

The African Media Barometer (AMB)

The Friedrich-Ebert-Stiftung's Southern African Media Project took the initiative together with the Media Institute of Southern Africa (MISA) to start the African Media Barometer in April 2005, a self-assessment exercise done by Africans themselves according to home-grown criteria. The project is the first in-depth and comprehensive description and measurement system for national media environments on the African continent.

The benchmarks are to a large extent taken from the African Commission for Human and Peoples' Rights (ACHPR) "Declaration of Principles on Freedom of Expression in Africa", adopted in 2002. This declaration was largely inspired by the groundbreaking "Windhoek Declaration on Promoting an Independent and Pluralistic African Press" (1991) and the "African Charter on Broadcasting" (2001).

By the end of 2007, 26 sub-Saharan countries have been covered by the AMB. In 2007 those countries which started the exercise in 2005 were revisited providing for the first time comparable data to measure developments in a country over a two-year period.

Methodology: A panel of experts is formed in each country, including representatives of media and civil society at large in equal numbers. They are serving as panel members in their personal capacities, not as representatives of their respective organisations. The panel should consist of not more than ten members. They will meet bi-annually for two days retreats to go in a self-assessment process through the indicators in a qualitative discussion and determine (quantitative) scores for each indicator. The meetings will be chaired by an FES consultant to ensure comparable results. The resulting reports are made public.

¹ The ACHPR is the authoritative organ of the African Union (AU) mandated to interpret the African Charter on Human and Peoples' Rights

Scoring system: Panel members are asked to allocate their individual scores to the respective indicators after the qualitative discussion in an anonymous vote according to the following scale:

- 1 Country does not meet indicator.
- 2 Country minimally meets aspects of the indicator.
- 3 Country meets many aspects of indicator but progress may be too recent to judge.
- 4 Country meets most aspects of indicator.
- 5 Country meets all aspects of the indicator and has been doing so over time.

Scores for each sector are determined as follows: Members of the panel will, after a qualitative group discussion, attach their individual point-score (1 - 5) to each sub-indicator of a sector. The sum of all individual scores will be divided by the number of panel members. The result will then be considered the final score for the sub-indicator.

This qualitative report, including the scores, serves the purpose of measuring over time (based on bi-annual repetitions of the panel meetings) the progress or otherwise of developments in the media landscape.

Kaitira Kandjii
Director Regional
Media Institute of Southern Africa
Windhoek, Namibia

Rolf Paasch
Director, Media Project Southern Africa
Friedrich-Ebert-Foundation (FES)
Windhoek, Namibia

AFRICAN MEDIA BAROMETER TANZANIA

Sector 1: Freedom of expression, including freedom of the media, are effectively protected and promoted.

1.1 *Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.*

ANALYSIS:

Free expression of ideas and views, including opinions and the right to information is embodied under Article 18 of the Constitution of the United Republic of Tanzania, 1977 (as amended) which states that every citizen has a right to:

1. freedom of expression and of opinion
2. seek, receive and impart information without regard to national boundaries
3. communicate and the right to non-interference of that communication
4. be informed at anytime on important happenings that are of importance to the life and wellbeing of citizens and about important issues of concern to the society.

Between 2006 and 2008, there has been no change in laws or new ones enacted to protect people's right to freedom of expression and of the media as guaranteed by law. However, there has been quite a lot of debate on the Government's proposals on the Freedom of Information Bill and the Media Services Bill 2007, by various stakeholders throughout the country.

The Constitutional amendments of 2005 removed all claw back clauses in the Constitution, but the retention of Article 17 and 30 invalidates the guarantees provided under Article 18.

The panellists conceded that despite the existence of oppressive laws that hinder freedom of expression and of the media, the media

has been very courageous in exposing corruption in very high places. There was consensus that political tolerance was high allowing journalists to criticize the government. However this should not be mistaken as there being freedom of expression since the laws remain in place and could be evoked at any time. The panelists pointed out that the Fourth Phase Government under President Jakaya Kikwete has been quite tolerant. However, freedom of information should not be confused with political tolerance.

A recent study by the Coalition on the Right to Information has proposed that of the 27 legislations that touch on issues of right to information, 17 of them need to be reviewed, amended or repealed because they suppress access to information, press freedom and freedom of expression (See appendix 1).

The panellists held the same opinion on Zanzibar, where although there are Constitutional guarantees on the right to free expression and information these rights are abrogated by the existence of laws such as Newspapers and Broadcasting Acts which do not support access to information, freedom of expression and are unfriendly to the media.

SCORES:

Individual scores: 3, 1, 2, 2, 3, 2, 4, 3, 2

Average score: 2.4 (2006= 2.8)

1.2 *The right to freedom of expression is practised and citizens, including journalists, are asserting their rights without fear.*

ANALYSIS:

There was general consensus that free expression of opinion especially among the citizens is still low. Although people do discuss a

lot of issues in informal settings such as in dalalas^[1], it is still difficult to do so in open forums without fear of repercussions. However, there was also consensus that perhaps due to the tolerance of the current Government, a lot is now being discussed freely, more than ever before.

It was also felt that the media was in the forefront in pushing the frontiers of freedom of expression and of the press by being very bold and courageous in exposing scandals, some involving very senior Government officials including Ministers who have been forced to resign as a result of the exposés. It was also agreed that even though courage for telling the truth is still lacking among journalists, the journalism profession is gaining credibility and respect among the public. However, the panellists were of the view that in the media, freedom of expression is also hampered by interference in the editorial independence by media owners or publishers in both private and public media. It was also felt that at times journalists working for the public (state) media might be better placed as the editorial policy is quite clear and the security of employment is better than in the private media, where an editor or journalists can be summarily dismissed if the owner is displeased with what is published or aired.

Foot note

^[1] The Coalition on the Right to Information was formed in December 2006 and comprises of 11 media and human rights organizations which have been coordinating stakeholders' recommendations on the Right to Information and Media Services Bills. The Coalition is being led by the Media Council of Tanzania (MCT) and includes the Media Institute of Southern Africa - Tanzania (MISA-TAN), the Tanganyika Law Society (TLS), the Legal and Human Rights Centre (LHRC), the Media Owners Association of Tanzania (MOAT), the Tanzania Media Women's Association (TAMWA), the Tanzania Gender Networking Programme (TGNP), the Tanzania Legal Education Trust (TANLET), and the National Organisation for Legal Assistance (NOLA). Others are Article 19 and the Commonwealth Human Rights Initiatives (CHRI).

^[1] Dala Dalas - public buses

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The panellists also noted that programmes such as the public expenditure tracking is capacitating the citizens to hold their leaders accountable. Journalists have also benefitted in capacity building of public expenditure tracking and so far about 200 journalists have received training. This programme is under the US sponsored Millennium Challenge Account (MCA) which seeks to empower the citizens to make their leaders in the local government accountable on how the financial resources have been utilized according to the citizens interest.

It was also felt that hostile laws; ownership patterns which are divided between those who want to be independent and those who want to support the government; and professional incompetence resulting in many libel cases in courts, are all contributing factors to limiting freedom of expression.

SCORES:

Individual scores: 3, 1, 3, 2, 3, 4, 3, 4, 2

Average score: 2.8 (2006= 2.1)

1.3 *There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of media.*

ANALYSIS:

There are about 27 laws that restrict access to information, freedom of expression and of the media that need to be reviewed, amended or repealed (See Appendix 1).

It was also noted that the culture of secrecy in the Civil Service makes it difficult to access even the most mundane information which should in actual fact be in the public domain and would not in any way pose a threat to national security or defense.

SCORES:

Individual scores: 2, 1, 1, 1, 2, 2, 2, 2, 2

Average score: 1.7 (2006= 1.6)

1.4 *Entry into and practice of the journalistic profession is legally unrestricted*

ANALYSIS:

Currently, journalism practice remains legally unrestricted and any person can practice journalism. As such the profession has been “invaded” by people who have no training in journalism and this has contributed to the falling standards of the profession.

The panel was of the opinion that there is a need to have a national debate on the question of who is a journalist and whether journalism is a trade or a profession. The outcome of such a debate would determine whether there is a need for restrictions as to who should practice journalism.

SCORES:

Individual scores: 4, 2, 5, 1, 2, 5, 1, 1, 2

Average score: 2.5 (2006= 2.4)

1.5 *Protection of confidential sources of information is guaranteed by law.*

ANALYSIS:

Currently there is no law for the protection of sources of information. The Government’s proposed Freedom of Information Bill and the stakeholders recommendations of the same bill are in agreement on the need of protecting sources.

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The Code of Ethics for Media Professionals enforced by the Media Council of Tanzania enjoins managers and editors not to disclose sources of information given in confidence.

SCORES:

Individual scores: 4, 1, 5, 1, 1, 4, 2, 2, 1

Average score: 2.3 (2006= 1.6)

1.6 *Public information is easily accessible, guaranteed by law, to all citizens including journalists.*

ANALYSIS:

Access to public information remains a big challenge. Laws exist that restrict public officers from revealing information to the public such as Public Service Act, 1962. The Government's proposals on the Freedom of Information Bill will further curtail access to information. This has been challenged by the stakeholders proposals which suggest for minimising bureaucracy and secrecy in making information held by public and private organs accessible to the people. The stakeholders' recommendations also propose for penalties for civil servants and other public officials who withhold information without due course.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 2, 2, 1, 1

Average score: 1.3 (2006= 1.1)

1.7 *Civil society in general and media lobby groups actively advance the cause of media freedom.*

ANALYSIS:

It is estimated that there are over 10,000 registered NGO's in the

country. There are also about 11 registered media associations. However, most of the media associations are weak and not effective.

It was also noted that most of the civil society organisations including media associations rely to a great extent on foreign funding. This reliance makes it askance as to whose agenda they may be following.

The civil societies and media lobby groups are now forging strategic links. At the moment there is a coalition of 11 media and human rights organisations that are spearheading the lobby for legal reforms in the issue of access to information, freedom of expression and of the media.

SCORES:

Individual scores: 3, 2, 2, 3, 1, 4, 3, 3, 3

Average score: 2.7 (2006= 2.8)

Overall score for sector 1: 2.2 (2006= 2.1)

Sector 2: The media landscape is characterised by diversity, independence and sustainability.

2.1 *A wide range of sources of information (print, broadcasting, Internet) is available and affordable to citizens.*

ANALYSIS:

The media landscape in Tanzania is the most vibrant in the region with a wide variety of dailies (18) and weekly newspapers (41), television and radio stations. However, most of the media outlets are urban based and rural populations have very limited access to the media with the exception of radio.

Circulation of newspapers is still low and there are difficulties in the distribution of newspapers in rural areas. Also the high level of illiteracy contributes to limited access to newspapers.

The low purchasing power of the people means that not many people can afford to purchase newspapers, radio or TV sets. Also to consider is that electricity covers less than 10 per cent of the country and as such access to Television and internet is very limited.

It was noted that women's access to the media is even more limited than men due to economic and socio-cultural barriers. In Zanzibar where community watching of television has been practised for a long time, women still do not have access to such forums.

The panellists noted that mobile phones are emerging as an important medium of mass communication and issues surrounding the mobile phone as an emerging media need to be further explored.

SCORES:

Individual scores: 2, 2, 2, 3, 4, 4, 3, 2, 3

Average score: 2.8 (2006= 2.9)

2.2 *Citizens' access to domestic and international media sources is not restricted by state authorities.*

ANALYSIS:

There are no restrictions for citizens to access domestic and international media sources. The Government allows foreign media to operate in the country. For example international broadcasting stations such as BBC, Deutsche Welle, CCTV, CNN are all easily available through local channels.

The inhibiting factors to access domestic as well as international news is based on lack of purchasing power, the fact that most media houses are urban oriented, there are very few media houses operating from the regions, and community media is almost non-existent.

SCORES:

Individual scores: 4, 3, 2, 5, 5, 5, 4, 5, 4

Average score: 4.1 (2006=3.1)

2.3 *Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities.*

ANALYSIS:

The panellists noted that even though newspapers are started almost everyday, circulation is still limited to regional centres and to a very small extent to district level. Also the 'mortality' rate of newspapers is very high and many fold up in the first year of

operation because of a poor economic base. There are very few banks that would provide loans for one to run a newspaper as it is considered a high risk business. Some people also start newspapers without conducting a feasibility study that would show how it would sustain itself economically.

There are a few newspapers that are published outside Dar es Salaam. They include Arusha Times, Msanii Africa and Mzawa. Accessing the stories from rural areas is a problem and much of what is written in the newspapers is from the urban areas. People want to read about themselves so if you are to sell a newspaper to them then it would have to be about issues that concern them.

SCORES:

Individual scores: 1, 3, 2, 1, 2, 3, 1, 1, 2

Average score: 1.8 (2006= 2.4)

2.4 *Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting.*

ANALYSIS:

The Tanzania Communications Regulatory Authority (TCRA) Act of 2003 regulates the broadcasting sector. The law allows anybody to start a radio or TV station. The major hindrance would be accessibility of frequencies; financial resources to start and sustain the radio or TV Station. There are no special concessions for the establishment of community radio stations and this could be the major hindrance as to why there are not many community radio stations as compared to other countries in the region.

The panelists noted that Tanzania Broadcasting Corporation (TBC) is undergoing transformation to turn it into a fully fledged pub-

lic broadcaster. The law establishing TBC states that it is a public broadcaster and requires it to enter into a charter with the Government, to enable it to fulfill its functions as a public broadcaster. So far the Charter has not been signed. More information should be sought to establish the status of the Charter. The panelists conceded that so far TBC is doing well because it has a strong CEO but not because there are statutory guarantees to its independence. There needs to be a law that protects the broadcaster.

SCORES:

Individual scores: 3, 3, 1, 2, 4, 3, 3, 3, 3

Average score: 2.8 (2006= 2.6)

2.5 *Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities.*

ANALYSIS:

There are no special concessions by law given to community radio stations. There seems to be some confusion in determining what community radio stations are. At times even radio/TV stations owned by local government authorities are considered to be community radio. The African Charter on Broadcasting is an instrument that provides guidance to defining what is commercial, public and community broadcasting. The general description would entail geographic location, language and interest. Most often community radios have a social agenda. In Tanzania, radio stations are allowed to broadcast only in Kiswahili and English for the sake of maintaining national unity and cohesion.

Although vernacular languages are disappearing, it seems to be the stand of the Government to let them disappear at the expense of strengthening national unity.

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In Zanzibar, the Government is hesitant to allow for the establishment of a community radio station in Micheweni, Pemba where there will be established a Millennium village.

SCORES:

Individual scores: 1, 2, 2, 1, 2, 2, 3, 2, 1

Average score: 1.8 (2006= 2.7)

2.6 *The editorial independence of print media published by a public authority is protected adequately against undue political interference.*

ANALYSIS:

There is limited editorial independence and self censorship in print media published by a public authority. This may be because the Managing Director is appointed by the President, and the Chairperson of the Board of Directors is appointed by the by the Minister. It is difficult under the circumstances to be critical of Government.

The panelists noted censorship as such is not practiced and the Boards would not interfere directly on editorial content but it is assumed that the Managing Editor and the journalists in the newspapers are aware of their boundaries and alliances. It was felt however, that in the public media at least those boundaries are clearer than in private media where the owner, the spouse, children and friends may even influence editorial content without qualms. Security of employment is also shaky.

SCORES:

Individual scores: 1, 1, 1, 2, 2, 3, 3, 2, 2

Average score: 1.9 (2006= 1.6)

2.7 *Independent news agencies gather and distribute information for all media.*

ANALYSIS:

Currently there is only the private owned Press Services of Tanzania (PST) which is run by the IPP Media and which has correspondents all over the country. The problem is still poor quality of the news items and also poor remuneration of the correspondents who in most cases are not trained journalists.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 1, 1, 2, 2

Average score: 1.3 (2006= 1.1)

2.8 *Media diversity is promoted through adequate competition regulation/legislation.*

ANALYSIS:

In reality the law allows for diversity in as much as anybody can start a media outlet but at the same time it does not restrict monopoly. In this regard diversity is threatened by monopoly as the concentration of the media becomes concentrated in a few hands. About four media houses led by IPP Media own the chunk of the media industry in the country. Others are Business Times Limited, Mwananchi Communications and New Habari Corporation. Global Publishers Limited owns about 5 titles of yellow newspapers.

More information is required on the Fair Competition law needs to be understood and whether it may have any influence in reducing the monopolization of the media.

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SCORES:

Individual scores: 2, 2, 2, 3, 3, 3, 3, 2, 2

Average score: 2.4 (2006= 1.6)

2.9 *Government promotes a political and economic environment which allows a diverse media landscape.*

ANALYSIS:

Not much has been done by the Government to promote a diverse media landscape. The information and Broadcasting Policy as a political statement of intent does recognise the need for a diverse and pluralistic media. This intent has so far not been translated into law. Both the Governments and the Stakeholders' proposals on the Media Services Bill are silent on the issue of ensuring diversity and plurality of the media.

The panellists noted that the Government which is a major advertiser chooses the media outlets that are "friendly" to it to advertise. TBC, supposedly a public broadcaster gets tax payers money to run it and at the same time competes for advertisements with the private radio and TV stations. It was noted that it is easy for TBC to undercut its competitors because it receives subventions from the Government.

SCORES:

Individual scores: 2, 1, 1, 3, 2, 3, 3, 1, 3

Average score: 2.1 (2006= 3.2)

2.10 *Private media outlets operate as efficient and professional businesses.*

ANALYSIS:

The panellists noted that there is still a problem of qualified staff in the various media outlets. Most media owners prefer to use untrained personnel because they can pay them less. Also most private media houses even the big ones do not invest in the training of their staff. At times even if a staff member secures training at no cost to the employer, he or she might not be given permission to go for the training. There have been cases whereby a journalist has been forced to resign in order to go for further training.

MISA's experience shows that private media houses are not cooperative when approached to release their journalists for even short term training, which is done for them for free. These trainings are meant to enhance professionalism.

Private media tend to poach trained journalists from the public media houses which usually invest in training.

It was also noted that most private media houses lack organizational management and do not have schemes of service. Retention of staff is a major challenge and the media industry is characterized by high labour mobility; a trend that does not augur well for efficiency.

Also there is no transparency in the recruitment of journalists and posts are seldom advertised when there is a vacancy. Instead, some of the media houses recruit from their relatives and cronies. In this way the media outlets may not necessarily get the best staff available in the market.

It was also noted that there is a need to separate the financial management of the newspapers from the editorial because experience has shown that good editors are not necessarily good managers par-

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ticularly in financial matters.

SCORES:

Individual scores: 1, 2, 2, 2, 1, 2, 3, 2, 2

Average score: 1.9 (2006= 1.8)

2.11 *State print media are not subsidized with taxpayers' money.*

ANALYSIS:

State media like Zanzibar Leo newspaper receives Government subsidy. Daily News and its sister paper Habari Leo are run by a parastatal company but it was not clear if it also gets direct subsidies from the Government. They also receive other support such as guarantees of loans to buy their printing press and low rents for their premises.

SCORES:

Individual scores: 2, 2, 1, 2, 2, 2, 2, 2, 2

Average score: 1.9 (2006= 2.4)

2.12 *Government does not use its power over the placement of advertisements as a means to interfere with media content.*

ANALYSIS:

The government is the largest advertiser in the country and it gives priority of its advertisements to state/public owned media, and to media which is “friendly” with it.

There are media outlets which do not receive any Government ad-

vertisements because they are deemed to be too critical of Government. There have been even attempts by Government to restrain advertisements that are deemed too critical of Government. For example the Haki Elimu advertisements which depicted a glaring disparity in the education standards and opportunities for Tanzanian children from poor and affluent families were discontinued from being aired on radio and television because the Government felt that they distorted its image.

SCORES:

Individual scores: 1, 1, 1, 1, 4, 3, 3, 2, 2

Average score: 2.0 (2006= 2.4)

2.13. *The advertising market is large enough to maintain a diversity of media outlets.*

ANALYSIS:

The advertisement market is not large enough to sustain the media industry. The biggest advertisers are the Government, Mobile phone companies and beer companies mostly Tanzania Breweries. All media houses have to scramble for a share of the limited market.

Small and medium scale companies do not advertise mostly because there is no culture of advertising and also because they are afraid of taxes.

The yellow press which has quite a big circulation does not attract advertisements but rely mostly on the cover price.

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SCORES:

Individual scores: 1, 1, 1, 2, 3, 3, 2, 2, 2

Average score: 1.9 (2006= 2.1)

Overall score for sector 2: 2.2 (2006=2.3)

3.2 *The appointments procedure for members of the regulatory body is open and transparent and involves civil society.*

ANALYSIS:

The appointments procedures for the Director General (DG) and Members of the Board of the TCRA are outlined in the TCRA Act under s7.1 and s7.2. The DG, the chairperson and Vice Chairperson are all presidential appointees. Section 8 of the Act provides for the establishment of a Nomination Committee and makes reference to the appointment of two persons from the private sector, one of which will come from the legal recognised body of the private sector and another who would be nominated by the authority. There is no mention whatsoever of a representative from civil society.

Section 37 establishes a five member Content Committee whose Chairperson is the Vice Chairperson of the Board. The four other members are meant to be appointed by the Minister in Consultation with the Board's Chairperson. Civil society membership is not a prerequisite to be a member of the Content Committee.

SCORES:

Individual scores: 1, 3, 4, 1, 1, 2, 2, 1, 1

Average score: 1.8 (2006= 2.0)

3.3 *The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.*

ANALYSIS:

There is some inconsistency noted in the distribution of frequencies. One of the panelist cited the case of the Tanzania Media Women's Association (TAMWA) which had applied for a frequency but was denied because TCRA said the frequency spectrum for Dar es Salaam

was full. TAMWA was advised that if it wanted to establish a radio station outside Dar es Salaam, then a frequency would be granted. However, TAMWA noted that even though they were denied a frequency Passion FM which had applied after them got a frequency to broadcast in Dar es Salaam. Habari Corporation was denied too. TCRA advised TAMWA to negotiate with TBC which apparently was in possession many frequencies which they were not using. TAMWA declined.

It was noted that there is need to improve the services of the regulator so that it is seen to regulate broadcasting in the public interest that promotes diversity.

SCORES:

Individual scores: 2, 4, 3, 3, 3, 3, 3, 2, 2

Average score: 2.8 (2006= 3.0)

3.4 *The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.*

ANALYSIS:

Tanzania has an Information and Broadcasting Policy which was adopted in 2003, and which was developed in a transparent manner with the participation of stakeholders. About 80 per cent of the stakeholder's recommendations were accepted by the Government.

An area which needs further engagement with the TCRA is to ensure that it adheres to the spirit of the policy in licensing.

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SCORES:

Individual scores: 4, 2, 4, 3, 3, 3, 4, 5, 4

Average score: 3.6 (2006= 3.8)

3.5 *The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.*

ANALYSIS:

The current Board of the public broadcaster -Tanzania Broadcasting Corporation (TBC) comprises of Government officials. The Chairperson is appointed by the President and Board members are appointed by the Minister. This structure does not give office bearers any accountability to the public.

It was noted however that there is a proposal to change the Board setup and also advertise the management posts.

SCORES:

Individual scores: 2, 1, 1, 2, 2, 2, 3, 1, 1

Average score: 1.7 (2006= 1.5)

3.6 *Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with the state and political parties as well as those with a financial interest in the broadcasting industry.*

ANALYSIS:

They are not excluded. The Board consists of Government officials, a Member of Parliament and a former media owner who now works

for Government.

SCORES:

Individual scores: 2, 2, 4, 3, 1, 2, 1, 1, 1

Average score: 1.9 (2006= 1.3)

3.7 *The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practice.*

ANALYSIS:

The principle of keeping a distance from vested interests is almost impossible to apply in the Tanzanian situation. TBC is still essentially a civil service department whose rules, procedures and appointments are determined by the government. There is no legal provision guaranteeing its independence, or subjecting it to a public accountability body. The current practice of the broadcaster depends on the boldness of the Director General.

TBC is funded through the ministry's budget allocations and advertising revenue. On the one hand, it must maintain the friendship and expectations of the government in power; while on the other hand it must ensure that it does not offend the interests of its commercial clients. Both the radio and television sell airtime. It is doubtful that such a funding mechanism can guarantee the editorial independence of TBC.

SCORES:

Individual scores: 2, 2, 4, 3, 2, 2, 3, 1, 3

Average score: 2.4 (2006= 1.3)

3.8 *The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.*

ANALYSIS:

As stated above TBC is funded through the ministry's budget allocations and advertising revenue. It must balance the act of maintaining the friendship and expectations of the government in power so that it maintains adequate levels of funding, and at the same time ensure that it is in the good books of its commercial clients so that it continues to attract advertisements. Both funding mechanisms can not guarantee non- interference of its budget.

SCORES:

Individual scores: 3, 2, 3, 3, 1, 2, 3, 1, 2

Average score: 2.2 (2006= 2.5)

3.9 *The public broadcaster is technically accessible in the entire country.*

ANALYSIS:

The public broadcaster is technically accessible in the entire country. The broadcaster is now on satellite and has booster stations which enhance the signals.

About 100% of the population have access to radio coverage in both mainland Tanzania and Zanzibar. Television coverage is still around 50% although arrangements are in top gear for wider coverage. Television Zanzibar covers 100% of the island. Generally the situation is encouraging.

SCORES:

Individual scores: 5, 4, 4, 5, 5, 4, 5, 4, 4

Average score: 4.4 (2006=4.0)

3.10 *The public broadcaster offers diverse programming for all interests.*

ANALYSIS:

The Public Broadcaster does offer diverse programming reflecting the different tastes of the various groups within the population. There are programmes for sports lovers, various music tastes and styles, administrators, school children, women, farmers, pastoralists, religion, and culture.

There are also some discernable efforts toward embracing public educational programmes. TBC has yet to be able to marshal enough resources to undertake general educational programmes of its own.

SCORES:

Individual scores: 5, 4, 4, 5, 4, 4, 5, 4, 4

Average score: 4.3 (2006= 3.9)

3.11 *The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.*

ANALYSIS:

It was noted that generally it is doing well. However panelists also noted that due to commercial interests or pressure, there are times when programming is not consistent. For example for about three

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weeks religious leaders have been complaining that religious programmes are not being aired. There is therefore a need for the public broadcaster to be adequately funded and not compete for advertisements because it becomes difficult to balance its public role when it has to look for money.

SCORES:

Individual scores: 3, 3, 4, 4, 3, 4, 3, 4

Average score: 3.6 (2006= 3.1)

3.12 *The public broadcaster offers as much diverse and creative local content as economically achievable.*

ANALYSIS:

Content is prescribed by law. It is 60:40, local content vis-à-vis foreign content. TBC is the only broadcaster so far that is trying to comply.

SCORES:

Individual scores: 4, 2, 3, 4, 3, 4, 4, 4, 4

Average score: 3.6 (2006= 3.9)

Overall score for sector 3: 2.9 (2006= 2.7)

Sector 4: The media practice high levels of professional standards.

4.1 *The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies.*

ANALYSIS:

Since 1995 a voluntary, non-statutory Media Council which was established by the media industry is in place. The Council enforces a Code of Ethics for Media Practitioners endorsed by the members of the Council. The Public can bring complaints on alleged violations of the Code of Conduct against the media to the council for arbitration and mediation. Compliance rate of the decisions of the Council is quite high estimated at around 90 per cent.

The Council will need to be more pro-active and comment on ethical transgressions as they happen instead of waiting for people to come and complain.

The challenge is also to encourage individual media houses to institute in-house peer mechanisms of professional ethical conduct such as style books and codes of conduct. The Nation Media Group has an internal code which is enforced and journalists risk being fired if they do not comply.

SCORES:

Individual scores: 2, 3, 3, 3, 2, 4, 3, 3, 3

Average score: 2.9 (2006= 3.4)

4.2 *The standard of reporting follows the basic principles of accuracy and fairness.*

ANALYSIS:

The media generally are not doing enough to get the other side of the story. There is too little analysis and in-depth coverage of issues of national importance. It is common practice to come across misleading and sensational headlines in news prints in particular in the tabloids. The government owned Daily News seems to be on a better footing as regards accuracy.

The reporting seems to focus on minds of leaders. Newspapers focus a lot on politics and reporting is not issue driven. Using of stringers was cited to be a root cause to this reporting phenomenon.

Furthermore, there is no diversity of expert writers contributing to the papers. Apparently it is always the same political analysts who are given space. One of the reasons cited was that a lot of people do not dare to come forward and express their opinion(s) in writing. Another underlying cause is the decline of quality teaching and research at the university which does not produce top experts as expected.

SCORES:

Individual scores: 2, 2, 3, 3, 3, 3, 3, 3, 3

Average score: 2.8 (2006= 2.1)

4.3 *The media cover the full spectrum of events, issues and cultures, including business/economics, cultural, local and investigative stories.*

ANALYSIS:

The standard of professionalism is still low. A study conducted in 2007

on media coverage indicated that politics followed by crime and sports stories take prominence. Reporting on HIV/AIDS and Gender is still characterised with stigmatization and stereotyping respectively. There is also a lot of sensationalism. However, it was noted that generally speaking there are efforts being made to improve the state of affairs. One panellist said that since there is improvement even academia is now accepting media citations in academic work. Investigative journalism is on the rise and the media has in the recent past exposed major scandals involving high placed government and ruling party officials. However journalists still lack skills in analyses and interpretation of issues.

Other challenges in covering the full spectrum of issues and events include difficulties in accessing information in Government and public offices; lack of specialization; hostile working conditions, corruption and lack of training.

Media houses also lack research units to track audiences' preferences.

SCORES:

Individual scores: 2, 2, 2, 2, 3, 2, 3, 2, 3

Average score: 2.3 (2006= 3.1)

4.4 *Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process.*

ANALYSIS:

There is progress and there are several women in leadership positions in the Tanzania Standards Newspapers, Tanzania Broadcasting Corporation, and IPP media. The panel however noted that many talented women journalists are leaving the profession for better paying jobs in public relations, in NGOs and in the Government.

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It was noted that many women are discouraged by the hostile working conditions in the media including sexual harassment.

Also, most private media lack institutional/organizational structures and their recruitment mechanisms are not transparent. Schemes of services are lacking that would give an idea on how an employee will progress. As such, even when a position falls vacant, the vacancies are not advertised and employment is granted on the basis of “know who instead of know how”. Owners seem to have their own criteria for promotion.

SCORES:

Individual scores: 2, 2, 3, 2, 2, 2, 3, 2, 3

Average score: 2.3 (2006= 2.8)

4.5 *Gender mainstreaming is reflected in the editorial content*

ANALYSIS:

There is progress although a lot still needs to be done to improve the situation. MISA-TAN is assisting media houses to draft and adopt policies on Gender and HIV/AIDS that would help in streamlining the issues in the media. This is a programme being implemented in the SADC region. In Tanzania at least 7 media outlets have been assisted to draft the policies and adopt them.

The 2006 Gender and Media Baseline Survey (GMBS) study conducted in Tanzania showed that 20% of social issues are covered by women while men concentrate on political and economic issues. 2% of news in 16 media houses are about HIV/AIDS and Gender issues.

SCORES:

Individual scores: 2, 2, 3, 3, 4, 2, 3, 3, 2

Average score: 2.7 (2006= 2.5)

4.6 *Journalists and editors do not practice self-censorship.*

ANALYSIS:

Self -censorship is practiced quite a lot because there are very few media houses with a transparent editorial line. Self censorship is overt in content and layout of papers. The degree of self censorship is based on minimizing harm.

SCORES:

Individual scores: 2, 1, 1, 3, 1, 1, 3, 3, 3

Average score: 2.0 (2006= 2.1)

4.7 *Owners of private media do not interfere with editorial independence.*

ANALYSIS:

Most often there is editorial interference in the private media. Coupled with lack of clear in-house policies private media play a guessing game of what is allowed and what is not.

SCORES:

Individual scores: 2, 1, 2, 2, 1, 1, 3, 2, 3

Average score: 1.9 (2006= 1.4)

4.8 *Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption.*

ANALYSIS:

Salary levels are generally low while working conditions are poor which, when compared to the cost of living, makes these salaries inadequate. Most media houses lack general organisational structures and there is no upward mobility of journalists, training opportunities and retirement benefits. As such, there is great mobility of journalists in the different media houses.

A study on working conditions of journalists shows that about 68% of journalists are correspondents who are on a retainer. This in actual fact means that they are working as labourers. It was noted however that high salaries are not a guarantee against corruption. There are editors who are well paid but are also the most corrupt. Also, journalists work for over 80 hours per week most of the time without overtime compensation. The panellists also noted that many media houses have a weak economic base and cannot pay good salaries and other benefits. Circulation of newspapers is still low while advertising rates are also quite low compared to those of Kenya for example.

SCORES:

Individual scores: 1, 1, 3, 2, 2, 2, 2, 2, 3

Average score: 2.0 (2006= 2.0)

4.9. *Training facilities offer formal qualification programmes for journalists as well as opportunities to upgrade their skills.*

ANALYSIS:

There is a number journalism training institutions offering courses

in the country. At Bachelor level, they include the University of Dar es Salaam, St. Augustine University, Tumaini University and the Muslim University. Other training institutions also exist but lack facilities. Some have been registered as business entities.

The panelists noted that despite there being many training institutions churning out graduates each year, standards are still nose-diving. The panelists were emphatic that there is need for a Media Standards Board that would set curriculum and examinations and ensure compliance of standards. It was noted that such a body was proposed by the Government in its proposals for the Media Services Bill and it has been endorsed by the stakeholders who have proposed changes to improve it.

It was also noted that there is need for in-service training/mid career training of journalists to allow for upgrading of skills responsive to the current media market.

SCORES:

Individual scores: 2, 2, 3, 2, 2, 2, 3, 3, 2

Average score: 2.3 (2006=3.2)

4.10 *Journalists and other media practitioners are organised in trade unions and/or professional associations.*

ANALYSIS:

There are a number of media organizations but many of them are not functioning well. The Tanzania Union of Journalists (TUJ) is almost dead and does not enjoy the patronage of the journalists who are reluctant perhaps to part ways with 2% of their salaries when they become members. There is a great need for the journalists to organize themselves in trade unions so that they can fight for better salaries and working conditions. By not organizing they shall forever

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be exploited and their security of employment shall remain shaky at most.

SCORES:

Individual scores: 2, 1, 2, 2, 3, 2, 3, 3, 3

Average score: 2.3 (2006= 2.2)

Overall score for sector 4: 2.3 (2006= 2.4)

Overall country Score: 2.4 (2006 = 2.4)

Follow-up questions in Round Two: To facilitate a new strategy for the next two years.

1) Changes in the media environment over the last two years

- The number of media houses and training institutions has increased;
- There has been a lot of debate on the changes in law on the right to access to information, freedom of expression and media services;
- The media is covering more investigative stories;
- The media is becoming more credible among the people;
- Quality of media content has improved;
- Increase in technical quality and websites;
- Establishment of the Tanzania Media Fund to improve investigative journalism;
- Transformation from the state to public broadcaster of Tanzania Broadcasting Corporation (TBC);
- Advocacy on media law reforms is high;
- Government's recognition that the media is an important ally in the fight against corruption;
- The President or his spokesperson meets the media monthly;
- Strategic networking between the media and civil society is growing; and
- An Editors Forum has been established.

2) If positive changes: who or what has been the main cause?

Tanzania is currently undergoing transformation with a lot of reforms in the political, economic and social spheres. The media has not been left behind. There are internal forces such as media/ civil society coalitions that are lobbying and advocating for policy and legal reforms. Opposition parties and general tolerance and political will of the government are also mitigating factors.

The external and internal changes have contributed to positive change. The external forces -mostly donors are forcing government to open up space. Internal forces - tolerance, opposition parties, media/civil society coalitions.

- 3) What are the main obstacles for (further) positive change?
- Lack of resources financial and technical. Most of the reforms/ changes are donor supported;
 - Not everyone is on board in the Government as well as in the public. There is resistance by certain conservative people who do not want to accommodate changes;
 - Some of the changes are externally engineered and do not have the local support;
 - Problem of infrastructure;
 - Absorption capacity of the reforms differs quite a lot. If you are not well informed you may be left behind while if you are ahead, you will be frustrated by those pulling you back.
 - Poor quality of manpower/lack of professionalism;
 - Monopoly/media concentration is getting tighter; and
 - Fragmentation of media owners who do not speak with one voice.
- 4) If negative changes: who or what has been the main cause?
- “High mortality rate” of media outlets mostly caused by a weak economic base;
 - Degradation of moral standards in which the media has contributed;
 - Standards have fallen in the profession even though they are more graduates joining the profession. This may be due to theoretical training rather than practical training emphasized by the training institutions;
 - Media houses bought by politicians for example Habari Corporation caused a major upset in the media scene when it was sold to a politician. It was the only media owned and

managed by the journalists;

- The purchasing power of the people has gone down making it difficult for them to afford media products. This has also seen circulation going down.

5) Who could be the drivers/actors for change in the future?

- The media professionals in consultations with the stakeholders in particular the civil society and the public;
- MISA to coordinate the professionals to undertake the changes that the media deems necessary;
- The Government should have a role to play as it is a major stakeholder of the media.

6) What kinds of activities are needed over the next two years?

- Intensification of the national debate on the status of journalism in Tanzania especially whether it is a trade or profession;
- Continue with policy and legal reforms;
- Unionization of journalists;
- Creation of media literacy programmes;
- Capacity building of journalists;
- Harmonization of the training of journalists, and push to have a standardized curriculum;
- Government to level the playing field in terms of advertising revenue;
- Give feedback/disseminate to the media about the results of the African Media Barometer.

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The panel meeting took place at the Zamani Kempinski Hotel, Zanzibar, Tanzania from 5th to 6th July, 2008.

The Panel:

Ms. Rose Haji Mwalimu, National Director MISA-Tanzania Chapter
Mr. John Bwire, Managing Editor Raia Mwema
Mr. Hassan Mitawi, Director Information Services - Zanzibar
Fr. Modest Katonto, Communications Manager - Tanzania Episcopal Conference
Mr. Lawrence Kilimwiko, Media Consultant
Ms. Safina Hassan, Lawyer (WLAC)
Dr. Rehema Nchimbi, Lecturer at the University of Dar es Salaam
Mr. Fili Karashani, Media Consultant
Mr. Baruthi-Ally K. Mambo, MD & Managing Editor, Radio Sibuka FM.

The Rapporteur:

Ms. Pili Mtambalike

The Facilitators:

Ms. Grace Githaiga and Zoe Titus

Act No.	Short Title	Relevant section	Recommendations/Action to be taken	Reasons
1 CAP. 398 R.E. 2002	The Public Leadership Code of Ethics Act, (Cap. 398, R.E. 2002)	Section 13 (1)	The Sub-section should be amended to read "A public leader shall declare interest and shall not take part in deliberations of the Cabinet, National Assembly, a local government Authority or a committee thereof, or in or at any other official forum or part of it, on any matter in which he has a direct pecuniary interest."	The existing provision guarantee the breach of the principles of natural justice "nemo Judex in causa sua" meaning no "one shall stand a judge on his own cause"
		Section 17(1) (c)	Repeal subsection 17(1) (c)	The provision contradict the right to information as guaranteed by Article 18 of the Constitution of the United Republic of Tanzania, 1977. It also promotes secrecy in the government, hence uninformed citizenry
	The Public Leadership Code of Ethics (Declaration of Interests, Assets and Liabilities Regulations, G.N. G.Ns. Nos. 108 of 1996 261 of 2001	Regulation 6(1)and(2)	Annul Regulation 6(1) and (2)	Regulation 6 is in total infringement of the best international practice on access to information by requiring the requestor of information to assign reasons of lodging complaint before obtaining information. It is also a breach of natural justice of "audi alteram Partem" meaning "no one shall be convicted unheard" especially when the requestor alleges before getting g relevant information against the leader.
		Regulation 7(1), (2) and (3)	Annul Regulation 7 (1), (2) and (3)	Regulation 7 is in total infringement of the best international practice on access to information by requiring the requestor of information to assign reasons or lodging complaint before obtaining information It is also a breach of natural justice of "audi alteram Partem" meaning "no one shall be convicted unheard" especially when the requestor alleges before getting relevant information against the leader. Prior disclosure of a cause may lead to obtaining false or manipulated information.

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Act No.	Short Title	Relevant section	Recommendations/Action to be taken	Reasons
2 Cap. 322 R.E. 2002	Auxiliary Police Act, Cap. 322, R.E. 2002 Sections 43, 44, 45 and 46	Sections 43, 44, 45 and 46	Amend Sections 43, 44, 45 and 46 to promote right to information, freedom of assembly, procession and expression as guaranteed by the Constitution of the United Republic of Tanzania 1977	<ul style="list-style-type: none"> - the provisions provide too much subjective discretionary powers to police officers and do not lay down objective criteria for issuing stop orders. Such powers may be arbitrarily exercised. - The provisions do not impose duty on police officers to facilitate the guaranteed freedom of assembly. Protection to assemblies and processions is not legally guaranteed in the Act.
3 Cap. 328, R.E. 2002	The Petroleum (Exploration and Production) Act, Cap. 328, R.E. 2002	Section 10 Section 57	Amend section 10 to remove restrictions against disclosure of information Amended by adding, immediately after subsection (1) a new sub section (2) with the following words " 2. All such information as prescribed in the first schedule shall be laid before Parliament by the Minister" Renumbering the sub sections accordingly	<p>The prohibition of disclosure of information in Section 10 is unnecessary as it does not serve any purpose.</p> <p>The information obtained must be subjected to public scrutiny</p>
4 Cap. 123, R.E. 2002	The Mining Act, Cap. 123, R.E. 2002	Section 21 Section 99	Amend section 21 to remove restrictions against disclosure of information based on consent of the mineral rights holder Amendment by adding immediately after subsection (1) the words " and such information shall be laid before Parliament by the Minister"	Minerals are public resources the information on which should be readily available to the public.
5 Cap. 399, R.E. 2002	The Tanzania Revenue Authority Act, Cap. 399, R. E. 2002	Section 8	Repeal Section 8	The provision promotes tax evasion. It is contrary to right to access information as provided in the Constitution and the Right To Information Act 2008.
6 Cap. 58, 2002	The Prisons Act, Cap. 58, R.E. 2002	Section 93	Amend by renumbering it as a new section 93 (1). Add another sub section (2) with the following words: "The Commissioner shall not unreasonably withhold information relating to condition of prisons and prisoners, experience in prison and administration of any prison to any person."	<p>This is to limit the arbitrariness of the R.E. Commissioner.</p> <ul style="list-style-type: none"> - The amendment is aimed also at promoting compliance with international human rights standards relating to the rights of prisoners and treatment of offenders

Act No.	Short Title	Relevant section	Recommendations/Action to be taken	Reasons
7 Cap 230, R.E. 2002	The Films and Stage Plays Act (Act No. 4 of 1976)	The Whole Act	Repeal the whole Act	<ul style="list-style-type: none"> - The Act contradicts Article 18 of the Constitution of the United Republic of Tanzania, 1977 on right to seek, receive and impart information regardless of frontiers. - The regulation of obscene publications is provided under section 175 of the Penal Code, Cap. 16 R.E. 2002, thus need not be repeated
8 Cap 97, R.E. 2002	The Regional Administration Act (Act No. 19 of 1997)	Sections 7 and 15	Repeal Sections 7 and 15	The provisions have been used by regional commissioners and district commissioners to infringe the rights and freedoms of journalists. Such provisions were also included in the report of the late Nyalali, CJ (as he then was) as the laws that infringe human rights.
9 Cap. 229, R.E. 2002	The Newspapers Act, NO. 3 of 1976	The whole Act	Repeal the whole Act	<p>Provisions relating to regulation of media and accreditation of journalists have been advanced and included in the Media Services Bill, 2008.</p> <p>No more need for the News papers Act because all media can now be regulated by one regulatory body - Tanzania Communications Regulatory Authority (TCRA)</p> <ul style="list-style-type: none"> - The Newspapers Act contains obsolete and authoritarian provisions which create a hostile environment for existence of a free and independent media in the country
10 Cap. 306, R.E. 2002	The Broadcasting Services Act (Act No. 6 of 1993)	The Whole Act	Repeal the whole Act	<p>The necessary provisions are included in the TCRA Act, 2003 and the Media Services Bill, 2008.</p> <ul style="list-style-type: none"> - Broadcasting is now regulated under the Media Services Act, 2008 which recognizes the existence of a three tier broadcasting (Public service, Private and Community Broadcasting)

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Act No.	Short Title	Relevant section	Recommendations/Action to be taken	Reasons
11 Act No. 12 of 2003	The Tanzania Communications Regulatory Authority Act, 2003	Section 25	Amendment by deleting the following words in the first paragraph: "Charter" means an agreement entered between the Government and the Tanzania Broadcasting Services with regard to the provision of public service broadcasting in the country;	
		Section 27 (1) (d)	Repeal Section 27 (1) (d)	The powers to deal with issues of media ethics have been vested on the independent stakeholders' media council under the Media Services Bill, 2008
		Part V	Repeal part V	The part establishes TUT now called TBC which is also established under section 4 of the Public Corporations Act. The provisions of Part V also creates conflict of interest between the regulatory body (TCRA) and the service provider (TBC). It is provided in the Media Services Bill, 2008 that TBC should be transformed into the Public Service Broadcasting and not to transact commercial or community broadcasting. The requirement of a Charter between TCRA and TBC is considered unnecessary. The Regulator, TCRA, should treat all media outlets equally and fairly without bias.
12 Act No. 21 of 2002	The Prevention of Terrorism Act, 2002	Section 9	Repeal the whole of section 9	The provision contradicts the right to seek, receive and impart information within Tanzania as guaranteed by the Constitution. Besides, a number of acts that constitute an offence under the section are also offences under the Penal Code and or the National Security Act, 1970.
		Sections 30 and 31	Repeal both sections and renumbering	Right to privacy and protection against interference as guaranteed under Article 18(c) of the Constitution of the United Republic of Tanzania, 1977
13 Cap 47, R.E. 2002	The National Security Act (Act No. 3 of 1970)	Section 2	Definition of "specified authority" shall be amended by deleting paragraphs (b) (c) and (d) and insert new paragraphs as follows: "(b) the Government of the	The repealed paragraphs were too broad to include unnecessary persons

Act No.	Short Title	Relevant section	Recommendations/Action to be taken	Reasons
		The National Security (Classified Matters) Notice, G.N. 133 of 1970	United Republic of Tanzania" and "(c) the Revolutionary Government of Zanzibar" Annul the whole G.N. 133 of 1970	The whole Notice is contrary to the best practice on access to information. All classified information should be redefined to comply with the Right to Information Act, 2008.
14 Cap 255, R.E. 2002	The General Loan and Stock Act (Ordinance No. 21 of 1948)	The whole Act	Repeal the whole Act	The Act contravenes the Constitution. The right to access information is highly infringed for Tanzanian nationals and media.
15 Cap. 351, R.E. 2002	The Statistics Act (Act No. 1 of 2002)	Section 18(1) Section 21	Repeal section 18(1) and renumbering Amend the last statement to Section 21 by deleting the words "...the Bureau shall take such steps as are necessary to ensure the security and confidentiality of the statistical information" and replacing it with the words: "the Bureau shall take such steps as are necessary to ensure the security and integrity of the statistical information"	The Section contravenes the Right to Information guaranteed by the Constitution. Concealing statistics is a curtailment to development of people. Statistics are public information. They should be available to the public whenever necessary without unnecessary restrictions.
16 Act No. 11 of 2004	The Income Tax Act 2004	Section 140	Repeal Section 140	The continued concealment of information relating to tax is to promote mismanagement of public funds. Access to information should only be restricted as provided by the Constitution or the Right to Information Act, 2008
17 Cap 309, R.E. 2002	The Records and Archives Management Act (Act No. 3 of 2002)	Section 9(1)(d) Section 16	Repeal Section 9(1)(d) and renumbering Repeal Section 16	The grounds stated therein are contrary to the Constitution and RTI Act, 2008 The Thirty years exemption from disclosure of public information is likely to be abused. The relevant provision has been set out under section 20 of the Right to Information Act 2008 for a maximum of ten years. However, certain information may remain exempted from disclosure after expiry of ten years.

Appendix 2: Declaration of Principles on Freedom of Expression in Africa

Preamble

Reaffirming the fundamental importance of freedom of expression as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Reaffirming Article 9 of the *African Charter on Human and Peoples' Rights*;

Desiring to promote the free flow of information and ideas and greater respect for freedom of expression;

Convinced that respect for freedom of expression, as well as the right of access to information held by public bodies and companies, will lead to greater public transparency and accountability, as well as to good governance and the strengthening of democracy;

Convinced that laws and customs that repress freedom of expression are a disservice to society;

Recalling that freedom of expression is a fundamental human right guaranteed by the *African Charter on Human and Peoples' Rights*, the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, as well as other international documents and national constitutions;

Considering the key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy;

Aware of the particular importance of the broadcast media in Africa, given its capacity to reach a wide audience due to the comparatively low cost of receiving transmissions and its ability to overcome barriers of illiteracy;

Noting that oral traditions, which are rooted in African cultures, lend themselves particularly well to radio broadcasting;

Noting the important contribution that can be made to the realisation of the right to freedom of expression by new information and communication technologies;

Mindful of the evolving human rights and human development environment in Africa, especially in light of the adoption of the *Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights*, the *principles of the Constitutive Act of the African Union, 2000*, as well as the significance of the human rights and good governance provisions in the *New Partnership for Africa's Development (NEPAD)*; and

Recognising the need to ensure the right of freedom of expression in Africa, the African Commission on Human and Peoples' Rights declares that:

The Guarantee of Freedom of Expression

1. Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.
2. Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination.

II

Interference with Freedom of Expression

1. No one shall be subject to arbitrary interference with his or her freedom of expression.
2. Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society.

III

Diversity

Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, which include among other things:-

- availability and promotion of a range of information and ideas to the public;
- pluralistic access to the media and other means of communication, including by vulnerable or marginalised groups,

- such as women, children and refugees, as well as linguistic and cultural groups;
- the promotion and protection of African voices, including through media in local languages; and
- the promotion of the use of local languages in public affairs, including in the courts.

IV *Freedom of Information*

1. Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.
2. The right to information shall be guaranteed by law in accordance with the following principles:
 - everyone has the right to access information held by public bodies;
 - everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;
 - any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;
 - public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;
 - no one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and
 - secrecy laws shall be amended as necessary to comply with freedom of information principles.
3. Everyone has the right to access and update or otherwise correct their personal information, whether it is held by public or by private bodies.

V *Private Broadcasting*

1. States shall encourage a diverse, independent private broadcasting sector. A State monopoly over broadcasting is not compatible with the right to freedom of expression.
2. The broadcast regulatory system shall encourage private and community broadcasting in accordance with the following principles:
 - there shall be equitable allocation of frequencies between private broadcasting uses, both commercial and community;
 - an independent regulatory body shall be responsible for issuing broadcasting licences and for ensuring observance of licence conditions;
 - licensing processes shall be fair and transparent, and shall seek to promote diversity in broadcasting; and
 - community broadcasting shall be promoted given its potential to broaden access by poor and rural communities to the airwaves.

VI *Public Broadcasting*

State and government controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than the government, in accordance with the following principles:

- public broadcasters should be governed by a board which is protected against interference, particularly of a political or economic nature;
- the editorial independence of public service broadcasters should be guaranteed;
- public broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets;
- public broadcasters should strive to ensure that their transmission system covers the whole territory of the country; and
- the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods.

VII *Regulatory Bodies for Broadcast and Telecommunications*

1. Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.
2. The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.
3. Any public authority that exercises powers in the areas of broadcast or telecommunications should be formally accountable to the public through a multi-party body.

VIII *Print Media*

1. Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression.
2. Any print media published by a public authority should be protected adequately against undue political interference.
3. Efforts should be made to increase the scope of circulation of the print media, particularly to rural communities.
4. Media owners and media professionals shall be encouraged to reach agreements to guarantee editorial independence and to prevent commercial considerations from unduly influencing media content.

IX *Complaints*

1. A public complaints system for print or broadcasting should be available in accordance with the following principles:
 - complaints shall be determined in accordance with established rules and codes of conduct agreed between all stakeholders; and
 - the complaints system shall be widely accessible.
2. Any regulatory body established to hear complaints about media content, including media councils, shall be protected against political, economic or any other undue interference. Its powers shall be administrative in nature and it shall not seek to usurp the role of the courts.
3. Effective self-regulation is the best system for promoting high standards in the media.

X *Promoting Professionalism*

1. Media practitioners shall be free to organise themselves into unions and associations.
2. The right to express oneself through the media by practising journalism shall not be subject to undue legal restrictions.

XI *Attacks on Media Practitioners*

1. Attacks such as the murder, kidnapping, intimidation of and threats to media practitioners and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, undermines independent journalism, freedom of expression and the free flow of information to the public.
2. States are under an obligation to take effective measures to prevent such attacks and, when they do occur, to investigate them, to punish perpetrators and to ensure that victims have access to effective remedies.
3. In times of conflict, States shall respect the status of media practitioners as non-combatants.

XII *Protecting Reputations*

1. States should ensure that their laws relating to defamation conform to the following standards:
 - no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances;
 - public figures shall be required to tolerate a greater degree of criticism; and
 - sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others.
2. Privacy laws shall not inhibit the dissemination of information of public interest.

XIII *Criminal Measures*

1. States shall review all criminal restrictions on content to ensure that they serve a legitimate interest in a democratic society.
2. Freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal link between the risk of harm and the expression.

XIV *Economic Measures*

1. States shall promote a general economic environment in which the media can flourish.
2. States shall not use their power over the placement of public advertising as a means to interfere with media content.

Appendix 3: The score sheets

Sector 1 Freedom of expression, including freedom of the media, are effectively protected and promoted

1.1	Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.
1.2	The right to freedom of expression is practised and citizens, including journalists, are asserting their rights without fear.
1.3	There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of media.
1.4	Entry into and practise of the journalistic profession is legally unrestricted.
1.5	Protection of confidential sources of information is guaranteed by law.
1.6	Public information is easily accessible, guaranteed by law, to all citizens, including journalists.
1.7	ivil society in general and media lobby groups actively advance the cause of media freedom.

Sector 2 The media landscape is characterised by diversity, independence and sustainability

2.1	A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens.
2.2	Citizens' access to domestic and international media sources is not restricted by state authorities.
2.3	Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities.
2.4	Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting.
2.5	Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities.
2.6	The editorial independence of print media published by a public authority is protected adequately against undue political interference.
2.7	Local or regional independent news agencies gather and distribute information for all media
2.8	Media diversity is promoted through adequate competition regulation/legislation.
2.9	Government promotes a political and economic environment which allows a diverse media landscape.
2.10	Private media outlets operate as efficient and professional businesses.
2.11	State print media are not subsidised with tax payers' money
2.12	Government does not use its power over the placement of advertisements as a means to interfere with media content.
2.13	The advertising market is large enough to maintain a diversity of media outlets.

Tanzania

Sector 3 Broadcasting regulation is transparent and independent, the state broadcaster is transformed into a truly public broadcaster

3.1	Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.
3.2	The appointments procedure for members of the regulatory body is open and transparent and involves civil society.
3.3	The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.
3.4	The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.
3.5	The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.
3.6	Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with the state and political parties as well as those with a financial interest in the broadcasting industry.
3.7	The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practised.
3.8	The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.
3.9	The public broadcaster is technically accessible in the entire country.
3.10	The public broadcaster offers diverse programming for all interests.
3.11	The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.
3.12	The public broadcaster offers as much diverse and creative local content as economically achievable.

Sector 4 The media practice high levels of professional standards

4.1	The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies
4.2	the standard of reporting follows the basic principles of accuracy and fairness.
4.3	The media cover the full spectrum of events, issues and cultures, including business/economics, cultural, local and investigative stories
4.4.	Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process.
4.5	Gender mainstreaming is reflected in the editorial content.
4.6	Journalists and editors do not practise self-censorship
4.7	Owners of private media do not interfere with editorial independence
4.8	Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption
4.9	Training facilities offer formal qualification programmes for journalists as well as opportunities to upgrade their skills.
4.10	Journalists and other media practitioners are organised in trade unions and/or professional associations.

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