P.O.Box 412365 • Craighall • Tel (011) 325-5755 • Fax (011) 325-5736 • e-mail: bccsa@nabsa.co.za
No 2 Albury Park • Magalieszicht Ave • Dunkeld West • 2196 • www.bccsa.co.za

ADJUDICATION NO: 17/A/2013

COMPLAINANT:	**AK MIA**
BROADCASTER:	**e.tv**
PROGRAMME:	**"AFRICA 360"**
DATE OF BROADCAST:	**13 APRIL 2013**

COMPLAINT

That biased views of one time slave exposed his hatred for Islam and Muslims .... That lack of *audi alteram partem* proves imbalance of programme.

APPLICABLE RULES

4(2) Broadcasting service licensees must not broadcast material which, judged within context, amounts to (a) propaganda for war; (b) incitement of imminent violence or (c) the advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.

13(1) In presenting a programme in which a controversial issue of public importance is discussed, a broadcaster must make reasonable efforts to fairly present opposing points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within reasonable period of time of the original broadcast and within substantially the same time slot.

ADJUDICATION

[1] The Respondent broadcast a programme on 13 April 2013 in the series "Africa 360". The title of the particular episode was "Slavery in Africa". In the broadcast, a certain

Simon Deng related his experience of being abducted as a child and sold into slavery to a Muslim family. He later obtained his freedom and has become an activist against slavery. The tone of the broadcast upset the Complainant and the following complaint was received by the Registrar:

"a. Although the program was advertised as "Slavery in Africa" thereby giving the clear impression that it was to be an expose on slavery in Africa as a whole the content was clearly exclusively on alternatively concentrated on "Muslim Africa" and in particular on North Sudan which is a majority Muslim state with a passing reference, inexplicably I submit, to Mauritania also an almost 100 per cent Muslim state;

b. almost the entire program was based on alleged experiences of one SIMON DENG an alleged one time slave in North Sudan who betrayed his biasses and hatred for Islam and Muslims by contemptuously alluding to being made an Ahmed or Mohammed (both exclusively Muslim names) in North Sudan;

c. although Sudanese both northern and southern are black North Sudan was referred to as the Arab north thereby subliminally highlighting that because most Arabs are Muslim the [Arab] north is the notorious slaver;

d. no reference or even mention was made of the widespread abduction of persons in the Uganda/Sudan/Chad/Ethiopian areas which sees the abductees [Muslim/Christian/animist/pagan male of female] becoming slaves of the abductors who are from all backgrounds;

e. with total disregard for the *audi alteram partem* rule no comment was invited or aired from north Sudan on the allegations of slavery in that country;

f. the entire program was based on the uncorroborated experiences of a single individual whose utterings were devoured as gospel by the host.

It is, of course, not for me to expose other African and non-African slavery but should not even a cursory reference have been made in the program to well documented examples of slavery in other parts of the world? The failure to do so is clearly indicative of biasses against North Sudan and Muslims."

[2] **The Broadcaster responded as follows:**

"1. Mr Deng's reference to Mauritania was based on his personal research as an anti-slavery activist. The host and producer of the episode did not refer to Muslim Africa as we are aware that human-trafficking is a global concern. The reference to culture and religion are based very specifically on Mr Deng's experience with the family who enslaved him.

2. The premise of this particular episode was the personal profile of Mr Deng and so it relies heavily on his own experiences of a child slave. While we cannot speak for Mr

Deng, we believe our guest's reference to having an Arabic name was not an indictment on Islam but rather an indication of his identity and culture which were respectively denied and eroded by his experience of slavery.

3. It is important to understand that Sudan's concept of race is not uniform nor is it in line with the predominantly Global North understanding of 'Arab' and 'black'. While we do not have the opportunity in this short response to thoroughly outline the nuances of race in Sudan, it is important to understand that the conception of Arab and black in Sudan is based very heavily on class, religion and tribal identity. Tribes may adopt the term Arab based on the economic activity of that particular community for example the Zaghawa in the Darfur region refer to themselves as Arab based on the fact that they are nomadic traders. Further, the distinction we hold today of black and Arab in Sudan is also based on an early twentieth century description of the country by British colonialists. That the distinction still exists is evidence of the disenfranchisement experienced by many groups within the country, especially the southern tribes who now often identify themselves as black. While this is by no means an exhaustive description of Sudan's ethnic and cultural climate, we hope this gives some idea that the reference made in the episode was based on this rather than it being an attack on Muslim Africans and Islam as a faith.

4. We think it's important to understand that Mr Deng was (not?) accusing the Sudanese regime of slavery, but rather he was addressing the culture of modern-day slavery according to his own experiences and so in this instance we do not think it is necessary to have an official response before airing the programme.

5. The programme was based on the personal experiences of Mr Deng as a child slave and activist. The producer of the show made every effort to research Mr Deng's work in order to ensure that he is in fact a credible guest in line with the standards displayed by Africa360 thus far.

6. We appreciate your suggestion and in future when we have a programme based on slavery in general, we will certainly revisit your suggestions and give a more extensive view of slavery in its contemporary guise on the continent."

[3] Any negative connotation in which a religion is portrayed in a broadcast, is bound to attract negative reaction from some viewers/listeners. This is probably due to the emotional content of religion, as opposed to its intellectual content. Our task at the Broadcasting Complaints Commission is to adjudicate broadcasts complained of in context. In other words the part or aspect complained of must be judged in the context of the whole broadcast. In this instance, the gist of the complaint relates to the alleged hatred expressed for the Islam faith and for Muslims by Mr Deng.

[4] The departure point in adjudicating a complaint like this one is that freedom of expression for everyone, including broadcasters, is guaranteed by section 16 of our Constitution. However, this freedom is not absolute - it is limited by what is generally known as hate speech. This means that when a broadcaster has used the

airwaves to advocate hatred based on race, ethnicity, religion or gender, it has overstepped the limits of free speech and has contravened the Code of Conduct by which broadcasters under our jurisdiction are bound. There is a further requirement before such a finding can be made: The broadcast must also incite the viewers/listeners to cause harm.

[5] Although the Broadcasting Complaints Commission is not bound by precedent like our law courts are, it is considered wise to be consistent in our judgments. For this reason I would like to refer to the case of *Human Rights Commission v SABC*[1]. This case concerned a song called Amandiya that was broadcast during a current affairs programme. In the song, the writer relates how the Zulu people have been and still are being subjected by the Indian people of KwaZulu-Natal. The song clearly advocates hatred towards the Indian people and goes so far as to incite the Zulus to cause harm (to the Indians). However, the Tribunal of the BCCSA judged the broadcast in context and found that the song was broadcast in the context of a *bona fide* current affairs programme. For this reason the Tribunal found that the broadcast did not contravene the Code.

[6] In another case, *Muslim Judicial Council of SA v Radio 702*[2], an interview was broadcast with the curator of the Holocaust Museum of New York, mainly on the subject of extremism. Not only Muslim extremism was discussed, but also extremism demonstrated by other groups of people. After a complaint against the programme was received of hate speech, the Tribunal analysed the broadcast in detail and could find no advocacy of hatred against Muslims in general.

[7] In adjudicating cases of freedom of expression and limitations thereon, the BCCSA must also take the measure of tolerance within society towards dissenting opinions into consideration. In this regard it is instructive to take cognisance of the judgment in the Constitutional Court case of *Islamic Unity Convention v Independent Broadcasting Authority and Others*[3] where the following was said[4]:

---

[1] BCCSA Case 31/2002.
[2] BCCSA Case 28/2007.
[3] 2002(4) SA 294 (CC).
[4] At paragraph 26. Footnotes in the case are not repeated.

> *South Africa is not alone in its recognition of the right to freedom of expression and its importance to a democratic society. The right has been described as "one of the essential foundations of a democratic society; one of the basic conditions for its progress and for the development of every one of its members . . .". As such it is protected in almost every international human rights instrument. In Handyside v The United Kingdom the European Court of Human Rights pointed out that this approach to the right to freedom of expression is -*
>
> *"applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb . . . . Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'."*

[8] Turning to the broadcast complained of, I do not think that Mr Deng (and therefore the Broadcaster) advocated hatred towards Muslims in general or towards the Islam faith. He related his story of abduction and sale into slavery with a Muslim family. His slave master could have been a person of any other faith. It so happens that in his case he ended up in slavery with a Muslim family. That was the historical fact that he informed his audience of. This has to be judged in the context of his activism against slavery. I do not regard his story as advocacy of hatred against the faith of Islam or against Muslims in general. Neither could I find anything in what he said about Islam or Muslims as incitement to cause harm. The broadcast therefore fails both tests for hate speech and for this reason it cannot be regarded as a contravention of the Code.

[9] I also have to decide whether the broadcast contravened clause 13(1) of the Code. In this case a controversial issue of public importance was discussed. The Code then requires that the Broadcaster must fairly present opposing points of view. The topic of discussion was slavery. Although Mr Deng, the activist against slavery, in telling his story, referred to his experience as a slave in a Muslim household, this was not the message that was conveyed by this programme. The message was that slavery, as bad as it is, is still being practised in Africa. That makes it a controversial issue of public importance. If the Broadcaster were to follow the letter of clause 13(1) of the Code, it would have had to invite a defender or champion of slavery to appear on the programme to put across an opposing view. Any adherent to the Bill of Rights in our Constitution, any law abiding citizen would agree that this cannot be the intention of

the drafters of the Code. I therefore find that there was no contravention of clause 13(1) of the Code.

In the result I find that there was no contravention of the Code of Conduct and the complaint is not upheld.

PROF HP VILJOEN
DEPUTY CHAIRPERSON
BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA