuals in a way, otherwise you are not playing your role in the democracy". So, the two things then, so I said okay let me start a blog, then it's short, more people might read it."
Allison Tilley	"I think judges' matter…the decisions they make, the way they make them, who gets to be a judge, who doesn't get to be a judge. These things are incredibly important and very mysterious, sometimes deliberately so. So... you need to just make sure that you are watching and putting it in the public domain…"
Willie Spies	"My motive interestingly enough is not to build my firm or to build my clientele, my motive is I'm a very opinionated person and I'm an activist apart from the fact that I'm a lawyer so my engagement, or my driving force is my activism and my opinions and my convictions"
Ntsiki Mpulo	"To create that atmosphere of awareness of the importance of the thing is what we want to achieve with our advocacy. Personally, it was just money. Media24 does not pay. So, it was actually, without being facetious it was a bit of a fit."
OCCASIONALS	
Faranaaz Veriava	"One of the reasons I started writing for the Mail & Guardian was because I felt that we weren't writing legal stories properly. I don't want to name names...I sometimes find some of the reporting a bit stupid especially if you sitting there."
Dario Milo	"I think the truth is that it's something I enjoy doing, I'm passionate about it, and as I say for me it's also a little bit of an outlet on the academic teaching side that I do as well, so I quite enjoy that interaction. I distil a very complicated legal case or statute in a way that I thought the layman could understand and read and hopefully be educated a little about that area.You read so much about law written by non-lawyers which is inaccurate… …often I've had a case of mine which someone else writes about it which is, you know you read and you think was this journalist actually in court in the same case I was in."
Nerushka Bowan	"Yes, so I think that's for me…the most important part, the communication aspect, and that a lot of things are inaccessible and drafted in strange ways and if you can kind of break it down in a way that anybody can understand it I think that's the true value."

Table 1 Continued

SOCIAL BUTTERFLIES	
Dali Mpofu	"I use it for personal, social interaction, political interaction, and sometimes to deal with issues to do with the law."
Justine Limpitlaw	"I like the range of interaction, rich, poor, black, white, urban, rural that you get, not so much rural but you get some, and international on Twitter."
Vuyani Ngalwana	"Engagement...sometimes I just want to show up the stupidity and the hypocrisy of the current narrative in South Africa in the public space……just to stir crap, just to see what people, how people react to some things that I say."
Mathew van der Want	"So marketing, I wouldn't say it's the most important motivation, I think what always appealed to me about Facebook was the opportunity to be fun and quirky, not quite outrageous, the word I keep using is provocative, saying things which evoke maybe a bit of discomfort but are still funny. That was always my prime motivation."

Table 2 The Regulars' Views on the role of journalism

INTERVIEW SUBJECTS	WHAT IS GOOD JOURNALISM?	THE STATE OF SA JOURNALISM ON LEGAL MATTERS	ARE SOME LAWYERS PLAYING A JOURNALISM ROLE?	SHOULD MORE LAWYERS BE PLAYING A JOURNALISM ROLE OR COLLABORATE WITH JOURNALISTS?	DO ES DIGITAL MEDIA OPEN UP DEMOCRATIC PUBLIC SPACES?
THE REGULARS					
PIERRE DE VOS	I think good journalism obviously needs to be informed, it must go beyond just the headline, and it is the kind of journalism that makes it possible for people to make really good choices about their own life. Because for me that is the heart of democracy, to try and create a society in which you can make meaningful choices about your life, which you can only make if you are informed.	The media is very sensationalist. I sometimes get very irritated and people phone me, some journalist, they don't know what they are talking about and then they are slightly hysterical and they want me to give them a quote that is going to confirm their prejudice. I have learnt now, I sometimes say "well, no ,no, phone me back in an hour once you have done the homework and you have worked out some questions for me and then I can answer them, but I am not going to give you a quote.	Yes. I think it is part of it, it's not the whole thing, those of us who do this kind of thing. We are a small part of a bigger picture.	YES	I feel it sometimes does that. It sometimes opens up the democratic space; it exposes you to opinions that you maybe would not always be daily exposed to, so in that sense it's already a good thing. Yes, but it can also become really counterproductive. A twitter lynch mob can be a bit hectic, so it's good and bad.
ALLISON TILLEY	**Timeous, concise, accurate, dispassionate**	**No, I didn't say I was happy with the way legal issues are covered.**	**Yes, but it's a tight, leash… it's these issues and you can't go further than that. So, you know it's not knocking it, but it's not the same thing as giving somebody a short hand note book, a tank of petrol and saying, "go and find out what happened here". That's what journalism is.**	**Journalists have a very specific function and they have a very specific role, and this is not that role, this is a project that has a very specific purpose gathering information with a very specific mandate and putting that in the public domain. It is not following the story. So, you mustn't assume we are, we may in some ways, we may look the same in some ways, but it is not the same thing**	**Yes. I think it allows people to talk directly to other groups of people in a way that they imagine is less managed than through media, formal media, so they imagine that it's truer, it's not truer but it feels truer because it's my peers, and my colleagues…**
WILLIE SPIES	That ability to see a story or to distinguish, to crystallize a story from a whole range of facts and I think that's what Jacques Pauw did. He's been inundated over years by people with stories and documents and papers and he managed to convert that into this book, that's good journalism. Making sense of society and contributing to the broader narrative	It's good. There are many lawyers who are very critical about journalists and the way journalists portray legal cases but the people that I've met in the Pretoria high court, Zelda Venter, Jean-Marie Versluis, those are two, Zelda Venter is with Independent, Jean-Marie Versluis is with Netwerk 24, News 24, Beeld, they are brilliant and the radio media, Stephen Grootes, Barry Bateman, those guys are really brilliant, they do understand the law, many of them studied law.	No. Writing an article every second week is not journalism, that's an opinion piece. An opinion piece is not journalism. Journalism is filtering through facts and creating a story that stands on its own legs, writing an opinion piece is not that, so I do not see what I'm doing as journalism. It's linked to journalism but it's not journalism.	Yes, absolutely on social media	Absolutely, yes. To a very large extent. Social media has just redrawn the lines of who can write. Unfortunately there's a lot of junk…but legitimate arguments that may in the past not have passed the barrier of what seems to be acceptable within the fraternity of journalism, now gets an alternative way to get voiced
NTSIKI MPULO	**It's balanced, it's not necessarily unbiased, but you know you have to give a lot more diverse views and in South Africa I don't think we do enough of that.**	**I'd like to see more critical analysis of what happens with cases and the repercussions of things**	**Yes absolutely, but it certainly helps to bring more depth, in-depth kind of understanding of issues and more diversity of voices on those particular issues. ..We give the lawyers perspective and the clients perspective and then the state perspective**	Yes	**Yes but the public sphere, on Twitter is quite small in relation to the rest of the population. And so that's why, I'm always advocating radio is a big medium that we need to be exploiting**

Table 3: The Occasionals' Views on the role of journalism

INTERVIEWEES	WHAT IS GOOD JOURNALISM?	THE STATE OF SA JOURNALISM ON LEGAL MATTERS	ARE SOME LAWYERS PLAYING A JOURNALISM ROLE?	SHOULD MORE LAWYERS PLAY A JOURNALISM ROLE OR COLLABORATE WITH JOURNALISTS?	DOES DIGOTAL MEDIA OPEN UP DEMOCRATIC PUBLIC SPACES?
THE OCCASIONALS					
FARANAAZ VERIAVA	I expect journalism that is thorough, that understands the issues, so a journalist that just goes into a court and looks for sound bites, is not good enough.	One of the reasons I started writing for the Mail & Guardian was because I felt that we weren't writing legal stories properly. I think it's happening better now, there's more coverage and there's more people that have the public interest legal beat than before... I mean I don't always like how some people do it, I don't want to name names...I sometimes find some of the reporting a bit stupid especially if you are sitting there.	I think there's a lot of value to what Pierre does. I did it in education. I don't have the time for it now, but I think it's very important because he's putting out a particular understanding of a case ...I think he's got a particular training and he's learnt how to translate his training into a language that everybody can understand, so that is something you try and do, you try and de-jargonize the law to make it accessible and I think he does that and I think it's very important	Yes, I think we should be writing more as well,	Did not have time to answer this
DARIO MILO	I think good journalism is journalism when it's reporting news that is factually accurate, that's number one. Number two that is fair to the subjects and treats the subjects you are dealing with fairly and with dignity, including people you're criticizing, you want to see that they've been given a right of reply, you want to see that the journalist has been fair with the subject. And then I think good journalism is journalism that makes sense of what's going on around you	That's where I think it needs some interventions...in the way that the law is covered. I do think that there is a handful of really good legal journalists...but there is definitely a need to have more on the job training, specialists, experience in relation to reporting court cases and often the story behind the story. Sometimes the standard court reporting, news reporting will contain errors and so on, but it will be more or less ok but it's when you get to the analysis of it....I think there is definitely a need for more in-depth journalism...	I don't follow too many of them but if I look at Pierre De Vos as an example, I think he for example is doing a good job of doing the analysis, making sense of current events in the constitutional context and so on, so I think so	YES	Sometimes but it is often an echo chamber think there is an echo chamber feel about it often because you choose who you follow and you tend to follow people who you generally agree with or you know will not irritate you on social media or I try to choose a spectrum of people and organizations so that you have a bit of diversity, but I think our biases will always come into it when we chose or select our news
NERUSHKA BOWAN	I think well researched, easy to read in terms of your communication style, accessible to kind of anybody who picks it up, topical and informative.	I mean obviously the high-profile government type issues obviously get the most type of attention and all the other areas of law I would say next to nothing comparatively, but I mean I guess it comes back to what's going to sell, and I guess the public is more interested in things like government issues and high-profile court cases and things like that. So, it kind of makes sense why it is skewed in that fashion but there's many areas of law that would get like basically zero coverage	Yes. Most of the time. Sometimes where lawyers miss the mark is the easy to read part, so you get these blogs citing court cases and in the Superior High Court 5th circuit in the case of *dah dah dah* people have already lost interest in your first sentence, so I think they miss it every now and then when it comes to that but a lot of lawyers are getting it as well like Pierre de Vos and Dario Milo.	YES	Yes, it gives people a place to say what they would like to say or put their point of view across or their opinion and things like that. On the no side, people just become very dumb on social media, they cross the line, become racist, and I'm reading a book, I don't know if you've read Dr Mary Aiken, Cyber Psychology, and it talks about why people act differently on social media because they do. What someone would say in your face and what they would say to you on Twitter is two completely different things, she said the effect is similar to the inhibition you get when you drink alcohol.

Table 4: The Social Butterflies' views on the role of journalism

INTERVIEWEES	WHAT IS GOOD JOURNALISM?	THE STATE OF SA JOURNALISM ON LEGAL MATTERS	ARE YOU OR SOME LAWYERS PLAYING A JOURNALISM ROLE?	SHOULD MORE LAWYERS PLAY A JOURNALISM ROLE OR COLLABORATE WITH JOURNALISTS?	DOES DIGITAL MEDIA OPEN UP DEMOCRATIC PUBLIC SPACES?
THE SOCIAL BUTTERFLIES					
DALI MPOFU	I think mostly it's about imparting information and adding value, rather than reporting the obvious, so if you are reporting on a soccer match you must say more than this one took the ball and the other one scored because everybody saw that, so you need somebody who can give another analysis of who are these teams, where do they come from, what was their record.	My average experience for the past 25 years or so is that legal reporting in this country is so poor, it's actually scary. Sometimes when you see a report on a case that you were involved in, you'd think these people must have been in a different planet."	Nobody I can think of. Pierre De Vos I'm afraid is not my favourite. I think he doesn't have practical experience and I think it shows now and again, so in my book at least more than 50% of the time he gets it wrong.	I certainly think they could. But not enough are doing it, but maybe not enough are being asked to do it...	For all the criticism of televising cases and all that, I think that has helped a lot... anything that gets shown that has to do with a court I think has a huge impact on public education so it's a great thing. So, I think people know much more now, you find people talking just in general language or in phone ins on radio stations talking about the separation of powers and all sorts of concepts that were not in the normal language only maybe 4 or 5 years ago.
JUSTINE LIMPITLAW	Analysis. The 5 W's and H, I get that off Twitter, we used to need to read the newspapers for that, I get that off Twitter. What I think of as good journalism, and frankly what I would be prepared to pay for is analysis, and I want people who are prepared to get out there, leave the newsroom, leave your phone, get out there, go and talk to people, take the pictures, take the videos of ordinary people, like Greg Marinovich did in Marikana	So, some of them are excellent and some are really bad	I mean I'm sure I wouldn't call it journalism, I would call it legal analysis. Pierre De Vos...chooses a topic that interests him writes about it and makes it available for the public to share... I'm not doing what I do for public education, I do it for public engagement, that's what I'm interested in, I want to have conversations, I want to share ideas, I want to understand my country better and the people in it, I want them to understand someone like me better. That's why I'm doing it.	I think it's very important for journalists, particularly when they are talking about legal issues to not get it wrong and they very often do. So yes, I think it's important for journalists and lawyers to work together	If people had had smart phones in the townships in Sebokeng, in Soweto in 76 because you weren't seeing those images on SABC, if people had had smart phones I don't think apartheid could have survived as long as it did, I really don't think it could have. The levels of organisations in the 80s in our townships with no ability to organise other than going door to door was just extraordinary. Imagine if they had Twitter? I mean it would have taken months not years.
VUYANI NGALWANA	Informative and educational but also report the truth, no the truth as processed and packaged by you. For me that's what good journalism is. So there are two strands to it, be informative, truth but also be educational so that people can learn more about things.	I think it's terrible. In fact, I even suggested that people, journalists who are going to be working with the courts should be sent to do an LLB and go and do either articles of clerkship or come and do pupillage. Practice for 2 years and then go there because now you know not only the theory of the law but how it works in practice.	I don't see myself as a journalist and I just put out my thoughts, not with a view to influencing anybody, but with a view to sharing my views and then if people want to engage with them, we engage.	I think there is room for the media to do less of commenting on legal principles, and more of engaging people who are trained in that discipline. And I'm sure there are many lawyers who would give of their time.	There is the potential for it, but I don't think it's happening. For example, there is a group of black entrepreneurs who've just started a black social media platform called DotAfro, now from what I understand them saying is Twitter and Facebook are censoring black views...
MATHEW VAN DER WANT	To bring to the fore and just lay bare the bad things that have been happening here, there are a lot; I like to understand in very broad strokes what is going on around me and above me, politically. Short, concise, nicely written explanatory things that I understand.	There are some aspects of the way that all that has been going on and has been reported on in relation to State Capture and the separation of power that in some ways may play into or support the view that what we have got here is basically a fundamentally racist attack on the governing party.	I think that what they are doing is giving their account of what they perceive, which is not really what a journalist's job is, as I understand it. A journalist's job apart from a Think Piece, a journalist's job is to say this happened and here is an analysis of it. Rather than giving one's own personal account of something.	I certainly have never viewed myself as educating or providing any sort of real substantive content on what I tweet about what goes on in my working day. You know I will tweet a picture of my dog and my associate and say, "who looks like they are working?"	In a sense it does, everyone has a voice, and everyone can say whatever they want to. I also find it very troubling ... I have always thought that I really believe in freedom of speech...but ... Sometimes I see things people write and I think, "Why do you even have a voice, why?"

Table 5: The Digitally Disengaged share views on the role of journalism

INTERVIEWEES	WHAT IS GOOD JOURNALISM?	THE STATE OF SA JOURNALISM ABOUT LEGAL MATTERS	ARE SOME LAWYERS PLAYING A JOURNALISM ROLE ONLINE?	SHOULD MORE LAWYERS PLAY A JOURNALISM ROLE OR COLLABORATE WITH JOURNALISTS?	DOES DIGITAL MEDIA OPEN UP DEMOCRATIC PUBLIC SPACES?
THE DIGITALLY DISENGAGED					
ODETTE GELDENHUYS	Well researched, journalists who understand the issues, journalists who don't regurgitate what is given to him or her. A journalist who doesn't use Facebook as his or her source.	I read Legal Brief, only I stay away from news its too depressing. I only read the salacious stuff.	I haven't read Dario's blog and I read Pierre de Vos very seldom. And Pierre's isn't journalism, it's kind of legal arguments, legal interpretation ..."	I have also contacted journalists who know me, and I feel comfortable with and so if I think about it I will let them know and say "listen there is this interesting case that is coming up"	I have to say yes and no... it's a sliver, but it is largely middle class. The most remarkable thing for me about poor people is how the informal networks work. There is this word of mouth thing that people have and that has been my experience throughout my career at Legal Resources Center, at Legal Aid South Africa, at ProBono.org and now here again. And what people read and where articles are placed. So, I guess I still believe in the power of print journalism and not on these other platforms.
RETIRED JUDGE	Journalism's role is to disseminate in a fair way all information of the events in the society. Because ultimately, they are the watchdog, they are the ones who are going to create a better society by putting into the public domain those values which are enshrined in our Constitution	I'm finding that the standard of journalism sometimes gives way to a lot of sensational things and where serious journalism is being compromised in favour of a lot of adverts and social gatherings, you know sometimes it takes me 15, 20 minutes to read the Tribune now, and this is very different from the early days when you pondered over some articles.	It is journalism. Because specialist areas must be brought in and when academics enter the fray then you know you have to evaluate them as journalists, and you know I certainly have a lot of respect for Pierre De Vos. Then Judge Devanish writes, I don't think Judge Devanish has the depth of De Vos, that's all I can say	I think judges and lawyers all have a useful role to play, provided they don't go beyond the boundaries and bring the law as an institution into disrepute.	I say handbooks in simple language, not classical Zulu, ordinary Zulu, the layperson can understand, through books explain to them, having seminars whenever they feel that some people need to question how to understand these things because we do have a Department of Justice, we have lots of civil servants, and every second person may have a law degree but may not have practiced law where they can come in and go and play a role. So, I do think we have a wonderful Constitution, but we need to back it up to reach the people
DENISE LENYAI	Good journalism is presenting the facts to the country, do not tweak it, do not add or remove, present a picture there that this is what is happening, present the law, yes you will not present it in the way that I have presented it as a lawyer but the best that you can do is just go to that statute and read it out as it is, this is what is happening, this is what the law is saying, what are we saying as South Africans. That for me would be good journalism. That in itself will create so much dialogue for or against, but you as the journalist, you kept your integrity.Stick to the facts	The media are not covering constitutional cases, cases that have got impact on how the constitutional court interprets them and how it is affecting black people. In the Ndaba case said no, the pension fund becomes part of the joint estate, you don't have to particularly stipulate it. But now the pension funds are still refusing to comply with what the act is saying and there was not enough coverage on that case...because the type of cases really that I see journalists focusing on are the criminal cases. that is unconstitutional.	Yes. in De Rebus somebody will talk about an article or will write an article on a particular topic, remember that is your view, your opinion, we as the editorial committee, we need to check that whatever you have written is not offensive, it is not racist, but your opinion needs to come out, we are not there to censor people, but we are not there also to publicize abuse language and that type of thing.	Everybody is trying in their own sector, the only thing is that we need to talk, all these different organisations need to find a platform to talk to each other. Journalists and lawyers to talk to each other. Me and you we are still The powers that be in our industries need to talk to each other, they might not always agree but if they understand each other where we come from, I'm sure we can become a force to influence rest of the South Africans. Because a lot of the things we say and do as journalists and lawyers affect the society out there	You know social media would be the perfect place for people to discuss things rationally, but what I've realised is that on social media people think because people don't see me when I'm writing these things... I am now reacting to what you said, firstly because I know you are a white woman, I know ...something that you said has something to do with your financial status, I now answer based on your personal circumstances and then the main point loses focus. People lose focus, so if people can learn to stay focused and not just answer the person, but answer the issue, then maybe we can get it right.

Table 5 continued

SHENEICE LINDERBOOM	Good journalism should be the truth and it should be a fair representation from both sides and it should be accessible, understandable to anybody. I'm not going to get into the type of audience you would have, but I still think that it should be something that is easily understood, it shouldn't be like you're reading a thesis	More family, more domestic, maintenance domestic violence, protection orders, stuff like that would be interesting because the situations in those instances are quite desperate, so it would be nice to just get to see it and how things work with that	No because there's a distinction between good journalism and opinion, so what we're doing is, I mean if I think about the live tweeting and stuff that we're doing, we're saying what is happening, what is being said in court, we're quoting, so I think that it's good journalism. When it comes to people's opinions then maybe that would be something that needs to, that's someone's opinion and it can be very biased and swayed	Actually ja, because you know what I was on Facebook the other day and there was something about some lady giving financial advice on buying your first property and black tax and making it practically understandable, so I think something like that would be good for legal explanations about how things work. I do think it's happening I just maybe don't know what's going on. From the little I've seen on my Facebook you do see a few friends giving a little bit of advice here and there but I'm hoping there will be other people that do that in the legal field. You do see a lot of legal law firms putting up information about a particular thing and it's on their websites, but I think videos might be a nice way to try and get that out and explain that but you do see law firms doing that, just explaining the different processes and stuff	Yes. Just because you're able to see how people are voicing their opinions freely, so when you see on Twitter the to and fro and people adding their different bits, you see it on Facebook as well "I do think it's issues that affects the public. I think there has also been a lot of stuff around race and because I'm coloured and have a lot of coloured lawyer's friends, not a lot but, then just to see how the position, I think that was also interesting in the debate around race and seeing how the coloured attorneys would respond and then I would then agree with that which was nice because it kind of makes you feel like okay I'm on the right track.