

So This Is Democracy?

Report on the state of media freedom and
freedom of expression in southern Africa

2007



Jacob Mafume makes an impassioned appeal to the Zimbabwean government during a march to the Zimbabwean High Commission in Windhoek, Namibia, on March 16, 2007. MISA was among a number of civic organisations who lodged its concerns about the reported violent arrest and torture of activists who had come out in numbers to march in Harare, on March 11, 2007, in defiance of a three-month ban on protests and rallies imposed by the authorities. The police shot dead one of the activists, Gift Tandare, the youth chairperson of the National Constitutional Assembly (NCA) local structure during the March 11 incident.

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Acknowledgements

This publication represents joint effort and in particular a collective input from various diverse media professionals and researchers in the SADC region. In the first instance we are deeply grateful to all the individual authors of the country media freedom and freedom of expression overviews for their thorough and insightful analyses.

MISA's national chapter Information and Advocacy Officers are the face of MISA at national level - most certainly to those persons who have fallen victim to media freedom and freedom of expression violations. These are staff members who go further than document violations, and in many instances offer much needed financial, moral and legal support to journalists.

MISA and the Friedrich-Ebert-Stiftung's Southern African Media Project have, since April 2005, jointly implemented the African Media Barometer (AMB) in southern Africa. The AMB is an assessment exercise done by Africans of their local media environment according to homegrown criteria. 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. We are deeply grateful to the various panelists for their time and insights that are reflected in the AMB reports published in this edition of So This Is Democracy?

We wish to express sincere appreciation to all our partner organisations and donors who continue to contribute to the publishing of this annual booklet.

As always, we must acknowledge and express gratitude to the International Freedom of Expression Exchange (IFEX) in Toronto, Canada, which ensures that violations recorded by MISA in southern Africa receive maximum exposure in the international community and in doing so, allow for rapid, world-wide and coordinated response to media freedom and freedom of expression violations.

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State of media freedom and freedom of expression in southern Africa

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Notes on classification

The list and definitions of classifications in *So This Is democracy?* - which makes up the bulk of the content of this book - are assigned to specific categories. Actual alerts issued by MISA are indicated by the ALERT in the top right hand corner of the entry. In all, there are 11 categories:



Beaten



Legislated



Killed



Victory



Bombed



Detained



Sentenced



Others



Censored



Expelled



Threatened

As indicated above, the categories are arranged in alphabetical order. Below is a description of each category. Each category captures a fairly broad range of incidents, and more than just the single word it is represented by. Nevertheless, each category is an accurate summation of incidents that are not too dissimilar with respect to their nature and the manner in which they affect the individual media workers and/or the media in general. Except for victory, the categories make up a list of the various types of violations media workers can experience during the course of or as a result of their work:



KILLED - This tops the list in terms of severity, and there is no need to explain why. Included under this category, however, are incidents where journalists have been kidnapped or gone missing, and have disappeared. For the purpose of this publication, that means that any incidents involving the latter will add to the statistics of this category. The statistic given is for the number of media workers involved, as opposed to the number of incidents reported.



BEATEN - This includes incidents where journalists are assaulted, attacked physically, tortured, or wounded during the course of their work. The statistic given is for the number of media workers involved.



BOMBED - This includes incidents where a home of a journalist or the office of a media house/outlet/organisation is sabotaged through bombing, arson, vandalism, theft, or is raided or occupied forcibly. The statistic given is for the number of media workers or media organisations involved.



DETAINED - This involves a media worker being put behind bars. It can be legal or illegal and includes being sentenced to a jail term or being detained (without charge, incommunicado, preventative, arrest). The statistic given is for the number of media workers involved.



CENSORED - This is where information is suppressed or prevented from being published, or where media workers are somehow or other prevented from getting their information out. It involves straightforward censorship such as a banning, a gagging order, order for excisions, preventing the publication of information through legislative restrictions, e.g. public officials or the courts, and interdicts, court orders or civil litigation resulting in the suppression of information. It also involves a publication or broadcaster or programme being shut down or suspended, as well as incidents where equipment and/or materials are confiscated. The statistic given is for the number of media workers or media organisations involved.



EXPULSED - This category relates to the free movement of media workers. It involves incidents where journalists are expelled from a country, are prevented from entering a country (denying of visas, work papers or accreditation), are prevented from leaving a country, are barred from travelling into a country or from entering certain areas, and generally inhibited from moving freely in order to perform their work. The statistic given is for the number of media workers involved.



LEGISLATION - This relates to all aspects of the legislative process and the application of common law. It includes instances where official proposals are made for new laws, legislation is passed, laws are amended or struck down either in parliament or by the courts, and civil litigation is instituted against media. This category is not all about violations, since there can be legislation that enhances media freedom and freedom of expression. This has been pointed out accordingly through the descriptive terms 'threatening legislation' and 'positive legislation'. The statistic given is for the number of incidents reported under this category, as opposed to the number of media workers or media organisations involved.



SENTENCED - This is when a judgement is handed down against a media worker involving either a prison term or a fine. The statistic given is for the number of media workers involved.



THREATENED - This involves a threat from a public official, a death threat, various forms of harassment (such as veiled warnings, threats of action, or interference in editorial processes), or journalists being questioned or interrogated on their sources. The statistic given is for the number of media workers or media organisations involved.



VICTORY - This is self-explanatory in terms of its implication for the media, but involves different types of incidents. Some incidents falling under this category have immediate implications for individual media workers or media organisations (being released unconditionally, having charges dropped, winning or avoiding civil litigation, overturning gagging orders and acquittal on criminal charges), while others have broad implications that advance media freedom, access to information or freedom of expression in general (favourable policy statements from public officials, the adoption of media-friendly laws or policies, favourable and precedent-setting court judgements, and favourable procedures and decisions by statutory or other bodies dealing with matters of media content or freedom of expression). The statistics given is for the number of incidents reported under this category.



OTHER - These are incidents which do not necessarily involve the media, but which affect aspects of freedom of expression or speech in general. These can involve cases of sedition against a member of the public, a general curb on free speech, parliamentary speech or access to information (e.g. matters involving the internet, pornography, hate speech, political speech), a violation of the right to freedom of assembly and protest, or an incident relating to artistic or academic freedom. Incidents involving the media, which do fall under this category, involve that of media pluralism (a publication closing down because of financial reasons) or incidents involving access to the public media. The statistic given is for the number of incidents reported under this category.

Regional overview

By Rashweat Mukundu

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State of media freedom and freedom of expression in SADC

The state of the media and enjoyment of freedom of expression rights in 11 Southern African countries monitored by MISA, remains a case of one step forward and two back. This statement is aptly supported by the myriad of challenges media organisations, practitioners, and freedom of expression activists face on a day-to-day basis. The key issue in 2007 is the volatile relationship between governments and the media. While Zimbabwe remains dominant in terms of the number of alerts issued on media and freedom of expression violations, other countries such as Lesotho seem to be top contenders for this infamous crown. In 2007 MISA issued a total of 181 alerts.

General elections in Lesotho have always remained a highly controversial process and often resulting in serious violations of media workers and freedom of expression rights. This points to the obvious lack of appreciation of the fact that the media could play a positive role in national processes. The belief in official circles remain that the media should dance to the tune of those in power, a situation that invariably pits the critical media voices against the ruling elite.

This scenario again points to the fragility of democracy not only in Lesotho but also in Zimbabwe, Namibia, South Africa, Zambia, Malawi and other Southern African countries where politicians make it a routine ritual to attack the media as unpatriotic, disrespectful of elderly statespersons and working at cross purpose with the broader national interest.

It is therefore not surprising that in all the 11 countries covered in this publication, state and media relations dominate media alerts issued. These range from government orchestrated media and freedom of expression violations and/or policy pronouncements of intentions to gag the media. The media is still viewed with suspicion in official circles hence the verbal attacks, threat of enactment of regulating laws and arrests. This is true from Dar es Salaam to Pretoria, from Harare, Luanda to Windhoek.

The need to defend and promote media freedom remains a high priority, not only for those directly affected but the rest of society. Interestingly, a flurry of activities in some countries to introduce new laws that impact on the media, directly and indirectly, are being proposed. These include Mozambique, Tanzania, Swaziland, Botswana and South Africa. While many of the proposed laws are unhealthy for the media, the Mozambique government seems to have set a different example. It has resorted to wide consultation on its proposed Freedom of Information Act. The new law being proposed either to control or promote openness points to a new battlefield being opened. The onus is now on the civil society to be more involved in the process and thus ensure that any new law or amendment is best designed to serve the society and not narrow political and economic interests.

Lesotho: the Mountain Kingdom running to ground

In Lesotho, which has a history of political violence and disputes over election results, the government does not seem to appreciate the fact that national healing and reconciliation is a two-way process. In its attempt to restore law and order in the country, the government invariably attacks the media. The arrest of Thabo Thakalekoala on charges of Sedition and Incitement under the Internal Security Act of 1984 was like a historical account from the apartheid era. Thakalekoala, a broadcast journalist was kept in police custody and received numerous threats because he read a letter on radio which, the government charged, was likely to cause public disorder. The mere existence of such laws that infringe on media rights and freedom of expression is a serious threat to the media.

The arrests of journalists lead to self-censorship within the media, thereby depriving the society of vital information. The Lesotho media and freedom of expression violations are further

worsened by the government's action of banning advertisements in the so-called opposition media, an act of economically suffocating critical media voices. It is in line with this that MISA took strong exception to the events in Lesotho as expressed through petitions, legal and moral support rendered to Thakalekoala.

Zimbabwe: the consolidation of repression

Zimbabwe remains a blighted spot on the conscience of southern Africa. Not only is the country imploding under a serious economic crisis with inflation of over 100 000 % in December 2007, but it is also reeling under repression of various forms.

The arrest and beating of photojournalist Tsvangirayi Mukwazhi and journalist Gift Phiri by the police in 2007 is a story all too familiar for Zimbabwe journalists. The beating of opposition and civil society leaders in March 2007 as well as shooting to death of an unarmed demonstrator Gift Tandare by the police marked the peak of the cycle of repression by the government on its citizens. This incident prompted the Southern Africa Development Community (SADC) to intervene directly in Zimbabwe calling for political dialogue. The dialogue, which was envisaged to yield positive changes to media laws, unfortunately failed.

The use of repressive legislation that includes the Access to Information and Protection of Privacy Act 2002 (AIPPA), The Public Order and Security Act 2002 (POSA) and the Broadcasting Services Act 2001 (BSA) remains an effective tool in the hands of the government. More were added in 2007. The endorsement of the Interception of Communications Act in 2007 highlights the determination of the Zimbabwean government to maintain its tight grip on all forms of communication. The new law makes it possible for the government to intercept any communications be it Internet based, mobile or telephony, purportedly to protect 'national interests'. In a country where journalists, the independent media and opposition voices are easily labelled as terrorists and saboteurs, one can only wonder how this law will be implemented and with what net effect on freedom of expression rights in Zimbabwe.

Zimbabwe is caught up in a vicious circle whose end is becoming difficult to predict. MISA, however, remains engaged on media and freedom of expression issues in Zimbabwe. The fact that no journalist is in prison attest to the work being done. Also its success in convincing African bodies such as the African Commission on Human and People Rights (ACHPR) to remain engaged in Zimbabwe brings some comfort in a seemingly hopeless situation.

South Africa: a leadership lacking confidence

The ruling party in South Africa, the African National Congress (ANC) is beginning to exhibit the all too familiar signs of a post-Independence nationalist party drunk with power and threatening the very freedom it fought for. South Africa and the ANC occupy a leadership position in the region, not only because of the sophisticated economy that is the heartbeat of the continent but also because of the advanced constitution that South Africans hammered out of the blood and sweat of the struggle against apartheid. All this seems to be falling apart.

The struggle over the management of the public broadcaster, the South African Broadcasting Corporation (SABC) points to an all too familiar African scenario wherein governments fail to redefine the post independence role of the media without pushing through selfish political and economic interests. While the SABC remains a much better example in many respects in comparison to the Zimbabwe, Zambia, Malawi and Namibian state broadcasters, the fact remains that the ANC government is too involved in the running of the SABC hence the controversy over the appointment of a new board in 2007.

The recommendation by the ANC leadership to set up a media tribunal is a clear sign of the growing discomfort and failure to get used to media scrutiny by those in power. The South African media has adequate voluntary mechanisms through which the public's concerns on the work of the media can be addressed. And the civil courts remain open to those who do not believe in voluntary arbitration. One wonders where the proposed tribunal will fit and how it will serve those in power.

The gagging of newspapers especially the Mail and Guardian and The Sunday Times and legal suits against journalists and media organisations in 2007, sends a clear message to the media on how it is expected to perform.

New media laws in southern Africa: to what end for media and freedom of expression rights?

It is interesting to note that in 2007 new laws, which impact on media and freedom of expression rights were either proposed, debated or implemented in all corners of southern Africa. These include the Freedom of Information Bill in Mozambique, media regulation laws in Swaziland, the Freedom of Information and Independent Broadcasting Authority Acts in Zambia and new media laws in Tanzania.

The passing and implementation of the aforementioned laws in Zambia attests to the successes of MISA in advocating for democratic laws. This example, though slow and fraught with pitfalls, can still be replicated in other countries. Zimbabwe proposed amendments to the infamous AIPPA, POSA and BSA in December 2007. These amendments are not expected to make any positive impact on the media situation.

Swaziland remains an interesting case of a cover up of repression under the guise of Parliamentarianism. There is but one law in Swaziland, the word and wishes of the King. While Tanzania records few media and freedom of expression violations as compared to other countries in the region, proposed media laws seeking to set up and impose statutory regulation, point yet again to another example of legislative regression with regard to media rights. It should be pointed out that the Tanzanian Media Council is one of the few success stories of voluntary regulation that should be protected.

Conclusion

The state of the media in southern Africa remains a mixed bag of successes and challenges. MISA remains committed to its cause and celebrates that no journalist is behind bars in the 11 countries monitored and that the broader civil society is engaging more actively on media and freedom of expression issues. Sadly the situation in Lesotho, Zimbabwe and Swaziland remains a cause for concern needing constant attention.

Gender Overviews

By Raashied Galant

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and

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Gender and Media Southern Africa (GEMSA)



Gender, HIV and AIDS and the Media, 2007

Threats from within the media

By Raashied Galant

Project Coordinator, Gender and Media Advocacy Program, Cape Town, RSA

For the past two years – 2006-2007 – media freedom in South Africa has experienced a sustained onslaught.

Part of this onslaught has come from a combative judiciary (or perhaps the courts that have been riled into action by powerful parties eager to run to the courts), resulting in judgements that have often weighed significantly against the media.

The other part of the onslaught has come from political forces either in the form of lawmakers changing tune or taking chances to impose controls, or from the ruling party and its attitudes and policy considerations around the media. The most recent being the proposal of a media tribunal by the ANC.

Nevertheless, seething under this onslaught from above, and perhaps even contributing to it, is the persistent erosion of the public's trust and support for the media and its dominant discourse of freedom from any legal regulations.

This erosion of trust is not the result of popular political posturing but growing anger and resentment at the media's indifference and failure to respond to or effectively engage with public sentiment about its content, particularly with respect to gender representation. Here my experiences in doing gender activism work and specifically in the Alerts & Complaints programme has been most instructive.

The Alerts & Complaints programme involved a series of critical media literacy workshops with members of the public, with the specific aim of developing the capacity of participants to use the media regulatory mechanisms to respond to gender-related issues in the media. The programme was implemented by the Gender Advocacy Programme (GAP) in mainly the Western Cape late in 2006, and continued into 2007.

Among the first things that strikes you is the absence of clear guidelines on gender representation in voluntary media codes except in the all-encompassing provisions on hate speech and disclosure of the identities of survivors of rape and sexual assault.

Following that we have sophisticated blocks that prevent all but the very educated or very media savvy from actually engaging with the self regulating mechanisms. These include either complicated procedures for lodging complaints, the lack of publicity of actual codes of conduct, the maligning and abusive dismissal of those actually taking up complaints relating to gender, and the failure to openly engage with the public around the make-up of tribunal structures and their codes.

The impression thus is that these are media-packed structures aimed at glossing over ethical violations or stalling any meaningful challenge to the media's approach and practice with respect, particularly, to the representation of women.

And here no doubt the issue is about the continued objectification of women in daily papers and vulgar and offensive language often accompanying articles and reports on gender issues such as women's health and lifestyle. For gender activists involved in the Alerts & Complaints programme, the media are acting with impunity and more and more their sympathies are

drawn towards political rhetoric or policy considerations involving greater legal regulation of the media.

Violence against women is real – over 50 000 women are raped in South Africa every year. The age of women surviving or succumbing to sexual assaults by men is getting younger and younger, while the age of perpetrators is also getting younger and younger. Warped attitudes of men towards women – as objects for the pleasure of men, or worthy of being disciplined by men – are real and widespread. At the same time, media titles – with imported formulae and templates for content and design – are being targeted at publics who are not generally media savvy or who have access to the resources to scrutinise or challenge the ethical codes that's supposed to apply to these media. A convenient state of affairs for the media, but a dangerous scenario for those at the receiving end of the warped gender attitudes stemming from the discourse of these media titles.

The last time any constructive request was made to the media to “strip their back page”, those making the suggestion were publicly humiliated as mother grundies and the powerful decision makers made it clear they would have nothing to do with it. That was still a mild dismissal compared to those who tried to challenge Die Kaapse Son around its page 3 girl.

The overall threat here to media freedom is the classic tale and one which in fact was behind the concerted push by MISA in the late 1990's for the development of voluntary media councils in the region – get your house in order, or someone else will do it for you.

In South Africa, and even more so in other countries in the region, the voluntary media councils and codes of ethics that do exist, do not enjoy great public legitimacy or trust. If this persists, the efforts by sneaky politicians at times, may well be bolstered by the failure of the media to respond to or engage with genuine public discontent around its content, particularly with respect to gender representation.

Alert and Complaint Project

By Kubi Rama

CEO, Gender and Media Southern Africa, GEMSA.

The aim of this project is to train GEMSA country chapters and members of the public to raise regular alerts and to lodge complaints on gender insensitive media coverage.

In 2007 GEMSA country representatives and regulatory authorities met to discuss how to mainstream gender in media, communications and ICT laws, regulations and policies. During this process it became evident that there is little public awareness about media regulatory authorities and what their role is. The project raised awareness with members of the public in each country on the role and function of the media regulatory authorities and facilitated a process of submitting complaints.

In line with work GEMSA has been doing with regulatory authorities and the regular monitoring of the media GEMSA country chapters need to be trained to raise alerts and lodge complaints on gender insensitive media coverage. This project linked with the discussions that occurred at the second Gender and Media Summit in September 2006 on the need to develop a more critical audience.

Media regulatory authorities in the region have demonstrated the willingness to mainstream gender in their structures and in the provisions of the laws, regulations and policies. However, it is evident that these structures are distant from media consumers. Media consumers are often unaware that these structures exist and how they can be used.

WHO IS GEMSA?

GEMSA Network is an umbrella organisation of individual and institutions who work to promote gender equality in and through the media. Members include the Media Institute of Southern Africa and its 11 country chapters; Gender Links and affiliated gender and media networks in eight countries; the Federation of African Media Women and country affiliates; editors forums; media training institutions; media NGOs including the media monitoring projects in the region; NGOs that promote gender justice and media practitioners.

www.gemsa.org.za

This project worked from the premise that one way of raising awareness about these structures is to raise alerts and take complaints to regulatory authorities on gender insensitive media coverage and to publicise these through the network, its membership and the media.

Four alerts and four complaints were raised in six countries. Regular workshops were held in six countries with the average attendance of 20 people per workshop.

Results

The alerts and complaints raised in country have assisted making regulatory authorities include gender in their complaints criteria. Specifics include the following:

- The Mozambican Higher Council for Communication has initiated a process to develop a regulatory framework based on the alerts and complaints raised. They have GEMSA Mozambique in a reference to develop the regulatory framework.
- Mauritius has raised and had many adverts and articles removed. Their initiatives have resulted in the Advertising Standards Authority developing a gender policy (a partnership with Gender Links).
- MECOZ, the Zambian regulator is now developing

- gender criteria for media coverage and has had several articles and adverts removed.
- In Malawi the fledgling regulator has used the opportunity to test the complaints mechanism, gender is being mainstreamed in their criteria.
- In South Africa many community groups have begun to raise complaints and alerts.

Below are some examples of alerts and complaints processed in 2007:

Botswana Alert

14 June 2007

Cartoon demeans women aspiring for leadership positions



The GEMSA Botswana Chapter and the Botswana Media Women Association (BOMWA) have noted with alarm the cartoon that appeared in the Monitor Newspaper of May 28, 2007. The cartoon, titled BNF Congress, supposedly depicted the Botswana National Front aspirant for Party Presidency, Kathleen Letshabo, at its Congress being castrated and bleeding.

GEMSA and BOMWA are deeply disturbed by the cartoon, which they find in bad taste, and more importantly, displays the insensitivity on the part of the cartoonist and *Mmegi* newspaper in which it is published. The message implied by the cartoon has the effect of degrading and ridiculing women who aspire for leadership positions in the political arena.

The depiction of the cartoon defeats the purpose of democracy that in every election, there are winners and losers, and Letshabo is not immune to a defeat of this nature. In Botswana, male candidates have lost in similar circumstances, but they have not been shown as 'bleeding bulls being castrated'. The cartoon did not only insult Letshabo but also showed little regard for all women that have ambitions to aspire for leadership positions in both the political realm and any sector of the economy. We wish to condemn this in the strongest terms.

In this regard, we call upon the leadership of *Mmegi* to respond to our concern, and in future display more sensitivity in their selection of what to publish. Such a gross violation of the rights and dignity of women cannot be justified on the basis of humour or satire.

We further call upon all media organisations, human rights and gender - based organisations to strongly condemn such depiction of female leaders who have the desire to make a contribution to the leadership of the nation.

This alert is issued by GEMSA Botswana. For further information contact the Botswana Gemsa Representative and BOMWA Chairperson, Keabonye Ntsabane on +267 71749644.

South Africa Alert

27 June 2007

Saartjie Baartman



The Saartjie Baartman Centre for Women and Children (SBCWC) wishes to submit a complaint about an article entitled "Night Crawlers" that appeared in the *Cape Sun* on 8 June 2007 page 5. Adam Nelson wrote the article, which describes the deteriorating state of Sir Lowry's Pass River and the people living there informally. He also took the accompanying photographs. The SBCWC submits that while the state of Sir Lowry's Pass River is newsworthy, the article conflates the issue by going into explicit detail about the sexual lives of the people living informally in the vicinity of the river. We condemn, in the strongest terms, the undignified and degrading way in which especially one of the female inhabitants is depicted. No sensitivity is paid to the dignity and human rights of the woman by publishing a photograph of her putting on her under garments.

We feel that Viola Claassen's life story and rape at the age of eight is not relevant to the focus of the article, which is the degradation of the river. Further, the article trivialises the protracted child abuse the woman in question was subjected to by writing flippantly about her rape at the age of eight and her giving birth at the age of fourteen. We also feel that the use of terminology such as "tart" to describe her is highly demeaning and insulting.

The SBCWC submits that the article was presented in such a manner that it violated the following clauses of the Press Code of Conduct:

- 1.2 News shall be presented in context and in a balanced manner, without an intentional or negligent departure from the facts whether by:
 - 1.2.1 distortion, exaggeration or misrepresentation;
 - 1.2.2 material omissions; or
 - 1.2.3 summarisation.
- 1.7 Reports, photographs or sketches relative to matters involving indecency or obscenity shall be presented with due sensitivity towards the prevailing moral climate.
- 1.10 In both news and comment, the press shall exercise exceptional care and consideration in matters involving the private lives and concerns of individuals, bearing in mind that any right to privacy may be overridden by a legitimate public interest.

- 1.11 A newspaper has wide discretion in matters of taste but this does not justify lapses of taste so repugnant as to bring the freedom of the press into disrepute or be extremely offensive to the public.
- 2.1 The press should avoid discriminatory or denigratory references to people's race, colour, ethnicity, religion, gender, sexual orientation or preference, physical or mental disability or illness, or age.
- 2.2 The press should not refer to a person's race, colour, ethnicity, religion, gender, sexual orientation or preference, physical or mental illness in a prejudicial or pejorative context except where it is strictly relevant to the matter reported or adds significantly to readers' understanding of that matter.
- The SBCWC submits that the manner in which the women are portrayed in this article implies that poor people, and in particular poor women, are not entitled to being treated with dignity and respect. At very least, we believe that the women depicted in this article should receive personal apologies from the newspaper as well as public retraction of the sensitive areas that are identified above.

Mauritius Alert

13 June 2007

Sexist advertisement on billboards all over Mauritius



Media Watch Organisation-GEMSA noted with alarm a sexist advertisement on billboards for a product that has nothing to do with the body of women. The product advertised is for Motorola KRZR and uses the photography of a half naked lady and her mirrored image in a suggestive position with a transparent cloth showing her bare breast and her nude stretched legs. In a letter dated 13 June 2007 addressed to the Road Development Authority protesting against this advertisement, Media Watch Organisation-GEMSA writes "The photomontage and the quality of the photography may be professional and we do understand the idea of "reflection of style" but the concept behind the advert is of very bad taste and downgrading to women. Furthermore we consider this advert to be provocative as well as shocking. It plays into several damaging stereotypes on women and may have a negative effect on how women are perceived. This advert also suggests that when buying a Motorola KRZR, one gets the lady in the same package and this image is certainly not one we want the population to relate to. Women have

been stereotyped as handy sexual objects for too long and consider this as unfair in regards to their fight against discrimination.
We hope that you will take immediate action to have this advertisement removed.”

National Overview

*By João Pinto Journalist and publisher, Radio Ecclesia
Manager of Midia da Search for Common Ground in Angola.*



Angola

The year 2007 was not very promising for the media in Angola in comparison to the previous year. The state continued to dominate the media communications system in a significant way, showing total disregard to the terms contained in the Press Law. The efforts to create new dynamics in this context did not advance, not even after severe pressures put by journalists' associations and political parties. The Minister of Social Communication Manuel Rabelais had promised the Unita Deputies that the subject would be addressed within the year, but no move was made.

The year was marked by various journalists' detentions. Graça Campos, director of the weekly newspaper *Angolense* was accused of abusing media freedom by the Justice Ombudsman, Pablo Tchupilca, and sentenced to eight months imprisonment and US\$2 000 fine. The conviction irked the journalist fraternity and they appealed against the verdict.

Another journalist, the correspondent of the *Radio Ecclesia*, Mr. Armando Chicoca, was sentenced to 30 days imprisonment having been accused of stirring civil disobedience in the Namibe province. The summary judgment was delivered five days following his detention.

In the same year Fernando Lelo, who in 2006 had his share of trouble in Cabinda, was detained again. This time the detention was not because of his involvement with the Voice of America as was previously the case, but because of several other cases pending against him. He had been working in an oil field in the enclave when he was allegedly removed by elements from the President of the Republic's Military House and deported to Luanda. He is currently detained at the provincial Military Judicial District.

Still in Cabinda, part-time journalist and activist Raul Danda, formerly involved in the national radio of Angola, was imprisoned following accusations of carrying out a hostile propaganda campaign against the authorities.

A few more cases of harassment against journalists are noted. Juvenis Paulo from the capital was subjected to physical and verbal abuse when he was on duty preparing a report for the *Comboio de Luanda*. José Kaliengue from the *Angolense Weekly* paper also had a similar experience when he was trying to photograph an event that involved the national body of firemen in Luanda. A photographer of the *Andar o País* team, that was doing a report on the various provinces of Angola, was assaulted when he was photographing a place in the provincial capital, Lubango.

Besides Luanda, the situation in the interior parts of Angola as regards to social communication system has not changed. Journalists are bound to the political system and their access to information is limited to the official press releases or to the notes from the ruling party, the MPLA. A positive trend is seen only in the province of Benguela, where even the Provincial Radio, bound to the RNA, gives voice to all political-partisan trends.

The country witnessed some changes in the public media during the year with the nomination of new directors for the National Radio, the Public Television of Angola, the Angop and the *Jornal de Angola*.

Government and Media Relationship

Much needs to be done to improve the Government-media relationship. Although the National Council of Social Communication (CNCS) intends to increase private media participation in

information dissemination, and thus expand the social communication network, the public media enjoys a privileged status when it comes to accessing official sources.

Nonetheless, some state-owned companies are slowly opening up to allow the private media to cover their issues.

Media Diversity

Newspaper and radio services are largely concentrated in Luanda. Three private radio services - Luanda Antena Comercial (LAC), Radio Ecclesia and Despertar are in operation in Luanda. The list of privately owned newspapers in circulation includes *Semanário Angolense*, *A Capital*, *Folha 8*, *Terra Angolana*, *Agora* and *Jornal Angolense*. Two regional weekly papers, *The Cruzeiro Do Sul* and *Chela Press* are also in the market. The former focuses on the provinces of Benguela, Huíla, Huambo and Cunene and the latter covers the areas of Huíla and Benguela.

Some community newspapers also play important roles in information sharing. *Infosambila* from the Sambizanga area and *Ondaka* from the Huambo are two of the most popular. These initiatives enable information circulation in some provincial circles where the private press does not exist.

Radio Ecclesia has not been able to make headway in its requests to expand its broadcast coverage due to the non-existence of a clear framework. The matter has been put on hold by the Ministry of Social Communication.

The Radio School, which had initially started off with technical support from the Ministry of Social Communication Technique has started functioning independently. It has connections to Radio National for presentation of its main news services. Radio National already possesses, five other service networks Radio 5, for sports, Radio Luanda, for the capital city, CANAL A (national service in Portuguese language) and Radio Ngola Yetu.

Media Fraternity

The media associations and some non-governmental organisations have expressed concern about the positioning of the media fraternity. MISA-Angola has been involved in discussions on the role of the media and media laws of the country. The Union of Angolan Journalists (UJA) has played a key role in forming partnerships among the media professionals.

Conclusion

The year 2007 was not very different from the previous year. With the sound economic backing of government, the public media continued to attract skilled professionals from the private press. Radio Ecclesia lost 10 journalists to the public media during the year.

The delay in implementation of the Press Law did not help much to bring about positive change in the country's media environment.

In order to improve the current social communication scenario and journalists' socio-economic conditions in Angola, a greater intervention at all levels is necessary. Organisations such as MISA, the Syndicate of Angolan Journalists (SJA), UJA and the Angola Media Women's Association (AMUJA), can indeed play a key role.

• **ALERT**

Date: December 28 2007

Persons: Armando Chicoca

Violation: Sentenced

On December 28 2007, Armando Chicoca, a correspondent of the privately-owned radio station *Radio Ecclesia*, was sentenced to 30 days in prison by a criminal court in the southwestern city of Namibe on December 28, 2007, following his arrest during a demonstration by street vendors six days earlier.

The court dismissed a charge of inciting revolt, but found Chicoca guilty of “disobeying state authority.” He was ordered to pay US\$ 260 in court costs and given a one-month sentence. His appeal is to be heard by the Supreme Court.

Chicoca was arrested near a market in Namibe on December 22, while interviewing the owners of stalls that were being demolished by the police. The authorities accused him of failing to respect a police security cordon and urging protesters to throw stones.

The protests were staged by street vendors objecting to an order issued by provincial governor Boavioda Neto on December 10 to dismantle unauthorised markets and force vendors to move to a new location which they say is too small. The police used force to disperse the demonstrators.

While conducting his interviews, Chicoca was grabbed by the police, his equipment was seized and he was escorted to a police station. From there he was taken to Namibe prison, where he was unable to see a lawyer until he appeared in court for the trial on 28 December.

Raul Manguera, a lawyer who heads a regional human rights commission, said after attending the trial that the prosecution failed to produce evidence in support of the charge of disobeying state authority.

UPDATE : Armando Chicoca was released after serving 35 days (as opposed to 30 according to the sentence passed) in jail.

• **ALERT**

Date: October 3, 2007

Persons: Felisberto da Grça Campos

Violation: Sentenced

Prominent Angolan journalist Graca Campos, the owner and director of the country’s leading independent newspaper *Semanario Angolense*, has been sentenced to eight months in jail. He was charged with defamation and crimen injuria and fined the equivalent of US\$250 000.

On October 3, the Luanda court found Campos guilty of slandering former Minister of Justice Paulo Tjipilica, now the country’s ombudsman.

According to the presiding Judge Peter Viana, the articles in question constitute a violation of the country’s Press Law, since they constitute crimes of insults and slander, set forth under articles 407, 411 and 414 of the Penal Code.

Campos will not be able to appeal the finding, *Radio Ecclesia* quoted the paper’s deputy director Silva Candumbo as saying. This means that Campos will already be starting to serve the sentence, the radio added.

The case arose out of a series of articles run in the popular *Semanario Angolense* which accused the then Minister of Justice of neglect in allowing large numbers of illegal immigrants into the country.

Angola’s President Jose Eduardo dos Santos earlier this year said that Angola was under a “silent invasion” by African, Asian and European foreigners coming in illegally to exploit the country’s resources, urging authorities to tighten control of the country’s borders.

The issue has since then entered the domestic political agenda, with several operations being carried out to expel illegal immigrants, especially in the diamond-rich areas of Luanda, Norte and Lunda Sul in the east of the country.

Worse than the prison term, though will be the likely closure of Graca Campos’s newspaper,

Semanario Angolense [not to be confused with the other paper by the same name, *Angolense*], which was jointly made to pay more than US\$260 000.

UPDATE: Graças Gampos was released on November 9, 2007 following a Supreme Court order. The court order did not state whether he will be jailed again or will have to pay the amount charged.

• **ALERT**

Date: February 18, 2007

Persons: Sarah Wykes

Violation: Other

On February 18 2007, Dr Sarah Wykes, a British woman working for the international organisation Global Witness, was arrested and accused of espionage.

Dr Wykes was in Cabinda gathering information for a report on the Angolan extractive industry - oil and diamonds. She was arrested at her hotel early on February 18 and taken to prison. She was to appear before a court on February 21.

There was no immediate comment from the Angolan government. A Global Witness spokesman in London, Andy Lamb, confirmed the arrest.

“She has subsequently been charged with another offense but we are not able at this stage to say what it was,” Lamb said. “We have alerted the British embassy in Angola who are on the case.”

Mendes said Wykes was being held in deplorable conditions, was not fed during the day and had nowhere to sleep.

Among Dr Wykes’ activities in the week leading to her arrest was her attendance at a human rights training workshop in Luanda held by the Open Society Initiative for Southern Africa (OSISA).

Her arrest and detention follow reports from representatives of other prominent international human rights advocacy organisations about increasingly restricted access to government officials.

National overview

*By Seatholo Masego Tumedi
Researcher*



Botswana

With the year 2007 being the final year in office for President Festus Mogae with Ian Khama waiting in line to take over the reigns, Botswana found herself gripped by an undercurrent of anxiety and uncertainty over the probability of impending transitional consequences come March 2008. A socio-political atmosphere characterised by abundant speculation and persistent doubt that did not often exclude fear prevailed. At the heart of these whisperings were questions like:

- would Mogae's power handover signal an end to civilian rule as Botswana had come to know it?
- would it mean the beginning of military rule draped in democratic robes?
- would it herald an era of an overtly repressive regime?

The rushed nature in which the Intelligence and Security Services Bill was enacted exacerbated the situation and caused a stir particularly within the media fraternity and in politico-academic circles.

Media-Government Relationship

While the African Media Barometer: Botswana 2007 report records that the Government of Botswana had become more receptive to ideas from the private media, there were a number of instances where relations between the Government and the fourth estate became rather tense. The first was when MISA and the Botswana Civil Society Coalition for Zimbabwe (BOCIS-COZ) proactively pressurised the Government to engage Zimbabwe in talks on account of the latter's crises. There was some stress, but the Botswana Government subsequently succumbed to the pressure and issued "a very strong statement" and even convened an emergency meeting to deliberate on the issue.

Secondly, the Ministry of Labour and Home Affairs decided to blacklist some foreign journalists, academics, and rights activists from Australia, the United States, and Canada allegedly on account of their addressing the Central Kalahari Game Reserve issue in their speeches or writings. Subsequent to this incidence the state media was instructed not to publish anything on or by Survival International without a freshly crafted response from the government. The incidents are thus an example of censorship and intimidation of media practitioners by the government. They also showed intolerance of criticism by the media, especially if the media activists happened to be of foreign origin.

The introduction of the Intelligence and Security Services Act further strained the media-government relationship. Should this piece of legislation be abused, the media would be among some of the sectors at the receiving end. MISA, the civil society, and other watchdog organisations in the country waged a futile struggle to resist this law; their main concern being that the law was being enacted "without accountability mechanisms and access to information legislation".

Legislative Environment

The Intelligence and Security Services Act is one of the most controversial media laws to be passed by Botswana's National Assembly. While the importance of, and need for comprehensive security legislation is acknowledged, it is feared that the law has loopholes, which could be easily abused as the bill was rushed through Parliament without proper consultation. The law vests a lot of power to the Head of State, which factor stands in conflict with the ideals of democracy. It is anticipated that the violation of democratic rights might become Botswana's new tune for the future because of the hurried enactment of this law. Opposition parties, media

practitioners, and academics are particularly irked by this law. The deportation of Professor Kenneth Good (a former political Science Professor at the University of Botswana) by President Mogae who invoked the powers bestowed upon him as Head of State is still fresh on the minds of many.

Access To Information

Media practice in Botswana relatively enjoys freedom. However, certain laws in the country militate against free access to information. The African Media Barometer Botswana 2007 cites several laws that prevent the desired free flow of information. These are the Civil Service Act; the Cinematography Act; the Directorate on Corruption and Economic Corruption Act; and the National Security Act. The National Security Act in particular, is likely to have been “bolstered even further” by the new Intelligence and Security Services Act.

Furthermore, there is still no talk on the Freedom of Information Act recommended by the Vision 2016 document. Media practitioners and the civil society, therefore, need to join MISA in actively advocating for the implementation of this recommendation and thus the enactment of the Freedom of Information Act.

Defamation

MISA and the self-regulatory body, the Botswana Press Council, apparently play a vital role in preventing lawsuits against the media and in encouraging the media to be particularly careful in their reporting of events and issues.

No lawsuits were recorded in 2007 but the Media Complaints Committee of the Botswana Press Council attended to a number of cases. Eight cases of defamation were registered against *BTV*; *Mahube*; *Monitor*; *Botswana Guardian*; *Echo* (two cases); and *Yarona FM*.

Three of these disputes were dropped. These were: Pono Selelo vs Mahube; Collins Selaba vs *Yarona FM*; and Mr. and Mrs. Seisa vs *The Voice* and *The Echo*. In two cases the media was absolved as their reporting was found to be fair and accurate: Francistown-based District Commissioner, Sylvia Muzila vs *BTV* and Botswana Media Women’s Association (BOMWA) vs *Monitor*. Sylvia Muzila, however, has appealed against the verdict. In the disputes between the Ministry of Labour and Home Affairs and the Sunday Standard, and between the Botswana National Front (BNF) Member of Parliament Isaac Mabiletsa and the *Botswana Guardian*, the Media Complaints Committee ruled against the media houses.

In the dispute between BNF Publicity Secretary Moeti Mohwasa and *The Echo*, both parties agreed to resolve the matter privately.

Constitution

An interesting case that reached the High Court of Botswana and, subsequently, the Court of Appeal in the first quarter of the year was that between Multichoice Botswana and the National Broadcasting Board (NBB). Multichoice Botswana submitted that the NBB had issued it with a broadcasting license, which the company could not be subjected to as it simply operated as a relay channel and was not involved in actual broadcasting from Botswana. Judge L.S. Waila in his pronouncement informed the court that the NBB’s decision to issue a license to Multichoice Botswana was set aside with costs. NBB appealed against the judgment but Judge of Appeal, Lord Coutsfiled, also dismissed the case.

The two judgments created a dilemma for the National Broadcasting Board. This case serves as concrete proof that Botswana needs a well defined and comprehensive broadcasting policy. In its assessment, the African Media Barometer: Botswana 2007 maintains that the operations of the National Broadcasting Board were “hampered by the absence of a broadcasting policy” - a situation which Judge Walia has summarized thus:

The dilemma faced by the [National Broadcasting] Board is easy to see. It has been given duties and responsibilities but not the teeth to implement and enforce.

The Multichoice Botswana vs NBB case also lays bare the grave inadequacies of the National Broadcasting Act of 1988 which MISA has discussed elsewhere. An overhaul of this Act has been strongly recommended in other forums.

Another incident worth noting here is Mogae’s lambasting of Botswana Democratic Party (BDP) backbenchers who apparently incensed the President when they teamed up with opposition MPs to kindle a parliamentary debate that resulted in the Cabinet’s reversal of its decision to hand over Air Botswana to South Africa’s Airlink in a bid to privatise the airline. In another development possibly linked to this issue, one of the outspoken BDP backbenchers, Boyce Sebetela, resigned as MP towards the end of the year. So towing the party line supersedes the right to freedom of expression, which is protected by Botswana’s Constitution?

President Mogae’s heavy-handed reproach of the BDP backbenchers also infringed upon MISA’s vision of the Southern African region in which the media practices freely, and citizens enjoy freedom of expression independent from political, economic, and commercial interests.

Other Legislation

In 2007 the Minister of Communications, Science, and Technology, Pelonomi Venson-Moitoi presented the Cyber Crime and Computer-Related Bill to Parliament, which was passed without much ado. This law comes as a by-product of fast technological developments in the country. It was adopted consequent to the recent liberalization of IT services which was seen as a positive development as it has provided the public with more access to news outlets.

Broadcasting

Early in the year the Parliament rejected a draft Broadcasting Bill because it did not fully guarantee transformation of the currently state-owned media. As indicated above the absence of a broadcasting policy gravely impacts upon the role of the NBB. Meanwhile, the state broadcasters in the country still operate without a board. Community radio stations are non-existent.

Media Diversity

While in the print sector Mahube newspaper folded up apparently due to managerial challenges, the electronic media enjoyed considerable growth in 2007. It is reported that the NBB licensed three nation-wide private radio stations and one subscriber satellite TV channel (the TV channel is expected to broadcast from Gaborone to the rest of sub-Saharan Africa). The stations licensed are, respectively, *Yarona FM*, *Gabz FM*, and *Duma FM* (a new radio station which went on air in December 2007); and *MABC TV* (new). In addition *GTV*, a new cable TV channel, rode on *Multichoice Botswana*’s legal victory and started to operate from Gaborone.

In another development *GBC TV* has reportedly sold some shares to *e-TV*, a South African satellite service; and *GBC* is expected to restructure its operations soon.

National Broadcasting Board Challenged

A test case in the media field occurred on 8 December 2007 when *Naledi FM*, a community radio station which MISA Botswana Chapter Director, Modise Maphanyane, has described as a pioneering intervention, was pre-launched at the Naledi Freedom Square in Gaborone. In Maphanyane's view, *Naledi FM* was pre-launched (with encouragement from MISA) in order to challenge Botswana's procrastination in introducing community broadcasting. It is reported that the radio station is determined to broadcast from a neighbouring territory should the NBB continue to ignore its application to broadcast within Botswana.

Conclusion

There were positive developments in the media environment in 2007. Great efforts were made at diversifying the broadcast media through the licensing of three national private radios, thus breaking the monopoly of the national airwaves by the state-controlled media. *Naledi FM*'s initiative to challenge the NBB is also likely to produce some interesting outcome in relation to the introduction of community media.

The inadequacies of the National Broadcasting Act of 1998, coupled with the lack of a broadcasting policy, will continue to pose as both an obstacle and a challenge to media practitioners.

Perhaps the biggest challenge for all watch-dog organizations from now on will be the close monitoring of the implementation of the Intelligence and Security Services Act in order to safeguard the democratic rights of all citizens, and in particular, media practitioners. Already, as this article goes to press in January 2008, Justice John Mosojane of the Francistown High Court is reported to have resigned from the Independent Electoral Commission citing interference from the Office of the President as one of the reasons for his resignation. Mosojane's resignation re-raises the question: how independent is the Independent Electoral Commission? It should be noted here that the Office of the President to which the IEC reports is the same office under which the Directorate of Intelligence Services falls.

Print Media Diversity Table

Newspaper	Publisher	Circulation	Distribution	Frequency
Botswana Gazette	News Co. Botswana (PTY) Ltd	23 000	National	Weekly
Botswana Guardian	CBET	19 000	National	Weekly
Daily News	Department of Information Services, Minsitry of Communications, Science & Technology	65 000	National	Daily
Echo	Echo Publishing (PTY) Ltd	10 000	National	Weekly

Newspaper	Publisher	Circulation	Distribution	Frequency
Midweek Sun	CBET		National	Weekly
Mirror	Kopano Office & Business Services	13 000	National	Weekly
Mmegi	Dikgang Publishing	11 000 Tuesday – Thursday 22 000 Fridays	National	Daily
Monitor	Dikgang Publishing	17 000	National	Weekly
Ngami Times	Ngami Times Printing & Publishing Co. (PTY) Ltd	10 000	National	Weekly
Sunday Standard	Tsodilo Services (PTY) Ltd	10 000	National	Weekly
Tswana Times	Tsolohi Communications (PTY) Ltd	5 000	Gaborone & surrounding areas	Fortnightly
Sunday Tribune	Bukinemu Enterprising	8 000	National	Weekly
The Voice	The Francistowner (PTY) Ltd	30 000	National	Weekly

Broadcast Media Diversity Table

Radio/TV Station	Owner	Classification	Coverage
Gabz FM	Your Friend (PTY) Ltd	Private	National
Botswana Television (Btv)	Botswana Government	State	National
Gaborone Broadcasting Company (GBC) TV	Gaborone Broadcasting Company (PTY) Ltd	Private	50km radius from Gaborone
DSTV	Multi choice Botswana (PTY) Ltd	Private	Pan-African

Duma FM	Duma FM (PTY) Ltd	Private	National
GTV	Gateway Broadcasting Services	Private Pay TV	Pan-African
MABC TV	Munhumutape Pay TV (PTY) Ltd	Private Multi-Channel Pay TV	Sub-Saharan Africa
Radio Botswana 1	Government	State	National

• **ALERT**

Date: December 10, 2007

Persons/Institutions: Oarabile Mosikare

Violation: Threatened

On December 10 2007, a prominent businessman and ruling Botswana Democratic Party councillor, Robert Muzila, is alleged to have verbally harassed *Mmegi* newspaper journalist Oarabile Mosikare. Mosikare has since lodged a harassment complaint against Muzila with the Francistown Central Police station.

Muzila is also said to have accused Mosikare of writing articles that “belittle and insult his person”.

Mosikare told MISA Botswana that he tried to advise Muzila to talk to his supervisors. He says Muzila accused him of involvement in politics.

“Mr Muzila took issue with the article I wrote recently, headlined ‘What is it with the Robert Ms’, that appeared in ‘Mmegi’ of November 23, 2007”, Mosikare said. Apparently Muzila took particular offence at being described as “pint-sized” and being compared to one Robert Masitara. Mosikare says Muzila told him that everything that he wrote about him was actually directed at the complainant’s father. This is regarded as an insult in Botswana culture.

• **ALERT**

Date: September 10, 2007

Persons/Institutions: Media in Botswana

Violation: Censored

On September 10 2007, chairperson of Botswana’s Ntlo ya Dikgosi (House of Chiefs), Kgosi Seepapitso IV, locked media workers out of the briefing that the House of Chiefs had with the Minister of Local government, Margaret Nasha.

September 11 reports in both *Mmegi* and *Midweek Sun* newspapers indicate that the chief simply announced that outsiders were not welcome and emphasised that he was also referring to the media. The papers claim they were invited to the meeting.

Clerk of the National Assembly, Earnest Mpofu however claimed that the meeting that the media was blocked from was not the official opening of the house which they were invited to.

• **ALERT**

Date: September 5, 2007

Persons/Institutions: Chenjelani Baraedi

Violation: Beaten

Journalist Chenjelani Baraedi who works for the weekly, *The Voice* newspaper, instituted charges against several police officers of the Francistown Central Police whom he alleged assaulted him on Wednesday, September 5, 2007.

Baraedi told MISA Botswana that he was with a colleague, Peter Madiya, at the time of the incident. According to him, three plain clothed officers pounced on him and started beating him for no stated reason.

• **ALERT**

Date: August 20, 2007

Persons/Institutions: Media, citizens of Botswana

Violation: Legislation

The Minister of Communications, Science and Technology, Pelonomi Venson-Moitoi has told Parliament that her government has no intention to come up with a Freedom of Information Act.

She is quoted in the media as having said structures to disseminate information have been setup and they would rather improve on those than establish a Freedom of Information Act.

‘Sunday Standard’ newspaper quoted a number of members of parliament from both sides of

the political spectrum expressing shock at the minister's revelation.

The ruling party Member of Parliament, Botsalo Ntuane is cited as saying none of the reasons stated by Venson-Moitsoi for not coming up with the Act have anything to do with the objectives of the Freedom of Information Act. He is further quoted as saying failing to establish such a law will mean Botswana's democracy is no longer progressive.

• **ALERT**

Date: August 10, 2007

Persons/Institutions: Gavin Emmanuel

Violation: Detained

On August 10 2007, Botswana-based freelance journalist, Gavin Emmanuel, spent the night in police custody, following allegations of espionage. Police, however, claim the motive of arrest related to a 'threat to kill accusation' made against the journalist by a colleague at the Echo newspaper.

Emmanuel told MISA Botswana that his home and that of his girlfriend were searched by a contingent of armed police on that morning.

"Apparently a note was found at the office purporting to be written by me to the South African intelligence services. The police searched for pictures and other documents that could lead them to making some charges. After failing to get anything they took me to the police station where I was detained and released the following day around midday", Emmanuel explained and added that the police took with them his passport, resident permit and a computer memory stick.

However, the police Public Relations chief, Christopher Mbulawa refute the espionage motives and say they only searched the journalist's place because of the 'threat to kill' allegations.

MISA Botswana interviewed the journalist's editor, Joel Konopo, who confirmed that the journalist was arrested over allegations made by a colleague. Konopo confirmed that there was a note found in their offices purporting some correspondence between the accused and the South African intelligence. He said the note indicated that the writer would send pictures of the military of Botswana to the South African intelligence.

Benedict Sibanda, the colleague alleged to be the initiator of the allegations, denied any knowledge of the matter

• **ALERT**

Date: August 6, 2007

Persons/Institutions: Media, citizens of Botswana

Violation: Legislation

On August 6 2007, the Botswana Parliament passed an Intelligence and Security Services Bill despite the boycott by all members of the opposition, who had protested the proceedings leading to its adoption.

The Bill however has been adopted with some substantive amendments such as the inclusion of the oversight provision in the form of a parliamentary committee and an Appeals Tribunal. In one of its provisions it insists that the a warrant of arrest must be sought through the courts, prior to carrying out intrusive activities of a personal nature.

The legitimacy of the bill has however been compromised by the absence of the opposition who had initially put in a series of amendments but which subsequently fell off due to their absence. The final stage of the Bill remains with the President who has to sign it before it is and declared a law.

Earlier in the month a coalition of Botswana Civil society organisations that include the Media Institute of Southern Africa (MISA) Botswana, the Ditshwanelo-Centre for Human Rights and the Botswana Council of Non-Governmental Organisations (BOCONGO) expressed disappointment following the refusal of the ruling party members of parliament to grant the opposition members a postponement of the discussion and voting on amendments to the Intelligence and Security Services Bill.

• **ALERT**

Date: August 01, 2007

Persons/Institutions: The Tswana Times

Violation: Other

The Tswana Times newspaper has accused the Botswana Telecommunications Corporation (BTC) of denying it advertising as a punishment for publishing an unfavourable report, entitled "Seretse Misled Batswana", about the corporation on March 16, 2007.

According to *The Tswana Times* editor Sello Motseta the head of Public Relations and Communications, James Molosankwe, came to the newspaper's offices before the story was published and demanded that it be shelved.

Motseta says he gave Molosankwe an opportunity to rebut allegations made by the paper's sources that information published by BTC in its foreword, indicating that the 2007 BTC Telephone Directory and yellow pages were made in-house, was factually inaccurate.

In an interview with MISA-Botswana, Motseta alleged that Molosankwe also threatened to stop advertising in the newspaper if the story was published. This threat, according to Motseta, became real when he was informed by his sources at the advertising agency that they were instructed not to give advertising to *The Tswana Times*.

Molosankwe, however, has denied Motseta's allegations and has indicated that decisions on placement and distribution of advertisements are based on several factors, which may include the nature of campaigns the company runs.

• **ALERT**

Date: August 01, 2007

Persons/Institutions: 17 Foreign journalists, human rights activists, including the head of Survival International, BBC World Affairs Editor John Simpson, former Financial Times Africa editor David White and an Australian academic

Violation: Other

Earlier this month Government banned 17 people, mostly foreign journalists and human rights activists, from entering the diamond-rich country.

The ban comes as the government tries to push through an Intelligence Bill that activists say could curtail freedom of speech in a country that has for decades enjoyed an outspoken press. The government denies the bill will muzzle critics.

Earlier this month the government banned the head of Survival International - a pressure group that backed the Bushmen in their battle - from the country. The list of banned individuals also included *BBC World Affairs* Editor John Simpson, former Financial Times Africa editor David White and another Australian academic who has criticized the government.

• **ALERT**

Date: May 13, 2007

Persons/Institutions: Citizens of Botswana

Violation: Censored

On May 13 2007, *Botswana Television* (Btv) tempered with a recorded discussion programme 'Matlho a phage' and removed comments that were perceived as offending to the government, the president and the vice president.

The censored comments are attributed to the Vice President of Botswana Congress Party, Dr Gositegile Gobotswang, who was amongst the panelists that included member of the Executive committee of the ruling Botswana Democratic Party, Maxwell Motowane and a member of Botswana National Front, Mr Lemogang Ntime.

Gobotswang confirmed to MISA Botswana that the censored comments centred around criticism of the President's abusive language against backbenchers when he publicly called them Billy-goats that continuously growl in a new kraal.

Gobotswang expressed his shock at the development and questioned why journalists should

be made to face the wrath of the censors over utterances made by responsible and accountable individuals.”

The Public Relations Officer at the station, Simon Seisa confirmed the censorship but said it was merely normal editorial discretion of editors.

• **ALERT**

Date: May 4, 2007

Persons/Institutions: Tsaone Basimanebotlhe and Shingirai Madondo (*Botswana Guardian*), Patricia Maganu and Moreri Sejakgomo (*Mmegi*) and Chengerani Baraedi (*The Voice*)

Violation: Beaten

At least one journalist, Tsaone Basimanebotlhe of the *Botswana Guardian* has laid an assault charge at the Francistown police station against a woman who allegedly manhandled and prevented her from taking pictures of a suspected robber at the Francistown Magistrate court.

Five journalists, including Basimanebotlhe, were attacked and prevented from carrying out their duties by a mob suspected to be related to some of the accused in a robbery case that the journalists were covering on May 4, 2007, in Francistown, Botswana.

Basimanebotlhe told MISA Botswana that they were attending a packed court in which about ten suspects were arraigned for allegedly robbing old pensioners' funds. The journalists had gone outside the courtroom awaiting the suspects in order to photograph them, when suddenly a group of people blocked their view and physically prevented them from taking pictures.

The other journalists are Patricia Maganu of *Mmegi*, Moreri Sejakgomo of *Mmegi*, Shingirai Madondo of *Botswana Guardian* and Chengerani Baraedi of *The Voice*.

• **ALERT**

Date: February 21, 2007

Persons/Institutions: Panana Ramodikeng

Violation: Beaten

On February 21 2007 *Botswana Guardian* and *Midweek Sun* photographer, Panana Ramodikeng, was assaulted by a Botswana Police official Superintendent Kediagetse Megale, while covering a court case at Tlokweng Customary Court. In the case, the concerned official's wife accused his female junior of wrecking her marriage through involvement in a secret sexual relationship with her husband.

Confirming the incident to MISA Botswana, Ramodikeng said the Superintendent lunged at her when she took a photograph of the accused female constable.

She said he started chasing her around the courtyard, tripped her and proceeded to slap her on the cheek as she lay on the ground with her camera slung around her shoulder.

Superintendent Megale then attempted to confiscate the camera but was stopped by a photographer from the *Echo* newspaper who managed to retrieve it.

Another reporter from the *Midweek Sun*, Sarah Mophonkolo, confirmed the incident and further reported that it took place in full view of other Botswana Local Police officers. None of them aided the journalist.

National Overview

By Khutliso Sekoati

Journalist



Lesotho

The year 2007 was a litmus test for Lesotho's democracy; one where, amongst others, the respect for media freedom was tested considerably during the rush for general elections in February 2007.

Political tension mounted just ahead of the general polls and various political parties held rallies to lure the electorate. The ruling Lesotho Congress for Democracy (LCD) took the lead in the campaigns. However, the newly formed All Basotho Convention (ABC), a breakaway from the LCD, attracted a lot of attention too, rekindling political interests amongst many. This new party, formed under the leadership of former Communications, Science and Technology Minister, Thomas Thabane, turned the tables as it posed a significant challenge to the ruling party led by Prime Minister Pakalitha Mosisili. LCD came back to power.

In the run up to the elections, the LCD was highly vocal and verbally chastised a pool of private media criticizing it for favouring the opposition parties. The opposition was banned from campaigning in state run media - radio, television and newspapers. Only the ruling party was favoured. Its rallies were massively covered by the state media. The opposition parties were awarded slots just for a little time before the polling day. Even musicians who had professed their unwavering support to the ABC saw their recordings off air on state media.

The political uncertainty and instability that followed in the year saw the media fraternity suffer in the hands of the state. The latter unleashed its might to clamp down on what it considered dissenting voices. The LCD government strongly believed its power was unjustifiably threatened by an alliance of opposition parties bent on staging a coup. Members of Parliament of five opposition parties were booted out of the House by armed Lesotho Defence Force contingent.

Government-media relations

Since it broke away from the then ruling Basutoland Congress Party (BCP) in 1997, the LCD has continued to pay a lip service to media freedom and freedom of expression. Initially, the party had expressed its intention to enable media freedom to flourish as part of strengthening fragile democracy. But a series of threats and lawsuits against the media have proved otherwise.

During its meetings and rallies held throughout the country, the LCD has strongly attacked and threatened the private media while the opposition adopted soft approach to media in order to win its favour. Some of the media personnel were nearly beaten while others were served with defamation litigations as part of a gag-up attempt.

The state regularly cut from air two radio stations *People's Choice FM* and *Harvest FM* accusing them of sowing seeds of hatred to the administration. The coverage range of *Harvest FM* was significantly reduced.

Constitution and media-unfriendly laws

The Constitution was adopted as a supreme law of the land ahead of the 1993 return to democracy. It guarantees freedom of expression. The Government ambiguously believes freedom of expression encompasses freedom of media. But this is not so, given the fact that there are several restrictive laws on the media freedom that are still prevailing.

Section 14 (1) of the Constitution reads: "Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the

communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.” This freedom of expression is, however, limited in the same Constitution. The limitation is: -“Nothing contained in, or done under the authority of any law, shall be held to be inconsistent with, or in contravention of this, section to the extent that the law in question makes provision in the interest of defence, public safety, public order, public morality or public health, or for the purpose of protecting the reputations and rights of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration, or the technical operation, of telephony, telegraphy, posts, wireless broadcasting or television, or for the purposes of imposing restrictions upon public officers.”

The following are the laws that stifle media freedom:

- Printing and Publications Act, 1967
- Official Secrets Act, 1967
- Internal Security Act (General) Act, 1984
- Sedition Proclamation No 44 of 1938
- Obscene Publication proclamation No. 9 of 1912
- The Parliamentary Powers and Privileges Act, 1994
- Criminal Procedure and Evidence Act, 1981
- High Court Act, 1978
- Lesotho Telecommunications Act No 5, 2000.

As media personnel fight to shelve these draconian legislations for good, the government sees them as a weapon to bring order, maintain internal security and control media.

The implementation of these laws saw *Harvest FM* presenter Thabo Thakalekoala, also MISA regional chairperson, charged with sedition and incitement under the Internal Security Act of 1984 following his reading of a letter claiming dislike of Prime Minister Mosisili’s Government. The case is pending.

In another firing, the Government deported *Harvest FM* manager Adam Lekhoaba claiming he was an illegal immigrant. He is vocal on criticizing state administration. He has since won a court battle to stay in the country. But the government plans to appeal against the decision.

The Government’s apathy towards the media has been displayed by Prime Minister Mosisli’s silence on a petition submitted by a media group.

The petitioned requested the Prime Minister to:

- Remove moratoria on advertising placed on publishing houses
- Revoke all bans placed on any musicians in Lesotho
- Withdraw charges against Thakalekoala.

Further, the Government instructed its departments to stop advertising with *Public Eye*, *Harvest FM* and *People’s Choice*.

Defamation Suits

The state extended its grip on freedom of expression even to the beleaguered opposition politician Anthony Manyeli when it brought a defamation case against him. He had criticised the judiciary for passing an unfavourable election petition verdict in favour of his (Manyeli) NIP faction led by Dominic Motikoe. His criticism brought him a defamation suit that he later won as there was insufficient evidence against him. In this defamation case, the editor of *Public*

Eye Bethuel Thai and its reporter 'Mathapeli Ramonotsi, who authored Manyeli's discontent testified.

A defamation case was brought against three accused members aligned to the ABC 'Maketso Motjope, Qamako Nt'sene and 'Methe Pekeche. The first two had turned away from the LCD to join the ABC while Pekeche is a former personnel aide of ABC leader Thabane. The three were charged with defamation following a publication of pamphlets claiming Prime Minister Mosisili and other cabinet ministers had extra marital relationships with other ministers and principal secretaries.

During the period, a large number of defamation suits were filed against the private print media with *Public Eye*, a weekly English newspaper topping the list. The newspaper was also taken to court by the former National University of Lesotho Pro-Vice Chancellor Mahao. The newspaper had reported that Mahao had thrown the university into a steamy sex scandal. Mahao has demanded M800 000 in damages for defamation. The editor of *Public Eye* Bethuel Thai has testified in the suit. The hearing was postponed to March and April 2008.

In another development, *The Mirror* newspaper faced litigation when Prime Minister Mosisili lodged a complaint against the newspaper's reports that he was involved in theft of books from the National University of Lesotho. A judgment is yet to be handed down.

Print and Broadcasting

The year saw an emergence of several new weekly and fortnightly publications in the country ushering hope that the media would enjoy much freedom and freedom of expression as contained in the constitution. The print media kraal was joined by *Weekly Mail*, an English publication published fortnightly by Leseli Mokhele, a poet, *The Lesotho Monitor* published by former Agriculture Minister Dr Rakoro Phororo, *The Voice* which is published by the LCD bent youth group, *The Informative* that is published by BAM Consultancy and the weekly *Family Mirror*.

Lesotho does not have any daily publication due to lack of human and financial resources. A bulk of these publications is manned with journalistically unskilled personnel posing a threat to their sustainable existence.

The Government still dominates the airwaves as its state-run *Radio Lesotho* covers a larger spectrum of the country. The state also runs a commercial radio station Ultimate Radio Fm in addition to television under the ministry of communication, science and technology.

Other radio stations are Catholic Radio, *People's Choice FM*, *Joy FM*, *Mo-Afrika FM*, *Thaha-Khube FM*, *Jesu-ke-Karabo* and *Harvest FM*. The stations broadcast in limited areas.

Media policy

The Government has consistently maintained that it would approve a media policy to lay a foundation for media operations and enhance democracy. Such a policy would enable an establishment of regulations providing as guidelines for state conduct, a move the Government would not entertain. The Access and Receipt of Information Bill is still in its draft form as well as the Broadcasting Bill. The government has since said it was studying the documents and it is unlikely the documents will ever gain life.

With the unfriendly attitude adopted by the Government, media freedom is far from being reached. In fact, most of the media people and other civil society groups feel that never in the history of the country since Independence has the government been so hostile to the media.

There is dire need for the state machinery to change its attitude towards the media. A society empowered by media freedom becomes an informed, educated and entertained society that strives towards development.

• **ALERT**

Date: December 11, 2007

Persons: Public Eye newspaper, radio Harvest FM

Violation: Censored

On December 11 2007, the *People's Choice* radio was shut down in the early hours of the morning following an attack by the Communications Minister Mothetjoa Metsing who accused the radio of promoting disorder in the country.

It is said that some parts of the transmitter are not working and only technicians from the communications ministry are allowed to fix anything at the transmitter. According to information gathered by MISA Lesotho, *PC FM* has a contract with the Lesotho Broadcasting services that stipulates that should anything break on the PC channel, technicians from the government should fix it within 24 hours.

MISA Lesotho has been reliably told that technicians were ordered not to fix the problem. "Our boss said no one should work on the PC transmitter problem," a *PC FM* manager was told. Minister Metsing only said he was not aware of the PC FM shut down. The shut down came during the time when opposition leaders had called for a stay away in order to force the government to level the ground for talks regarding a simmering national assembly seat allocation.

• **ALERT**

Date: August 1, 2007

Persons: People's Choice FM

Violation: Bombed (Raided)

On August 1 2007, two uniformed Lesotho Defence Force members entered *People's Choice FM* offices demanding the tapes of a June 25 programme 'Thaha-Meso' hosted by freelance presenter Malehloka Ralitapole.

PC FM station manager told MISA Lesotho that two officers from LDF Public Affairs office who were in full uniform came to the Radio Station offices and asked for the tapes of the programme in which the army was the main subject following a spate of abductions of civilians from June 22.

Ralitapole had hosted Hape Tsakatse, a trade unionist-turned politician who lambasted the army for dishing out human rights abuses to the civilians. Ralitapole alleged on the same programme that the civilians were being abducted by the members of the Lesotho Defence Force who were then denying their involvement in the abductions.

Station Manager Kholu Qhobela refused to hand over the tapes.

Allegations of the army being involved in the abductions were verified during the army's confession during a recent press conference.

Army officials claimed that they had taken the abductees into custody as part of a "security operation" while they searched for missing guns that had been taken from army officers on guard at Minister's residences.

• **ALERT**

Date: July 20, 2007

Persons: Thabang Moliko

Violation: Detained

On July 20 2007, *People's Choice FM* presenter Thabang Moliko was arrested by the Lesotho Mounted Police Service who questioned him about his alleged partisan politics.

He was released at midnight on the same day after being questioned by the police. Moliko said he was called on his mobile phone by a police officer who asked him to report to the police headquarters. He was later asked to hand in his mobile phone to the police officers before being locked in one of the police forensic investigation offices.

Moliko was specifically asked about his program at PC FM where he presents an early morning *Bana ba Khoale* phone-in program.

• **ALERT**

Date: June, 2007

Persons: Public Eye newspaper, radio Harvest FM

Violation: Other

The government of Lesotho has issued an order to all state and parastatal agencies not to buy advertising space in the privately-owned weekly *Public Eye* and radio *Harvest FM*.

Several state and parastatal advertisers told *Public Eye* editor Bethuel Thai at the start of June that they had received an order not to buy any more space in his newspaper. When Thai asked to see a copy of the order, they all referred him to government secretary Tlohang Sekhamane, who confirmed that the government had taken this decision but said no written order existed. Nonetheless, *Public Eye* did in the end obtain a copy of a message from the local government ministry's human resources department to project and section chiefs saying: "I have been ordered to inform you that requests for advertising services to the newspaper 'Public Eye' and radio *Harvest FM* must cease with immediate effect. I thank you for your usual cooperation."

Since then, no request for advertising has been made by the agencies involved. As a result, Thai was forced to tell his employees he was suspending payment of all salaries until further notice, as 85 per cent of the newspaper's revenue comes from advertising. He has had no success with his attempts to contact senior government officials to request an explanation or propose a solution. Thai estimates that his newspaper will fold within six months if there is no change in the current situation.

• **ALERT**

Date: June 24, 2007

Persons: Kabelo Masoabi

Violation: Threatened

On 24 June 2007, a *Public Eye* reporter, Kabelo Masoabi, was verbally attacked at the ruling Lesotho Congress for Democracy's (LCD) rally in Makhaleng, Ha Ramabanta, in the Maseru district.

Masoabi said he was verbally attacked by the LCD youth leadership on arrival at the rally. The minister of communications, Mothetjoa Metsing, apparently came to his rescue when he intervened and alerted the party secretary general, Mpho Malie, of the fracas.

Masoabi said he was called aside by an LCD youth leader who told him to leave the place because he was allegedly biased in his reporting. He was further accused of damaging the image of the LCD.

Minister Metsing told reporters at a press conference on June 26 that he protected the journalist from further harassment by giving him a safe seat near the "high table".

The reporter suffered no serious injuries.

• **ALERT**

Date: June 22, 2007

Persons: Thabo Thakalekoala

Violation: Detained

On June 22 2007, freelance journalist and chairperson of MISA, Thabo Thakalekoala, was arrested by police after he read out an open letter on his morning talk show, "Rise and Shine", on private radio station *Harvest FM*. The letter, given to him from members of the Lesotho Defence Force, called the Prime Minister an "unwanted ruler" and urged the Police Commissioner to arrest him because, as a person from South Africa, he had broken the law by running for office.

Thakalekoala could face at least five years in jail.

Thakalekoala refused to reveal the names of the individuals who gave him the letter, and went on hunger strike to persuade the Lesotho government to release him or at least speed up his trial.

June 25, 2007: Initially accused with high treason, he was charged with “failure to report subversive activity” and released on bail on June 25, 2007.

More than 700 people crowded outside police lockup in protest over the weekend, and more than 1,000 people gathered in protest outside court on the day of his hearing.

August 9, 2007: Thakalekoala told MISA Lesotho that he feared for his life after he was tipped by highly reliable source within the Lesotho security agents that there is a plot to assassinate him.

- **ALERT**

Date: June 20, 2007

Persons: Private media in Lesotho

Violation: Censored

On June 20 2007, all private media outlets in Lesotho were banned from an inspection of recovered army rifles by government officials.

Only government controlled media that included *Radio Lesotho*, *Lesotho Television* and *Lentsoe la Basotho* newspaper were allowed entry in the police territory during inspection.

Ministers were inspecting recovered army rifles that were taken from army officers on duty at Ministers’ official residences in June.

“One police officer in plain clothes came to us and told us we were not allowed entry during that inspection and he was choosing reporters only from government owned media to enter,” a reporter told MISA Lesotho.

- **ALERT**

Date: May 7, 2007

Persons: Public Eye newspaper

Violation: Censored

On May 7 2007, Public Eye newspaper was served with a letter of demand from the Phafane Chambers on instruction of the Lesotho Prime Minister Pakalitha Mosisili who is their client.

The newspaper is demanded to payment of approximately U \$143 061 “being the damages for the defamatory matters and photographs” in various issues of *Public Eye*.

According to the letter, Mosisili has informed his legal representatives that in various issues, *Public Eye* has claimed among others that a certain case in which one Motjope and others are charged with the crime of criminal defamation, is Mosisili’s adultery case and the newspaper has placed “in some of those issues, your computer generated photograph of our client in which he posed next to Dr. Ponts’o Sekatle, the Minister of Local Government.

- **ALERT**

Date: April 25, 2007

Persons: Public Eye Editor-in Chief, Bethuel Thai

Violation: Threatened

On April 25, *Public Eye* Editor-in Chief, Bethuel Thai, was summoned by the Criminal Investigation Department (CID) of the Lesotho Mounted Police who demanded the newspaper become a state witness in a case in which opposition party leader Anthony Manyeli is charged with criminal defamation in the magistrate court.

Manyeli is accused of corrupt practices in parliamentary seat allocations where the ruling Lesotho Congress for Democracy took some Proportional Representation seats to increase LCD’s number of seats in the National Assembly.

Public Eye ran a face-to-face interview with Manyeli who lambasted the ruling party for corruption and malpractices in the electoral processes of the recently held general elections.

Public Eye Editor-in-Chief Bethuel Thai said they could only provide a hard copy interview to the authorities and end there.

• **ALERT**

Date: March 3, 2007

Persons: Rev. Adam Lekhoaba

Violation: Expelled

On March 3 2007, *Harvest FM* morning programme (Rise and Shine) host Rev. Adam Lekhoaba was told by security agents to cut short his wedding and “go back to his home”.

This was after he returned (from South Africa) to Lesotho to marry his fiancée Ntoetsi Moshoe-shoe. Rev. Lekhoaba had left Lesotho after being tipped off that some security agents were looking for him just after the Lesotho National Assembly election.

Rev. Lekhoaba was handed a letter by a National Security Service officer from the immigration department ordering him to cut short his wedding ceremony and go back to his “home” because he was in Lesotho illegally. This letter followed a circular to all borders that instructed immigration officers not to allow him to enter Lesotho.

Rev. Lekhoaba who is originally from Lesotho but holds a South African passport after leaving Lesotho as an infant, said he was given thirty days by the immigration officers when he crossed into Lesotho for his wedding, justifying his legal stay in Lesotho.

Rev. Lekhoaba has been at odds with the ruling Lesotho Congress for Democracy officials who accuse him of biased reporting and supporting the newly formed All Basotho Convention.

• **ALERT**

Date: February 13, 2007

Persons: Thabo Thakalekoala, Adam Lekhoada, Molika, Malehloka Lalitapole

Violation: Threatened

On February 13 2007, MISA confirmed that several journalists in Lesotho are being inundated with anonymous threatening calls, and accusations that they are at the forefront of a campaign to cause confusion in the country and within the ruling Lesotho Congress for Democracy (LCD). The targeted journalists, Thabo Thakalekoala and Adam Lekhoada of *Harvest FM* radio station, Molika of People’s Choice (PC) FM radio station, and Malehloka Lalitapole of *PC FM* radio station, are also accused of promoting negative perceptions about some members of the government of Lesotho.

On February 13, 2007, Thakalekoala described to MISA an incident that took place in the early hours of February 10, that prompted him to fear for his life and the safety of his family. According to Thakalekoala, he awoke to loud banging on his front door at approximately 1:00 a.m. (local time). His harassers called to him to open the door to receive a gift: a tombstone intended to “minimise the cost of his funeral” as he would die before the scheduled elections on February 17, they told him. When he refused to venture outside, his harassers responded by warning him that his “days were numbered” and that his wife and children would soon be mourning his passing.

Thakalekoala has since registered an official statement with the police. Members of the Lesotho Police have questioned eyewitnesses.

Journalist Adam Lekhoada was summoned by local police to produce certified travelling documents. According to them, his citizenship was in question and therefore his right to freely practice journalism in Lesotho. Lekhoada complied with the request on February 13.

MISA has arranged for armed security personnel to guard the homes of the affected journalists.

• **ALERT**

Date: January 29, 2007

Persons: Malehloka Ralitapole

Violation: Threatened

People’s Choice FM morning programme (*Thahameso*) anchor, Malehloka Ralitapole, has been threatened and told not to cover the ruling Lesotho Congress for Democracy (LCD) rallies

ahead of the February 17 general election.

She said she was told by the Minister of Foreign Affairs, Monyane Moleleki that if she dared covering LCD election campaign rallies, she had better prepared a 'coffin' for her 'funeral'. Ralitapole further added that the Minister, touted to be LCD leader Pakalitha Mosisili's successor, expressed how he did not like her from her time at *MoAfrika FM*.

Ralitapole has been a host to number of candidates in the run up to the election and her program is one of those that sent election temperatures soaring, with opposition candidates grabbing their chances to spell out LCD's failures in their last two terms in power.

The ruling LCD has hogged the state media against the opposition since the election campaign leaving the election candidates to resort to the private media.

National Overview

By Kelvin Sentala

Human rights lawyer



Malawi

The year 2007 should have read like a fairy-tale for Malawi media. However, it did not. It began with a luncheon for media bosses hosted by the President Bingu wa Mutharika at the new State House, his official residence, in Lilongwe. He followed this up with invitations to selected private media houses to send their journalists to accompany the President in his foreign tours, presumably to stave off a spate of bad publicity from foreign media. But the stand-off between the Parliament and the public media moved from bad to worse on matters of covering opposition activities. This culminated in the crown jewels of the public media - *Malawi Broadcasting Corporation (MBC)* and *Malawi Television (TVM)* - getting more than a rap on the knuckles from the National Assembly. Finance Minister Goodall Gondwe gave the two institutions a token of MK1 (less than one US cent) each in the national budget. It became clear that the national assembly would not fund institutions that it felt favored the opposition.

The Government continues to exercise the power given by laws that exist to harass the media. For instance, the police can still harass and detain media workers on unclear grounds. Montfort Media photojournalist Kazembe Kayira was detained and had his camera confiscated by the police for taking pictures at a presidential function. He was released without charge.

Media-Government Relationship

The government and the media continued to play the cat-and-mouse game. There was no change in the long-running mistrust between the two institutions, with the Government withholding information and sometimes using threats against the media, while the media earned itself a bad name for persistently trying to uncover every piece of dirt it can on the Government and glossing over the wrongs of the opposition. There is clearly a need for open dialogue and mutual assurance of goodwill.

Constitutional Rights and Legislative Environment

The Malawi Constitution, which the country adopted in 1995, a year after acceding to multi-party democracy is regarded as one of the best on the African continent. However many laws in the country violate the Bill of Rights in the Constitution and need instant repeal. Last January, MISA Malawi, in conjunction with Media Council organised a national consultative meeting to find a way forward on how to address these issues.

Politicians have sometimes tried to infringe the rights of the media through the use of sheer brute force, as amply demonstrated by the attack on Blantyre Newspapers Limited (BNL) Lilongwe Bureau Chief Dickson Kashoti by MP Joseph Njobvuyalema; or through the abuse of the courts as in the case of Neno MP Mark Katsonga who obtained an injunction stopping BNL from reporting on a case in which he was accused of causing a hit-and-run road accident and killing a cyclist. BNL challenged the injunction and reported the matter, including his conviction and the fine he was ordered to pay.

Defamation

The media faced several defamation suits in 2007, some of them totally ingenious in their construction. Two people mentioned in a story involving a woman caught in a love triangle with a bank manager and a catholic priest sued *The Daily Times* for defamation. The woman, whose marriage was dissolved by the courts for irreconcilable differences, and the bank manager sued the newspaper for not seeking their side of the story although the story was based on court records. BNL fired Reporter Carol Somanje and suspended its general manager over the same story. On a lighter note, several people have threatened to sue or sued *The Sunday Times* over its scandal column "the drycleaner", all of them claiming to have been the subject of a story that mentions no name but gives pointers on possible culprits.

Access to Information

There was a lot of lobbying for the Access to Information Bill and general sensitisation of stakeholders, many of who erroneously believed it is meant for the benefit of the media only. Although the Minister of Information and Civic Education and the Parliamentary Committee on Media and Communication have openly supported the draft bill, it is still a long way from being tabled in the National Assembly. The Access to Information Bill is a crucial piece of legislation enabling scholars, researchers and ordinary citizens to get hold of information necessary for their work but which officials would normally want to keep under wraps.

The Government has not been proactive in releasing information of public interest, except where it may be injurious to the reputation of its detractors. For instance, the State House issued a statement accusing former President Bakili Muluzi of giving aid to Sudanese rebels while he was in office. The claim was never substantiated nor was it clear in whose interest this information was being issued.

One piece of excellent reporting where a public institution was forced to eat its words was the case of the leakage of the 2007 Malawi School Certificate of Education (MSCE) examinations. The Malawi National Examinations Board (Maneb) insisted its security was watertight and no paper had leaked to the public until The Daily Times published excerpts of as yet unpublished examination papers. It is not clear what secrecy code the newspaper breached in breaking this story.

Other legislation

There is greater danger of self-censorship than outside censorship. An excellent example was the luncheon with President Mutharika. *TVM* broadcast the conference live, but for whatever reason, in its evening rebroadcast the station carefully edited out all the questions, leaving the President giving answers to questions no one knew. *TVM* was forced to make another rebroadcast in which they took the President out of the vacuum and appropriately provided him with questions to answer. Most of the censorship we see in the press is of this kind, from overzealous editors and producers trying to carry favour with the powers that be.

The courts have maintained their independence in dealing with cases involving the media. The Lilongwe Magistrate's court ruled against Njobvuyalema in his assault on Kashoti and awarded Kashoti damages. The MP appealed against the ruling. His conviction could lead to his losing his seat in Parliament. The appeal is yet to be heard.

The laws governing the licensing of radio and television stations are also unreasonable. The law under the Malawi Communications Regulatory Authority (Macra) Act forbids dual ownership, making it impossible for anyone to operate both radio and television. This piece of legislation, which was originally intended to check on unscrupulous monopoly in media ownership, has had the undesired effect of blocking potential investors in their tracks. Individual politicians wanted to perpetuate the myth that they are a cut above ordinary mortals and therefore above the law, but the courts often trimmed them to size, to the general acclaim of the judicial system.

Broadcasting

Macra remains the only regulator and its independence has been challenged by various stakeholders, especially the independent media houses, which have suffered the brunt of its terror. It is the sole authority that issues broadcast licences and frequencies. There are indications that Macra would like to see some of its draconian regulations changed.

General Information on Broadcasting as at the end of 2007

Radio/TV Station	Owner	Classification	Coverage
MBC Radio 1	State Owned	Public	All districts
MBC Radio 2	State Owned	Public	All districts
MIJ Radio	Malawi Institute Of Journalism	Private	Blantyre, Ntcheu, Lilongwe, Mzuzu
CFC Radio	Calvary Family Church	Religious	Blantyre
TVM	State Owned	Public	All districts
Capital Radio	Al Osman & Family	Private	All the country's three regions
Power 101 FM	Oscar Thomson	Private	Blantyre, Dedza, Karonga, Lilongwe, Ntcheu
Joy Radio	Bakili Muluzi & Family	Private	Blantyre, Chikwawa, Lilongwe, Mwanza, Thyolo
Star Radio	Rev. Richard Lutwama	Private	Chiradzulo, Lilongwe, Thyolo
Channel For All Nations	Assemblies of God Church	Religious	Lilongwe
Radio Alinafe	Roman Catholic Diocese of Lilongwe	Religious	Lilongwe
Zodiak	Gospel Kazako	Private	Blantyre, Lilongwe, Karonga, Mangochi, Mwanza, Mzuzu
Radio Tigabane	Roman Catholic Diocese of Mzuzu	Religious	Mzuzu
Transworld Radio	Transworld International	Religious	Blantyre, Dedza, Mangochi, Mzuzu, Nkhhotakota

Radio Islam	Zakaat Islamic Foundation	Religious	Blantyre, Lilongwe, Karonga, Mangochi, Mchinji, Mzuzu
Dzimwe Radio	Dzimwe Community	Community	Mangochi
Nkhotakota Radio	Nkhotakota Community	Community	Nkhotakota
Mudziwathu Radio	CRECCOM	Community	Mchinji
Television Luntha	Montfort Fathers	Religious	Balaka, Zomba
BBC	BBC	Relay	Blantyre, Lilongwe, Mzuzu
ABC Radio	African Bible College	Community	Lilongwe, Mzuzu
Mzimba Community	Mzimba Volunteers	Community	Mzimba
Radio Maria	Association of Radio Maria Malawi	Religious	Blantyre and surrounding districts
Adventist Radio	Adventist Church of Malawi	Religious	Blantyre and surrounding districts

**Information obtained from Macra*

At the end of 2007, the following publications were in circulation:

Publication	Publisher	Circulation	Distribution	Frequency
Daily Times	Blantyre Newspapers Ltd	14,000	National	Daily
Malawi News	Blantyre Newspapers Ltd	26,000	National	Weekly
Sunday Times	Blantyre Newspapers Ltd	17,000	National	Weekly
The Nation	Nation Publications Ltd	15,000-20,000	National	Daily
Weekend Nation	Nation Publications Ltd	35,000-40,000	National	Weekly
Nation on Sunday	Nation Publications	12,000-15,000	National	Weekly

Guardian Newspaper	Guardian Publications	5,000	Selected districts	Tri-weekly
Boma Lathu	Information dept.	10,000	National	Monthly
Weekly News	Information Dept	5,000	National	Weekly
Financial Digest	Financial Digest Ltd	5,000	National	Weekly
Pride Magazine	Pride Publications	10,000 - 15,000	National	Bi-Monthly
Nkwaso Magazine	Montfort Press	3,000	Community	Bi-Weekly
The Lamp	Montfort Press	3500	National	Bi-Monthly
Together magazine	Montfort Press	5000	National	Quarterly

**Information obtained from individual media managers*

Media Diversity

There was little to show for media diversity in 2007. *Joy TV* was unable to take off over legal wrangle surrounding its licence and issues of dual ownership. The *Joy* case seems to be complicated by the fact that under the Macra Act, no politician can own a radio/TV station. Bakili Muluzi is the former President and still an active politician while Atupele Muluzi is a serving MP. Both are listed as owners of *Joy Radio*.

There were hardly any new titles of publications; on the contrary, quite a few seemed to have folded or taken a long break, viz. *The Chronicle*, *Dispatch* while one new title, *Business Digest*, comes out intermittently.

A blend of editorial policy and self-censorship determine editorial outcomes. Advertisers tend to be a very powerful influence on editorial decisions; they are the so-called lifeblood of the media and the media have to pander to their every whim.

Media Fraternity

The comatose Media Council of Malawi resurrected to life with campaigning from MISA-Malawi and funding from Casals & Associates acting on behalf of the Millennium Challenge Account.

A Journalist Union of Malawi (Juma) was born out of the ashes of defunct Journalists Association of Malawi (Jama) also with MISA-Malawi's push and funding from Copyright Society of Malawi and International Federation for Journalists (IFJ).

There were significant gains for the media in 2007, including Presidential blessing. Media workers should rise up to the challenge of ownership in order to become a dominant factor in making editorial decisions. As we approach elections in 2009, the media will be put to the test once again.

• **ALERT**

Date: October 29, 2007

Persons: Joy TV

Violation: Censored

On October 29 2007, the Malawi Communications Regulatory Authority (Macra) ordered *Joy TV* to immediately stop all television broadcasts until the station is issued appropriate radio and broadcasting licenses.

Joy TV - a sister company to *Joy Radio* - has been held up in a wrangle with the country's communications regulator after it challenged the Macra Board in court, describing it as illegal.

In the latest development, Joy TV's project manager Tailosi Bakili expressed surprise over the directive, saying the television station had applied for a court injunction stopping Macra from blocking its operations.

According to Macra's letter to the station's manager, the regulator expressed concern that *Joy TV* was broadcasting without a license, which it said expired on March 31, 2007.

The letter further warned that if the station flouts the directive, Macra would proceed to take appropriate measures against it, as stipulated in the same Act.

Joy Television Limited is expected to be Malawi's first private TV station. There is only one state-owned television station, *Television Malawi* (TVM), in existence.

This development comes after *Joy TV* wrote the regulator on August 28, 2007 complaining that it had delayed in giving them a Studio Transmission Links (STL) Frequency, which could have allowed the station to conduct studio broadcasting.

Macra's board was dissolved following a lawsuit filed by the station's sister company, Joy Radio, describing Macra's board as unlawfully constituted and lacking an institutional memory.

• **ALERT**

Date: September 11, 2007

Persons: Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM), citizens of Malawi

Violation: Other

On September 11 2007, Parliament passed its US\$670 million annual national budget with an allocation of only K1 (approx. US\$.01) each for the Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM), for their 2007/2008 financial year.

The MK1 allocation is nominal, to satisfy the law that make it illegal to provide no allocation at all without holding a vote.

The development comes barely a week after MISA Regional Governing Council chairperson Thabo Thakalekoala sent a strong statement to government demanding sufficient resources to the two institutions.

The 193-seat Parliament, with the opposition in the majority, recently claimed that the two state broadcasters were being used as propaganda tools by the current government to castigate the opposition.

• **ALERT**

Date: July 13, 2007

Persons: Malawi Communications Regulatory Authority (MACRA)

Violation: Victory

On July 13 2007, the High Court in Blantyre nullified the composition of the Malawi Communications Regulatory Authority (MACRA) board because its members did not qualify for appointment.

In his ruling, Judge Frank Kapanda said it was wrong for President Bingu wa Mutharika to appoint the board members while excluding old members of the board. Kapanda issued an order stopping the board members from exercising their functions and another requiring the President to comply with the Communications Act.

The Act prohibits the President from appointing political activists. It also requires that any change to the composition of the board should be gazetted and that at least half of the membership be re-appointed for another term in office.

Joy Radio questioned the legality of MACRA's board in early 2007 and argued that, among other issues, the appointment of the members was not gazetted as required by law.

President Bingu wa Mutharika suspended MACRA's board on April 4, 2005, before dissolving it on April 8 the same year. The President accused the board of "stinking" and replaced it with a new board on 2 March 2006 whose chairperson was once an executive member of the ruling Democratic Progressive Party.

Joy Radio also argued that some members lacked qualifications, expertise and experience in any field of post and telecommunications, broadcasting, frequency planning, law, economics, business, finance, public administration and public affairs.

Joy Radio's lawyer, Ralph Kasambara also argued that the board did not retain old members as is required by the Communications Act, for continuity's sake.

• **ALERT**

Date: May 22, 2007

Persons: Caroline Somanje, Jika Nkolokosa

Violation: Threatened

Caroline Somanje, a senior reporter working with Blantyre Newspapers Limited (BNL), publishers of the *Daily Times* newspaper, has been fired from her job for writing a story that implicated a Catholic priest and a bank manager. The bank manager is a banker for BNL.

Somanje was summoned to a disciplinary hearing after she wrote a story on the front page of one of Blantyre Newspapers publications, *The Daily Times*, on May 14 which implicated the two as having an affair with a married woman.

Blantyre Newspapers General Manager, Jika Nkolokosa was also suspended pending a disciplinary hearing for what the management says is his failure to exercise sound editorial judgement concerning the same story.

The paper subsequently retracted the whole story and apologised to all people who might have been injured by publication of the story.

A letter from the management to Somanje said the reporter breached a journalist's code of ethics and the company's editorial policy by authoring the story without giving the subjects, whose reputation was affected, a chance to be heard.

It also said that the story was a private matrimonial matter and was not in public interest as divorce matters take place in the courts everyday and are not reported unless they involve well-known public figures.

However, the reporter said there was no need to contact the subjects as she got the story from a court ruling where the husband of the woman sought a divorce after discovering that his wife was having an affair with the two men.

• **ALERT**

Date: April 10, 2007

Persons: 13 private radio broadcasters

Violation: Censored

On April 10 2007, the Malawi Communications Regulatory Authority (MACRA) informed all private radio stations that they are to seek official permission – in advance - from the regulating body should they wish to carry live broadcasts.

A statement from MACRA also said the regulating body has ceased issuing radio and television broadcasting service licences upon application by those intending to introduce the service.

These developments come four days after Information Minister, Patricia Kaliati visited MACRA offices in Blantyre and challenged the regulator's board members and management to be strict, strong, tough and professional in regulating private radio stations. The minister also urged the

station to revoke licences of radio stations that were breaching their licence provisions.

The communications regulating body says now it shall be advertising for prospective licensees to apply and licenses shall be issued to successful bidders in compliance with the Communications Act.

Before this development, prospective licensees used to apply to MACRA which could then grant a license to broadcast. Currently there are two radio stations and one TV station which were allocated frequencies but have never rolled out and owe MACRA close to K2.5 million (US\$17,000) for broadcast and licence fees.

There are 13 private radio stations in Malawi and MACRA has warned that it shall punish all stations that fail to inform and seek its permission in advance before any live broadcast. It further warns radio stations against hate messages being aired out various broadcasting stations.

• **ALERT**

Date: March 25, 2007

Persons: Joy Radio station

Violation: Bombed (vandalised)

Joy Radio was attacked by five unidentified thugs for broadcasting live events from a meeting that was supposed to be addressed by the former president Bakili Muluzi, who is also United Democratic Front national chairman.

According to Joy Radio station manager, Peter Chisale, the thugs came around 3.00pm when state president, Dr Bingu wa Mutharika was addressing a rally just less than five kilometres from the station and queried why the radio station was broadcasting live events from a rally that was to be held 80 kilometres away.

“They beat up a security guard, tearing his uniform in the process. They also pelted stones but fortunately there was no damage caused. The thugs fled when the guard blew his whistle to alert us,” Chisale said.

Bakili Muluzi owns Joy Radio and is bidding for a come back to the presidency.

Earlier, the former president had obtained a court injunction restraining the police from stopping his rally and mounting roadblocks on roads leading to the venue of the rally.

Management of the radio reported the matter to Blantyre Police Station but no arrest has been made and no officer visited the scene.

• **ALERT**

Date: March 21, 2007

Persons: Kazembe Kayira, Peter Mulinde

Violation: Detained, censored

On March 21 2007, Police detailed Kazembe Kayira, a photojournalist working for Montfort Media, for taking pictures at a presidential function. His camera was also confiscated.

Kayira was arrested around 12h00 during a presidential whistle-stop tour in a Southern district of Balaka and was taken to the police station without explanation.

The Police later released him after four hours after charging him with the offence of “taking pictures without the knowledge of the authority” as the police officers were waiting for further instructions from their seniors.

The Police also returned the camera they seized after screening all the pictures Kayira had taken and found none that posed a threat to the presidential security.

Kayira suspected that he might have been arrested because he took pictures of the President’s Democratic Progressive Party (DPP) youth allegedly fighting over T-shirts and was cautioned by some five police officers before the presidential convoy arrived not to publish any pictures that would portray a negative image about the function.

Kayira becomes a second person to be arrested for taking pictures of the presidential convoy within a period of one week. On March 16, police also arrested Peter Mulinde a photographer for taking pictures of the presidential envoy when the president was coming from Ghana. Two

of his cameras were seized. Media reports indicated that he was likely to be charged with conduct likely to cause breach of peace.

• **ALERT**

Date: February 9, 2007

Persons: Dickson Kashoti

Violation: Beaten, Victory

On February 9 2007, Dickson Kashoti, a journalist working for *Blantyre Newspapers Limited* was assaulted by a Member of Parliament, Joseph Njobvuyalema over a story he published about the MP's young brother, Harvey Njobvuyalema.

August 2 2007: the Lilongwe Magistrate's Court convicted Lilongwe Mapuyu South Parliamentarian Joseph Njobvuyalema for assaulting *Blantyre Newspapers Limited* (BNL) journalist, Dickson Kashoti. The conviction means Njobvuyalema automatically loses his seat as MP in accordance with the constitution.

Presiding Magistrate Mzonde Mvula dismissed Njobvuyalema's claims that the case was politically motivated and found that the MCP legislator indeed rolled up his sleeves and purposely attacked Kashoti by punching him in the face three times on his (Kashoti) right eye leaving it with soft membrane injuries.

During the judgment, Mvula revoked Njobvuyalema's bail and committed him to Maula prison to await sentencing on the following Friday.

Njobvuyalema who is also chairperson of the Parliamentary Public Appointments Committee (Pac) claimed in his defence that he was a victim of political persecution.

Njobvuyalema beat up Kashoti in February at the Newspaper's office after he wrote an article about Njobvuyalema's younger brother Harvey Njobvuyalema who had been arrested for allegedly stabbing his wife to death.

• **ALERT**

Date: January 9, 2007

Persons: Capital Radio

Violation: Threatened

On January 9 2007, Malawi Telecommunication Regulatory Authority (Macra), threatened *Capital Radio FM* with action over a CD it aired purportedly with the voice of President Bingu wa Mutharika ordering an undisclosed officer to "shake up" a political foe, according to media reports.

The *Daily Times* reported that Macra gave *Capital Radio* until close of business on Tuesday to show cause why the regulatory authority should not invoke their enforcement/punitive powers pursuant to section 54 of the Communications Act. Section 54 of the Communications act, among other sections, talks of imposing a fine if a broadcaster has breached its license conditions.

Capital Radio played the CD on Tuesday morning and afternoon and wanted to have it as subject of discussion in its phone-in News Talk programme, but was stopped by Macra's action.

According to the paper, Macra said the CD was a breach of the right to privacy, broadcasting of illegally obtained information without the consent of the owners, and broadcasting of materials likely to prejudice public safety, order and tranquility.

National Overview

By Ericino de Salema

Journalist and communications consultant



Mozambique

Freedom of expression and of the press is a social asset, even before it is a right of media professionals and companies. Thus it requires constant mobilization, permanent vigilance and strong determination in the face of any assaults on its effectiveness.

The defence of this freedom has contributed to the strengthening of democratic institutions in Mozambique. Right to information is a constitutional right in Mozambique. Therefore, defending the free press and fight against impunity for crimes committed against the media and their professionals ultimately works in favour of the society.

It is noteworthy that since 1990, when the new Constitution, which introduced the multi-party regime, was adopted followed by the approval of the press law in 1991, 336 media – radios, television stations, newspapers, magazines, bulletins and other publications – have been registered.

In theory, this data bears unequivocal witness to the encouragement that the democratic opening represented, or still represents, to the free exercise of the right to create news media and other publications. However, in my view, Mozambique still suffers from the collateral effects of the direct control of the Party (Frelimo) state over the media.

Since the proclamation of Mozambican Independence, on 25 June 1975, the ruling party, Frelimo, has exercised a certain control over the public sector media. For example, the Government appoints the chairpersons of the boards of directors of the public radio station, Radio Mozambique, the only radio that broadcasts to the entire country, and of *Mozambique Television* (TVM), which is also publicly owned and whose signal can also be picked up in almost the entire country. This situation is not regarded favourably. It was something of a caricature that the name of the TVM chairperson figured on one of the lists of candidates for the Frelimo Central Committee at the Party's Ninth Congress, held in the central city of Quelimane in late 2006.

Furthermore, the development of professional journalism has not gone alongside the emergence of the mass media. Dozens of unemployed youngsters have joined the profession without any formal skills, much less any vocation. For them it is just a question of a job, and not the desire to be a journalist. This means that the so-called independent press cannot make headway in a country that is among the poorest in the world, where the advertising market is limited, good quality professionals are in short supply, access to commercial bank credit is on prohibitive terms, and even to obtain loans from the treasury a ruling party membership card is needed.

Freedom in 2007: Attacks on newsrooms

The mass media has made and continues to make remarkable contribution to the building of democracy in Mozambique, an epic task that began in 1990. However, in recent years there has been a notable increase in attacks against media. The media faced many obstacles in exercising their rights including armed attacks on certain media houses newsrooms.

The weekly publication *Magazine Independente* (MI) was attacked by six armed men on July 22, 2007, who seriously injured one of the paper's security guards and stole 12 computers. The assailants locked the journalists who were on the premises in the bathroom, although they did not harm them physically. Many Maputo analysts, including the paper's director, journalist Salomão Moyana, believe this unusual attack was made to silence the publication. They expressed doubts that this was just a robbery.

In my view, this violent act, although had the characteristics of a robbery, did indeed seek to just silence this independent publication. It was an attempt to also send a message to the rest

of the media. This was a clear attack on the freedom of the press and of expression, as well as on the public's right to information. This interpretation is based on the fact that the gang that attacked MI was only interested in the hard discs of the computers – where the information is kept – and left other pieces, such as the monitors, behind.

A few months later, the offices of the Mozambican daily newsheet *Vertical*, was broken into in the early hours of October 2, 2007. Two computers were stolen. Victor Matsinhe, the editor of the paper, which is distributed by fax and e-mail, said the entire archive of this year's editions of the publication had been lost. Apart from the computers the intruders also took a tape recorder. But according to Matsinhe, "there were no signs that the premises of the paper had been broken into". Unlike Moyana, Matsinhe dismissed the hypothesis that the attack was a form of intimidation or harassment, because *Vertical*, in the editions preceding the robbery, had not published anything concerning important figures or sensitive issues.

The Legal Front as a target

2007 also saw introduction of a new tactic as an attempt to silence the media – namely involvement of exorbitant sums as compensation in court cases, much more than the media concerned could possibly pay.

Without referring to statistical data it can be said that in 2007 there was a significant increase in the number of court cases against the media over alleged libels. Two Maputo lawyers' firms corroborate this, saying they have received an increased number of requests from clients seeking action against the media. One of the tactics used is to demand exorbitant sums in compensation, much higher than the media accused of libel could pay.

By way of illustration, a high-ranking official in the Ministry of the Interior sought compensation of 500,000 meticaís (about USD 20 000) from the editor of the electronic daily *A TribunaFax*, with the allegation of libel and defamation. However, the court only sentenced the editor to pay 45 000 meticaís (USD 1 800).

The director of one well-known and influential paper (who requested anonymity for this article) said he spent the first months of the year on trips to the courts and to lawyers' offices than in exercising editorial leadership.

Adding to this sombre scenario for journalists was the promulgation by the President of the Republic, Armando Guebuza, of a new law governing the country's law courts. One clause in this law bans the broadcasting of sound or pictures of trials. For many people, this provision cast a shadow over press freedom and the right of information in Mozambique. Organisations that defend press freedom and the right to information, namely the National Union of Journalists (SNJ), MISA-Mozambique and the Mozambican Editors' Forum, EditMoz, wrote to the Head of state urging him not to promulgate the law, arguing that it would overthrow all that has been achieved for the right to information.

Guebuza referred the law to the Constitutional Council, the body that has the final word in matters of constitutional law. But the council disagreed with the journalists' associations and saw nothing unconstitutional in keeping cameras and microphones out of courtrooms. Guebuza then promulgated the law.

Also on the legal front, the Mozambican Parliament continued to pay no attention to the bill on Access to Sources of Information proposed by MISA. This showed the Parliament's lack of political commitment to deepening the right to information in Mozambique. The Parliament has

not announced any deadline for discussing and approving this bill. This means that it remains very difficult to obtain information from sources in the public administration. Because of the way the ruling party dominated the state since Independence, there was a culture of secrecy, and this inheritance from the one-party state continues. Furthermore, the right to information on certain legal cases is still denied to citizens under the tired argument that the cases are “subjudice” and thus secret. But under Mozambican legislation the concept of “subjudice” does not prevent the release, at any time, of information on the progress made in any particular judicial investigation.

Also in 2007, Parliament’s Petitions Commission decided, just as in 2006, to debate its report behind closed doors, a decision taken by the Frelimo majority in Parliament. Thus the so-called “people’s house” denied the petitioners and the public in general of the right to information. The Parliament’s argument in defence of this attitude is that the “good name” of the people involved must be protected. Weirdly, the Mozambican Parliament felt obliged to protect the “good name” of potential offenders. This is probably because most of these cases of injustice and abuse that reach the Petitions Commission and the Courts involve figures from the ruling party, Frelimo. Frelimo has a majority in the Parliament with 160 deputies to 90 from the Renamo-Electoral Union opposition coalition.

The draft revision of the Press Law, a document formally launched by the Prime Minister Luís Diogo, is seen by many media professionals as strengthening the role of the Government (through Gabinfo) in the media. The proposal to issue professional licences is viewed with distrust.

Article 38 of the draft amended press law envisages the introduction of a professional licence. Obtaining such a licence would be an obligatory condition for exercising the profession of journalism. Those proposing this change argue that establishing a professional licence is a form of regulation. However, they also recognize that the regulations for the professional licence will be approved by a decree from the Council of Ministers. In other words, this is a compulsory professional licence, regulated by the Government. Thus many journalists in Mozambique fear that difficult days are approaching for the press in Mozambique, although this is a country that has been widely praised for its exercise of the freedom of the press and freedom of expression.

The signals that Mozambique is moving into a new phase where the right and access to information will be limited, and the mass media closely inspected by the Government, must be eliminated – particularly after we have received such praise throughout the world for the pluralism of our society. The essence of freedom of expression in any country is to ensure that the Government is accountable to the public, and allows citizens to participate, through the media and other channels, in the development of the country.

• **ALERT**

Date: September 19, 2007

Persons: Domingos Boaventura

Violation: Censored

An official of Mozambique's former rebel movement Renamo accused a reporter from one of the country's independent weeklies of taking orders from the ruling Frelimo Party, when he dared ask awkward questions about Renamo's economic problems and the defections of Renamo members.

Reporter Domingos Boaventura from the weekly "Magazine Independente" (MI), attempted to interview the Renamo political delegate for the central province of Manica, Mateus Lucas Antonio, about the various problems facing Renamo.

Speaking to Antonio in the Renamo provincial headquarters in the city of Chimoio, Boaventura asked him about the wave of members who have deserted Renamo and joined Frelimo, about Renamo district offices that have no electricity or vehicles, and the delays in paying Renamo workers.

Antonio declared these were not proper subjects for a news story "because it's internal Renamo business".

• **ALERT**

Date: July 22, 2007

Persons: TVM reporting staff

Violation: Censored

The Sofala nucleus has protested attempts by Celina Henriques, the press attaché of Sofala provincial governor Alberto Vaquina, to dictate which journalists the public television station, TVM, may send to cover events involving Vaquina and the provincial government.

TVM worker Candida Duarte has complained that she was under pressure from Henriques not to cover official events, and that Henriques had even rung up the Beira TVM office on two occasions to demand that TVM send somebody else rather than her. Duarte says she has no idea why Henriques has taken this attitude.

MISA Mozambique has urged the provincial authorities to grant all media professionals the same access to official events, without any discrimination.

• **ALERT**

Date: July 21, 2007

Persons: Jorge Ataide

Violation: Beaten, censored

On July 21, photojournalist Jorge Ataide, was attacked by Mamad Haider, the chairman of the Macufi and Benfica sports club, when he tried to photograph the sports personality. Ataide is a photographer for the Beira daily "Diario de Mocambique".

According to the Sofala provincial nucleus of MISA Mozambique, the incident happened on a football field in the central city of Beira, when Abel Mamad Haider attempted to attack the referee in a match that his team had lost.

Haider's team, Benfica, lost to its rival, Ferroviário da Beira, by two goals to one, and Haider lost his temper with the referee, Joaquim Manuel, accusing him of bias.

Haider instead took out his anger on the photographer, kicking him, and causing Ataide to drop his digital camera. The disk in the camera was damaged, and Ataide lost all his pictures from the football matches held that day.

The Sofala MISA Mozambique nucleus urged the authorities to take measures against Haider, and against all "other acts that violate the right of citizens to information".

• **ALERT**

Date: May 29, 2007

Persons: Media in Mozambique

Violation: Legislation (threatening)

All of the main Mozambican journalists' associations have urged President Armando Guebuza not to promulgate a bill passed by the country's parliament, the Assembly of the Republic, earlier this month which will ban any broadcasting of trials.

The bill concerns the organisation of the country's courts, and most of it is uncontroversial, dealing with such matters as expanding the powers of district courts, and introducing a new layer of intermediate appeals courts.

But Article 12 puts severe limitations on press coverage of the courts.

The first clause in the article states that trials are public - "unless the law or the court decides they should be held without publicity to safeguard the dignity of persons and public order, or when other powerful reasons occur".

The second clause imposes a blanket ban on "the production and public transmission of images and sound from trials". So no cameras or microphones in courtrooms - this is justified by a mention of "safeguarding the material truth and the legally protected interests and rights of those involved in the cases".

This ban is not just on live broadcasts, but on any broadcasts at any time.

The three media organisations point out that the Constitution puts much narrower limits on the judges' discretion to keep the press out of their courtrooms. Article 65 of the Constitution states "Criminal trials are public, except when safeguarding personal, family, social or moral intimacy, or powerful reasons of the safety of the hearing or of public order advise the exclusion or restriction of publicity".

The mention of intimacy here clearly refers to sexual offences, and there is no mention of "safeguarding the dignity of persons", much less "other powerful reasons".

Furthermore, Article 48 of the Constitution states that all citizens have the right to information. The media organisations believe that excluding radio and television from the courts denies citizens that right.

In their letter to Guebuza, the three organisations argue that Article 12 of the law on the courts "puts serious obstacles in the way of the media's job of explaining matters to public opinion, as a fundamental condition for the existence of an open and democratic society".

• **ALERT**

Date: April 25, 2007

Persons: Citizens of Mozambique, media in Mozambique

Violation: Censored

MISA Mozambique has condemned the decision by the country's parliament, the Assembly of the Republic, to discuss a report from its Petitions Commission behind closed doors.

Exactly as in 2006, the press and public were thrown out of the last sitting. The debate continued with the deputies talking to themselves, out of earshot of the nation.

The ruling Frelimo Party used its majority to ensure a closed session while the opposition argued, unsuccessfully, that since there was nothing to hide, the press should be allowed to cover the debate.

Frelimo based its decision on article 41 of the Constitution, which states that citizens have the right to their "honour, good name, reputation, the defence of their public image, and their privacy".

• **ALERT**

Date: April 15, 2007

Persons: Faisca newspaper

Violation: Legislation

Libel suits should not be used by the courts as a covert form of censorship, MISA Mozam-

bique has warned. MISA was reacting to the effective closure of the independent weekly paper “Faisca” by a court in the northern city of Lichinga.

On April 15, 2007, court officials descended on the “Faisca” offices for the second time in less than a month to seize equipment in order to meet damages awarded against the paper in a libel suit.

The result is that “Faisca” has lost four computers, four printers, a photocopier, a generator and a fax machine. This makes it virtually impossible for the “Faisca” journalists to produce their paper.

The libel case dates back to an article of February 2005, which claimed that a Mozambican woman named Matilde Sonato had been raped by a group of Tanzanians. The paper even published a photo of the alleged rape.

Sonato denied the story, and sued its author, Feliciano Wiriamo, for libel. The Lichinga City court found in favour of Sonato in September 2005, and ordered “Faisca” to pay damages of 100,000 meticaïs (about US\$4 000).

For a small circulation paper in northern Mozambique, this is a huge sum. “Faisca” failed to raise the money, Sonato demanded her damages, and eventually the court raided the paper twice, on March 22 and April 12, removing all its equipment.

MISA regarded the court’s actions as “premeditated judicial harassment”, intended to bring about the closure of “Faisca”.

UPDATE: Despite the seizure of its computer equipment by court officials, the weekly paper “Faisca”, published in the northern Mozambican province of Niassa, has vowed to continue publication - even if it has to use typewriters. At present, the paper is being produced using the equipment of MISA Mozambique.

• ALERT

Date: April 13, 2007

Persons: Citizens of Mozambique, media in Mozambique

Violation: Detained

On April 13 a Maputo court found political commentator Edwin Hounnou guilty of libelling a prominent member of parliament for the former rebel movement Renamo, and sentenced him to six months imprisonment.

Hounnou (also known as Charles Baptista) will not have to spend any time in jail, since the judge converted the sentence into a fine at the rate of 20 meticaïs a day. He was also fined an additional 4,200 meticaïs, bringing the total to 7,800 meticaïs (about 320 US dollars).

The case arose from an article by Hounnou, published in the January 27, 2005, issue of the weekly paper “Zambeze”, which claimed that the ruling Frelimo gave a bribe of a million US dollars to Francisco Machambisse, election agent for the Renamo leader and presidential candidate, Afonso Dhlakama.

Hounnou claimed that the supposed Frelimo bribe to Machambisse explained why the Renamo appeal against the results of the December 2004 general elections was delivered late.

Frelimo dismissed the claim as absurd, and Machambisse sued Hounnou and “Zambeze” for libel.

The guilty verdict was inevitable when Hounnou failed to provide any evidence to support his claim.

• ALERT

Date: April 5, 2007

Persons: Zambeze newspaper, Faruk Gadit

Violation: Censored

A prominent lawyer, Albano Silva, who is also the husband of Prime Minister Luisa Diogo, is suing Faruk Gadit, the man who suggested that he had used a loan from the Mozambican

treasury to buy a flat in Lisbon.

Silva said that he is also suing the paper that printed the libel, the Maputo weekly "Zambeze", and is seeking substantial damages.

Faruk Gadit is a former colonial administrator who has already clashed with Silva and the Prime Minister's son, Nelson Diogo, on other matters. Gadit reported Silva and Diogo to the media and the Central Office for the Fight Against Corruption (GCCC), which operates out of the Attorney-General's office. The central claims were that a company part-owned by Silva, is worth US\$1.8 million is a lie, when in fact it was worth only US\$133 868.

Responding to Silva's letter, Zambeze management protests that the newspaper was only reporting the fact that Gadit had made a complaint to the GCCC.

• ALERT

Date: April 3, 2007

Persons: Anti-Corruption Forum

Violation: Victory

Mozambique's National Anti-Corruption Forum has decided that in future all its meetings will be public.

The 78 member Forum, launched by President Armando Guebuza on March 14, held its first ordinary meeting on March 30 – and several members were surprised to find that, after the formal introductory speech by the Forum chairperson, Prime Minister Luisa Diogo, journalists were asked to leave the room.

According to the anti-corruption NGO, the Centre for Public Integrity (CIP), its representative raised the issue during the meeting, pointing out that the Forum needs to hold its meeting in public, in order to acquire credibility.

In the ensuing debate, some members of the Forum claimed that the presence of journalists might inhibit the discussions.

Others suggested that the Forum appoint a spokesperson to brief journalists at the end of each session.

However, those who took these positions were in a minority, and the dominant position, according to CIP, was that meetings should be entirely open to the press. CIP believed that this principle would be enshrined in the final version of the Forum's internal regulations

• ALERT

Date: March 31, 2007

Persons: Celso Manguana

Violation: Detained

Celso Manguana, a journalist on the daily newsheet 'Canal de Mocambique', was arrested on March 31 and held for three days on charges of "insulting" the police.

His arrest follows his inquiry, at the police station in the inner Maputo neighbourhood of Alto-Mae, for information about the people arrested on a demonstration that morning which had demanded the resignation of Defence Minister Tobias Dai.

When the police declined to give any useful information, Manguana called them "incompetent". He was promptly arrested for "insulting authority".

Manguana was finally released late on April 3 but only after Attorney-General Joaquim Madeira, and the chairperson of the Human Rights League (LDH), Alice Mabota, had intervened.

April 3, 2007: Celso Manguana was released.

• UPDATE

Date: February 20, 2007

Persons: Carlos Cardoso

Violation: Killed

MISA Mozambique has welcomed the decision by the Supreme Court to reject the appeals made by the six men who were found guilty in January 2003 of the murder of the country's top investigative reporter, Carlos Cardoso.

The Supreme Court agreed with the original trial judge, Augusto Paulino, that the main motive for the assassination was Cardoso's persistent investigation of the BCM fraud.

A MISA-Mozambique statement declares that the confirmation of the original verdict and sentence "is an important landmark in the administration of justice in Mozambique, and strengthens the legitimate expectations of Mozambican society as to the determination of the national legal system in the fight against organised crime in general".

July 24, 2007: Mozambique's most notorious assassin, Anibal dos Santos Junior (better known as "Anibalzinho"), serving a sentence of 30 years for his part in the murder of the country's top investigative journalist, Carlos Cardoso, in November 2000, attempted to escape from his cell in the Maputo City Police Command.

According to a brief report in "Noticias" newspaper, Anibalzinho attempted to saw through the bars on his cell window. Hearing a suspicious noise, police guards investigated, and when they searched Anibalzinho's cell, they found several saw blades.

This is the fourth known attempt by Anibalzinho to escape from that cell since the Maputo City Court, in January 2006, found that he had indeed recruited and led the death squad that murdered Cardoso.

National Overview

*By Jonathan Beukes
Journalist/Researcher*



Namibia

The year 2007 was a year when the adage the more things change the more they stay the same would be apt for Namibia.

Former Namibian President Sam Nujoma handed the leadership of the Swapo Party to his deputy, State President Hifikepunye Pohamba. The long anticipated schism in the ruling party finally occurred towards the end of the year with the formation of a new political party, the Rally for Democracy and Progress (RDP). Former Swapo Minister Hidipo Hamutenya, and numerous other former Swapo stalwarts, resigned from the ruling party to form the RDP. The move follows Hamutenya's unsuccessful and acrimonious bid for the Swapo Presidency at the party's 2004 extraordinary congress.

It is also the year when control of the airwaves once again became a subject of political contention, to the extent that the Namibia Broadcasting Corporation (NBC) tried to curb and manipulate the freedom of expression of people on their call-in programmes on several occasions. Callers to one popular call-in programme were ordered not to discuss politics on-air shortly before the Swapo congress late in the year. The programme was taken off the air. However, just a week later the NBC made an embarrassing u-turn and reinstated the programme. This was done on the same day when a commercial station announced that it would be launching a similar programme. The NBC rapped two of its staff members over the knuckles for unilaterally banning specific topics. This invoked the wrath of the Swapo Party Youth League (SPYL), which demanded the firing of NBC management.

The year came to a close with the SPYL and some politicians calling for media freedoms to be curbed for criticising political leaders. In fact the Swapo congress at the end of the year resolved that a state-controlled media council should be established.

Future generations of journalists will have to blame the current crop of media workers should this occur. The much criticized apathy of Namibian journalists and their unwillingness or inability to make a positive contribution to the advancement of the profession has once again become deeply worrying. No meaningful debate of issues regarding the media exists and there is wanton disregard for ethics. The code of ethics is still unrecognised and an independent media council remains a distant dream. Namibia, also still does not have a media ombudsman.

"Hostile media"

In numerous attacks throughout the year, the media have been labelled "hostile, unhealthy and unpatriotic, eurocentric, divisive, reactionary and enemies of the state", by an array of ruling party office bearers.

Swapo Chief whip in the National Council Jhonny Hakaye tabled a motion in August in which the National Council was asked to examine and review the status of the National Society for Human Rights (NSHR) as well as media institutions that gave the organisation coverage. This was because the NSHR had requested the International Criminal Court of Justice (ICC) at The Hague in the Netherlands to investigate alleged crimes against humanity committed by former President Sam Nujoma and three others during and after the era of the liberation struggle. The submission contributed to the further deterioration in media-government relations.

Hakaye said, "The *Windhoek Observer* was using the freedom of speech granted to it to tarnish the names and characters of political leaders while *The Namibian* seems to have provided for their own parliament through the 'SMS page' they have created.

"This only provides for hooliganism. Any person, regardless of their age, can just say what

they want. And they conveniently forget that the same government who they are insulting is the one [that] provided the platform for them to do this,” Hakaye claimed.

“When I came across the many writings of Ya Nangoloh, mostly in the biweekly Windhoek Observer, I said to myself, this is... uncalled for and unwarranted. Don’t we have a law in this country to regulate these, the human rights body, the *Windhoek Observer*, *The Namibian*, and the likes?” Hakaye said in the National Council.

In another instance of bullying, One Africa Television news journalists were prevented from filming and taking photos of the arrival of the Angolan President, Jose Eduardo Dos Santos, in Windhoek. According to journalists who were present at the airport, only state-owned media were allowed to film the arrival of the Angolan President at close range, while others were cordoned off and kept at a distance.

Legislation

Adding to the increasing intolerance and moves towards censorship, many observers have noted that while Namibia enjoys “relative” media freedom, many restrictive and draconian laws from the apartheid era have not been repealed by Parliament. These laws continue to impact on media freedom.

In terms of Section 205 of the Criminal Procedure Act, a magistrate is authorised, at the request of a public prosecutor, to require any person likely to give material or relevant information concerning an offence to attend before him or her for examination by a prosecutor. Section 189 of the Act empowers a magistrate to enquire into any refusal by any person to answer any question put to him or her and to sentence that person to imprisonment if there is no just cause for refusing to answer the questions.

The Protection of Information Act, which imposes secrecy requirements on civil servants, inhibits the free flow of information.

Even though media freedoms are provided for in Article 21 (1) (a) of the Namibian Constitution, this guarantee is subject to Article 21 (2) which provides for specific permissible restrictions on these freedoms. In addition, the guarantee is also subject to Article 22, the general limitation clause for all rights and freedoms entrenched in the Bill of Rights.

Furthermore, the various acts that establish the Government funded media and the Namibia Communications Commission make provision for the Minister to appoint the governing board. This clearly influences the independence of the boards.

Namibia does not have access to information laws that enable journalists to get the most trivial of information from a Government department. The process can sometimes become quite cumbersome as the Permanent Secretary of a particular Ministry must authorise the release of information.

It has now also become fashionable to misuse the sub judice rule. When officials do not want to comment or release information to a journalist they simply say that the matter is sub judice regardless of whether the matter is currently being heard in a court of law or not.

Apart from this and disturbingly, a study by the MISA Secretariat amongst 58 journalists and Members of Parliament indicated that 75 per cent of journalists have only a vague or incorrect understanding of what access to information means. Hundred per cent of MPs gave a vague

or incorrect definition of freedom of information. None of the MPs mentioned that it was their duty as elected officials to disseminate information to their constituents. Seventy per cent of respondents said that access to information laws in Namibia existed. Namibia does not have access to information laws.

Threatened democracy

Given this state of affairs, the MISA Secretariat, in 2007, launched the Golden Padlock Awards for governments in southern Africa that do not have access to information laws. Namibia might be in line to receive the award. This will impact negatively on the image and credibility of Namibia as a progressive and modern democracy.

Government departments and even commercial banks have been criticised for not making information available to journalists who want to contribute further to the much-publicised fight against fraud and corruption.

Against this background, the continuous threats of litigation severely threaten the work and livelihoods of especially investigative journalists, says freelance investigative journalist John Grobler, who is currently facing numerous law suits for exposing corruption and mismanagement in government. The weekly tabloid, *Informanté*, also currently has a number of law suits pending against it. Editor Max Hamata and journalists working for the tabloid are regularly threatened by those they expose of corruption and wrong-doing.

Furthermore, a journalist working for a local current affairs magazine has been struggling for almost a year to get relevant government departments to give him information on a tender that was awarded to a company to distribute the monthly old age pensions and social grants.

In a related incident, a *One Africa Television* news team were instructed by representatives of Westport Resources Mining Group (Forsys Metals), to leave the company's Information Sharing public participation meeting in April.

The reason they gave was that they had their own film crew and that One Africa could have their own production any time. They said the team could sit in but they were not allowed to record anything. The team carried on doing their job and managed to record some public concerns. On the day the insert was going to air, the News Editor received a phone call from a representative of the mining company, who requested that the material not be broadcast. When he was informed otherwise, he said the matter would be handed to their lawyers.

Online media

On the ICT front, technology is still too expensive and computers too scarce, especially in rural areas, to help make information truly accessible. However, the use of technology, especially mobile telecommunication devices, has contributed to civic participation and discussion of societal issues, as can be witnessed on the 'SMS pages' of local newspapers.

National broadcasting

The deteriorating situation at the NBC has become a subject of public concern. The Corporation continues to lose experienced staff to other media houses and the corporate world. It is widely accepted that the programme quality deteriorated further over the last year. NBC television's most popular programme, the 8pm news, was not screened on several occasions because of "technical difficulties". Callers to the NBC radio call-in programmes and participants of *The*

Namibian newspaper's SMS page continue to ask for the expansion of the Corporation's vernacular services or for more areas to be connected to the signal. NBC's former Director General, Jerry Munyama, still faces a court case for alleged fraud and financial mismanagement. In 2007, NBC staff staged a demonstration over salary increments.

The NBC has not paid licence fees to the Namibia Communications Commission for the last two years, with arrears amounting to more than N\$ 1, 5 million. The staff members are of the opinion that the Corporation's priorities are skewed and that the limited funds are squandered.

Self-censoring continues its programme broadcasts. However, it is noted with surprise that NBC has been giving adequate coverage to the newly-established political party and the NSHR over the last year. This has not been well received within the ruling party.

Diversity

Compounding the lack of choice for listeners and viewers is the fact that community media initiatives continue to struggle to get off the ground, mainly due to a lack of resources (human and technical) as well as a shortage of frequencies.

On top of this, media diversity took a pounding in 2007. Democratic Media Holdings, already owning the Afrikaans-language daily *Republikein* and German-language daily *Allgemeine Zeitung*, as well as a near monopoly of newspaper printing with its Newsprint division, acquired *Radio 99* and entertainment website namlish.com. South African media giant Media24 also acquired a 50 per cent stake in DMH early in the year.

Another South African company, Telkom Media, the newly established media wing of telecommunications company Telkom, acquired a 49 per cent stake in Namibia's only independent television station, *One Africa Television*.

However, some positive developments are seen. *One Africa Television* started broadcasting its own news bulletins in 2007. The station plans to air more local content despite staff and equipment challenges.

One new commercial radio station - Fresh fm - started broadcasting in the Windhoek area in 2007. A new satellite television operator, British-based *GTV*, received a licence and started broadcasting in the second half of the year.

The weekly tabloid *Namibian Sun*, hit the stands in 2007. It is published by the DMH/Media24. A few other new publications including youth magazine *Shambuka*, lifestyle magazine *Gems* and business periodicals also come into circulation during the year. However, some only appeared for a few editions.

Developments

One of the more significant developments in the media sector in 2007 was the launch of the Namibian Editors Forum, which has already found its voice on media and social issues.

With regard to activism, MISA Namibia continued to lead the line and tried to bring together media practitioners around specific issues by organising monthly informal discussions, reviving the Press Club, and holding more formal meetings.

Unfortunately, attendance remained poor, further strengthening the perception that media practitioners in general are disinterested in issues that concern their profession. Cohesion and

co-operation, as much as these are required, remain absent within and amongst media houses. Debate about media issues was largely instigated by non-media people.

Challenges

The Namibian media sector and media practitioners are faced by numerous challenges.

In terms of content quality, the media continued to serve as a platform for political mudslinging. Some media houses are severely understaffed, which negatively impacts on the quality of reportage and editorial services, and none of the media houses have any training programme in place. The staff and skills shortages mean that very little investigative journalism is undertaken.

Furthermore, training of journalism students has been identified as being deficient. Tertiary institutions continue to fail to meet the needs of the sector and the dearth of journalists with specialised skills, such as in health and economics reporting, will continue to exist in the foreseeable.

Despite these and other challenges, the Namibian media sector remains vibrant, fluid and the media continues to inform the general public of their rights and expose those who embezzle public funds and abuse their positions.

• **ALERT**

Date: December 2007

Persons (affected): Citizens of Namibia

Violation: Legislation (threatening)

The ruling Swapo Party, at its fourth Congress, held in Windhoek, resolved among others that the Namibia Government should establish a media council to regulate the activities and operations of the media in the country.

UPDATE: In February 2008 the Namibian government announced its plans to establish a Media Council to 'police' media ethics and to provide a platform for the public to complain about media reports.

This was announced by Government spokesperson, Information and Broadcasting Minister Netumbo Nandi-Ndaitwah, allegedly as part of the country's commitment to implementing the SADC Protocol on Culture, Information and Sport, to which it is a party.

• **ALERT**

Date: November 28, 2007

Persons: Citizens of Namibia

Violation: Censored

On November 27 2007, Namibia Broadcasting Corporation (NBC) radio presenter Tebs Xulu caused a public outcry when he announced that callers to the popular live radio call-in show, the Chat Show, would not be allowed to discuss issues concerning either the ruling South West African People's Organisation (Swapo) or the newly established Rally for Democracy and Progress (RDP). The restriction, he said, would apply for the rest of the week. MISA Namibia vehemently opposed the action, labelling it an attempt to control or censor the flow of information in the public domain.

MISA Namibia later confirmed from Xulu that the restriction would only apply for one day, November 27, and that it had been his personal decision and not imposed by management or any other individual or institution attempting to influence the content of the programme.

MISA Namibia noted that Tebs Xulu had overstepped his responsibilities as a radio presenter and stressed that the Open Line platform was created for people to express their opinions freely, taking into consideration the responsibility that goes with doing so.

November 28, 2007: the NBC issued a public apology. In the apology, read out on the same show the following morning, the acting director general of NBC, Umbi Karuaihe-Upi, apologised on behalf of the NBC management and staffers, Tebs Xulu and Corry Tjaveondja, for violating the rights of other citizens who wanted to freely express their opinions and exercise other participatory rights as provided for in Articles 17, 21 and 95(k) of the Namibian Constitution and for overstepping their boundaries by making unauthorized and untruthful statements on the national broadcaster. Karuaihe-Upi further indicated that the involved parties would be reprimanded according to NBC disciplinary rules and regulations.

• **ALERT**

Date: October 24, 2007

Persons: Private media

Violation: Censored

Private media journalists were cordoned off from filming and taking photos of the arrival of the Angolan President, Jose Eduardo Dos Santos in Windhoek on October 24, 2007. Only state owned media was allowed to film the arrival of the President at close range, while others were cordoned off and kept at a distance. Several journalists who were present at the airport complained about the discriminatory action.

President dos Santos jetted into Namibia for a State visit, which culminated in the signing of 11 bilateral agreements ranging from power generation to security matters and law enforcement.

UPDATE: Director Media Affairs in the Ministry of Information and Broadcasting Wilma Deetlefs expressed her deepest apologies to all media, stating that the Ministry of Information and Broadcasting regretted the frustrations that the media were subjected to with the Angolan State visit. She acknowledged that the country's information policy calls for all media to be treated equally. In addition to that she says that the Namibian constitution, as a fundamental human right, calls for everyone, without specific reference to the media, to be treated equally.

• **ALERT**

Date: August 17, 2007

Persons/Institutions: NSHR, Media in Namibia, especially *The Observer* and *The Namibian* newspapers

Violation: Threatened (threatening legislation)

Ruling Swapo Chief Whip Jhonny Hakaye tabled a motion in which the National Council was asked to examine and review the status of the National Society for Human Rights (NSHR) as well as media institutions that gave the organisation coverage.

Hakaye said *The Observer* was using the freedom of speech granted to it to tarnish the names and characters of political leaders while *The Namibian* "seems to have provided for their own parliament with this SMS line they have created".

"This only provides for hooliganism. Any person, regardless of their age, can just say what they want. And they conveniently forget that the same Government who they are insulting is the one who provided the platform for them to do this," Hakaye claimed.

• **ALERT**

Date: August 22, 2007

Persons: Citizens of Namibia, especially Prof John Makumbe

Violation: Other (academic freedom, freedom of expression, censored)

On August 22 2007, the University of Namibia (Unam) pulled the plug at the eleventh hour on a public lecture by a well-known Zimbabwean academic critical of that country's President Robert Mugabe.

Unam announced shortly before lunchtime on August 22 that outspoken University of Zimbabwe lecturer Professor John Makumbe's public lecture was cancelled.

The public lecture - titled 'Landscapes of Poverty - Daily Life and Social Crisis in Zimbabwe' - was jointly organised by Unam's sociology department and the Namibia Institute for Democracy (NID) as part of a series of six lectures for August and September.

NID said in a statement that it had acted in good faith in organising the lecture with Unam and, at no stage did the university express any problem with Makumbe or the topic. It said it was concerned about the implications of the cancellation "for academic freedom and freedom of expression at the university and in Namibia in general".

Professor Makumbe is a highly respected political scientist who has lectured previously in Namibia, while the NID has a strong track record of organising public debates and discussions which create platforms for a wide variety of views and contribute to strengthening Namibia's democracy as a whole.

• **ALERT**

Date: April 30, 2007

Persons: One Africa Television

Violation: Censored

On April 30 2007, *One Africa* Television News team, comprising of Rene Lötter, Margarat Kalo Namakasa and Francois Lottering, were asked by representatives of the Westport Resources Mining Group (Falling under Forsys Metals) to leave their "information sharing public participation" meeting. The reason they gave was that they had their own film crew filming and that *One Africa* could have their production any time. They said the team could sit in but they

were not allowed to record anything.

The team carried on doing their job and managed to get some public concerns.

On April 27, 2007, One Africa played out the insert on their news bulletin, the News Editor received a phone call from a representative of the mining group, who asked that the material not be broadcast. When he was informed otherwise, he said that he would get the matter to their lawyers.

Westport Resources Mining Group has informed One Africa Television that they will issue summons if they broadcast material gathered during a public meeting held by the organisation at the coast.

- **ALERT**

Date: April 30, 2007

Persons: Citizens of Namibia

Violation: Other (censored)

The minister for information and broadcasting announced that top management at the Namibia Broadcasting Corporation (NBC), has taken the decision to change the format of the call-in programme on national radio. The statement comes ten months after the current NBC director general went on air shortly after being appointed to the office to call on listeners and phone-in callers to “act responsibly.”

According to Information Minister Netumbo Nandi Ndaitwah, the decision of the NBC management is aimed to stop abuse by callers.

Comments back in 2006 by Ndaitwah suggesting that the media and public were displaying a “lack of respect” for former president Dr. Sam Nujoma were met with great alarm.

- **ALERT**

Date: April 25, 2007

Persons: Gwen Lister, The Free Press of Namibia

Violation: Legislation

On April 25 2007, editor of *The Namibian* newspaper Gwen Lister, and The Free Press of Namibia, the company that owns and publishes “The Namibian”, were instructed to pay N\$7 million (approximately US\$1 million) to the Palazzolo family, or face legal action in the form of five defamation suits.

In the summonses, signed by the Palazzolo family lawyer, Lucius Murorua, the plaintiffs claim that four members of the Palazzolo, alias Von Palace-Kolbatschenko, family were defamed through reports published in *The Namibian* in March, as well as in the free weekly newspaper *Informanté*.

They are threatening to sue *The Namibian* especially in connection with a front-page story published under the headline “Mafia linked to Namibian gems” on March 23.

In that story, freelance journalist John Grobler reported that the Sicilian mafia, by using front companies to buy existing but unused diamond buying, cutting and polishing licences in Namibia, had allegedly obtained an interest in Namibia’s fledgling diamond-cutting industry.

The members of the family who are suing the newspaper include alleged mafia member and South Africa-based fugitive from Italian justice Vito Roberto Palazzolo, his brother Pietro Efisio Palazzolo, and two sons of Vito: Pietro and Christian Palazzolo.

- **ALERT**

Date: April 13, 2007

Persons: Namibian Broadcasting Corporation (NBC) employees

Violation: Other

On April 13 2007, employees of the Namibian Broadcasting Corporation (NBC), held a peaceful demonstration to show their dissatisfaction with working conditions and empty promises of salary increases.

A letter, drafted and circulated by the NBC Shop Stewards Council on April 10, 2007, highlights that the salaries of employees have not been adjusted for close to three years. The letter further states that while promises have been made that there will be an adjustment, staff were left with no explanation when the time came to implement the salary increases.

The Shop Stewards Council said NBC seems to have an Executive Management team that is incapable of steering the corporation, adding that notable exceptions are there, but there are no business and strategic visions at all. The also say there is a huge lack of leadership skills.

In response to the demonstration, MISA Namibia, pointed out that there is a distinct link between the social environment in which journalists work and media freedom. This link has been recognised by the United Nations Educational, Scientific and Cultural Organisation (Unesco) which, at its 2004 General Conference, included the right to decent working conditions as part of the enabling environment for media freedom and allocated resources to support work in this area. The Bellagio statement also explicitly recognised this link between living standards and working conditions to media freedom.

• **ALERT**

Date: March 20, 2007

Persons: William J. Mbangula

Violation: Threatened

Senior headman of the Onamutayi traditional district, Amon Sheefeni Shipanga threatened to take unspecified action against *New Era* journalist, William J. Mbangula for publishing an article in which Shipanga is alleged to have cheated a widow from Omusheshe village, Rachel Kakoto, of more than N\$50 000 and fellow villager, Nalweendo Margaret Weyulu, of the money paid by private construction companies mining gravel in their mahangu fields.

Shipanga allegedly warned Mbangula not to publish the article after he was initially approached for comment, and then after the publication of the article on the March 12, 2007, under the headline “Senior headman accused of cheating and abuse”, he confronted Mbangula at the *New Era* offices in Oshakati.

Shipanga allegedly demanded to know who had complained to the newspaper that he had received money and how it emerged that other matters related to the traditional issues are reported in the newspaper. He did not deny the content of the story (allegations against him) but was only worried about who had leaked the information to the newspaper.

The journalist would not reveal his sources. Shipanga promised “to deal with” Mbangula.

• **ALERT**

Date: February 21, 2007

Persons: Jonathan Cobra

Violation: Threatened

During the First Session of the Fourth Parliament at National Assembly in Windhoek on February 21 2007, members of the ruling South West African People’s Organisation (Swapo) party accused the opposition and independent media of being “disrespectful” towards some Swapo leaders.

Deputy Health Minister Petrina Haingura claims that she and former President Sam Nujoma have fallen victim to hostile media, describing the situation as “unhealthy and unpatriotic”.

Haingura strongly feels these are acts of political vilification and demonization of others through the media.

She also said it is one thing to exercise one’s democratic right to free speech and association but quite another to transform such right into launching vituperative attacks against fellow members of the Namibian society.

Expressing the same sentiments, Lands Minister Jerry Ekandjo cited a report of a certain Jonathan Cobra in South Africa’s *Mail & Guardian* newspaper. He noted that negative articles on the “Founding Father of the nation” only appear in the local *Windhoek Observer*, written by the

same person. He went on to mention the name of the journalist who uses that pseudonym. Ekandjo threatened: "He lives here - if he was born here, we can withdraw his birth (presumably citizenship) and send him back to his uncle in Holland." The remarks were made within the debate: "The state of the nation's morality with regard to the respect of elders and the social obligation towards them by younger members of their families."

National Overview

By Raymond Louw

Editor and publisher of the Southern Africa Report. He also serves on the board of MISA South Africa



South Africa

In South Africa the Government and the ruling party's (African National Congress - ANC) intolerance for media freedom continues to intensify. Many instances of obstruction of journalists' activities were noted during 2007. This intolerance has ratcheted up to an ominous level with the ruling party proposing to explore the possibilities of setting up of a statutory media tribunal to deal with public complaints. The proposed tribunal is specifically directed at 'regulating' the print media. The complaints process followed by the print media's self-regulatory agencies – the Press Council and the Press Ombudsman – is dismissed by the ANC as inadequate with the claim that they fail to protect peoples' dignity or human rights. The media, however, is of the opinion that such a tribunal would be packed with Government appointees seeking to restrict media functioning.

The Government's grievances against the Press amplified following the reporting about the Health Minister, Ms Manto Tshabalala-Msimang's drunken behaviour in hospital and her conviction in Botswana for the theft of a hospital patient's watch. The disclosures infuriated the ruling party and the Government. The Minister in the Presidency, Essop Pahad threatened to withdraw Government advertising from the Sunday Times. The police too, threatened to arrest the Editor Mondli Makhanya and the deputy Managing Editor Jocelyn Maker alleging that they had acquired the Minister's medical records improperly and had impaired her dignity by publishing them. The good news however was that a Judge accepted a public interest defence in the case brought against the Sunday Times by the Health Minister. Mr Justice Mahomed Jajbhay dismissed the allegation that the paper had acted criminally in being in possession of her medical records. He ordered the records to be returned but ruled that publication had been legitimate and in the public interest as the Minister is a public figure. It is interesting to note that the state-owned broadcaster, the SABC, which has developed a protectionist role towards the Government, tried to sever relations with the South Africa National Editors Forum (SANEF) because of its support for the Sunday Times over this story.

The SANEF, newspapers and opposition politicians protested against this bitter response. The group also condemned an announcement by two Government employees, part-owners of Koni Media Holdings, of their intention to buy the newspaper by raising a loan from the Public Investment Commission, which holds R290 billion of state pension funds. (The purchase would have given them a measure of control over the Sowetan and Business Day newspapers as well.)

The Government soon retracted its threats saying it was not planning to make the arrests. When the Print Media SA requested a meeting with Pahad, he also dropped the advertising threat saying it was made in his personal capacity. The Government employees, who had made the newspaper purchase plan announcement, and President Thabo Mbeki denied that the proposal was a ploy for the Government to gain control of the newspaper and thus influence its policy. The industry, however, remains sceptical.

Other similar threats to withdraw advertising from publications were made by a provincial premier, a city manager and a number of town councils. Most of the disputes have been settled and the threats withdrawn but newspaper managements and journalists remain anxious.

Despite these events the Government maintains that it upholds Constitutional freedom of the media and will not interfere with the media's procedures. The media rejects these assurances, pointing to the Government's continuing attempts to introduce laws, which could result in censorship.

The Films and Publications Amendment Bill is one such attempt. The Bill is ostensibly directed at curbing child pornography or the exposure of children to pornography, but it engulfs other issues as well - such as propaganda for war, hate speech, incitement to violence and sexual con-

duct. The media, opposition politicians, lawyers and civil society organizations have protested vigorously against many of the provisions highlighting the impracticalities and objectionable issues. However, the ANC has persisted with it. The Bill has been passed by the National Assembly and now awaits approval in the National Council of Provinces.

If the proposed amendments are approved about 500 publications and broadcasters will be required to submit material falling within these categories to a Films and Publications Board Committee for classification as to the audiences to which the material may be exposed. Apart from the interference with the media's freedom of expression, there are insurmountable practical obstacles. How long would a story be held up before the committee could be convened to adjudicate on it? So far the media's arguments, presented to two parliamentary committees and cabinet ministers, appear to have had little effect. The industry may have to take the issue to the Constitutional Court. Another objectionable feature in the Bill is the requirement to report information, or suspicions, about the conduct of people to the police.

Another censorship attempt is the National Key Points Bill, designed to protect the security of important or strategic buildings and enterprises and services such as airports, broadcasting stations, police headquarters and certain strategic industries. The media has presented cogent arguments that this law will result in censorship but looks like it will meet approval in 2008.

Meanwhile, journalists' complaints on lack of co-operation by the authorities in supplying information to media are increasing. Government, provincial and municipal administrations' officials are accused of withholding information. Some provide misleading information. The centralization of Government news outlets, particularly in the Police service, was a major hindrance to information flow. When SANEF lodged a complaint with the national Police Commissioner, a new structure was set up but with variable results. The Defence Department is regarded as the worst. Defence Minister Mosiuoa Lekota decreed that only his office could release information on defence matters, resulting in long delays in getting information, if it ever comes at all.

These complaints resulted in SANEF issuing a strong statement on the eve of World Press Freedom Day, May 3, expressing its deep concerns at the erosion of media freedoms and of the values in the South African Constitution. Reporteurs sans Frontiers pointed out that in ranking Press freedom in 167 countries, SA has dropped from 16th in 2002 to 44 in 2006 (43 in 2007).

Harassment of journalists also continued. Politicians harass journalists in the middle of the night with complaints about stories. Some journalists are called before tribal courts to defend themselves against charges of bringing the tribe to disrepute. According to SANEF, one journalist was kidnapped in protest against a story he wrote. The media was excluded from court hearings of charges against police and reporters' notebooks were snatched; photographers were forced to remove images of the President - in hospital for a check-up - from their cameras and reporters were barred by police from attending public demonstrations. Photographers were prevented from taking images of a school matron accused of abusing children. SANEF also protested against the incident of two reporters being arrested on the grounds that they interfered with the police while covering police-related incidents. In a country overwhelmed by crime, Editor David Canning of *The Mercury* in KwaZulu-Natal was shot in the thigh in what appears to have been a car-hijacking attempt.

In what is assumed to be an attempted assassination - though no possible motive has been advanced - Estee Booyens, editor of the Afrikaans-language tabloid *Noord Son* (Northern Sun) was shot at during the early hours of August 29. An attempt was also made on the life of

exiled Zimbabwean editor Abel Mutsakani, who writes for the online service *ZimOnline*, in Johannesburg on July 23 when he was shot and critically wounded.

President Mbeki and some cabinet ministers met with a SANEF delegation to discuss working relations between the media and the Government. A decision has been taken to hold a workshop in 2008 to discuss media complaints about laws clashing with the Constitution and Government complaints about unprofessional journalism.

SANEF pursued matters with mobile telephone companies over supplying customers' call records to police and lawyers. This poses a grave danger that journalists' confidential news sources could be identified. Each month by SA's three mobile phone operators receive about 8000 such requests. SANEF is trying to hold a meeting with the Government's landline phone company, Telkom, which it believes also supplies such information on a much wider scale.

The *Mail & Guardian* weekly newspaper was once again gagged by a court order on July 20 from publishing a story about alleged corruption, abuse of power and intimidation by a senior SABC official. The order was lifted on August 1, by Mr Justice Ferdi Preller who said newspapers had a duty to disseminate news relating to allegations of corruption in public entities. The election of SABC's new board of governors by a parliamentary committee was severely criticized because of interference by the Presidency.

The ANC made a scathing attack on the media in its online publication, ANC Today, by advising readers to treat everything published with "great skepticism". This was followed by ill-treatment of journalists at the ANC's 52nd National Conference in December - the press room was nearly a kilometre away from the conference hall. The ANC later apologized.

SANEF objected to FIFA (International Federation of Football Associations), applying for a blanket ban on the use of emblems and language describing the 2010 Football World Cup to be hosted by SA, as unwarranted interference in the freedom of papers and broadcasters to publish news about the games. SANEF had earlier associated itself with a World Association of Newspapers protest to the International Rugby Board against its plans to censor coverage of the 2007 Rugby World Cup.

The print industry's self-regulatory Press Ombudsman system, sensitive to Government criticisms about its low profile, decided to become more pro-active in dealing with media issues. Public representation on the adjudication panel was increased and the Press Council was formed.

Another new Daily, a tabloid, *The Times*, published by the Sunday Times group will hit the newsstands soon.

• **ALERT**

Date: October 16, 2007

Persons: Matthews Baloyi, Chris Collingridge,

Violation: Threatened, censored, detained

On October 16 2007, a police officer manhandled *The Star* photographer Matthews Baloyi and confiscated equipment belonging to him, while chief photographer Chris Collingridge was arrested for taking down the registration number of a private car used by a police officer. Collingridge was later released.

The incident took place following heated scenes between the South Africa Police Service (SAPS) and the Johannesburg Metro police. According to newspaper reports, the metro police arrived in six cars and a flatbed truck to tow away illegally parked vehicles. After they started ticketing the vehicles, which belonged to the SAPS's Crime Intelligence Unit, an argument broke out between the two parties.

Baloyi said he was insulted by a police officer for taking pictures of the scene, and then was grabbed by the neck and pulled across the road, *The Star* reports.

The police officer seized his camera and dropped it on the pavement before putting it into the trunk of one of the police cars at the scene.

• **ALERT**

Date: October 15, 2007

Persons: "Mail and Guardian" and "Die Burger" photographers

Violation: Beaten, censored

Photographers from the *Mail and Guardian* and *Die Burger* were manhandled in an attempt to prevent them from taking pictures at the demonstrations of residents of the informal "Joe Slovo" settlement on the N2 highway, outside Cape Town.

• **ALERT**

Date: October 10, 2007

Persons: Congress of South African Trade Unions (Cosatu), Freedom of Expression Institute (FXI), Media Workers' Association of South Africa (Mwasa), the National Council of Trade Unions (Nactu), the South African Chapter of the Media Institute of Southern Africa (Misa-SA), the South African NGO Coalition (Sangoco) and the Treatment Action Campaign (TAC).

Violation: Other

Several labour and civil society organisations have sent a joint letter to President Thabo Mbeki objecting to the list of names forwarded to him for the new Board of the South African Broadcasting Corporation (SABC). He has been asked not to appoint them, and rather to send the list of names forwarded to him back to the National Assembly for reconsideration.

The letter was sent from the Congress of South African Trade Unions (Cosatu), Freedom of Expression Institute (FXI), Media Workers' Association of South Africa (Mwasa), the National Council of Trade Unions (Nactu), the South African Chapter of the Media Institute of Southern Africa (Misa-SA), the South African NGO Coalition (Sangoco) and the Treatment Action Campaign (TAC).

The organisations argued in the letter that, as representatives of the labour movement and civil society, they do not believe that the list of nominees fulfils the requirement of s.13(4) of the Broadcasting Act.

According to s.13(4)(a), the Board, when viewed collectively, should consist of persons who are suited to serve on the Board by virtue of their qualifications, expertise and experience in the fields of broadcasting policy and technology, broadcasting regulation, media law, frequency planning, business practice and finance, marketing, journalism, entertainment and education, and social and labour issues.

In addition, they believe that the Board does not represent a broad cross-section of the popula-

tion, as required by s. 13(4)(c) of the Act. There are clearly no working class representatives, nor are there any representatives from the communities of interest mentioned above (namely journalism and labour). The Board is obviously what President Mbeki would refer to as a “first economy” Board; it does not represent the totality of the South African populace, and especially has no representation from South Africa’s poor and marginalized communities the “second economy”.

They also object to the fact that six members of the old SABC Board - namely Fadila Lagadien, Christine Qunta, Alison Gilwald, Ashwin Trikamjee, Andile Mbeki and Khanyisile Mkhonza - have been included in the list and thus stand to be re-appointed to the new Board. In their capacities as members of the incumbent Board, they have failed to demonstrate that they are “persons who are committed to fairness, freedom of expression, the right of the public to be informed, and openness and accountability”, as required by s.13(4)(d) of the Act. They therefore believe that they have demonstrated that they are unfit for re-appointment to the SABC Board.

The incumbent Board has presided over unacceptable incidents of unfairness and censorship. More specifically, the Board has responded inappropriately to the findings of the Sisulu Commission of Enquiry into allegations of blacklisting of political commentators. The Commission found that a number of commentators were excluded on grounds that were not objectively defensible, in violation of the Board’s own editorial policies.

In spite of the damning nature of the report, the Board expressed its full confidence in the person responsible for the exclusions, Managing Director of SABC News, Snuki Zikalala, while allegedly issuing the “whistleblower” in the incident, SAFM news anchor John Perlman, with a warning in spite of the fact that he was vindicated by the Commission.

The SABC also attempted to interdict the Mail and Guardian newspaper to force it to take down a copy of the Commission’s findings from its website. The Johannesburg High Court dismissed this attempt, noting that it was not acceptable to suppress information written in the report. These are not the actions of a group of people who are committed to fairness, freedom of expression and the right of the public to be informed.

They are especially concerned about the prospect of Christine Qunta being appointed Chairperson of the Board. In her existing capacity as Deputy Chairperson, she has presided over the problems mentioned above, and has defended the Board’s actions publicly, including in her individual capacity in her interview with the Portfolio Committee on Communications.

They are also mindful of recent public controversies, where allegations have been made of a list being imposed on the Portfolio Committee on Communications by the African National Congress (ANC), which - if it proves to be true - could amount to political manipulation of what was meant to be an open and transparent process.

They believe that, when taken together, all these factors are sufficient grounds for a review of the existing list, as a pall has now been cast over the credibility of the entire process. If the people whose names appear on the current list are appointed, the pall will hang over the SABC for the next five years, which may do untold damage to the broadcaster.

• ALERT

Date: September 19, 2007

Persons: Noseweek

Violation: Victory

On September 19 2007, the South African journal *Noseweek*, a monthly investigative satirical journal with a readership of approximately 50,000, successfully defended its cause of freedom of expression at Cape Town’s High Court. The Court dismissed FirstRand Bank’s application to prevent the journal from publishing any information relating to an alleged tax evasion scheme, which *Noseweek* had outlined in its September issue in an article entitled “FirstRand Pirates hit the rock”.

The article described how the clients of South Africa’s second largest bank spent their funds through purchasing shares in a bogus offshore company named Duisberg Holdings Ltd. The

company is alleged to award interest-free loans to a trust set up for this purpose, and is regulated by Ansbacher, a bank notorious for a fraud scandal uncovered in the 90s implicating Ansbacher Ireland. Duisberg Holdings Ltd. would not make any profit from this activity hence FirstRand clients would be exempt from declaring any income. The fraud scheme ultimately allows the client to reacquire all the money outside of the country.

FirstRand invoked South African legislation via a pre-publication interdict. The bank attempted to hinder *Noseweek* from publishing the names of FirstRand's clients implicated in the scheme, as announced by the article in the journal, and expected all related documents to be handed in.

• **ALERT**

Date: July 23 2007

Persons: Abel Mutsakani

Violation: Beaten (attacked)

Abel Mutsakani, the editor of *ZimOnline* and former managing editor of the banned *Daily News*, was battling for his life in a Johannesburg, South Africa hospital after he was shot and seriously injured by a gang of three assailants on July 23 2007.

The motive behind the savage attack on Mutsakani remains unclear.

Mutsakani's wife Bianca reported that the three assailants struck at around 21h00 (local time) on July 23 as he was parking his car at their house in western Johannesburg.

One of the assailants pulled a gun and fired at Mutsakani. The bullet went through his raised elbow and ricocheted into his chest. It ruptured his lung and remains lodged near his heart, according to a medical report.

The three assailants fled after the attack, but did not rob Mutsakani of his possessions, raising questions about the motive of the attack.

Mutsakani was the managing editor of Zimbabwe's best-selling daily newspaper, "The Daily News", when it was banned in September 2003.

After the closure of *The Daily News*, Mutsakani moved to Johannesburg, where together with other Zimbabwean journalists he launched ZimOnline, an independent news service about Zimbabwe.

• **ALERT**

Date: February 2007

Persons: Patrick Seshea

Violation: Threatened

In February 2007, the Metsimaholo municipality instituted disciplinary proceedings against municipal employee and Cosatu chairperson for the Free State, Patrick Seshea, for - amongst other things - criticising the Municipality in the media. He was dismissed in May 2007. Seshea's arbitration hearing is being conducted by the Local Government Bargaining Council. The disciplinary proceedings were instituted in terms of a Municipal Manager's instruction, issued in November 2002, and ordering employees to refrain from communicating with the media about the Municipality's affairs. This instruction does not seem to be reasonable and justifiable, and, in any event, if the Municipality intended to protect confidential information, there were less restrictive means to achieve the same ends than banning all contact with the media.

• **ALERT**

Date: January 2007

Persons: Bongani Ntuli

Violation: Threatened

A member of the General Industries Workers Union of South Africa (Giwusa), Bongani Ntuli, is being disciplined by his employer, Capacity Outsourcing, for distributing a pamphlet at a picket outside Johnnic Communications, which the company claims contains 'information that is derogatory and offensive to the good name of the company'. The company is a labour broker

supplying labour services to Independent Newspapers and Johnnic Communications, and is accused in the pamphlet of engaging in exploitative employment practices.

• **ALERT**

Date: July 19, 2007

Persons: Mail & Guardian, Media 24

Violation: Censored

On July 19 2007, a gag order was granted against the *Mail & Guardian* (M&G), Media 24 “or any other person”.

Pretoria High Court Judge Lettie Molopa issued the order preventing the *Mail & Guardian* et al from publishing the details of an explosive report into alleged corruption, abuse of power and intimidation at the SABC.

UPDATE: Since May 2005, six interdict applications have been launched in the Johannesburg High Court against the M&G. Though a number of applications were ultimately rejected, two interim interdicts were initially granted.

• **ALERT**

Date: May 31, 2007

Persons: Media in South Africa

Violation: Legislation (threatening legislation)

The Parliamentary Portfolio Committee on Home Affairs has reinserted the exemptions for the media into the controversial Film and Publications Amendment Bill.

However, there are still serious issues in the Bill, that impact negatively on freedom of expression beyond the media. The Freedom of Expression Institute (FXI), in a public statement, expressed the hope that these problems will be attended to during debates in the National Council of Provinces.

In terms of the Bill, any person (other than newspaper publishers) who intends to distribute a publication that contains visual presentations, descriptions or representations of sexual conduct, propaganda for war, incitement to imminent violence or hate speech, will have to submit the publication for classification.

This means that non-media creators of publications, such as artists, writers and academics, will be subject to the same sort of pre-publication censorship that the media fought so hard to avoid.

The FXI noted that it is entirely inappropriate for a government institution like the Film and Publications Board to be the arbiter of what can and cannot be read or viewed. Even if the Board decides to grant such publications an exemption on literary or artistic grounds, it is dangerous to hand the power to decide whether to allow publications or not over to the government, as it opens the door to government censorship of controversial speech.

In retaining this classification requirement for publications, the Portfolio Committee has failed to address the crucial distinction between films and publications recognized in the Film and Publications Act of 1996. In terms of the Act, films are subject to tighter regulation than publications, as the former are considered to be more pervasive than the latter. Works of art are considered to be publications, and were therefore subject to lighter regulation. Publications were classified only if someone complained about them.

The Bill changes this arrangement. Now publishers will be required to submit potentially controversial material before distribution, and will be guilty of a criminal offence if they do not. This is untenable. It will lead to great uncertainty amongst publishers and artists about whether they are required to submit their work or not, which may well lead to self-censorship. Cutting edge creative work cannot thrive in such a climate.

The Bill also treats publications containing descriptions of sexual conduct as suspect, requiring them to be submitted for classification. This requirement smacks of the morality police; the government should not be in the business of controlling the sexual expression of its citizens.

The drafting of the classification section is still much broader than the constitutional exemptions for particular forms of expression, although - in a welcome move - the definition of hate speech has been narrowed somewhat.

The FXI expressed concern that the XX classification has been broadened to include material that “encourages or promotes harmful behaviour”, which is much broader than what the 1996 Act allows for, and cannot possibly be constitutional as it is simply overbroad.

The FXI is especially concerned about the implications of the Bill for political

• ALERT

Date: May 28, 2007

Persons: The Mail & Guardian, FXI, MISA-SA and the South African National Editor's Forum (SANEF)

Violation: Victory

The *Mail & Guardian*, FXI, MISA-SA and the South African National Editor's Forum (SANEF) are delighted by a ruling in favour of open justice and media freedom in the Pretoria High Court on May 28, 2007. This follows an effort by the State to gag a vital nuclear smuggling case in which two individuals and a linked company are charged with smuggling components to an international syndicate.

On May 28, 2007, in the Pretoria High Court Judge Joop Labuschagne dismissed the State's application and ruled that it was in the public interest to have an open court hearing. Open justice, the judge said, is the starting point and a principle fundamental to our law. If sensitive material will be exposed during the trial and it appears that it is in the interest of good order or the administration of justice that the court is closed, then the State may reapply and the court will reconsider the issue.

Daniel Geiges, Garhard Wisser and Krisch Engineering are alleged to be part of an international nuclear smuggling network (the so-called ‘AQ Khan network’), whose activities were exposed in 2003 while attempting to smuggle components for uranium enrichment to Libya. According to the *Mail & Guardian*, the arrest of Geiges and Wisser was a product of close collaboration between the NIA, MI5 and the CIA.

At the court hearing on May 2, 2007, the National Prosecuting Authority applied for virtually the entire trial to be held in camera and for a prohibition of publication of information related to the trial. The State argued that nuclear technology could fall into rogue hands if the information was made public and that the SA government was obliged to maintain strict control and secrecy on the development and manufacture of weapons of mass destruction in terms of international and African treaties, as well as South Africa's Criminal Procedure Act, the Nuclear Energy Act and the Non-Proliferation of Weapons of Mass Destruction Act.

The *Mail & Guardian*, FXI, MISA-SA and SANEF accepted that while there may well be parts of the hearing that would have to be heard in camera, the State's application was overbroad, vague and an unprecedented request for a secret trial, which other courts described as a ‘menace to liberty’. Deviations from the principal of open justice should be made in the least restrictive way possible. The State's application was so wide that even relatives of the accused could not attend the trial without the judge's permission. This would have amounted to an effective gag.

Both established international law and recent South African law stress the importance of open justice and freedom of expression. The Constitutional Court has said that ‘Closed court proceedings carry within them the seeds for serious potential damage to every pillar on which every constitutional democracy is based.’

The case is clearly a matter of considerable public interest, given that it involves the prosecution of individuals for allegedly smuggling nuclear material, in contravention of South Africa's non-proliferation undertakings. Production of nuclear weapons is a matter of huge public interest internationally currently. Today's judgement reinforces our right to know about the smuggling and development of technology that has such a huge bearing on human wellbeing.

The previous week the Supreme Court of Appeal found in favour of eTV's right to broadcast a documentary without first submitting it to the State for 'pre-screening'. The court said that the Directorate of Public Prosecutions (DPP) 'must expect that freedom will not be abused until (the DPP) has adequate grounds for believing the contrary. But (the DPP) may not require the press to demonstrate that it will act lawfully as a precondition to the exercise of the freedom to publish in the absence of a valid law that accords him that right.'

Similarly in this case the media raised concerns about the State's attitude that the media, generally, cannot be trusted or relied upon to be careful and selective in handling and publishing sensitive information. The judgement therefore upholds the rights of the media and entrusts it with the responsibility to deal professionally with the sensitive information likely to come up in the course of the trial.

• **ALERT**

Date: March 15, 2007

Persons: Professor Dieter Welz

Violation: Other (academic freedom, freedom of expression)

The University of Fort Hare has levelled charges against one of its members of staff, Professor Dieter Welz, accusing him of criticising the University administration in lectures, internal emails and to the media.

Welz, a professor of Constitutional Law, is facing a disciplinary hearing. The University alleges that Prof Welz's criticisms constitute a contravention of the 'Conditions of Service of Staff Employed by the University of Fort Hare', which were passed under the University of Fort Hare Act of 1969, apartheid legislation which has been repealed. Charges brought under repealed regulations are invalid. The 'Conditions of Service' are manifestly unconstitutional, with archaic definitions of misconduct.

Prof Welz may well be protected as a 'whistleblower' under the Protected Disclosures Act and may also be protected by South Africa's Constitution, which specifically protects academic freedom.

Only in the most authoritarian societies do universities prevent academics from speaking to the media about their work, research and opinions and criticisms on the development of society and of their own institutions. South Africa, fortunately, is not such a society.

Analysts, including the FXI, have stated that any disciplinary action against Prof Welz would constitute an unreasonable limitation on his right to academic freedom and would be unconstitutional. Whatever the outcome of Prof Welz's hearing, FXI noted, irreparable harm has been done to the climate of free expression at Fort Hare and its reputation as a centre of academic excellence.

• **ALERT**

Date: February 21, 2007

Persons: Jimi Adesina

Violation: Victory (academic freedom, freedom of expression)

On February 20 2007, Magistrate IM Ristow of the Grahamstown Magistrates' Court dismissed (with costs) charges of defamation made by University of Kwazulu Natal head of communications, Professor Dasarath Chetty, against Rhodes University academic Professor Jimi Adesina.

The case follows a series of emails last in 2006, just before UKZN staff went on strike for better wages and working conditions. Before the strike began, Chetty's office issued an email requesting "all staff who receive any media query related to the impending industrial action refer these calls" to his staff.

In response, Adesina sent an open letter to Chetty, accusing him of attempting to gag academics and of being an instrument of authoritarianism at the university. He also claimed Chetty had brought sociologists into disrepute. Chetty then sued Adesina for defamation.

Adesina argued that the issue was really about academic freedom. He said Chetty's actions were typical of the beginning of the end for academic freedom on university campuses in other parts of Africa, and expressed concern that academic freedom and freedom of expression were under threat in South Africa, too.

The magistrate found that, given the prevailing circumstances at the university, Chetty's letter "could very well be understood" as a gagging order. Adesina's comments, the Magistrate said, showed no malice and were about "matters of public interest".

- **ALERT**

Date: May 17, 2007

Persons: e-TV

Violation: Victory

A television documentary on the baby Jordan murder case may be broadcast without the director of public prosecutions (DPP) viewing it in advance, the Supreme Court of Appeal has ruled. The Bloemfontein court delivered judgement in an appeal concerning a documentary that was made by e.tv on the baby Jordan-Leigh Norton murder case in Cape Town.

The accused in the case, Dina Rodrigues, and her co-accused were convicted earlier this month (May 2007) of the 2005 murder.

The Cape Town High Court was expected to pronounce sentence on June 4.

However, before the case had started, the DPP insisted on viewing the documentary before it was broadcast so as to satisfy himself that it would not prejudice the trial.

E.tv refused, and the DPP applied for and was granted an interdict by the Cape Town High Court forbidding broadcast of the documentary.

E.tv appealed to the Supreme Court of Appeal.

The appeal case was eventually overtaken with the commencing of the trial, and the DPP withdrew his application.

E.tv, with the DPP's objection withdrawn, had broadcast the documentary and later asked that its appeal to the Bloemfontein court be withdrawn on the grounds that the appeal would have no practical effect.

However, the appeal court found the case raised important questions of law on which there was little authority and which were bound to arise again.

The judgement held that a prohibition on publication of material relating to forthcoming criminal proceedings was permitted only if it could be shown that the publication might cause substantial prejudice to the trial and that there was a real risk that the prejudice would occur.

The order of the Cape Town High Court was set aside.

The appeal judgement will have no effect on the baby Jordan case.

National Overview

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Swaziland

An air of unreality surrounds media freedom in Swaziland. On the one hand the new Swazi Constitution, that came into force in February 2006, enshrines freedom of expression and freedom of the press, while on the other hand independent news media continue to be hounded by the kingdom's authorities whenever they publish material that the ruling elites do not like.

Swaziland is not a democracy and King Mswati III rules the kingdom. The new Constitution underpins the position of the monarch, and on paper allows freedom of expression and freedom of the press (but leaves political parties banned). But there is no evidence that the Constitution has made any appreciable change to 'freedom' in the kingdom.

Media-Government relations

The Government continues to harass journalists. This was evident when the Swazi House of Assembly set up a Select Committee to investigate Mbongeni Mbingo, the editor of the *Times Sunday*, following a commentary article that he wrote in his newspaper criticising the House Speaker for not allowing a debate on possible amendments to the kingdom's Constitution. The House of Assembly said the editor was in contempt of Parliament.

In October 2007, the Select Committee cleared the editor, citing his rights under the constitution to freedom of expression. However, at the same time the Committee showed it had no real commitment to freedom of expression when it recommended two measures that would further restrict press freedom in Swaziland.

The first was a recommendation that all journalists who cover Parliament should be accredited; effectively meaning that the Government would choose which journalists should be allowed and which should not. It also means the Government could withdraw accreditation from journalists whose reporting upsets it.

The second was the recommendation to reintroduce the hated Media Council Bill in Parliament. The Media Council Bill is designed to force statutory regulation on the media. This move ignores the fact that the media houses themselves have made an effort to form a Media Complaints Commission (MCC) to monitor standards. The Swaziland National Association of Journalists, with the support of MISA Swaziland, launched the MCC in March but it was only in November 2007 that the media owners agreed to fund the commission's operations and setting it up as a Trust.

The attack on the *Times Sunday* editor should not be seen in isolation. Earlier in the year the Swazi Parliament had turned up the heat on dissenting journalists by increasing fines on journalists and media houses who publish articles deemed to be critical of or offending against Parliament or MPs. MISA Swaziland called these measures blatant discrimination "likely to scare the already docile Swazi press which cannot freely report on issues due to a litany of restrictions, laws and constant intimidation from authorities."

In June 2007, the Minister for Health and Social Welfare, Njabulo Mabuza, banned health workers from talking to the media in response to a number of stories that had been published highlighting the impact in the kingdom of a critical drug shortage. On June 23, the *Times of Swaziland* experienced the effects of the minister's censorship order when its photographer, Albert Masango, was denied access to the hospital. Hospital security harassed and pulled Masango out of the premises and carried him out to the gate.

The new Swazi constitution has left King Mswati III in overall control of the kingdom and the media are harassed if they try to publish anything critical of him.

In March 2007, the *Times of Swaziland* Group of Newspapers was forced into publishing an abject apology to Swaziland's King Mswati III after the *Times Sunday* ran a news commentary sourced from the international news agency Afrol News which blamed the king for many of the kingdom's economic ills.

Such open criticism of the King is not allowed in Swaziland (not even in so-called independent newspapers like the *Times Sunday*). The publisher was summoned to the Royal Palace and told to issue a public apology or his newspapers would be closed down.

This is not an isolated incident of censorship by the King. Earlier in February 2007, the King's chief executive officer, Bheki Dlamini barred journalists at a press conference from asking the King questions relating to the recently formed Swaziland Police Union, whose formation had shaken the Swazi establishment.

Defamation

People in prominent positions, including Parliamentarians, continue to use the law courts as a way to harass journalists. Often, after the initial threat, no court case actually takes place. However, the threat of action is often enough to quieten journalists. In 2007 the *Times of Swaziland* had one lawsuit from the Minister of Education over an article on HIV/AIDS. The *Swazi Observer* was sued by an MP over a report of an alleged assault. What is common to all the defamation cases is the unrealistically high damages that are claimed.

Legislative Environment

The Swazi Government is keen to give the impression that it is committed to reforming the 30-plus restrictive media laws that currently exist in the kingdom, but media stakeholders doubt its sincerity.

In 2007 the Government introduced seven Parliamentary Bills, including the, Freedom of Information and Protection of Privacy Bill, Swaziland Media Commission Bill, Swaziland Public Broadcasting Corporation Bill, Swaziland Broadcasting Bill and the Books and Newspapers Bill.

All these bills purport to place the interests of the media at their centres. However, going by what they have to offer, the fact that Swaziland is not a democracy was apparently overlooked. These bills have not originated from within Swaziland. A Commonwealth Secretariat consultant was engaged to draft the bills, relying for inspiration on bills that presently exist in democratic countries.

In Swaziland, customary law, which has equal status with the Roman Dutch Common Law and statutes, continues to restrict freedom of the media and freedom of expression. For instance, there are cultural dictates that prevent people from criticizing or questioning those in authority. Although, in theory, the Constitution is supreme over all other laws, unwritten customary law wields enormous power in practice and because Swazi Law and Custom is not codified, it cannot be tested against the Constitution.

Members of a workshop held for media stakeholders to discuss the bills before they were piloted in Parliament saw the unreality of the approach taken by the consultant and concluded that their own input was irrelevant because 'traditional authorities' in the kingdom had not been consulted on the bills' contents. Since nothing happened in Swaziland without the consent of these 'traditional authorities' the bills as presently written had no value, they said.

Access to Information

Information flow continues to be restricted in Swaziland, although in 2007 a draft Freedom of Information and Protection of Privacy Bill was published as one of seven new media-related Bills.

The Times of Swaziland drew a blank in October 2007 when it tried to uncover the cost of a trip made by the Swaziland Prime Minister and his wife to the Bahamas, which apparently was funded by the taxpayer's money. *The Times* was told that the information was 'classified'. *The Times* has also been trying without success to get information about how Government tenders are awarded. It is estimated that about 40 million Rand is lost each month to corruption in Swaziland.

Broadcasting

In June 2007 MISA Swaziland organized a workshop to advocate for the kingdom's state controlled television and radio stations to adopt a system of public service broadcasting (PSB) which would provide greater access to the airwaves to a wide range of people to share information and ideas. Currently, broadcasting in Swaziland is strictly controlled and only news and information that supports the monarchy and Government can be aired.

The workshop was told by the Ministry of Information and Public Service that the kingdom's radio stations were close to implementing a PSB model. Participants heard that the stations' collective mission statement committed them to be fully under PSB by the year 2000. This deadline has already been missed by seven years, which tells the truth about the Government's commitment.

The ruling elites have nothing to gain by giving up their control of the airwaves and will therefore not do so willingly.

Media Diversity

The media environment in Swaziland remains static. The media market is small with broadcasting dominated by the Government. There are two newspaper publishers. The African Echo group owns the *Times of Swaziland* and its companion newspapers. Tibiyo TakaNgwane, a conglomerate effectively controlled by the Swazi Royal family, owns the rest. There is one independently owned national magazine. Circulation figures for newspapers are not publicly available but it is estimated that the *Times of Swaziland* sells about 35 000 copies per day and the *Swazi Observer* between 5 000 and 15 000 per day.

Media fraternity

The media fraternity remains weak in Swaziland. The Swaziland National Association of Journalists is not well respected (even by its members) and its main contribution to Swazi journalism, its code of ethical conduct, remains largely ignored.

The new trade union Media Workers Union of Swaziland made some headway but its membership split over the conduct of a proposed strike at the Times group of newspapers. By the end of the year it was difficult to see whether this union would be able to establish itself as a credible force in the kingdom.

MISA and other non-governmental organisations continued to hold workshops to help develop the skills and knowledge of working journalists, but there remains a general lack of commitment by media houses to training,

There was no significant change in the media environment in 2007. The Constitution, which on paper allows freedom of speech and freedom of the media, has made no appreciable impact. The sad truth is that in Swaziland the traditional authorities effectively call the shots and there is no indication that they want to give up their powers by granting freedom to anyone, the media included.

• **ALERT**

Date: October 28, 2007

Persons: Media in Swaziland

Violation: Victory

On October 28 2007, media owners in Swaziland finally embraced the long-awaited Media Complaints Commission (MCC), a media self-regulatory framework whose operation has been delayed by lack of firm buy-in from the media proprietors.

At a meeting organized by MISA Swaziland and the Swaziland National Association of Journalists (SNAJ), media owners at last unanimously agreed to fund the operations of the MCC.

They committed themselves to fund even initial costs including registering the MCC as a Trust. This will then pave the way for the MCC to be operational within a month.

This positive development seeks to pre-empt a government move to pilot a media Council Bill which aims to introduce a statutory media regulation. Parliament also recently called on government to pilot the Media Council Bill within a month to regulate the media.

• **ALERT**

Date: October 10, 2007

Persons: Mbongeni Mbingo

Violation: Victory

On October 10 2007, *Sunday Times* editor Mbongeni Mbingo was cleared of contempt charges brought against him by the House of Assembly.

The Select Committee found that the editor did not in any way abuse freedom of the press, but was legitimately expressing his journalistic opinion. His right to do so is enshrined in the Constitution of Swaziland under the Bill of Rights, Section 24 “The Protection of Freedom of Expression”.

In July 2007, in the view of some Members of Parliament (MPs), Mbingo had acted in contempt of Parliament when he criticised the Speaker and House of Assembly for blocking a recent motion by another MP, who sought to question an alleged secret move by Cabinet and traditional authorities to amend certain clauses in the Constitution without the knowledge of the nation. A five-member Select Committee was appointed to investigate the editor and his newspaper for alleged contempt of Parliament with a view to taking punitive measures against him or the publication. If found guilty, Mbingo would have faced a maximum of two years in jail or a E4000 (approximately US\$600) fine, according to recently amended Parliament Standing Orders.

July 24, 2007: MISA Swaziland was summoned and appeared before the Select Committee of the Parliament of Swaziland in defence of Mbingo’s right to express himself and make his opinion known.

August 7, 2007: Mbongeni Mbingo appeared before a Parliamentary Select Committee which is seeking to send him to jail for expressing himself in a recently published article.

July 4, 2007: Parliament in Swaziland sought to sanction the Editor of the privately owned *Times of Swaziland* Sunday newspaper for expressing himself about the affairs of the House of Assembly in a recent commentary in his publication.

• **ALERT**

Date: October 12, 2007

Persons: Media in Swaziland

Violation: Legislation (threatening)

The Swazi media faces a new threat following a call by Parliament for government to pilot the contentious Media Council Bill within eight weeks.

A Parliament Select Committee recently constituted to probe *Times Sunday* editor, Mbongeni Mbingo, on charges of contempt of Parliament, whilst clearing Mbingo on the charges, called on government to pilot the Media Council Bill within eight weeks of the adoption of its report by Parliament. The House of Assembly is yet to adopt and debate the report which was tabled

on October 10, 2007. The Select Committee has said in its report: “It is the finding of the committee that media stakeholders have dragged their feet in establishing a self-regulatory Media Complaints Commission that was recommended by the House of Assembly Select Committee in 1997.

- **ALERT**

Date: July 9, 2007

Persons: Bheki Makhubu

Violation: Censored

On July 9 2007, the editor of the privately owned *Nation* magazine, Bheki Makhubu, was sued for E3.5 million [approx. US\$ 500 000] by a Member of Parliament for alleged defamation of character.

The MP, Marwick Khumalo, an ex journalist and also a member of the Pan African Parliament, claims to have been defamed by an article Makhubu wrote and published in the June edition of the *Nation* magazine.

In the article in question Makhubu alleged that Khumalo and two of his business cronies who include a Cabinet Minister tried to win a government pharmaceutical tender through corrupt means. The tender, for the supply of drugs to government hospitals and clinics, was eventually suspended resulting in the near collapse of the health sector as government health services grounded to a halt with the hospitals and clinics unable to provide drugs to patients.

Parliament then instituted a probe which fingered Khumalo as one of those responsible for the crisis through alleged corrupt means.

Makhubu, in his article in the June edition of his magazine, criticised the MP and his business associates for their alleged corrupt behaviour and even dared them to sue him for his opinion.

- **ALERT**

Date: June 24, 2007

Persons: Media in Swaziland, Albert Masango

Violation: Censored

On June 24 2007, the Minister for Health and Social Welfare, Njabulo Mabuza, banned the media from accessing the Mbabane Government Hospital, Swaziland biggest hospital, in search for news.

This followed a series of exposés by the media into alleged perpetual negligence by hospital staff resulting in the death of a young girl the previous week who died after having been bitten by a rabid dog.

The media alleged the child died because of alleged neglect by hospital staff and the shortage of drugs, a perennial problem which has brought huge embarrassment to the Ministry of Health and has further caused the health sector to gradually crumble.

Minister Mabuza issued a government memo to hospital administration to deny the media any access into hospital premises without his permission.

On June 21, 2007, the *Times of Swaziland* newspaper experienced the effects of the Minister’s censorship order when its photographer, Albert Masango, was denied access to the hospital without express approval by the Minister. Hospital security harassed and pulled Masango out of the hospital premises and carried him out to the gate.

Amid Masango’s protestations, the security personnel stressed that in terms of the new media access ‘law’, permission has to be sought from either the Minister or his Principal Secretary before the media could be allowed to cover anything inside the hospital premises.

- **ALERT**

Date: June 19, 2007

Persons: Nation magazine

Violation: Censored

On June 19 2007, a case in which the privately owned *Nation* magazine is being sued for E5 million (approx. US\$ 750,000) by a Mbabane businessman for alleged defamation, resumed at the Swaziland High Court.

However, the case could not proceed as *Nation* raised an objection around supplementary papers filed by the applicant, businessman Kareem Ashraff. Lawyer Bob Sigwane, representing the magazine, objected that the matter should continue because they were served with the supplementary affidavit late.

He said there was no prejudice that would be suffered by applicant if the matter was postponed because this was a delay of their own making.

Advocate Dave Smith, representing Ashraff, agreed that the supplementary papers were submitted to the respondents only the previous day. He said the court had the discretion to permit utilization of the documents if satisfied that the late discovery of the documents would not prejudice the opposition.

The judge then reserved judgement on the objection by the *Nation* magazine. Businessman Ashraff claims to have been defamed by an article published by the *Nation* in November 2005 claiming that the businessman's company, Union Supplies, was "milking" the Swazi government. The company supplies goods to the Swaziland Defence Force.

The *Nation* based its article on a government report published by the Auditor General which accused a number of local companies, including that of Ashraff, of corruption resulting in government losing millions of Emalangeni through inflated invoices and other underhand methods.

• ALERT

Date: May 4, 2007

Persons: Reporter Nhlanhla Mathunjwa

Violation: Beaten

On May 4, 2007 a journalist with the *Times of Swaziland* was assaulted in the line of duty, ironically a day after the celebration of World Press Freedom Day whose theme was the safety of journalists and impunity.

Reporter Nhlanhla Mathunjwa was assaulted whilst at the *Times* offices by an ex Deputy Sheriff, Doctor Myeni, currently in the news for allegedly stalking and harassing a female gospel singer whom he claims is his girlfriend.

Myeni reportedly stormed the *Times* newsroom where he assaulted the reporter. Police had to be called to calm the situation.

Myeni claimed the reporter wrote and published a story about him which he said was not true. The article in contention was published on the same day (May 4) and it claimed Myeni had been arrested for common assault and appeared in court. Myeni argued that he was neither arrested nor ever appeared in court for such an offence.

The article alleged Myeni assaulted a Catholic nun whilst pursuing the gospel artist whom he claims is his girlfriend.

When Myeni stormed the *Times* offices, he evaded security and confronted Mathunjwa in the newsroom who he assaulted after a brief altercation. Mathunjwa's colleagues came to his defence and threatened to assault Myeni if he persisted to harass the reporter. It was then that police had to be called. Police took both Mathunjwa and Myeni to the police station where statements were recorded. Mathunjwa later laid a charge of assault against Myeni and the case was supposed to be heard by the National Court on May 7, 2007.

• ALERT

Date: March 28, 2007

Persons: Media in Swaziland

Violation: Victory (Positive legislation)

On March 28 2007, five new media Bills, including the Freedom of Information (FOI) Bill,

received the approval of media stakeholders as Swaziland took an important step towards improving the country's stifled media landscape.

However, the Bills, with the exception of the Media Commission Bill which was rejected, were approved with amendments. The approved Bills were the Freedom of Information and Protection of Privacy Bill 2007; the Swaziland Broadcasting Bill 2007; the Swaziland Public Broadcasting Corporation Bill 2007; the Books and Newspapers (Amendment) Bill 2007 and the National Film Bill 2007.

At a workshop the government facilitated to allow the media to input into the Bills, the media made several recommendations. One of these was the FOI and the Privacy Bills should be separated. Currently The FOI includes privacy provisions. The media felt including privacy provisions in the FOI Bill will risk restricting access to information.

The Bills are yet to be taken to other sectors of the Swazi society for wider consultations. The final drafts will be tabled before a national stakeholder conference which would be the final lap of consultations before the Bills are piloted in parliament.

The Ministry of Public Service and Information, which is driving the process of the Bills with the assistance of Commonwealth experts, aims to pilot at least one of the Bills in Parliament this year. Stakeholders currently feel the FOI Bill should receive priority.

• ALERT

Date: March 22, 2007

Persons: Paul Loffler, Times of Swaziland newspaper, Ken Rowley

Violation: Threatened

On March 22 2007, the *Times of Swaziland* newspaper was forced to retract an article that criticised the King. The freelance features editor who published the article has been fired.

In a worst form of harassment, the publisher, Paul Loffler, was summoned to the palace by the King on March 19, 2007, where the newspaper was reportedly threatened with closure. As a compromise, the newspaper agreed to retract the 'offending' article and dismiss the features editor.

The article, published on March 18, 2007, was sourced from an International Monetary Fund (IMF) economic report on Swaziland which was published on the internet.

The King was reportedly angered by certain phrases used in the article which referred to him as authoritarian, was a big spender who had a large family. He believed such phrases undermined his status.

In its editorial on March 22, 2007, the *Times* said in part: 'The *Times of Swaziland* group of newspapers wishes to unreservedly apologise to His Majesty King Mswati III for an article that appeared in the Times Sunday of March 18, 2007.

"The article was disparaging to the person of His Majesty in its content, greatly embarrassed him and should not have passed editorial scrutiny.

"Our newspapers take great care with matters regarding the Monarch, being conscious always of the unbreakable link of the King with the Nation. What occurred is reprehensible and we will renew our vigilance in editorial matters with utmost vigour."

Times Managing Editor, Martin Dlamini, told MISA Swaziland that they had to take an internal decision to apologise to the King to avoid any further trouble. He said they would publish the same apology again on March 25.

On the dismissed features editor, Dlamini said they had to take a management decision to stop the editor, Ken Rowley, from freelancing for the newspaper. Also affected is Rowley's popular weekly column which has also been stopped.

• ALERT

Date: March 7, 2007

Persons: Times of Swaziland newspaper

Violation: Victory

On March 7 2007, the High Court of Swaziland dismissed a E750 000 (approx. US\$100 000) lawsuit against the *Times of Swaziland* newspaper filed by the Minister for Education, Themba Msibi. The case was dismissed on grounds that the wrong parties were cited in the particulars of claim.

Msibi, ex-Minister for Public Service and Information, was suing the *Times* for alleged defamation. This followed a commentary by the editor of the *Swazi News*, a weekend edition under the *Times* stable, published on November 24, 2004.

The Minister claimed in the court papers that the contents of the article defamed him; hence, his demand for E750 000 as compensation.

Acting Chief Justice, Jacobus Annandale, ruled that the wrong people were cited in the particulars of claim and therefore he dismissed the case with costs. In his papers the Minister had cited the Times of Swaziland (PTY) Ltd, the Managing Editor Martin Dlamini and African Echo, which owns the Times.

Upon learning that the wrong parties were cited, the Minister's lawyer applied for the postponement of the case to enable them to amend their papers. However, the lawyer representing the *Times* objected. The judge then dismissed the case with costs.

The Minister's attorney has said they will file new papers with the correct citations soon to proceed with their claim.

- **ALERT**

Date: March 7, 2007

Persons: Times of Swaziland

Violation: Censored

On March 7, 2007, the *Times of Swaziland*, Swaziland's only independent newspaper, received a letter of demand for E3 million (approx. US \$430 000) from the Minister for Health and Social Welfare for alleged defamation.

This follows shortly after another lawsuit against the newspaper in which a E750 000 (approx. US \$100 000) claim by The Minister for Education was dismissed by the High Court of Swaziland.

Minister Mabuza alleges in a letter of demand that he was defamed in an article published by the *Times* on December 22, 2006, in which he was said to have been involved in an HIV/Aids scam.

He claimed the article was defamatory to his person in that, among other things, he was said to have been directly involved in a scam which involved a E700 million fake AIDS cure bid. He said the word 'scam' denoted that he had a fraudulent intent.

The Minister further claimed that the article highlighted that he was plotting to involve Swazi citizens as guinea pigs in experiments to find a cure for AIDS using goat serum.

"Publication of the foregoing carries a further innuendo and sting that the Minister in his capacity as custodian of the Ministry of Health and Social Welfare was acting in breach of his duty as health and social welfare minister and to the detriment of the Swazis generally," states the letter of demand.

He said his dignity and reputation was seriously impaired and tainted by the report.

- **ALERT**

Date: March 2, 2007

Persons: Times of Swaziland Managing Editor Martin Dlamini; reporter Nhlanhla Mathunjwa

Violation: Threatened

On March 2, 2007, controversial church pastor Justice Dlamini threatened two journalists with death through divine intervention.

Dlamini shocked a church gathering, which also included Cabinet Ministers, when he declared from the pulpit that he was praying for the death of two journalists, *Times of Swaziland*

Managing Editor Martin Dlamini and reporter Nhlanhla Mathunjwa, whom he claims wrote badly about him.

This followed a story published by the *Times* of February 27, 2007, in which the pastor was said to have been involved in a squabble over a church vehicle with one of his subordinate pastors. Pastor Dlamini claimed the story lowered his dignity and said he has prayed to God to remove the two journalists from the face of the earth “to teach the media a lesson”. He said this would also be a lesson to other journalists not to write ‘badly’ about church ministers.

The pastor’s threats have received widespread condemnation from the church and the Cabinet Ministers who were present during the sermon. The *Times* newspaper also ran a front-page editorial on March 5, 2007, condemning the pastor’s threats.

Times Managing Editor Martin Dlamini said in a separate interview that he was not scared of the threats as he also believed in God and that God will protect him.

• **ALERT**

Date: February 28, 2007

Persons: Swazi Observer

Violation: Censored

The semi-private newspaper, the *Swazi Observer*, has been sued for E1 million (approx. US \$143 000) by a Member of Parliament for alleged defamation.

In court papers the MP, Maqhawe Mavuso, has claimed that the newspaper defamed him by publishing a story to the effect that he assaulted an ex Clerk to Parliament, Ben Zwane, when this never happened.

He said the context of the article, published on June 4, 2005, was wrongful and defamatory of him in that it was intended and was understood by readers of the newspaper to suggest that he had no respect for authority, was unethical, unprincipled and had no appreciation to follow laid down procedures and regulations.

Mavuso further alleges that as a result of the defamation, his dignity had been damaged and alleges to have suffered damages in the amount of E1 million.

In defence, the *Observer* denies that the article was wrongful and defamatory of Mavuso. The newspaper further states that the publication of the article did not lower Mavuso in the estimation of right thinking members of society.

“The article was published on a privileged occasion by the defendant in discharge of its duty to inform the public of newsworthy events, characters and conduct of a political nature, which has a corresponding duty to receive or be informed of such newsworthy items,” the newspaper states.

It further claims that it took reasonable steps to verify information by seeking comment from Mavuso who neither denied nor confirmed the allegations despite the fact that he and the then Clerk to Parliament had met the Speaker to resolve their dispute.

The newspaper said its evaluation of the facts and the response from the parties who commented, justified the publication of the article. The tone of the article, the *Observer* argues, was moderate and they were neither reckless nor negligent.

• **ALERT**

Date: February 23, 2007

Persons: Media in Swaziland

Violation: Censored

On February 23 2007, one of King Mswati III’s right-hand men heavily censored the media during a press conference which the King gave on his return from a European trip. This latest incident comes in the wake of several appeals by MISA Swaziland, to Swazi traditional authorities to desist from attempts to censor and intimidate journalists.

On February 23, 2007, Bheki Dlamini, the Chief Executive Officer in the King’s office, barred journalists from asking the King any questions relating to a recently-formed Swaziland Police

Union whose formation has shaken the establishment.

Young and progressive police officers, much against expectations from senior police and the traditionalist camp, have exploited a constitutional clause to establish the police union. They have openly challenged their seniors who have relied on an age-old Police Act to try and stop the union. But a recent ruling by the High Court that the Police Act was inconsistent with the constitution has strengthened the resolve of the young officers to push their agenda forward. Evidently, because of the interesting nature of the developments, journalists were likely to seize the opportunity to hear the views of the King on the issue.

But Dlamini, regarding the matter as too sensitive for the King to address, warned journalists against asking the King anything relating to the police union. Failure to oblige would result in their removal from the press conference, he warned. Whilst this shocked the journalists, they grudgingly obliged.

On February 26, the *Times of Swaziland* ran an editorial challenging the continued censorship, intimidation, and harassment of the media. The newspaper argued that the King was old enough to decide on his own whether or not to answer a journalist's question and did not need anyone in his court to defend or decide what is good or bad for him.

• **ALERT**

Date: January 26, 2007

Persons: Media in Swaziland

Violation: Legislation (threatening legislation)

The Swazi Parliament has increased fines on journalists and media houses broadcasting or publishing articles deemed to be critical or offending against Parliament or MPs.

The fines, viewed to be quite substantial and a sign of heavy-handedness by Parliament on the media, have been increased from E1 000 (approx. US \$143) to E4 000 (approx US \$570).

The new fines are contained in the revised parliament Standing Orders for 2007 which were recently published in a legal notice.

The Standing Orders make it mandatory for journalists to be fined sums not exceeding E4 000 for offending Parliament or MPs.

Section 195 of the Standing Orders in the legal notice dated January 26, 2007, permit any MP who has a query against a newspaper or any media house to produce a copy in which the article was published and to be also prepared to give the name of the printer or publisher and, also submit a substantive motion declaring the person in question to have been guilty of contempt of Parliament.

The Section states further: "The fines leviable under any Act providing for the privileges of Parliament, for any offence mentioned in that Act as well as for each offence set forth in any Standing Order of any resolution of the House, shall in every case where a penalty is not stipulated in that Act or where in terms of that Act this House is required to determine the penalty, be determined by an order or resolution of the House, but such fine shall in no case exceed the sum of E4 000. All fines shall be paid to the Clerk for transmission to the Accountant General on account of the Consolidated Fund."

National Overview

By Lawrence Kilimwiko

Media consultant



Tanzania

The year 2007 was a very eventful one for Tanzania and in particular for the media. The year came to a close with yet another delay in the introduction of the Right to Information Bill in the Parliament and a disappointing decision of acquittal of prison officers who were charged with offences under the penal code for beating two journalists, Christopher Kidanka and Mpoki Bukuku in 2005. After a series of consultations, media stakeholders had submitted the Right to Information Bill to the Government in August hoping it would meet its approval. But it was not to be. Now, it will probably be presented in Parliament in April 2008. On the journalists assault case, the court ruled in favour of the officials on the grounds that the prosecution was not explicit on the identity of the people charged. The year also witnessed the launching of the debate on the Media Services Bill in November.

Although many more new institutions joined the industry in 2007, ownership remained vulnerable to manipulations by authorities and those who support them with adverts. The Editors Forum was resurrected after six years of inactivity, thanks to personal efforts of IPP Media Executive Chairperson Reginald Mengi. The Editors' Forum of Tanzania (EFOTA) and Media Owners Association of Tanzania (MOAT) were founded in 2001. MOAT has since operated on a strong note but EFOTA went into the doldrums for lack of financial support.

The Government did not demonstrate any support for manpower development, which it had promised during the launch of an initiative to raise funds for female journalists by Tanzania Media Women Association (TAMWA), two years ago. Journalists in private universities are yet to have firm commitments of Government's financial support apart from the blanket assistance given through the Higher Learning Students' Loans Board. Development partners contribution in this regard was limited to week-long 'seminars'. The celebrated investigative journalism courses under the United States Agency for International Development support require a concrete needs assessment exercise across media outlets.

Media ownership remains vulnerable to manipulation by the authorities. Media entrepreneurs have single-handedly embarked on investing in an industry that was a monopoly of the state. Most of them started off undercapitalised hoping a friendly environment would enable them recoup their outlays. Several years later, media owners still have to tread carefully between exhibiting professionalism in the course of their duties and loyalty to authorities. The liberalisation of the media in Tanzania as a process has never been backed by appropriate financial infrastructure. This leaves control of national newspapers, radio and television in the hands of powerful and politically partisan proprietors.

Under such conditions, efforts to make journalism more professional face an uphill climb.

Media-government relationship

The media remained captive to a ploy involving its partnership with the state. The Government continues to have an upper hand through inclusion of journalists in Presidential entourages overseas and tours by senior Government officials around the country. Many journalists jump on the 'privileges' because their organizations cannot meet such expenses. As earlier, the relationship is still characterised by professional compromise and 'captive friendship' with authorities.

Media outlets have treaded with extreme care in their coverage of the President and the Prime Minister lest they sever the cordial relations that exist between owners and those in high places. Several interesting incidents were poorly covered or went almost unreported in the media during the year. When reports of dubious dealings involving cabinet ministers and other government officials came to light mid-year, the public expected swift action by the President to discipline the culprits. But nothing happened. The media did not follow through. Similarly, the media was

again silent on the issue of the showdown exhibited in Parliament by a member of the opposition and a cabinet minister followed by public outcry for action to allow independent investigations. So was the case in the stories of misuse of funds by Bank of Tanzania. Despite revealing evidence on abuse of power and mismanagement in the country's Central Bank, no action was taken until an audit was recommended towards the end of the year. Such stories should have made headlines in the local press but none dared raise a voice, except a few tabloids.

The appointment of a once vocal and outspoken media practitioner as Director of Communications in the President's office attracted some attention. The move has been defended by one Government official as establishing cordial relations between the two. It was claimed that it is healthy if a member of the media is called to serve his country in any capacity.

Although in 2003 President Mkapa had given a green light for Government ministries and departments to freely provide information to the media, there is still difficulty to penetrate the thick wall of secrecy. The pledge to reverse this trend by President Kikwete has not taken a concrete shape.

Towards the end of the year, the President directed the ministries to conduct press briefings on a regular basis to allow the public follow developments in their respective areas. This directive on 'meet the media' is believed to be an attempt towards closing the gap. But much leaves to be seen on how the arrangement can provide access to the media to uncover abuses and mismanagement.

The lack of appropriately trained media practitioners is of concern to the Government as it fears that information that is revealed might get distorted. It admits that even the Government lacks human resources capacity for information dissemination. As such the government would want to give training top priority.

Legal environment

Discussions on the provisions in the Freedom of Information Bill that was drafted two years ago continued during the year under review. As mentioned above the bill is currently awaiting Government approval. The objective of this proposed act is to provide public access to information in possession of state authorities and private bodies. It aims to promote and protect the privacy of individuals and their reputation, regulate media operations and promote independent, pluralistic broadcasting, provide for the protection of journalists' confidential sources of information, as well as for the establishment of a Media Standards Board with powers to accredit journalists, set entrance qualifications, enforce ethical standards and handle consumer complaints about the media.

When this new bill is passed, current media laws such as the Newspapers Act (1976), National Security Act (1970), Tanzania Communications Regulatory Authority Act (1976) and the Penal Code (1945) will become extensively amended or repealed and brought under a single media law. The Constitution would accordingly be amended to accommodate these changes.

Passing the bill into law also means 'ineffective' voluntary bodies like the Media Council of Tanzania will pave the way for a statutory body with powers to enforce compliance.

Another significant development was the drafting of the Media Services Bill. The Coalition Committee made of institutions including Media Council of Tanzania, MISA Tanzania Chapter, Tanzania Media Women Association, Legal and Human Right Centre and Tanganyika Law

Society continued to meet for various strategic decisions. Such meetings culminated in the drafting of this bill.

The Media Services Bill 2008 was officially launched for debate on November 23, 2007. Further consultations were slated for early 2008 for more input from the public and stakeholders.

Both these bills are likely to be presented in Parliament in 2008.

Constitution

No changes were made to the Constitution in 2007. Once the Right to Information Bill is passed in Parliament in 2008, the Constitution might need amendments to accommodate the proposed guarantee freedom of expression, including freedom of scientific research.

Other legislation

The Prevention and Combating of Corruption Bureau (PCCB) Act in 2007 *inter alia* provided for a clause prohibiting journalists and other sections of the media to report and publish corruption cases under investigation. The Media Owners Association and other stakeholders strongly objected to this legislation, and so far little has been made to amend the distasteful clause.

Defamation

Defamation is contained in the Newspaper Act of 1976. Current consultations among stakeholders suggest that defamation should be dealt with separately from media laws.

However, the Media Council of Tanzania, continued with its adjudication of different cases within the media fraternity. During the year under review, eight cases were filed by members of the public against various media institutions. They ranged from defamation and plagiarism to right of reply. The Council's Ethics Committee met twice to deliberate and decide on three complaints that were referred to it.

A photo journalist with Mwananchi Publications, Mpoki Bukuku, sought remedies through the Council when Willy Edward of Business Times Limited published photographs by the former in *Dar Leo* and *Majira* on the front page without permission or crediting them. The matter was adjudicated by requiring *Dar Leo* and *Majira* to publish an apology on the first page for publishing Bukuku's photograph without his permission. Edward, on the other hand, was asked to write a personal letter of apology to Mr. Bukuku for taking his photographs without permission and causing them to be published under his by-line.

Business Times Limited publishers of *Dar Leo* and *Majira* were asked to negotiate with Mwananchi Publications limited publishers of Mwananchi and The Citizen on compensation, and inform the Council accordingly. The respondents complied.

One tabloid was brought before the council for defaming Mr. Taji Liundi, a Commissioner with Tanzania Commission for AIDS (TACAIDS). Mr Liundi was complaining against a story written in the Kiu newspaper of October 26-28 with the headline "Taji Liundi ni Fuska" (Liundi is the 'flirting' type).

The story in Kiu alleged that the complainant had been teaching girls as young as 14 on sexual matters in public. The story quoted a single source, a woman who claimed that her child attended one of Mr. Liundi's 'tutorials'. The newspaper thus condemned the complainant for his immoral

misconduct and suggested that the police arrest him and that he be relieved of his duties as a Commissioner of TACAIDS as he was not fit to be in that position because of his conduct.

Mr. Liundi countered that the story was untrue and highly defamatory and he had been highly distressed and that the public was misled and confused by the story. Mr. Liundi said that Kiu did not even give him a right of reply.

Despite a letter by the secretariat to the Editor of Kiu informing him of the complaint and requesting his cooperation in resolving the matter by providing the council with relevant information and explanations about the story, no response has come from it.

Another case involved a member of the ruling party who, a Kiswahili daily reported, had to appear before the Prevention and Combating of Corruption Bureau (PCCB) over allegations of abuse of power, when in fact, the official had never faced such interrogation. The matter was resolved amicably

Media violations

There have been a number of media violations over the year. Not all of them have been recorded, but those recorded include the assault of a female journalist in Tanga region by police officers in an incident in April 2007. The journalist was beaten and seriously injured. She was paralysed for some time. Journalists had a further share of their fate when they were assaulted by the State Guards in Arusha. A journalist who was allegedly drunk at the time was beaten by the guards after parking his car near the state house at night. There is no proof of what exactly happened before the assault.

As mentioned earlier in this report, the most disappointing incident was the acquittal of the accused Prison warders by the Kisutu Resident Magistrates Court.

Death threats to a number of journalists, mostly involved in investigative journalism, were reported. Some of these threats were actually carried out as journalists were assaulted or had their properties damaged. Among those who received threats were Baraka Islam of *This Day* and Saed Kubebea of *MwanaHALISI*.

Access to information

The Government opened more avenues for sharing information with the public through the website www.wananchi.go.tz. The website aims to provide easy access to people for information from authorities. But because of poor human resources capacity the government is facing problems in its implementation.

The Government has made other attempts like those mentioned under Media-Government relationship to provide wider access to information. But its success is yet to be tested. The Code of Ethics and Conduct for Public Service issued in June 1999 by the Civil Service Commission, prohibiting public servants from communicating with the media on issues related to work or official policy without due permission is still in force. So far even a cabinet minister cannot make an 'unauthorized' statement.

The government, however, has made assurances that it will install a mechanism that provides for citizens to demand information that is useful to them. The mechanism would also provide for appeals procedures in the event citizens are denied information they demand or request.

Media diversity and plurality

The number of daily newspapers and weeklies in circulation continued to increase, as have radio stations and television stations. The Government added *Habari Leo*, a Kiswahili daily to its existing titles namely - *Daily News* and *Sunday News*.

The concern is that the control of the private media by a few proprietors possesses a greater threat to press freedom than state regulators. No major changes have taken place this year on the ownership issues.

A Cabinet Minister owns 50 per cent shares in two radio stations, another Minister in the Zanzibar Government owns Coconut FM, while a Cabinet Minister responsible for Information in the Union Government owns Zenj FM, also in Zanzibar.

The IPP Media Group has three radio and three television stations, 13 newspapers and one news agency. Sahara Communications Ltd has two radio stations, one television station and one newspaper. African Media Group owns five televisions and one radio station. Business Times Limited owns eight newspapers and one radio station.

The New Habari Corporation (previously Habari Corporation), belongs to Rostam Aziz, a Member of Parliament (MP) and treasurer of the ruling Chama cha Mapinduzi and it owns five newspapers. Aziz also owns 40 per cent shares in the Mwananchi Communication Company, which publishes Mwananchi, Mwanaspoti and the Citizens newspapers.

The ruling party owns Radio Uhuru FM and two newspapers. The government owns Tanzania National Television (TVT), Radio Tanzania Dar-es-Salaam (RTD) and the three newspapers.

Print

At the end of 2007, the following newspapers and magazines were published:

Newspaper	Publisher	Distribution	Frequency
Alasiri	IPP	Dar es salaam	Daily (Evening)
Dar Leo	Business Times Limited(BTL)	Dar es salaam	Daily (Evening)
The African	New Habari Corporation	Dar es salaam	Daily
The Citizen	Mwananchi Communication Limited(MCL)	National	Daily
Daily News	Tanzania Standard Newspapers	National	Daily
The Guardian	IPP	National	Daily
This Day	IPP	National	Daily
Nipashe	IPP	National	Daily

Newspaper	Publisher	Distribution	Frequency
Majira	Business Times Limited(BTL)	National	Daily
Mwananchi	Mwannchi Communication Limited(MCL)	National	Daily
Mtanzania	New Habari Corporation	National	Daily
Tanzania Daima	Free Media Limited	National	Daily
Uhuru	Uhuru Publications	National	Daily
Rai	New Habari Corporation	National	Weekly
Sunday Observer	IPP	National	Weekly
Business Times	Business Times Limited	National	Weekly
Guardian on Sunday	The Guardian Limited	National	Weekly
Habari Leo	Tanganyika Standard Newspapers Limited	National	Daily

Broadcasting

The Tanzania Broadcasting Services was given a facelift through the recruitment of experienced ex-BBC staff to strengthen its ranks. The changes have also come with changes of name from TUT to Tanzania Broadcasting Services – TBC. At the end of 2007, the following broadcasting stations were on air.

Radio	Owner	Classification	Coverage
Radio Tanzania Dar es Salaam	Tanzania Government	State	National
Sauti ya Tanzania Zanzibar	Zanzibar Government	State	National
Radio Free Africa	Diallo/Nyalla Investments	Private Commercial	National
Radio One	Mengi&Family Trust	Private Commercial	National
Radio East Africa	Mengi&Family Trust	Private Commercial	National

Radio	Owner	Classification	Coverage
Radio Sky FM	Mengi& Family Trust	Private Commercial	National
Radio Saut	St.Augustine University	Community	Mwanza
Radio Kiss FM	Diallo/Nyalla Investments	Private Commercial	Mwanza
Radio Faraja	Catholic Archdiocese Shinyanga	Church Affiliate	Shinyanga
Radio Ukweli	Catholic Archdiocese Morogoro	Church Affiliate	Morogoro
Orkonorei Radio	Pastoralists Community Groups	Community	Simanjiro District
Radio Country	Alex Mwinuka&Others	Private Commercial	Iringa
Radio Imam	Islamic Foundation	Islam Affiliate	Dar es Salaam
Radio Sauti yaQuraan	Bakwata/World Muslim Council	Islam Affiliate	Dar es Salaam
Abood Radio	Abood Aziz	Private Commercial	Morogoro
Business Times Radio	Nyaulawa/Mbuguni	Private Commercial	Dar es Salaam
Voice of Tabora	Aden Rage/Shah Patel	Private Commercial	Tabora
Radio Kwizera	Jesuit Refugee Service Diocese	Community	Ngara District
Clouds FM	Joseph Kusaga&Others	Private Commercial	Dar es Salaam
Radio Tumaini	Catholic Archdiocese Dar es Salaam	Church Affiliate	Dar es Salaam
Radio Sauti ya Injili	Evangelical Lutheran Church	Church Affiliate	National
Radio Uhuru	Uhuru Publication	Political Party Affiliate	Dar es Salaam
Radio Chemichemi	Catholic Archdiocese Sumbawanga	Church Affiliate	Sumbawanga
Radio Maria	Catholic Archdiocese Songea	Church Affiliate	Songea
Sibuka FM Radio	Links Training Centre	Private	Maswa
Wapo Radio FM	Wapo Mission	Church Affiliate	Dar es Salaam

Television

Television	Owner	Classification	Coverage
Coastal Television Network	African Media Group	Private commercial	Dar es Salaam
CsC Television	African Media Group	Private commercial	Dar es Salaam
Dar es Salaam Television	African Media Group	Private commercial	National
Channel Ten	African Media Group	Private commercial	National
East African Television	Mengi & Family Trust	Private commercial	East Africa
Independent Television	Mengi & Family Trust	Private commercial	National
Pulse Television	Mengi & Family Trust	Private commercial	National
Star Television	Diallo/Nyalla	Private commercial	National
Agape Television	World Agape Missionaries	Church Affiliate	Dar es salaam
Iringa Municipal Television	Iringa Municipal Director	Public	Iringa Municipal
Iramba District Council Television	Iramba District Director	Public	Iramba District
Masasi District Council Television	Masasi District Director	Public	Masasi Township
Mbeya City Council	Mbeya City Director	Public	Mbeya City
Sokoine University Television	Sokoine University	Community	University
Njombe District Council Television	Njombe Director	Public	Njombe Town
Songea Town Council Television	Songea Town Director	Public	Songea Town

Media Fraternity

MOAT, TAMWA, MISA Tanzania Chapter and Journalist Environment Association of Tanzania (JET) remained as the stable media associations over the years. Press clubs under the Tanzania Union of Press Clubs under tutelage of the Media Council of Tanzania also remain active. The Tanzanian Journalists Association (TAJA) has made a comeback after years of low performance. As need for specialization increases, the once celebrated Business Journalists Association (BJA) has gone into the doldrums.

The year saw the re-emergence of the Editors Forum, and the Association of Editors and Senior Journalists and Nile Basin Media Network, an association that stands to promote the interests of regional integration of the riparian countries.

The Government says it encourages associations because it wants to work with a strong media. Unfortunately, the Government notes, most associations are donor driven. It was therefore, the view of the Government that media associations should cut themselves into smaller units and build strong coalitions to pursue their interests with one forceful voice.

The media fraternity remained underdeveloped in terms of poor remuneration and limited opportunities of manpower development. Media owners delight in employing correspondents so that they can manipulate them for meagre pay. With no training package in place, the gap for skilled manpower will widen.

Media institutions are mushrooming. Pronounced, manpower development remains a key challenge that has to be addressed for a considerable duration.

Conclusion

The media in Tanzania has a number of challenges to overcome as a matter of urgency. Manpower development remains key, but support of investment efforts by media owners needs special attention. Facilities to support media equipment, investigative journalism and other specializations are necessary if the media in the country has to catch up with those in neighbouring countries and the SADC region.

Media owners should have clearly defined contracts for media practitioners and refrain from holding them as correspondents indefinitely. This is where the Government should come in and invest heavily to train its people. Accompanying the President is vital, but the costs should be met by their institutions. Cases where the government meets the costs of journalists should be equally exposed as acts of corruption.

We are full of hope for the future. Hope of a new legislation and of Government support for training and manpower development.

• **ALERT**

Date: April 11, 2007

Persons: Anna Makange

Violation: Beaten

On April 11 2007, police officers in Tanzania's Tanga region attacked and seriously injured freelance journalist, Anna Makange.

Makange, who is based in Tanga and a member of Tanga Press Club, was forced to undertake two weeks bed rest unconsciously following the attack by members of the Field Force Unit (FFU), a police department in Pongwe, within Tanga town.

The attack occurred a few hours after a road accident that claimed the life of one child. Residents of Pongwe had decided to block the road and not to remove the deceased's body from the road. They were waiting for any public leader to go and witness the event. Anna Makange traveled to the scene of the accident to report on the incident.

After interviewing the Pongwe residents, the journalists decided to visit Anna's parents who also reside in Pongwe. On her way to Tanga town from Pongwe, Anna was attacked by FFU policemen who beat her repeatedly. The reason for the police's actions remain unknown.

Anna Makange is undergoing medical treatment at a government hospital. After examination, it was observed that Anna had developed problems in her spinal cord, thus causing her serious pains around her abdomen. She has since sought legal and medical support to maintain her health.

• **ALERT**

Date: March 29, 2007

Persons: Media in Tanzania

Violation: Legislation (positive legislation)

On March 29 2007, the government of Tanzania published the draft Media Services Bill of Tanzania. This Bill was published is expected to be introduced in the Tanzanian Parliament in later in the year.

Analysts welcomed certain aspects of the Bill, such as the proposed new defamation regime and provisions on the protection of journalists' confidential sources. Concern was however expressed that other parts are unnecessarily restrictive, particularly the proposed regime for the licensing of all journalists, and the registration regime for the media. These are said to go far beyond what international law accepts as legitimate, and will hinder rather than help the free flow of information in Tanzania.

International free expression watchdog, Article 19, made the following recommendations:

- The proposal that all journalists should hold a recognised professional or academic qualification and be licensed by a central body violates international law and should be removed from the draft Bill;
- The need for the proposed registration for the media regime should be reconsidered, particularly in light of the fact that most if not all mass media are already registered under Tanzanian company law. If a registration regime is nevertheless found to be necessary, it should apply to true mass media outlets only, be of a minimal nature and be administered by an independent body;
- The government should give self-regulation a chance to succeed for the print media at least, and refrain from introducing a statutory regime;
- The proposal that all publishers should lodge a cash bond should be abandoned.

• **ALERT**

Date: March 16, 2007

Persons: Elders in Mbeya region

Violation: Others

A group of elders in Mbeya region, southern part of Tanzania mainland, that has been reported

to engage in collecting and submitting information on crimes in the region to the Inspector General of Police (IGP), Said Mwema, and Director of Criminal Investigations (DCI), Robert Manumba, is endangered.

The group faced the wrath of the Regional Commissioner for Mbeya, Mr. John Mwakipesile, who summoned representatives of the group to his office and warned them against continuing their activities of informing Mwema.

The Commissioner alleged that the acts of disclosing information by the said elders without following the available bureaucracy damages the credibility of the region especially when the information is disclosed before undertaking sufficient investigation.

The Commissioner issued the warning to the elders following information that was reported by them to DCI on crimes in the region, which information had included some policemen and public officials in criminal acts.

On his part, the Commissioner alleged that regional authorities did not recognise the said group of elders.

The elders were reporting crimes to the respective authorities following directives by President Jakaya Kikwete who had asked citizens to collaborate with their government in combating crimes by reporting such acts to him personally or to the respective leaders.

The group is said to have 160,000 elders in Mbeya region.

• **ALERT**

Date: February 6, 2007

Persons: HakiElimu

Violation: Victory

The government of Tanzania has removed bans placed on HakiElimu, a civil society organisation working on the transformation of public education in Tanzania, following a meeting between the Prime Minister of Tanzania, various ministers of the Government and HakiElimu on February 6, 2007.

The ban followed the HakiElimu's publishing, in August 2005, of a report criticising government primary education reform efforts. The Ministry of Education and Culture accused HakiElimu of "disparaging the image of our education system and the teaching profession of our country through [the] media."

HakiElimu will be able to continue with its activities without undue restrictions.

National overview

By Godfrey Malama

Media consultant/researcher



Zambia

Nearly 17 years after the re-introduction of political pluralism in Zambia, the media landscape is still fraught with numerous legal pitfalls which impact negatively on press freedom and freedom of expression in general. The reason is simple: Although the country embraced multi-party democracy in 1991, there have been no concomitant changes to the legal regime to buttress the new democratic culture.

In order to facilitate the transition from single party rule to multi-party democracy, the then Republican president Dr. Kenneth Kaunda succumbed to public pressure and allowed the Parliament to remove Article Four of the Republican Constitution, which proscribed the formation of opposition political parties. That change, effected in December 1990, still remains one of the most significant legal reforms undertaken so far.

Following the historic multi-party elections in 1991, the public had expected the new government to repeal repressive laws that had characterized the single-party era of 18 years. But so far, only two progressive pieces of legislation aimed at enhancing media freedom have been enacted - the Zambia National Broadcasting Corporation (ZNBC) Amendment Act (number 20) of 2002 and the Independent Broadcasting Authority (IBA) Amendment Act (number 17) of 2002. Worst still, these Acts are yet to be implemented fully. The process was delayed by a long legal battle between the Government and media over interpretation of the key provision on whether or not the Minister of Information should continue to have a say in the selection of Board members of the IBA and ZNBC. The Supreme Court ruled in favour of the Government. The Minister has yet to take the proposed names of Board members to Parliament for ratification. After ratification, the Boards are expected to operate independently, thereby enhancing the degree of editorial independence to be enjoyed by the national broadcaster.

The MMD government has procrastinated constitutional reforms, resulting in no significant changes to the country's legal regime over the last 16 years. Against this backdrop, the media faces daunting challenges in its operations. Journalists are subjected to crude threats and other forms of intimidation mainly by the ruling political elite determined to silence all critical voices who challenge the status quo.

However, as the year 2007 drew to a close, the constitutional reform process appeared to gather momentum with the commencement of sittings of the National Constitutional Conference (NCC) in December. The NCC will scrutinize and debate the report and draft constitution of the Constitution Review Commission (CRC) and adopt the final recommendations to be enacted into law by the Parliament.

If partisan politicking does not polarize the constitutional conference, and the delegates refrain from trivializing the serious issues, the NCC could change the course of the whole reform process that has in the past been derailed by political expediency.

Media-Government Relationship

As in previous years, acrimony continued to characterize the media-Government relationship in 2007, with the latter intensifying its attacks on media institutions, particularly those that are privately owned.

By far the most damning statement was made by the Minister of Information and Broadcasting Services, Mike Mulongoti, in his address to trainee journalists at the Post newspaper, the only privately-owned national daily. In his speech on September 10, 2007, Mulongoti said it would be "unacceptable" for journalists working for public media to criticise the Government. Mulongoti, who has since been criticised by the media and civil society for his statement, said:

“Journalists at the *Times of Zambia* and *Zambia Daily Mail* also have wives and children, they have jobs to protect, don’t forget that. Before they write anything against me, they will think, ‘what will the minister do? Will I be in the office tomorrow?’”

This was a particularly damning indictment against the Government, which has adopted a zero-tolerance approach to corruption. Its own Information Minister, who doubles as chief government spokesperson, can exhibit such ignorance about the role of the media in the fight against corruption. Even more embarrassing is the fact that Mulongoti’s statement contradicts his own Ministry’s mission statement, which states that the Ministry seeks “to promote and facilitate the growth of a sustainable media industry capable of enhancing free flow of information and freedom of expression for national development”. Fr. Frank Bwalya, the then MISA Zambia Chairperson, described Mulongoti’s statement as “retrogressive” and said it was reminiscent of the mentality of politicians during the one-party era.

But this was not the only negative action against the media. Several community radio stations were subjected to harassment of different forms by State agents.

On May 04, 2007, then Southern province Minister Joseph Mulyata, who has since been sacked and indicted for alleged corruption, threatened Sky FM, a commercial radio station in Monze, about 200 km’s south of Lusaka, with closure for what he termed “unethical and unprofessional conduct.” The threat came after the Radio featured Evangelical fellowship of Zambia (EFZ) Executive Director Bishop Paul Mususu who was discussing Zambia’s constitution-making process. Mulyata, in his address to heads of Government departments in Monze, warned that the station’s broadcasting licence would be withdrawn if it continued to air what he termed as “anti-government” views. Since Mulyata was neither rebuked nor censured by higher authorities for his actions, it can safely be assumed his threat had the tacit approval of government.

Information Minister, Mulongoti, was on the offensive again. He threatened to revoke the operating licence of Petauke Explorers, a local commercial radio station in Petauke in the Eastern province of Zambia, for hosting Michael Sata, the vocal and boisterous leader of Zambia’s largest opposition party, the Patriotic Front. Opposition leaders and members of the ruling MMD were in the area to campaign for their respective candidates in a parliamentary by-election which took place on June 05, 2007. Although the radio station had extended invitations to the ruling party as well as opposition, the MMD declined to feature on the programme. The proprietor issued a profuse apology to the Minister and suspended the station manager to stave off further sanctions from the state, including possible withdrawal of his licence.

In yet another brazen show of force, police in Lusaka blocked Q-FM, a private radio station in the capital, from mounting their outside broadcasting equipment to cover a live demonstration organised by civil society’s largest group, the Oasis Forum. The Forum and other members of civil society have been campaigning for a people-driven constitution, and an adoption process that would ensure that the people’s will prevailed. The radio station’s reporter, Mutuna Chanda, had to use his mobile phone to cover the event.

From the above examples, it is clear that the media continues to operate in a restrictive environment. Under the given circumstances, it is almost impossible for the media, whether private or public, to exhibit high levels of professionalism and editorial independence.

Although the Government is credited with opening up the air waves, thus paving the way for the establishment of at least 30 community radio stations across the country, the centralised issuance of private radio and television-licences by the Ministry of Information and Broadcasting Services is widely viewed with disdain by civil society and the public at large. In a plural

political set-up, the power to issue such licences should be reposed on a neutral body, and not the central Government.

Legal Regime

In Zambia, as elsewhere in Africa, it is not so much the absence of explicit constitutional provisions on press freedom which is worrying, as the fact that whatever legal provisions exist are rendered useless by a host of repressive subordinate legislation. This is an ambivalent position, which militates against progress in the legal reform process. As long as the ruling elite seek sanctuary in archaic and, in some instances, anachronistic legislation for political expediency, they will not advance the cause of democracy.

Article 20 (1) of the 1991 Constitution of Zambia provides for freedom of expression and Article 20 (2) provides for press freedom. However, these constitutional provisions notwithstanding, the legal protection they purport to provide is non-existent as there are numerous other statutes the state can invoke to override these constitutional provisions. This makes a mockery of the whole situation because the Constitution ought to be the supreme. Most of the notorious pieces of legislation which impact negatively on media operations are entrenched in the Penal Code. The State Security Act number 36 of 1969 also has certain provisions that undermine free flow of information.

The Freedom of Information Bill, which is, as intimated by the Government, likely to be tabled in the Parliament, soon will be a major breakthrough in the quest for greater access to information held by the Government. This is of course if, the Government does not renege on its promise, and the proposed law is eventually enacted. This Act will force the Government to be more accountable as its operations will no longer be shrouded in secrecy. The Bill is yet to be made public.

Media Unity Still Elusive

Mutual mistrust and suspicion continues to characterise the relationship between journalists in the state-owned media and the private sector. Consequently, it has not been possible to persuade the two groups to subscribe to a common code of ethics. The Media Council of Zambia (MECOZ), a non-statutory, voluntary self-regulatory media body, is moribund because it is under-subscribed and lacks financial support. Media bodies did not take any steps to form a united front in 2007.

Conclusion

In spite of the harassment it was subjected to in 2007 and the setbacks, the media in Zambia remains steadfast in its resolve to continue playing its public watchdog role. On the long-awaited legal reforms, there is a glimmer of hope that the NCC, which commenced sittings in December 2007, will come up with unambiguous clauses that will entrench press freedom in the new Constitution.

Zambian Broadcasting Environment

At the end of 2007, the following Television and radio stations were on air:

Radio/TV Station	Owner	Classification	Coverage
ZNBC Radio (Two channels)	Zambian Government	Public service	National
ZNBC TV (one channel)	Zambian Government	Public service	National
MUVI TV		Private	Lusaka
Mobi TV		Private	Lusaka
Radio Phoenix	Errol Hickey	Private	Lusaka, Kabwe, Kapiri, Ndola, Chingola, rest of C'belt
Radio Yatsani	Catholic Church	Church affiliated	Lusaka
Radio Ichengelo	Catholic Church	Church affiliated	Kitwe
Radio Christian Voice		Church affiliated	Lusaka, Kabwe, Kapiri, Kitwe
Multi-Choice TV	MultiChoise (Zambia) Ltd	Private pay-TV DSTV (Digital Satellite Television)	Lusaka, C'belt
Q-FM Radio		Private	Lusaka, Mumbwa, Pemba, Namwala
Radio Sky FM		Private	Monze
Radio Maria	Catholic Church	Church affiliated	Chipata, provincial capital, (Eastern province).
Radio Chikaya		Private	Lundazi, (Eastern province)
Radio Choice		Private	Lusaka
Trinity Broadcasting Network (TBN) TV.		Church affiliated	Lusaka, Kabwe, Kitwe and Livingstone

Radio/TV Station	Owner	Classification	Coverage
Radio Chikuni	Catholic Church	Church affiliated	Monze, (Southern province)
Radio Lyambai		Private	Mongu, provincial capital (western province).
Radio Mano		Private	Kasama, provincial capital, (Northern province)
Radio Yangeni	Catholic Church	Church affiliated	Mansa, provincial capital (Luapula province)
Radio Breeze	Michael M. Daka	Private	Chipata, Eastern province
Radio Oblates Liseli	Catholic Church	Church affiliated	Mongu, Western province
Radio Mosi-O-Tunya	Catholic Church	Church affiliated	Livingstone
UNZA Radio	University of Zambia	Affiliated to Higher learning Institution	Lusaka
Hone FM Radio	Evelyn Hone College	Affiliated to Higher learning Institution	Lusaka
Mkushi Radio		Private	Mkushi
Radio Maranatha	Seventh Day Adventist Church (SDA)	Church affiliated	Kabwe (central province)
Radio FCC	Christian Mission in Many Lands (CMML)	Church affiliated	Solwezi, provincial capital (North western province)
5 FM Radio		Private	Lusaka

Radio/TV Station	Owner	Classification	Coverage
Hot FM Radio		Private	Lusaka
Radio Zambezi FM		Private	Livingstone
Radio Petauke Explorer		Private	Petauke, Eastern province
Youth Anthem Radio		Private	Kitwe

At the end of 2007, the following newspapers and magazines were published

Newspapers	Publisher	Circulation	Distribution	Frequency
Times of Zambia	Government	14,000	National	Daily (Mon-Sat)
Zambia Daily Mail	Government	10,000	Nationa	Daily (Mon-Sat)
Sunday Times of Zambia	Government	9,000	National	Weekly
Sunday Mail	Government	9,000	National	WEEKLY
The Post	Post Newspapers Ltd	25,000 -30,000	National	Daily (Mon-Sat)
Sunday Post	Post Newspapers Ltd	20,000 - 25,000	National	Weekly
Guardian Weekly		3,000	Lusaka, Copperbelt and towns along line of rail	Weekly
National Mirror	Multi-Media Zambia	1,200	Lusaka, C'belt and along line of rail	Weekly
Monitor & Digest		1,000	Lusaka, and along line of rail	Bi-weekly

Newspapers	Publisher	Circulation	Distribution	Frequency
Zambia Analysis	Zambia Analysis Ltd	2,000	Lusaka, Copperbelt, Livingstone, along line of rail, UK, USA & Canada	Monthly
Health Journal		5,000	National	Monthly
The Zambian Farmer	Zambia National Farmers Union	5,000	National	Monthly

• **ALERT**

Date: November 30, 2007

Persons: Radio Lyambai

Violation: Censored

The Ministry of Information and Broadcasting Services (MIBS) has banned Radio Lyambai in Mongu from broadcasting call-in programmes.

In a letter sent to the station dated November 30, 2007, Juliana Mwila, the ministry's director of press and planning, said the programmes had to stop while the station was under investigation. According to Mwila, the station was under investigation for allegedly having failed to handle calls professionally, which resulted in the station "becoming a platform for confrontation, controversies and a channel of insults and misinformation."

Mwila called on the station to disseminate information in a balanced manner and to behave ethically.

Tabb Lubinda, the station manager, appealed to Mwila for an open dialogue with the station. "We request to talk to you and exculpate ourselves before you take action," he said.

• **ALERT**

Date: March 15, 2007

Persons: Media in Zambia, citizens of Zambia

Violation: Legislation

On March 15 2007, the Supreme Court upset a ruling by the Lusaka High Court that quashed the decision of the Minister of Information and Broadcasting Services to veto the names of board members nominated to sit of both the Zambia National Broadcasting Corporation (ZNBC) and Independent Broadcasting Authority (IBA) boards.

Delivering judgement, Chief Justice Ernest Sakala said Lusaka High Court Judge Gregory Phiri erred in quashing the minister's decision because it was made without attempting to interpret the meaning of the word "recommendation" as provided under both the IBA and ZNBC (Amendment) Acts of 2002.

He said before the decision of the Minister could be declared illegal and irrational, the substantive question that the court had to determine first was whether the use of the word "recommendation" in the relevant sections of both laws entailed discretion on the part of the Minister.

He said the Supreme Court was satisfied that the word "recommendation" implied discretion in the person to whom it was made to either accept or reject the recommendation."

Justice Sakala observed that in making judgement, the judge took the route of examining the sections in broad terms without examining the words or phrases thereby glossing over the sections and altering the very fabric of the statutes.

Justice Sakala said a distinction needed to be made between constituting the Boards and the operations of the Boards. He said that in constituting the Boards, the Minister was not bound to accept the names recommended by the Adhoc Appointments Committee.

December 2004: Lusaka High court judge Gregory Phiri ruled that the decision of the Minister to veto the names was illegal, irrational, bad at law and therefore null and void. Judge Phiri ordered the Minister to take the names to parliament for ratification. The six media bodies include MISA Zambia, Press Association of Zambia (PAZA), Press Freedom Committee of The Post newspaper, Zambia Media Women's Association (ZAMWA), Zambia Union of journalists (ZUJ) and Society of Senior Zambian journalists (SSZJ).

• **ALERT**

Date: January 15, 2007

Persons: Oblate Radio Liseli

Violation: Censored

The Catholic owned Oblate Radio Liseli in the Western Province of Zambia has come under pressure from traditional Lozi authorities in the area to stop playing Nyanja and Bemba music

in preference for Lozi music which is native to the area.

The traditional authorities have also questioned the fact that two of the station's senior officials, the station manager Fr. Victor Mwansa and Production Manager Bella Zulu were non-Lozi who hailed from Northern and Eastern Provinces respectively, where Bemba and Nyanja were the predominant languages.

Further, the station has been warned not to go ahead with plans to introduce Mbunda as a third language in addition to Lozi and English as that might lead to the conflicts within the community.

Fr. Mwansa told MISA Zambia that he and several of his staff were summoned to the chief's palace on January 10, 2007, where a group of the chief's advisors (Induna's) demanded that the station should stop playing Nyanja and Bemba music within two days of the meeting.

They accused the station of trying to dilute local culture by playing Nyanja and Bemba music and being party to a scheme to introduce Nyanja and Bemba into the community. However, they had no problems with the station playing English music.

Fr. Mwansa described the two hour meeting with the Indunas as "intimidating" because they made several threats against the station, including lobbying for the revocation of its licence and evicting it from the traditional land where it is located.

As a compromise, the station has further limited the playing of Nyanja and Bemba songs but Fr. Mwansa complained that there was not enough Lozi music available to play. Efforts were being made to meet the Ngambela or Prime Minister of the Lozi Royal Establishment to resolve the issue amicably.

• **ALERT**

Date: July 19, 2007

Persons: Q-FM radio station

Violation: Censored

On July 19 2007, police in Lusaka prevented Q-FM, a private radio station, from mounting their Outside Broadcasting (OB) equipment to cover live a demonstration organised by the OASIS forum and Collaborative Group on the Constitution, outside the gates of Parliament.

Police said that the permit issued to the conveners of the demonstration did not include mounting the OB unit for live coverage of the event.

In a telephone interview with MISA Zambia, Q-FM director Moses Nyama said the police ordered the Q-FM OB team to clear the area and stopped reporter Mutuna Chanda from conducting live coverage.

Nyama told MISA Zambia that when Chanda asked the police why his team was being barred from using the OB van, he was told that the organisers of the event did not indicate that there would be such equipment used at the demonstration.

A MISA Zambia team that went to the scene found Chanda using his mobile phone to cover the event after police officers prohibited the mounting of the OB equipment.

The demonstration was held to picket Parliament on the need to adopt the Constitution through the Constituent Assembly as opposed to a Constituent Conference through the Zambia Inter-party Dialogue (ZIPD).

• **ALERT**

Date: July 17, 2007

Persons: Edward Mulenga

Violation: Censored

On July 17 2007, security personnel at the Livingstone International Airport attempted to stop Edward Mulenga, a bureau chief of the *Times of Zambia* newspaper, and other journalists from taking pictures. They also threatened to confiscate Mulenga's camera. Mulenga and the other journalists were trying to photograph an airplane with Djibouti's President Ismail Guelleh on board, which was unable to take off. Mulenga told MISA Zambia that security personnel ordered

journalists to stop taking photos. The journalists were at the airport to cover the departure of President Guelleh from Zambia's tourist capital, Livingstone, to Lusaka.

The security personnel also tried to grab Mulenga's camera, but he was able to retain it by assuring them that he would delete the photographs. He did not do so, however, and instead sent them to the *Times of Zambia*, which did not publish them.

Mulenga said that, when the security personnel asked why he was taking pictures, he told them, "Look, I'm doing my job, just like you", and that he was doing his best to capture the events.

In the end, Mulenga was able to reason with the security.

- **ALERT**

Date: June 25, 2007

Persons: Petauke Explorers

Violation: Threatened

On May 17 2007, Information and Broadcasting Services Minister Mike Mlongoti threatened to revoke an operating license for Petauke Explorers, a local commercial radio station in Petauke district in the eastern province of Zambia, for featuring the president of one of the leading political parties in an on-air paid-for interview.

Mlongoti issued the threats after the station featured Michael Sata, a vocal president of the opposition Patriotic Front (PF), which gave the ruling Movement for Multi party Democracy (MMD) tight competition in the September 28 2006 tripartite elections.

Various political parties were in Zambia's Eastern province campaigning for the Kapoche parliamentary seat that fell vacant following the nullification of an earlier victory by an MMD candidate, Nicholas Banda, by the Lusaka High court due to malpractices during the September 2006 tripartite elections. The by-election took place on June 5, 2007.

Sata had been featured on the station on May 14 from 9h00 to 10h00 (local time). Petauke Explorers radio station manager, Victor Msadabwe, told MISA Zambia in an email that his station had also featured the United National Independent Party (UNIP) and had extended the same offer to the ruling MMD but they did not respond to the invitation.

- **ALERT**

Date: March 30, 2007

Persons: Radio Mano

Violation: Bombed (Raided)

On March 30 2007, officers from the Anti-Corruption Commission (ACC) searched the office of Radio Mano, a community radio station in Zambia's Northern Province in Kasama.

Station Manager David Chanda said the ACC officers produced a search warrant, which did not state exactly what they were looking for. He said they described the search as a "classified investigation".

Chanda said that the ACC officers confined the Radio Mano staff to one room and told them not to leave the premises until the officers were through with the search, which lasted four hours.

The station did not go off air, but staff did not report for work the next day for fear of being confined again by the ACC, said Chanda. However, the workers have since returned and normal operations of the station have continued.

Chanda said the officers took the radio station's chequebook, some documents and files, some of which did not belong to the station. He added that the ACC also took his personal diary from his office.

National overview

By Dumisani Muleya

News Editor for the private weekly,

The Zimbabwean Independent



Zimbabwe

The political and economic environment in Zimbabwe is generally hostile to free enterprise and media freedom. Media freedom is increasingly shrinking as it is under enormous pressure to deviate from its watchdog role over the Government and public institutions. The media is choking under a pervasive climate of political repression. In recent years both the public and private media in Zimbabwe have been struggling to ward off political and economic pressures being systematically exerted on them.

The Government has a formidable and lethal arsenal against the media in the form of an array of suppressive laws which include Access to Information and Protection of Privacy Act (AIPPA), Public Order and Security Act (POSA), Interception of Communications Act, Criminal Law (Codification and Reform) Act, Broadcasting Services Act (BSA) and Official Secrets Act (OSA). There is also other restrictive legislation on anti-terrorism, defamation, both civil and criminal, libel and penal codes.

While the public media has in recent years been under intensifying pressure from sustained political interference and manipulation, the private press has been subjected to fierce attacks and harassment from the Government. The President has been made to appear like a larger-than-life character via hagiographical journalism by the state-controlled media. The private press is accused of being “agents of imperialism, sell-outs and enemies of the state” in a bid to undermine their credibility and to justify their media repression.

An Orwellian situation has been created in Zimbabwe, an attitude and policy of mind control. An all-controlling “Big Brother” state has emerged in the process. The Government’s thought police uncover and punish thought-crime. The private media is the main target of the thought police and has been charged with endless thought-crimes.

The year 2007 opened with a storm of controversy over media tycoon Trevor Ncube’s citizenship after the Government claimed he was a Zambian by descent. It appeared that the entire issue was designed to withdraw Ncube’s citizenship and close down his newspapers, the Zimbabwe Independent and Standard, which are sharply critical of the Government. But Ncube won his case. However, during the controversy President Robert Mugabe’s spokesman, George Charamba, in his column in the state-run daily Herald ‘Nathaniel Manheru’, which he writes under a pseudonym, issued threats to Ncube’s papers and seemed to be celebrating prematurely the anticipated closure.

Official verbal assaults have apparently triggered physical attacks on journalists in some cases. In fact, the crackdown against the private media heightened. There were numerous cases of arrests, harassment and even murder. Journalists have been beaten up, jailed and hauled before the courts, media premises bombed, copies of newspapers – which the Government calls the “hostile press” – unlawfully blocked from reaching certain parts of the country, mostly rural areas dominated by the ruling party. Freelance cameraperson and former ZBC employee, Edward Chikomba, was killed in March 2007 by unknown assailants, suspected to be Government agents. Chikomba’s murder was linked to the footage of the brutal assaults in police custody on 11 March 2007 of opposition MDC leaders broadcast around the globe by international TV channels. It was claimed Chikomba had supplied the footage. *ZimOnline* Editor Abel Mutsakani was shot in Johannesburg, South Africa, by three unknown assailants, although the motive of the attack was not known. Gift Phiri of The Zimbabwean, was badly assaulted in police custody. Other harassed journalists include freelancers Herbert Chikosi, Nunurai Jena, Tendai Musiyazviriyo and Frank Chikowore, photojournalists Tsvangirai Mukwazhi and Boldwill Hungwe, *e-TV* reporter Peter Moyo, Bill Saidi and Godfrey Mutimba of the *Standard*, Andrew Neshamba from ZBC, Bright Chibvuri of *The Worker* and international correspondents Jan

Raath and Peta Thornycroft. *Financial Gazette* editor Sunsley Chamunorwa was fired allegedly over a political story about a provincial governor and a series of lawsuits against the paper. The journalists were targeted for various alleged offences over accreditation and news stories that the Government disapproved.

The state media remained under tight control, getting directives from the Ministry of Information on news coverage. At one time it was reported (and not denied) that George Charamba had a briefing with state editors at which he told them about the current political dynamics in Zanu PF and the Government in the context of the March 2008 elections. Charamba reportedly told the editors how to tackle issues and who to attack in the media. Charamba and the Minister of Information and Publicity Dr Sikhanyiso Ndlovu held several briefings with editors to influence their editorial policy and output.

Government interference in the state media in 2007 became so blatant that even some of the most loyal state editors like Henry Muradzikwa, Zimbabwe Broadcasting Corporation CEO, came out in public complaining. Muradzikwa told the Parliamentary Portfolio Committee on Transport and Communications in September 2007 that political interference and censorship of news was rife at ZBC. He said the interference in ZBC's editorial policy undermined media freedom.

During the same month of the Ncube crisis, the state-controlled Media and Information Commission (MIC), the Government's instrument of press control, gazetted prohibitive application fees for the registration of mass media services and accreditation of journalists. The weekly *Financial Gazette* had difficulties in getting its licence, while journalists like former Zimbabwe Independent reporter and SABC correspondent Brian Hungwe were denied accreditation on spurious grounds.

The legislative environment remained inhospitable in 2007. The Government added the Interception of Communications Act to its weaponry basket to attack the media. The spying act is a vicious assault on media freedom and freedom of expression because it authorises Government snooping on communications. Although there were amendments to AIPPA, POSA and BSA in the context of political talks between Zanu PF and MDC, the changes were largely cosmetic.

Like in previous years numerous legal threats were made against the media. Politicians and other top public officials always resort to litigation for alleged defamation. Nearly all newspapers were sued. The most prominent was against Caiphus Chimhete of the Standard by Reserve Bank Governor Dr Gideon Gono over a story which claimed Gono had bought a top-of-the-range Mercedes Benz Brabus for US\$365 000. Gono argued the story was untrue. *The Standard* retracted the story and apologised to him. As mentioned earlier, Chamunorwa was forced out following court action by provincial governor Ray Kaukonde.

However, there have been significant victories in advancing constitutional rights and freedom of the media because several cases against journalists and other citizens collapsed. Sometimes the defamation cases take too long to conclude and therefore their impact on media freedom in 2007 is difficult to assess.

There were also serious attacks on constitutionally entrenched rights. For instance, a Masvingo teacher Selestin Jengeta was arrested and detained for remarking on television that the Zimbabwe crisis would only end when President Mugabe dies. He was charged under the Criminal Law (Codification and Reform) Act which deals with insulting the President. Similarly, Gibson Murinye and Collen Mwachikopa were arrested under the same law for singing a derogatory

song about Mugabe. In terms of access to information, the Government maintained its iron curtain around the official records in 2007. However, the private press did not give up and continued to 'dig out' information. President Mugabe and his officials' often-angry complaints that some politicians and civil servants were leaking classified information to newspapers demonstrated the media's success in this regard. Documents to hand also show that Mugabe further complained at a politburo meeting on September 5, 2007, about the *Zimbabwe Independent's* stories which he said were leaked by top officials. Mugabe was supported by his Science and Technology Minister Olivia Muchena.

Until 2000 broadcasting in Zimbabwe was legally a state monopoly. Although the courts have struck down the Government's broadcasting monopoly, the state has managed to block prospective private broadcasters through the BSA's stringent licensing provisions thus maintaining a de facto monopoly through ZBC. The Government controls the only TV channel and four radio stations and as a result the electronic media continues to act as Zanu PF and state propaganda mouthpieces. ZBC's monopoly is currently under challenge by Manala (Pvt) Ltd owned by Nbabenhle Mabhena, an entrepreneur who wants to venture into broadcasting. The Minister of Information Dr Ndlovu said the Government would invite new applications by the end of 2007 but nothing happened. Since 2000 the Government has rejected many applications for TV and radio licences.

Another heavy blow to the media was the closing down of the two newspapers owned by the Mirror Group of Newspapers. They were secretly taken over by the state intelligence service, Central Intelligence Organisation.

The private media also experiences interference by advertising agencies and corporate houses, although the meddling is discreet and rare.

The media fraternity remained divided in 2007 in terms of associations to represent the its interests. There are two associations representing the interests and welfare of journalists in the form of the Zimbabwe Union of Journalists (ZUJ) and Independent Journalists Association of Zimbabwe (IJAZ) and two editors' forums, the Zimbabwe Association of Editors and Zimbabwe National Editors Forum (Zinef). This underlines the schism between private and public media.

It can be concluded that 2007 did not offer much by way of exercising the fundamental rights to freedom of expression, association and assembly as the country's political climate and restrictive legal environment continued to suffocate the press.

• **ALERT**

Date: November 30, 2007

Persons: ACHPR special reporter on the right to freedom of expression, Commissioner Pansy Tlakula

Violation: Other

The African Commission on Human and Peoples Rights (ACHPR) special reporter on the right to freedom of expression, Commissioner Pansy Tlakula, has urged Kenya and Zimbabwe to uphold the right to freedom of expression and access to information, which she said are prerequisites for free, fair and credible elections. The two countries hold elections in 2008.

Tlakula called on Zimbabwe and other states coming up with or amending existing legislation to bring their laws in line with freedom of expression standards in general and the Declaration on the Principles of Freedom of Expression in Africa in particular. The Declaration was adopted by the ACHPR at its 32nd Ordinary Session in Banjul, The Gambia, in October 2002.

Addressing the 42nd Ordinary Session of the African Commission on Human and Peoples' Rights, which is in session in the Congolese capital Brazzaville, Tlakula welcomed the adoption at the African Union Heads of State and Governments Summits, in Addis Ababa in January 2007, of the African Charter on Democracy, Elections and Governance. However, she decried the fact that since its adoption, only 10 countries have signed the Charter, which needs an additional five signatories before it can come into force.

On broadcasting, Tlakula called on member states to the African Charter on Human and Peoples Rights that have not yet initiated broadcasting reforms to do so. She underscored Principle V (1) of the Declaration on Principles of Freedom of Expression in Africa, which mentions that states shall encourage a diverse, independent private broadcasting sector and that a state monopoly over broadcasting is not compatible with the right to freedom of expression.

The Zimbabwe Broadcasting Corporation (ZBC) continues to enjoy a monopoly over the airwaves, as the government continues to dither on its pledges to amend the Broadcasting Services Act to facilitate the entry of private players into the broadcasting sector.

Tlakula stressed the need to reform state broadcasters into truly independent public service broadcasters accountable to the public through parliament and not the executive.

She said public broadcasters should be governed by boards that are protected against interference, particularly of a political or economic nature and that the editorial independence of public service broadcasters should be guaranteed. ZBC is managed by a board which is appointed by the Minister of Information and publicity.

Tlakula urged member states to come up with a public complaints system on issues of concern relating to broadcasting in line with the Declaration which also advocates for effective self-regulation as the best system of promoting high standards in the media. A self-regulatory board, the Media Council of Zimbabwe (MCZ) was launched in Zimbabwe on June 8, 2007.

The special rapporteur also urged member states to repeal all laws relating to criminal defamation. "I urge public figures to tolerate a greater degree of criticism," she said.

She welcomed the adoption of a Resolution for the adoption of an Additional Protocol to the African Charter on Human and Peoples' Rights on freedom of expression. This resolution was adopted at a CSO's AU Summit Conference on Strengthening Freedom of Expression in Africa which was held in Accra, Ghana in June.

"I wish to note that in countries which have been facing conflict situations, the media have often been under attack. I wish to reiterate the fact that attacks against journalists and destruction of media equipment are illegal under international humanitarian law which protects civilian persons and objects and therefore protects journalists. Therefore, parties involved in conflicts must remember at all times that media cannot be considered a legitimate target, unless it is being exploited to instigate grave breaches of humanitarian law," she ended.

March 20, 2007: Tlakula sent an urgent letter of appeal to President Robert Mugabe following a complaint she received from MISA-Zimbabwe and the Media Monitoring Project Zimbabwe (MMPZ) about the deteriorating freedom of expression situation in Zimbabwe. This follows

the assault of Tsvangirai Mukwa and the continued harassment, unlawful arrests and detention of journalists in Zimbabwe.

• **ALERT**

Date: December 18, 2007

Persons: Media in Zimbabwe

Violation: Legislation (threatening legislation)

The proposed amendments to the Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA) and the Broadcasting Services Act (BSA) gazetted on December 14, 2007, were fast tracked through Parliament on December 18, 2007, without any meaningful debate on the contentious provisions of the enabling Bills.

All the Bills which included the Electoral Laws Amendment Bill were passed without being referred to the relevant portfolio committees as required by the Standing Rules and Orders of Parliament. The Bills were sanctioned by the two opposition factions of the MDC and the ruling Zanu PF during the SADC-initiated talks mediated by South African President Thabo Mbeki.

St Marys Member of Parliament Job Sikhala expressed his strong reservations on the quality of the Bills noting that the requirement under AIPPA for journalists and mass media service providers to register with the proposed Zimbabwe Media Commission was not justified in a democratic society. Sikhala said journalists as is the case with all other professions should regulate themselves.

• **ALERT**

Date: December 5, 2007

Persons: Bright Chibvuri

Violation: Censored

The trial of Bright Chibvuri, editor of the Zimbabwe Congress of Trade Unions' The Worker magazine charged under the repressive Access to Information and Protection of Privacy Act (AIPPA) which had been set to continue on December 5, 2007, has again been postponed due to the ongoing strike by magistrates.

Resumption of the trial has now been set for January 31, 2008. Chibvuri's trial was postponed indefinitely on November 5, 2007, following a countrywide strike by magistrates.

Chibvuri who was arrested in Plumtree on March 3, 2007, spent two nights in police custody and was only released on March 5, 2007, when he appeared before a Plumtree magistrate on charges of contravening Section 83 of AIPPA which penalises the practice of journalism without accreditation.

At the time of his arrest, Chibvuri had already applied for accreditation but had not received a response from the Media and Information Commission (MIC). He has since been duly accredited.

• **ALERT**

Date: November 21, 2007

Persons: John Nyashanu, two freelance journalists

Violation: Beaten, censored

On November 21 2007, SABC correspondent John Nyashanu and two other freelance journalists were harassed by rowdy youths outside the Movement for Democratic Change (MDC) party offices in Harare amid reports that one of them was slapped during the melee.

Nyashanu confirmed to MISA Zimbabwe that he had been subjected to all manner of insults and abuse by the youths who barred him from covering a march by the party's national women's assembly who had converged at the party headquarters seeking audience with MDC leader Morgan Tsvangirai.

• **ALERT**

Date: November 12, 2007

Persons: Financial Gazette and Zimbabwe Independent

Violation: Other

On November 12 2007, the government through the National Incomes and Pricing Commission (NIPC) imposed a draconian and unviable three-month price freeze on the cover prices of the Financial Gazette and Zimbabwe Independent's cover prices. The two companies were ordered to reduce cover prices from Z\$600 000 to Z\$150 000.

• **ALERT**

Date: November 9, 2007

Persons: Jacob Chiseke and Raphael Khumalo

Violation: Detained

On November 9 2007, the chief executive officers of the Financial Gazette and Zimbabwe Independent respectively Jacob Chiseke and Raphael Khumalo, were arrested on allegations of increasing the cover prices of their newspapers without approval of the state-controlled National Incomes and Pricing Commission (NIPC). The Financial Gazette publishes a weekly of the same title while Zimind publishes the Zimbabwe Independent and Standard weeklies.

The two were released after they signed memorandums of understanding that they would not increase the cover prices without permission from the NIPC.

• **ALERT**

Date: October 30, 2007

Persons: Gift Phiri

Violation: Victory

MISA welcomed the acquittal of The Zimbabwean reporter Gift Phiri, who had been on trial since April 2007 for working as a journalist without official accreditation and "publishing false news".

Gift Phiri, Harare correspondent of the independent exile newspaper 'The Zimbabwean', was arrested on April 1, 2007, and detained for four days during which time he was allegedly tortured and access by lawyers and doctors was restricted. Phiri was initially accused of a number of offences, including involvement in bombings and "publishing falsehoods" in connection with his reporting on government activities. On April 5 he was charged with working as a journalist without official accreditation and publishing false news under sections 79 (1) and 80 (1) (b) of the Access to Information and Protection of Privacy Act (AIPPA). On his release on bail, Phiri was hospitalised for five days to receive treatment for injuries sustained from beatings received in police custody. It was alleged that he had been tortured and forced to sign a confession.

Phiri has now been acquitted. The charge of publishing false news was dropped in July, trial proceeded only on the basis that Phiri practiced journalism without official accreditation. The latter charge was then dropped on August 30. If convicted, the journalist could have faced a jail sentence of up to two years. The investigation into the torture allegations was apparently not carried out.

• **ALERT**

Date: September 21, 2007

Persons: Zimbabwe Broadcasting Holdings (ZBH)

Violation: Other

The chief executive officer of Zimbabwe Broadcasting Holdings (ZBH), Henry Muradzikwa, has admitted that political interference and censorship of news reports is the order of the day at the state-controlled national broadcaster.

Appearing before the Parliamentary Portfolio Committee on Transport and Communications,

Muradzikwa said interference with ZBH's editorial policy and government's expectations of the state broadcaster undermined media freedom.

Muradzikwa said the Ministry of Information should be clear on how it wants the broadcaster to report. He said provincial governors were abusing ZBH bureau chiefs by treating them as part of their staff.

He also revealed that ZBH's Iran-backed digitalisation programme had been stalled because of an unsettled debt of US\$3 million. "The difficulty is that this is not a ZBH debt alone. It was incurred by both ZBH and ARDA (Agricultural Rural Development Authority). ZBH has paid its half."

• ALERT

Date: September 28, 2007

Persons: Daniel Maphosa, Sylvanos Mudzvova, Anthony Tongani, James Jemwa

Violation: Detained

On September 28 2007, police arrested two actors and a journalist during the performance of a satirical play about the country's political situation.

Plain-clothes police stormed the wings of the Theatre in the Park during an intermission in a performance of The Final Push by playwright Daniel Maphosa, and led actors Sylvanos Mudzvova and Anthony Tongani away to a truck. James Jemwa, an independent journalist who was filming the performance, was also arrested when he asked the police to explain why the actors were being detained.

The Final Push makes fun of Zimbabwe's eight-year-old political crisis. Its title refers to protest marches organised by the opposition Movement for Democratic Change (MDC) in 2003, which were violently dispersed by the police.

Jemwa and the two actors are being held at Harare police headquarters. They have not been charged and they have not been allowed to contact a lawyer.

• ALERT

Date: September 18, 2007

Persons: Broadcasting Authority of Zimbabwe (BAZ),

Violation: Legislation (threatening)

In a revealing and first time acknowledgment of the restrictive nature of the Broadcasting Services Act (BSA), the Broadcasting Authority of Zimbabwe (BAZ), says its hands are tied as no new broadcasting players can come into the scene under the present regulatory environment. Giving evidence before the Portfolio Committee on Transport and Communications on August 17, 2007, BAZ Chief Executive Officer Obert Muganyura says the authority, set under the BSA, has failed to license new players as no potential private players can meet the "stringent criteria".

"We gave the projection that we would by this time have licensed new players on the understanding that the Broadcasting Services Act would have been amended, but it has not yet", said Muganyura to the Parliamentarians.

The stringent requirements in the BSA that Muganyura described as problematic include a ban on foreign funding and ownership, restrictions on the number of national free to air private broadcasters that can be licensed, as well as the restrictions placed on ownership of frequency transmitters. The BSA provides that only the government-owned company, Transmedia, can own frequency transmitters and all new players have to line up to do business with Transmedia. As the situation stands in Zimbabwe, Transmedia is failing to provide adequate services to one TV station, the state owned Zimbabwe Television, as well as to four FM radio stations, all owned by the state through the Zimbabwe Broadcasting Corporation.

• ALERT

Date: August 30, 2007

Persons: Tendai Murove

Violation: Other

In the first case of its kind, a Harare magistrate has tried and convicted a man who was found in possession of a printed email message containing information that was said to denigrate President Robert Mugabe and Vice President Joice Mujuru.

On August 23 2007, Tendai Murove was charged and convicted on his own plea of guilt to contravening section 26(1)(a) as read with section 33 of the colonial Censorship and Entertainment Control Act after he was found in possession of a six-page letter allegedly sent to him by a friend. Section 26 prohibits the possession of prohibited articles while section 33 states the determination of what is indecent or obscene or offensive or harmful to public morals.

The message, which was written in Shona, repeatedly makes reference to Mugabe and Mujuru, mocking Mugabe for his economic policies and Zimbabwe's record inflation, which now stands above 6,000 percent.

"There is not a drop of fuel in Zimbabwe. Neither is there any sign of beer. I pray that Bush (George) and (Tony) Blair can come and rid us of this bespectacled man," the email laments in apparent reference to Mugabe.

"My sister-in-law hails from a wealthy family. She only gets reminded of matters to do with Zimbabwe's economic problems and inflation when Gono (Gideon, the central bank governor) presents his monetary policy statements. She has a sizeable round bottom. From that you can tell she grew up sitting on a sofa, unlike those (bottoms) of (Vice President) Mai Mujuru which were repeatedly scratched by thorny bushes and bullets during the liberation war."

Murove was convicted and sentenced to a fine of Z\$1 million (approx. US\$33) or seven days' imprisonment.

Murove was initially arrested for public drinking in Harare's Avenues area. The police then discovered the document on him.

• ALERT

Date: August 23, 2007

Persons: Betty Makoni, Loreen Karara, Michealene Rosley

Violation: Other (Expelled)

American children's rights activists Loreen Karara and Michealene Rosley were deported from Zimbabwe on allegations of practising without accreditation in terms of Section 83(1) of the Access to Information and Protection of Privacy Act.

• ALERT

Date: August 3, 2007

Persons: Media in Zimbabwe, citizens of Zimbabwe

Violation: Legislation (threatening)

President Robert Mugabe has signed the Interception of Communications Bill into law. The Chief Secretary to the President and Cabinet Misheck Sibanda announced this in a general notice issued in the Government Gazette of August 3, 2007.

The Act will make lawful the interception and monitoring of communications in the course of their transmission through a telecommunication, postal or any other related service or system in Zimbabwe. The Act also provides for the establishment of a monitoring centre.

An interception warrant, to be issued by the Minister of Transport and Communications, may be applied for by the Chief of Defence Intelligence, the Director-General of the Central Intelligence Organisation, the Commissioner of Police, the Commissioner General of the Zimbabwe Revenue Authority or any of their nominees.

Service providers, among them Internet Service Providers (ISPs), are required to install systems that are "technically capable of supporting lawful interception at all times." ISPs will not have

long to comply with this law as the Act clearly states that regulations to this effect will be issued within two months of the commencement of this Act.

What remains now is the publication of a statutory instrument that will advise when the law will become operational.

June 13, 2007: Zimbabwe's House of Assembly passed the controversial Interception of Communications Bill without amendments despite opposition to some of its provisions by opposition Movement for Democratic Change (MDC) legislators.

• **ALERT**

Date: August 1, 2007

Persons: Tsvangirai Mukwazhi

Violation: Beaten

On August 1 2007, the wife of Zimbabwe Defence Forces commander General Constantine Chiwenga, Jocelyn Chiwenga, assaulted freelance photojournalist Tsvangirai Mukwazhi at Makro Wholesalers in Harare.

Mukwazhi informed MISA-Zimbabwe that he was slapped several times by the army general's wife after covering a visit to the retail outlet by opposition leader Morgan Tsvangirai and other senior members of his party, the Movement for Democratic Change (MDC).

Tsvangirai and his colleagues had just left the wholesaler when Chiwenga spotted and descended on the photojournalist, who was there to cover the visit. The MDC leader and his delegation had apparently visited the wholesaler to assess the impact of government-sanctioned price slashes on commodities.

Chiwenga hurled all sorts of insults at Mukwazhi, accusing him of "advancing the agenda of Western imperialists". Other journalists who were covering the opposition leader's tour managed to sneak out of the wholesaler ahead of Mukwazhi when Chiwenga ordered the store's security guards to lock the doors so that she could deal with the "sell-outs".

BACKGROUND: In 2003, Chiwenga assaulted Gugulethu Moyo, the former Corporate Affairs Director of Associated Newspapers of Zimbabwe (ANZ), publishers of the banned "Daily News" and "Daily News on Sunday", at Glen View Police Station. Moyo had driven to the police station to secure the release of "Daily News" photographer Philemon Bulawayo who was being held at the police station when she encountered the army commander's fury.

• **ALERT**

Date: July 12, 2007

Persons: Baldwin Hungwe

Violation: Detained

On July 12 2007, police in Harare arrested The Standard photojournalist Baldwin Hungwe while he was taking pictures of events as people scrambled for goods at South African owned Makro shop after an invasion by the price control police.

The editor of the newspaper, Davison Maruziva, told MISA-Zimbabwe that Hungwe was arrested at the shop in the afternoon while on duty by two police officers who also seized his camera.

Maruziva informed MISA-Zimbabwe that the taking of photos incensed the police as they battled to contain a scramble at the shop, resulting in police dogs being unleashed on prospective customers. Tens of people were injured in the process, including soldiers and police officers who were in a separate queue from that of the general public.

Maruziva informed MISA-Zimbabwe that he rushed to Makro and tried to negotiate the release of Hungwe without success. Hungwe was eventually taken and detained at the Harare central police station for an hour before being released on the instructions of police spokesperson Oliver Mandipaka. His camera was later returned.

• **ALERT**

Date: May 17, 2007

Persons: Boldwin Hungwe

Violation: Threatened

Boldwin Hungwe a photographer with The Standard newspaper was reportedly summoned to Harare Central Police Station by a police officer who identified himself as Inspector Chinembiri in connection with a photograph he took of a battered and bruised Beatrice. In its Sunday edition, the paper published pictures of attorney Beatrice Mtetwa severely injured after she was abducted and tortured by police. The security forces broke up a gathering of lawyers in Harare the previous week. According to sources, after the photo was published the police called Hungwe and told him to turn himself in at the police station. It is alleged that the police officer claimed that the photograph was in violation of the Public Order and Security Act.

• **ALERT**

Date: May 10, 2007

Persons: Associated Newspapers of Zimbabwe (ANZ)

Violation: Censored

High Court judge Justice Anne-Mary Gwore dismissed an application by ANZ in which they were seeking an order to be duly licensed.

Update - August 9, 2007: The government reported agreed to appoint a special committee to deal with ANZ's application to be licensed and resume publication in terms of the restrictive Access to Information and Protection of Privacy Act (AIPPA).

• **ALERT**

Date: May 8, 2007

Persons: Beatrice Mtetwa, Chris Mhike, Colin Kuhini, and Terence Fitzpatrick

Violation: Other

On May 8 2007, Zimbabwean human rights lawyer Beatrice Mtetwa and three other attorneys, were severely beaten by police.

Mtetwa, president of the Law Society of Zimbabwe, suffered bruises on her back, arms, and legs after police in Harare beat her and three colleagues with rubber clubs for several minutes. The four attorneys were forced to lie face down before being beaten, said Mtetwa, who was treated at a local hospital and released later that day.

The four lawyers, dressed in professional robes, had been forced into a police truck and driven to an open area in Harare's outskirts after officers broke up a protest of more than 60 lawyers outside Zimbabwe's High Court. The lawyers were gathering to present the justice minister with a petition protesting the treatment of two colleagues arrested the previous week. The two arrested lawyers were challenging the government's detention of several opposition officials accused of involvement in bomb attacks after a police crackdown on the opposition in March.

Also injured in the beating were lawyers Chris Mhike, Colin Kuhini, and Terence Fitzpatrick.

• **ALERT**

Date: March 31, 2007

Persons: Edward Chikombo

Violation: Killed

Edward Chikombo, a part-time cameraman for Zimbabwe state broadcaster ZBC, was abducted from his home by armed men in the Glenview township outside Harare on March 29, 2007. His body was found two days later (March 31) near Darwendale, 80 kilometres west of the capital.

Chikombo was suspected of having leaked footage to the international press of brutally beaten

opposition leader Morgan Tsvangirai, who was arrested at an 11 March protest and tortured while in police custody. The footage of Tsvangirai leaving a Harare courthouse with a suspected fractured skull, and then lying in a hospital bed, provoked a storm of international criticism of President Robert Mugabe's regime.

• **ALERT**

Date: March 28, 2007

Persons: Luke Tamborinyoka

Violation: Detained

Luke Tamborinyoka, press officer of the opposition party Movement for Democratic Change (MDC), was arrested along with about 30 MDC members when police raided the party's headquarters on March 28, 2007. He was reportedly badly beaten and tortured while in custody and has been denied access to medical treatment and legal representation since his arrest. Tamborinyoka was the former news editor of newspaper The Daily News until it was banned in 2003 and he is a former Secretary General of the Zimbabwe Union of Journalists. Tamborinyoka was taken to hospital on March 30, 2007, on the orders of a Harare judge after fainting in court.

• **ALERT**

Date: March 22, 2007

Persons: Jan Raath, Peta Thornycroft

Violation: Censored

In a government press release issued on March 22, 2007, the government threatened foreign correspondents with unspecified government reprisal in the capital Harare over alleged biased reporting.

Prominent correspondents Jan Raath of The Times of London and Peta Thornycroft of Britain's Daily Telegraph and US-based broadcaster Voice of America were singled out among foreign media reporters accused of reporting "fabricated stories," according to a statement by the Information and Publicity Ministry. "Should this not stop, government may be forced to act against them ..." it said.

The threats were linked to news reports alleging that Angolan paramilitary troops would be deployed to bolster the security forces of President Robert Mugabe in response to unrest in the aftermath of a March 11 opposition rally. "[The] Government is also aware of false stories on our arms security, stories which are being concocted by a group of western foreign correspondents mostly reporting for British papers," according to the statement.

In an article published in The Times, "Angola sends 'Ninja' paramilitaries to bolster Mugabe's security forces," Raath had quoted Home Affairs Minister Kembo Mohadi as confirming the signature of a security cooperation agreement with Angola, according to CPJ research. But the government denied any pending deployment, according to international news reports.

• **ALERT**

Date: March 14, 2007

Persons: Journalists Tsvangirai Mukwazhi and Tendai Musiyu; Others: Morgan Tsvangirai, Lovemore Madhuku, Tendai Biti, Athur Mutambara, Ob Sikhala, and Grace Kwinje, William Bango and Nelson Chamisa

Violation: Detained, other (freedom of 'political expression and association')

On March 14 2007, journalists Tsvangirai Mukwazhi and Tendai Musiyu were released from police custody along with opposition Movement for Democratic (MDC) leader Morgan Tsvangirai and other human rights activists. Their release comes after two nights in custody and severe assault at the hands of the Zimbabwean police.

The journalists and leaders of opposition political parties and civic society organisations were

initially released by the police into the custody of their lawyers at 23h00 on March 13, and ordered to appear for initial remand at Harare Magistrate Court at 9h00 the next day.

However, when they arrived at the magistrates courts on March 14, law officers from the Attorney General's Office and the police were not in attendance. Having waited for an hour for them to arrive, defence lawyers then made a decision that if the state was still interested in pursuing the matter, they would have to do so by way of summons.

In view of that turn of events arising from the absence of the prosecutors, the defence lawyers then advised their clients to go home.

The decision will hopefully bring to an end the circus which began with the arrest of the journalists and political leaders on March 11, 2007, which saw the police defying at least three High Court orders allowing lawyers and medical practitioners access to the brutally assaulted detainees as well as to bring the accused persons to the High Court by 8h00 on 13 March, in the event of the first two orders having been defied.

Mukwazhi, a freelance photojournalist and Musiyu, who is a freelance film producer, were arrested together with Tsvangirai, National Constitutional Assembly Chairperson Lovemore Madhuku, MDC secretary-general Tendai Biti, Authur Mutambara, leader of the other MDC faction, legislator Job Sikhala, and Grace Kwinje, William Bango and Nelson Chamisa of the Tsvangirai faction. Madhuku spotted a head bandage and his left arm was in a sling when they appeared in court on March 13, and he was subsequently referred to a hospital for treatment. The MDC leader Tsvangirai is in the intensive care unit and is believed to have fractured his skull following the assaults by the police.

March 12, 2007: the High Court ordered the police to allow lawyers access to their clients, including two detained journalists, as well as opposition leaders and human rights activists. Photojournalist Tsvangirai Mukwazhi and television producer Tendai Musiyu, both employed with Associated Press (AP), are among those being detained at various police stations in Harare, together with opposition Movement for Democratic Change (MDC) leaders Morgan Tsvangirai and Authur Mutambara. Mukwazhi's whereabouts remain unknown following his arrest on March 11, 2007, at Machipisa shopping complex, when police disrupted a national prayer meeting that had been scheduled for Zimbabwe Grounds in Highfield under the auspices of the Save Zimbabwe Campaign.

• ALERT

Date: March 12, 2007

Persons: Sunsleey Chamunorwa

Violation: Threatened

On March 12 2007, firebrand journalist Sunsley Chamunorwa, renowned for his hard-hitting editorials and commentaries at the helm of the weekly "Financial Gazette", was suspended over a story reportedly involving the business interests of a powerful ruling Zanu-PF official.

Chamunorwa was suspended by Chief Executive Officer Jacob Chisese following publication of a story linking top Zanu officials - among them, the Governor for Mashonaland East Province, Ray Kaukonde - to lucrative security contracts at Harare International Airport.

Although details of the nature of the suspension letter handed to Chamunorwa were still sketchy, journalists at the weekly financial publication believed to be owned by Reserve Bank Governor Dr Gideon Gono, confirmed to MISA-Zimbabwe that their editor had bade them farewell following a meeting on March 13, 2007, with the company's management.

Chisese announced Chamunorwa's suspension - pending a final decision by the company's board - when he addressed members of staff, saying the decision had been made in light of the lawsuits that the weekly is facing. In its edition of 8 to 14 March 2007, the "Financial Gazette" led with a story alleging that three security companies with links to Zanu-PF had their contracts cancelled after the Joint Operations Command, which consists of top security officials, had raised concern that the firms could have been used by senior politicians to facilitate the smuggling of minerals through Harare International Airport.

Sources close to developments at the company said Chamunorwa's suspension over the airport security companies story was a smokescreen that was being used to scapegoat the pressure being brought to bear on the company's board to push the editor out by certain powerful politicians. The pressure was so intense to the extent of spilling to the registration and renewal of the paper's operating licence, notwithstanding the accreditation of its journalists by the state-controlled Media and Information Commission (MIC), in terms of the restrictive Access to Information and Protection of Privacy Act (AIPPA).

In an interview at the end of January 2007, MIC chairman Tafataona Mahoso reportedly confirmed to "ZimOnline" that his commission had not renewed the weekly's licence, but refused to be drawn to disclose further details. "It must be known that it is not an automatic renewal, there are things that we look at and get satisfied with before granting a licence and we are still looking at their application," Mahoso told "ZimOnline" then.

He added: "We are not saying they will get a licence or not." Newspapers renew their publishing licences after every two years while journalists, who also require licences to practice, must renew theirs after every 12 months. MISA-Zimbabwe has it on good record that the "Financial Gazette"'s journalists were still to be duly accredited as of February 28, 2007, following the expiration of the company's operating licence on December 31, 2006.

• ALERT

Date: March 11, 2007

Persons: Gift Tandare

Violation: Other (political activist killed)

Gift Tandare, an MDC activist, was shot and killed in Highfield on March 11, 2007, when police cordoned off Zimbabwe Grounds, venue of the planned national day of prayer organised under the auspices of the Save Zimbabwe Campaign, leading to the arrest and assault of the journalists, opposition and civic leaders.

In a blatant violation of the fundamental rights of freedom of expression, assembly and association, on February 21, 2007, the government imposed a three-month ban on demonstrations and political rallies in Harare.

• ALERT

Date: March 8, 2007

Persons: Zimbabwe Mirror Newspaper Group (ZMNG)

Violation: Other

The Zimbabwe Mirror Newspaper Group (ZMNG), which publishes the Daily Mirror and Sunday Mirror, closed business on March 8, 2007, after failing to produce the newspaper on two consecutive days due to acute financial problems.

• ALERT

Date: March 5, 2007

Persons: Peter Moyo, Trymore Zvidzai, Andrew Neshamba, William Gumbo, Beauty Mokoba, Keketso Seofela

Violation: Sentenced

Zimbabwean E-TV reporter Peter Moyo, who is based in South Africa, has been fined Z\$40,000 (approx. US\$160) under the controversial Access to Information and Protection of Privacy Act (AIPPA) for practising journalism in Zimbabwe without accreditation.

Moyo was convicted and fined together with Trymore Zvidzai, who is based in Zimbabwe, when they appeared before Mutare magistrate Tsungisai Madzivaizhe following their arrest in that town on February 5, 2007, for contravening Section 83 (1) of AIPPA, which prohibits "... persons other than an accredited journalist (to) practise as a journalist (or to) be employed as such ..."

They were arrested together with Zimbabwe Broadcasting Corporation (ZBC) employees,

Manicaland bureau chief Andrew Neshamba and Harare-based cameraperson William Gumbo, after they were found in possession of video equipment which they were using to cover illegal mining activities in Marange village in Manicaland Province.

Neshamba and Gumbo, who are being charged under Section 174 (1) of the Criminal Law (Codification and Reform) Act, Chapter 9:23, which deals with criminal abuse of duty by public officers, were remanded to March 21, 2007 for trial.

Their arrest and conviction follows that of Beauty Mokoba and Keketso Seofela from Botswana Television (BTV), who were the first non-Zimbabwean journalists to be convicted under AIPPA since its promulgation in 2002. Mokoba and Seofela pleaded guilty to contravening Section 83 (1) of the Act.

The BTV journalists were also convicted on their own plea of contravening Section 12(1) of the Immigration Act. Beauty Mokoba and Keketso Seofela were arrested on 30 April 2006 in the south western town of Plumtree while covering measures being taken in Zimbabwe to combat an outbreak of foot and mouth disease.

• **ALERT**

Date: February 28, 2007

Persons/Institutions: Voice of America's Studio 7

Violation: Censored

The Zimbabwe government has admitted that it is jamming the Voice of America's Studio 7 broadcasts into the country, claiming its actions are aimed at protecting Zimbabwe's sovereignty.

The admission was made in Parliament on February 28, 2007, by the Deputy Minister of Information and Publicity Bright Matonga while responding to a question by Kambuzuma parliamentarian Willas Madzimore.

Madzimore had asked why the government was jamming Studio 7, which is manned by Zimbabwean journalists and broadcasters exiled in Washington DC. "We cannot allow foreigners to invade our airwaves without our authority," said Matonga. "We will continue to do it. We need to protect our sovereignty. If you go to England you will not receive any foreign radio stations."

• **ALERT**

Date: February 26, 2007

Persons: Herbert Chikosi

Violation: Threatened

On February 26 2007, Police at Masvingo questioned freelance journalist Herbert Chikosi, following the publication of a story by The Zimbabwean, which alleged that members of the force in the town had refused to sing the national anthem in protest over poor salaries.

• **ALERT**

Date: February 21, 2007

Persons: Citizens of Zimbabwe

Violation: Other

The police imposed a three-month ban on demonstrations and political rallies in Harare in terms of Section 27 of the repressive Public Order and Security Act (POSA) which allows for the temporary prohibition of the holding of public gatherings within police districts for a period of three months. The police cited the violence, looting and destruction of property in Highfield on February 18, 2007, and Kambuzuma on February 4, as reasons for the ban. On February 18 the police violently stopped a High Court sanctioned rally in Highfield, which had been planned for by the opposition MDC to launch its 2008 presidential campaign.

March 1, 2007: The opposition MDC lodged an appeal with the Minister of Home Affairs

Kembo Mohadi seeking nullification of the ban on demonstrations and political rallies imposed by the police on February 21, 2007

• **ALERT**

Date: February 20, 2007

Persons: Robert Mugabe

Violation: Censored

On February 20 2007, the state-controlled Zimbabwe Broadcasting Corporation (ZBC) censored President Robert Mugabe's interview on the eve of his 83rd birthday, deleting his comments on the simmering leadership succession crisis in the ruling Zimbabwe African National Union - Patriotic Front (Zanu-PF).

According to media reports, President Mugabe accused Vice President Joice Mujuru of plotting with former Zanu PF secretary-general Edgar Tekere and publisher Ibbo Mandaza to undermine him, through Tekere's autobiography, "A Lifetime of Struggle", as part of a strategy to promote her presidential ambitions. He also reportedly spoke in glowing terms of Mujuru's arch-rival in the Zanu-PF succession race, Emmerson Mnangagwa.

The comments were, however, conspicuous in their absence when the interview was finally broadcast by ZBC.

The privately owned weekly "Zimbabwe Independent", in its February 23 edition, said George Charamba, the secretary for information and publicity, did not deny that certain sections of the interview had been censored.

Charamba said it was within the ZBC board's rights to "delete, retain, or postpone or archive" any material as that was the "essence of journalism".

"As the president's press secretary, I'm more than satisfied that the drift of the president's message was achieved," said Charamba.

• **ALERT**

Date: January 31, 2007

Persons: Bill Saidi

Violation: Threatened

On January 31 2007, Bill Saidi - the acting editor of the privately-owned "The Standard" - received a brown envelope containing a bullet and a threatening message warning him to "watch out".

Iden Wetherell, the projects editor of Zimind Publishers, which publishes "The Independent" and "The Standard", confirmed the incident to the MISA-Zimbabwe, saying a report had already been made to the police. Saidi could not be immediately contacted for comment.

The envelope also contained a press cutting of a cartoon that was carried by "The Standard" in its January 28 edition and a message that read: "Watch out, Mr. Editor."

The cartoon depicted a group of baboons having a good laugh after picking up a payslip belonging to soldiers of the Zimbabwe National Army, who are reportedly lowly paid.

The cartoon followed a story carried by the paper in recent weeks revealing that there had been mass resignations and desertions from the armed forces as a result of poor pay and working conditions. The paper said many soldiers quitting the army had sought employment in neighbouring countries and others vanished without a trace into the countryside.

• **ALERT**

Date: January 26, 2007

Persons: Leo Mugabe

Violation: Legislation

On January 26 2007, a leading Zimbabwean politician warned journalists from forming an independent media council without the approval of the government, which has closed news-

papers and arrested reporters.

Leo Mugabe, a nephew of President Robert Mugabe and a member of his ruling Zimbabwe African National Union Patriotic Front (Zanu-PF), told about 200 journalists at a meeting to launch the council that they should avoid confrontation with the authorities.

The government introduced tough media laws five years ago, imposing state permits on local reporters and barring foreign journalists from working permanently in the country.

The voluntary media council is a bid to supervise and maintain professional and ethical conduct among journalists in the face of government charges that the media is unprofessional.

• ALERT

Date: January 25, 2007

Persons: Arnold Tsunga

Violation: Threatened

Prominent human rights lawyer Arnold Tsunga said he was briefly detained by state agents at Harare International Airport on January 25, 2007. This was after they saw his name on a government 'hit list.' Tsunga, who is the Director of the Zimbabwe Lawyers for Human Rights and acting secretary of the Law Society of Zimbabwe, had just arrived in Zimbabwe with six other lawyers and had been cleared by customs when he was surrounded by the four men dressed in suits.

Tsunga said he was confronted as he left the arrivals terminal. He said security officials demanded to see his passport and when he asked for their identities they refused and literally dragged him through a corridor into an office at the airport. There they demanded to also see his two bags.

Tsunga said this was not a routine customs process because of the way he was confronted. He said one of the men is a well know CIO who is involved in the vetting of people as they enter and exit the country.

The human rights lawyer joins a list of other prominent Zimbabweans activists who have had their passports scrutinised or seized. Last year Newspaper publisher Trevor Ncube had his passport seized, as did Raymond Majongwe the Secretary General of the Progressive Teachers Union of Zimbabwe and opposition official Paul Themba Nyathi.

Tsunga confirmed seeing a list, when one of the state agents grabbed his passport. "He had two A4 pages which had a list of individuals. So he compared the name on my passport and one of the names that was on the list. And when it matched that is when he said step inside."

He believes the persecution of human rights activists in Zimbabwe is a systematic exercise, which is carried out very deliberately. Tsunga said it would be foolish not to expect most human rights defenders to be on that government "hit list."

• ALERT

Date: January 24, 2007

Persons: Media in Zimbabwe

Violation: Other

The Zimbabwe Broadcasting Corporation (ZBC) increased radio and television licence fees by more than 100 percent.

• ALERT

Date: January 22, 2007

Persons: Zimbabwean citizens, SW Radio Africa and Studio 7

Violation: Censored

At least 42 radios are reported to have been confiscated by state security agents in rural areas, allegedly to stop people listening to independent radio broadcasts. Several teachers are said to have fled some schools while others have been sent on forced leave as a result of intimidation

and harassment in the Midlands and Mashonaland East areas. The radios were distributed to several groups, especially teachers, to form organised radio listening clubs in remote areas to allow people to listen to independent news broadcasts from outside Zimbabwe.

Raymond Majongwe, the Secretary General of the Progressive Teachers Union of Zimbabwe (PTUZ) said: "I know for a fact that government agents are visiting schools and basically looking for the radios as well as getting specific information about those people who belong to the PTUZ."

Majongwe said so-called state agents are illegally forcing the teachers to provide their family histories to intimidate them. He said radios are being confiscated and unspecified action is threatened to those teachers who don't hand them over. Most of this is happening in the Midlands area, especially Mberengwa and Gokwe.

It's also reported that several teachers have also fled Mashonaland East. The Governor of Mashonaland East Ray Kaukonde, was seen on national television threatening people who had received radios. Majongwe confirmed seeing the governor saying the people should be given food and not radios. We were not able to get a comment from Kaukonde but Majongwe said: "The issue is not about food it's about access to information."

In December 2006 two lawyers from the Zimbabwe Lawyers for Human Rights were also subjected to harassment and intimidation by state agents in Gokwe when they were trying to serve them with a court order. The police and the state agents were ordered by the court to return several radios that had been confiscated but Gokwe police refused to serve the court papers. There are no independent broadcasts from Zimbabwe. A sustained assault on press freedoms has resulted in nearly all Zimbabwe's free media now operating outside the country. The government has been embarking on a systematic and relentless campaign to block stations like SW Radio Africa and Studio 7 from being heard by jamming broadcast frequencies.

• ALERT

Date: January 18, 2007

Persons: Nunurai Jena

Violation: Threatened

The Media and Information Commission (MIC) has summoned journalist Nunurai Jena to appear before it for a hearing over an expired accreditation card allegedly issued to him "in error" by the state-controlled media body.

Ironically, the MIC's notice of intention to cancel the expired accreditation card comes at a time when Jena is suing the Commission for defamation, arising from accusations made by its chairperson, Dr Tafataona Mahoso, against Jena. The matter is pending before the High Court.

In a parallel process, the MIC has since notified Jena of its intention to delete his name from the roll of journalists on the basis that the accreditation card he holds was issued "in error or through fraud".

In a letter dated December 14, 2006, some 17 days before the expiration of the card issued to Jena for the 2006 accreditation year, the MIC summoned him to appear for a hearing at the MIC offices on February 1, 2007.

The 2006 accreditations expired on December 31, 2006, and journalists are currently renewing their annual accreditations for 2007 as required under the Access to Information and Protection of Privacy Act.

Jena's lawyers have since responded to the MIC, notifying the Commission that they will still challenge the deletion of his name from the "roll of journalists".

In addition, the MIC is demanding that Jena furnish them with documentation of his journalistic activities, local and foreign buyers of his stories and print-outs of the accounts into which he deposited his earnings from journalistic activities for the years 2005 and 2006.

• **ALERT**

Date: January 16, 2007

Persons: The Standard, Caiphaz Chimhete, The Zimbabwean

Violation: Threatened

The Reserve Bank of Zimbabwe (RBZ) has threatened to sue the privately-owned “The Standard” and “The Zimbabwean” weeklies over stories reporting that the RBZ governor Dr. Gideon Gono had bought a top-of-the-line Mercedes Benz for US\$365,000.

In a statement on January 16, 2007, the bank’s board of directors said they would also take legal action against journalist Caiphaz Chimhete following publication of the story by “The Standard” in its weekly edition of 7 January.

The chairman of the board’s human resources committee, Lovemore Chihota, described the story as “entirely and totally false”, adding: “As a corporate body, the Reserve Bank, its staff, management and board have equally stood grossly victimised and humiliated by this false article.”

On January 7, “The Standard” reported that the governor had imported one of the latest model, speediest Mercedes Benz in the world, a Brabus E V12 Biturbo, from Germany at a cost of US\$365,000, “infuriating” many workers at RBZ who were denied annual bonuses by Gono in November 2006 on the grounds that the bank did not have the money.

“The Zimbabwean” subsequently published a similar story.

In the case of “The Standard” story, MISA-Zimbabwe notes that the story mentions that the car in question had been bought by Gono for “himself” and quotes an RBZ employee as having stated: “The question is: where did he (Gono) get the foreign currency to import such an expensive vehicle when the country has nothing?” The story does not state that the RBZ bought or imported the car for the governor.

• **ALERT**

Date: January 16, 2007

Persons: Selestin Jengeta

Violation: Other (Detained)

Selestin Jengeta, a teacher in Masvingo, spent three days in a lice-infested police cell. He was arrested for remarking during a television news bulletin that the Zimbabwean crisis would only end upon the death of President Robert Mugabe.

• **ALERT**

Date: January 16, 2007

Persons: Gibson Murinye and Collen Mwachikopa

Violation: Other (threatened)

Gibson Murinye and Collen Mwachikopa appeared before Masvingo Magistrate Timeon Makunde on charges of contravening the Criminal Law (Codification and Reform) Act after they were charged with singing a song deemed derogatory of President Robert Mugabe.

• **ALERT**

Date: January 4, 2007

Persons: Trevor Ncube

Violation: Expelled

Trevor Ncube, the publisher of the privately owned Zimbabwe Independent and Zimbabwe Standard, is facing renewed attempts to deny him Zimbabwean citizenship.

At present, Ncube is seeking a High Court order compelling the government to renew his application for citizenship after it was initially withdrawn. In the pleadings, Ncube argues that he is automatically entitled to citizenship because he has never held the passport of another country and by virtue of the fact that his father, who was born in Zambia, was also a Zimbabwean. The

government contends that Ncube's failure to renounce Zambian citizenship has led, under law, to the loss of his citizenship.

This is not the first time that Ncube has faced attempts to strip him of his citizenship. On December 8, 2005, a plainclothes officer of the Zimbabwean Central Intelligence Organisation (CIO) confiscated Ncube's passport. At the time, he was told that his passport was seized because his name appears on a list of 64 prominent businessmen, journalists, politicians, and activists.

January 25, 2007: The Registrar General Tobaiwa Mudede was ordered to reinstate Trevor Ncube's citizenship by the High Court.

A stylized, thick-lined outline of the African continent is centered on the page. The background features faint, concentric, wavy lines in shades of gray, creating a sense of depth and movement.

AFRICAN MEDIA BAROMETER

The first home-grown analysis
of the media landscape in Africa

Introduction

The Media Institute of Southern Africa (MISA) and the Friedrich-Ebert-Stiftung’s Southern African Media Project took the initiative in April 2005 to start the African Media Barometer (AMB). The AMB is an assessment exercise done by Africans of their local media environment according to homegrown criteria. The project is the most 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 conferences in Windhoek, Namibia, on the “Independence of the Media” (1991) and the “African Charter on Broadcasting (2001).

By the end of 2006, MISA and FES together implemented the AMB in 11 countries in southern Africa. FES further implemented the AMB in another 10 sub-Saharan countries. 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 and includes representatives of media and civil society at large in equal numbers. They serve as panel members in their personal capacities, not as representatives of their respective organisations. Effort is made to ensure gender equity and geographical representation.

The panel consists at most of ten members who will meet biannually for two-day retreats. During this time the panelists, through qualitative discussion, assess their local media environment according to predetermined indicators and as such determine (quantitative) scores for each indicator. A trained, independent consultant moderates the meetings to ensure comparable results. The resulting reports are made public.

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



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Botswana 2007

Civil society perceptions on the state of
media freedom & freedom of expression

African Media Barometer Botswana

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
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ANALYSIS:

Section 12 (1) of the Botswana Constitution states that “except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.” It is therefore assumed that freedom of the media is also guaranteed by the constitution, in line with a High Court judgment that acknowledges that the freedom of expression clause in the constitution includes freedom of the media and that this is similar to Article 10 of the European Union Convention on Human Rights.

While there are general guarantees for freedom of expression in the constitution, there are also a number of legal restrictions and exemptions which limit these rights and freedoms in the name of national security, to protect the rights of other people, to protect the freedom of civil servants to perform their duties and where public order is threatened. There is concern, therefore, over whether the constitutional provisions do indeed provide sufficient protection for the right to freedom of expression and whether all the exemptions do indeed serve a legitimate interest and can be deemed necessary in a democratic society.

Among the laws which make it difficult for the Botswana media to operate are: The Directorate on Corruption and Economic Crime Act, which bars the director from giving information on any person who is being investigated; the Public Service Act and the National Security Act, which make accessing information by journalists very difficult; the Official Secrets Act and the Cinematography Act 1975.

Under the Cinematography Act, all film scripts must be submitted to the minister responsible for the media for approval (in theory, this would even apply to the videoing of private functions). Any deviations from the original script and changes to be made during the production process must similarly be submitted and await the minister’s permission before they can be implemented.

MISA has long been pressing for this Act to be scrapped but it still remains in place, even though it is impossible to implement. It is presently being used in conjunction with the Anthropological Research Act. One panelist said she was recently expected to apply for permission under both laws even for doing research on broadcasting in the country. It was established that almost any kind of research involving human subjects requires previous permission from the Office of the President (OP) – especially if the researcher intends to interview government officials as well.

Both Acts are proving to be a nightmare as all stages of the filming are being controlled. They were used two years ago against two journalists who wanted to cover a story on refugees. This

confirmed that the Cinematography and the Anthropological Research Act are being applied together – especially in the case of research in regard to Basarwa or San people.

Besides the fact that all these pieces of legislation could lead to the media in Botswana practising self-censorship for fear of being on the wrong side of the law, the situation is made worse by the many far-reaching powers given to Botswana's President under the Constitution. These powers are more or less unlimited and extend to many aspects of Botswana's public life.

The case of Professor Ken Good (an Australian lecturer at the University of Botswana) – where the President used his powers to declare him a Prohibited Immigrant (PI) – is seen as proof that these powers are still being exercised from time to time.

Government also still upholds the need for the National Security Act (NSA) as a defense against anything which might threaten the security of the country or – even more broadly - any other act that is against the interests of the country.

Now it is widely expected that the NSA is going to be bolstered even further by the proposed Security and Intelligence Services Bill, which provides for the possibility of greater incursions into citizens' privacy. Already the Police Act allows the police to monitor people's land line and cellular phones.

SCORES:

Individual scores: 2, 3, 3, 3, 2, 1, 2, 2
Average score: **2.3** (2005 = 2.6)

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

ANALYSIS:

Most media workers are concerned not so much about freedom of expression as such but rather about the control of the free flow of information in the country. A lot of information is being classified as privileged by the authorities even though it may be quite innocuous.

There is hardly any litigation between citizens over freedom of expression issues (e.g. defamation) but numerous lawsuits against the media in this regard have been brought before the courts. Although their number has declined significantly in recent years, demands for damages to be paid have increased steeply, due to the tendency of the courts to award high amounts where the matter involves prominent people after a precedent was set in a case brought by a High Court judge.

Some people are just taking their chances as they know that they can win on legal technicalities. Often cases are withdrawn after putting the media through a lot of unnecessary legal expenses. Meanwhile, most publications are becoming increasingly proactive by counter suing.

Too many lawsuits against the media are due to the carelessness of editors and absence of monitoring tools and internal controls. Most newspaper houses do not pursue cases to the end but instead readily settle out of court even when they have a strong case. The media should stand by their stories more – provided they are convinced of the correctness of these stories. Some are being encouraged to do that by their media lawyers.

There are still not enough good test cases for the media law to be better defined and developed in the country. Lawyers generally should apply their minds more thoroughly to the role of the media in a democracy and thus help to campaign for media freedom by vigorously fighting against litigation levied against the media. More media scholars should also assist the media in their cause.

It is always difficult to get enough information from the media about the nature and the number of cases they are facing at any one time. Given its mandate, though, MISA Botswana should take a stronger position to help get a good test case through the Botswana courts, even as a friend of the court, especially where a fundamental right is being threatened or general human rights issues are involved. The example of Tanzania was quoted in this regard, where the Media Council always takes its position as a friend of the court whenever the media in that country is dragged before the courts by litigants.

MISA should do more to educate the media about these matters as they can ultimately affect press freedom and freedom of expression and have a chilling effect on the investigative media. There should also be more proactiveness on the part of the media – for example by making greater use of the Babegi Legal Defense Fund to fight their cases in the courts.

Generally, professionalism needs to be improved to avoid lawsuits as a result of misquoting and other mistakes made by the media themselves. They are expected to report responsibly and involve their in-house lawyers more in their daily operations to ensure that their reports are beyond legal reproach. They should also invest more money in protecting themselves and taking out professional insurance against litigation.

Participants agreed that the mere fact of litigation being brought against the media is not necessarily a hindrance to their being able to work freely. It is only when the right to sue is being abused for example by people in positions of authority that there is cause for concern.

Another point of concern is the use of the Immigration Act to curtail freedom of expression. The deportation of Professor Good was cited as one worrying example. There have also been two other cases where the relevant clause in the Act has been used to expel foreign journalists from the country. This means that the Immigration Act can be used by government to intimidate foreign journalists working in Botswana.

On a more general level there is a tendency among government authorities and certain economic players not to listen to and even to suppress divergent views. Many people are afraid to freely express themselves for fear of losing tenders or employment. Economic and other sanctions can be applied in order for people to toe the line. “In Botswana, sometimes you have to get drunk before you can freely express yourself”, said one participant.

There is also a general culture of suppressing freedom of expression in the case of children and young people who are not allowed to express themselves creatively and freely. For example, it is regarded as rude for a young person to criticize someone older than him- or herself or someone in a position of authority.

Over the last two years, there have been persistent reports of secret agents being active against politicians and trade unionists – especially during the time of heightened factional tensions within the ruling party.

The general consensus was that free expression among citizens is also not being enhanced because of the absence of a strong civic movement to monitor citizens’ freedom of expression.

As noted during the first Barometer two years ago, there is still general confusion over the difference between ‘government’ and ‘public’, with the two often taken to be one and the same thing: public interest equals government interest and vice versa – hence who is against government is against the public.

The same applies in the case of the government and the ruling Botswana Democratic Party (BDP) which are also regarded as one and the same thing. This means that if you criticize the party you are often taken to be criticising the people of Botswana as a whole. The people are regarded as subjects and not as citizens who have rights and towards whom the government has obligations.

Other factors and conditions that make it difficult for freedom of expression to be practised freely and without fear range from cultural taboos, often gender-related (“women should not be talkative”), to intimidation and harassment by state operatives like the police, security officers and the army to stifle dissent from groups of civil society, NGOs or journalists. In general, there is no culture of encouraging creative and free thinking.

But it was also noted that despite all these threats, the Botswana media still continue to publish what they want.

SCORES:

Individual scores: 1, 4, 2, 2, 1, 1, 2, 2
Average score: **1.9** (2005 = 1.9)

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

ANALYSIS:

There are provisions in the Penal Code for criminal libel, sedition and the publishing of “false news” or news that might “alarm” the public. Government wants to keep the criminal libel and other restrictive laws on the statute books under the pretext of protecting citizens.

Section 20 of the proposed Security and Intelligence Services Act will restrict the work of the media by – among other things – making whistle-blowing an offence.

SCORES:

Individual scores: 2, 1, 2, 1, 1, 1, 1, 1
Average score: **1.3** (2005 = 1.3)

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

ANALYSIS:

Presently, there are no legal restrictions on becoming and working as a journalist. A new Mass Media Bill, however, recommends minimum qualifications for practising journalists, which will be determined by a statutory Press Council to be set up under this proposed piece of legislation.

It was pointed out that the right to express oneself freely applies equally to all citizens – including journalists. The matter of professional ethics needs to be determined separately and without infringing on this basic right. Minimum qualifications should be set by the media professionals themselves as happens in other professions.

SCORES

Individual scores: 4, 5, 5, 5, 5, 5, 5, 5
Average score: **4.9** (2005 = 5.0)

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

ANALYSIS:

This is not the case in Botswana. There is, however, a desire for this to happen as expressed in *Vision 2016*, a set of long term policies for the country. *Vision 2016*'s Council and the Directorate on Corruption and Economic Crime are calling for whistle-blower legislation to be put in place.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 1, 1, 1
Average score: **1.1** (2005 = 1.1)

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

ANALYSIS:

Although the freedom to receive information is constitutionally guaranteed, there is no freedom to seek information from government. The Civil Service Act provides that no one except the Permanent Secretary in government departments can give information to the press.

There is a lot of arrogance within the civil service whose members regard themselves as gatekeepers. This attitude – rather than that of politicians - is proving to be the biggest obstacle to access information.

The *Vision 2016* document says that Botswana should have a Freedom of Information Act (FIOA) in place by 2016, but government has publicly stated that the country is not yet ready for this type of legislation.

The *Vision 2016* Council, however, is trying to expedite the process. There is also a chance that back-benchers in Parliament might push for freedom of information legislation as many of them are unhappy with the status quo. At the level of the executive, though, there is no real political will to bring about change.

SCORES:

Individual scores: 1, 1, 1, 1, 2, 1, 1, 1
Average score: **1.1** (2005 = 1.0)

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

ANALYSIS:

The Botswana Council of NGOs (BOCONGO), some Members of Parliament and faith-based organizations (FBOs) have been supportive of this cause but they merely represent the elite and urban-based members of society. Ordinary people in the rural areas and at the grassroots are more interested in basic needs critical for their survival. It is the responsibility of the media to woo the grassroots to this cause.

There has been a change in attitude over recent years, though, also on the part of government, with a line ministry that deals with the media now in place. Government has become more receptive to ideas coming from the private media. There is a relatively more constructive working relationship between the two and relations are no longer confrontational and hostile. But change takes time and patience for it to evolve and take root. MISA and BOCONGO should be credited for that.

Botswana's civil society organizations should do more to mobilize and lobby together and not leave MISA Botswana solely responsible for fighting for freedom of expression and the freedom of the media in the country.

There is also still concern over the fact that civil society organizations in the country have become more of 'government NGOs', since most of them are now indeed funded by the government, following the exodus of traditional NGO-funders after Botswana was declared a middle-income country in 1994 by the international community. There is a danger of government funding being used to bring about censorship and political control and the line between public influence and government interference being blurred. Truly independent civil society bodies are needed to ensure the continued institutionalization of democracy and good governance.

SCORES:

Individual scores: 2, 3, 5, 3, 3, 2, 2, 2
Average score: 2.8 (2005 = 2.4)

OVERALL SCORE FOR SECTOR 1: .2 (2005 = 2.2)

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:

There is no longer any vernacular language newspaper in the country as the only previously existing one (*Mokgosi*), closed shop at the end of 2005 after operating for three years. The

closure has been attributed to the fact that the newspaper did not get enough advertisements and support from the market. It started out as a fortnightly broadsheet and then changed into a weekly, with an original print-run of 10,000 - a number which it did not manage to grow and which had fallen to 4, 000 by the time it folded.

Newspapers survive on a growing or steady readership The *Mokgosi* management tried to position the newspaper as a mass circulation paper, given that the majority of the population are Setswana-speaking. But there has now been a clear realisation that Setswana is on the wane as the main language of choice. Many Setswana speakers have difficulties reading their own language because they have been brought up in English. There is no political commitment to preserve Setswana – nor is there a national language policy that might help protect it from extinction. The newspaper could have been a mobilizing tool for language rights. But there is no longer any prospect that the initiators will revive the paper.

As for English language papers the market still appears to be saturated with a large number of offerings. The country has a high literacy rate (84%) and papers are generally affordable at prices below that of a loaf of bread, an internationally accepted form of measuring the affordability of newspapers.

Given the sparsely distributed population, distribution remains the greatest challenge. Most publications are centered in urban areas or places with high population concentrations. Most newspaper houses either distribute their newspapers themselves or use other means such as subscriptions, use of courier services and various forms of public transport. BONESA, a company from the *Mmegi* stable which had been established in 2005 as a distribution agency, is still operating and has shown great potential to grow. But there is a need for more capital investment as the company is presently too dependent on the goodwill of its previous owner. It also needs new vehicles as the present fleet is old.

There is also a clear need for the company to change its concept and become more inclusive. Its distribution vehicles and personnel still carry the original company name and colours. Quite understandably, papers like *The Voice* have a problem with being distributed by the same vehicle that is advertising their competition. Talks are presently under way to make more general use of the new name and trademark BONESA which might bring more of the other publications on board.

Presently, the government-owned and controlled *Daily News* is the paper reaching the widest section of the reading public.

For a time, South African newspapers appeared to enjoy better distribution than the local papers, e.g. through South African owned trading outlets. This has changed because customers have been demanding their local newspapers.

Regarding internet, urban areas have better access than rural areas – especially remote areas with no electricity or those not being reached by the national grid. But the number of villages with access to electricity has been growing in recent years. Nteletsa II, an accelerated village electrification project, has just been announced and will extend electricity supply to more villages and ensure wider access to electricity needed for communication technologies.

Charges of Internet Service Providers (ISPs) in the country have gone down dramatically and this has further increased access to the Internet. The opening-up of the market also helped as the Botswana Telecommunications Corporation (BTC) no longer has the monopoly of access to the international gateways. ISPs can now offer their own services directly without going through BTC. Broadcasting has also been extended to more – and more remote - rural areas,

even though there are still many parts of the country without good reception. But there is still no access to diverse broadcasting.

Only the state broadcaster has extended its reach and most of the independent broadcasters are restricted to greater Gaborone. State-owned *Radio Botswana* presently reaches 80 percent of the population, with *RB2* standing at 65 percent.

Botswana Television (BTV) reaches 40 percent of the people terrestrially and there is 100 percent accessibility by satellite. Access to TV is limited, though, because many people can not afford to buy TV sets.

There are still no community-based newspapers or radio stations. As the introduction of community radio is currently a highly controversial issue, the NBB has so far not awarded any licences to this sector.

The use of cellular phones has vastly increased and the network is reaching most parts of the country. It is estimated that the number of subscribers stands at over 600,000.

SCORES:

Individual scores: 3, 4, 2, 2, 2, 3, 4, 2, 3
Average score: 2.8 (2005 = 2.2)

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

ANALYSIS:

Access to media sources is not restricted.

SCORES:

Individual scores: 5, 5, 5, 5, 4, 5, 5, 4, 5
Average score: 4.8 (2005 = 4.5)

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

ANALYSIS:

The *Daily News* has engaged private couriers and the newspaper is now reaching remote areas. Private newspapers are outsourcing distribution services to buses and other forms of transport in order to extend their circulation reach.

The Voice, with a print-run of currently 35,000, is presently regarded as the private paper with the highest circulation, with figures still rising. It tends to appeal to the youth – which is a growing market. But its scope of circulation is still limited to urban centres and large villages. The circulation of other newspapers is generally declining.

Many private publications have increasingly become available – to those who can afford it - through the internet.

SCORES:

Individual scores: 3, 4, 3, 4, 4, 4, 3, 3
Average score: **3.4** (2005 = 2.9)

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

The Broadcasting Act 1998 provides for public, private and community broadcasting services. A Draft Broadcasting Policy, developed by the National Broadcasting Board (NBB) since 2002 in a broad public consultation process, was tabled in Parliament in 2006. The House decided to defer any decision on it because of issues that needed to be clarified further. In particular, there was a lot of debate and confusion about the public broadcasting service and what it entails.

The recommendations on this sector were a watered-down version of the original NBB draft and some parliamentarians felt that the policy now allows government too much leeway by suggesting that the broadcasting services currently run by it should develop a concept of public broadcasting for themselves. Instead they insist that the policy needs to spell out clearly that these services be transformed from state into truly public broadcasting services. The government, however, is still not willing to give up control over Botswana Television and Radio Botswana.

Another contentious issue in parliament was the community broadcasting sector (see under 2.5).

In regard to commercial broadcasting, the NBB is about to grant national licences to three private radio stations.

SCORES:

Individual scores: 2, 1, 1, 1, 2, 2, 3, 1, 2
Average score: **1.7** (2005 = 1.8)

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

The introduction of community radio in Botswana still seems to be a distant prospect. While there was no resistance to community radios during the public consultation process for the development of the broadcasting policy mentioned under 2.4, the chapter on community broadcasting in the draft policy was hotly debated in Parliament, with widely divergent views expressed across party affiliations. Some MPs thought that this was the right way to go while others – on all sides of the political divide – felt that Botswana was not yet ready for what they saw as a potentially divisive service.

What has emerged from the debate of the policy so far is that there are many misconceptions about community radio and television broadcasting and that the issue has been highly politicised.

This has been made worse by the fact that one of the communities wishing to set up a community radio station is the Basarwa from around the Gantsi area in the North of the country.

There seems to be a fear in government circles that an international NGO - Survival International – which has been campaigning against the removal of San people from their original home in the Central Kalahari Game Reserve, could use community radios to promote its cause. Some MPs felt that community stations would bring about tribal tensions and even quoted the example of the genocide in Rwanda to make their point.

Efforts to de-mystify community radio and make parliamentarians and government aware of the potential of this sector as a development tool have so far been in vain. To the contrary: there appears to be a hardening of attitudes on the part of the political establishment and an increased unwillingness to allow for the opening up of the airwaves to communities.

In light of developments in the ICT sector and the ongoing convergence in communication technologies this seems to be a short-sighted stance to take. With Internet access becoming more widely available and affordable, more and more people will be able to listen to radio stations on the Net anyway, including in Botswana where at present this is still a privilege of the elite.

The fact that there was no outright rejection but merely a postponement of the new broadcasting policy in Parliament can perhaps be taken as a small sign of hope.

It is not clear, though, how civil society groups and others interested in the establishment of community broadcasting intend to take the matter forward and prepare the ground for a more favourable decision in the future.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005 = 1.0)

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

ANALYSIS:

The government media is under the direct control of the minister responsible for the media – the Minister of Communications, Science and Technology. Government journalists are seen more as government officials and not as journalists per se. There is little independence and a lot of interference.

The one positive development is the fact that the Department of Broadcasting has recently published more progressive editorial guidelines which proclaim “editorial independence” for its publications. Bold steps are still needed to bring about a more satisfactory situation.

SCORES:

Individual scores: 1, 1, 2, 1, 1, 2, 3, 1, 2
Average score: 1.6 (2005 = 1.2)

2.7 Local or regional independent news agencies gather and distribute information for all media.

ANALYSIS:

Sila News Agency, an independent agency which was set up in 2005, is still operating and offering news to all publications. A newcomer is *Front Page News*, which specializes mainly in feature stories.

The government-owned *Botswana Press Agency (BOPA)* has always made its material available to the private media as well. Most private newspapers do not use it, however, because on the whole it is sanitized and not well researched. The Agency is likely to be more independent if and when the general principle of transforming state into public media is accepted by adopting the draft broadcasting policy.

SCORES:

Individual scores: 3, 2, 3, 1, 3, 4, 3, 2, 2
Average score: 2.6 (2005 = 1.6)

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

ANALYSIS:

There is no regulation of competition – either for the economy as a whole or for the media industry. The government's intention to come up with a competition policy has still not materialized although the Botswana Confederation of Commerce and Industry (BOCCIM) is presently pursuing the matter.

The proposed broadcasting policy – now deferred until further notice - deals with the issue of competition in the media sector-specifically and might offer some useful guidelines.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 2, 1, 1
Average score: 1.1 (2005 = 1.2)

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

ANALYSIS:

No incentives are being given to private media and media enterprises are even taxed. The playing field between government and private media is not level – not just because the state media rely on tax-payers money and do not have to worry about many operational and commercial challenges which affect the private media. Government also competes with the private sector for advertising in print and broadcasting media.

Due to its adoption of cost-recovery initiatives, this competition for ad spend has become even fiercer. The government broadcasting media have the largest reach but charge lower

advertising rates than the commercial broadcasters. The *Daily News* with an estimated print-run between 60 and 70,000 is distributed for free and also charges lower rates than the private media, which means that it is undercutting their advertising market. This is exacerbated by the fact that the *Daily News* does not collect advertising revenue efficiently. There has been an attempt to increase collection by demanding payment upfront. This has affected smaller advertising agencies in particular who do not have a large enough revenue base to afford this kind of payment. As a result more work has moved to larger advertising agencies, closing out the up-and-coming new ones.

The private media could – ironically – benefit from government’s demand for payment upfront. They also have a competitive edge over the state-controlled media which lack credibility.

The new national private radio stations expected to be licensed soon will probably increase competition for the commercialized government radio station. The market will eventually determine what will happen.

Overall, there is no political will on the part of the government to improve the existing media environment. This can be attributed to mistrust of the private media on the part of politicians. Government is not giving any consideration to the support of small and struggling media as is being done in South Africa, for example, through the Media Diversity Development Agency.

The proposed broadcasting policy suggests that a fund be set up to help the independent broadcasting sector to survive. At present CEDA provides relatively cheap loans to the independent media.

SCORES:

Individual scores: 2, 1, 2, 2, 3, 2, 2, 2, 2
Average score: 2.0 (2005 = 1.2)

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

Most private media outfits are operating efficiently and as professional businesses. In the print sector, compared to the poor quality of the government news products, standards are high and this has enabled private papers to retain their share of the market.

The quality of radio programming seems to have gone down in order to control operating costs.

There has been increased diversification, especially in the telecommunications (e.g. headline news via SMS) and local music sectors. However, these have been increases in volume mostly while quality often is not yet up to scratch.

Generally, the private media outlets do not have any choice but to operate efficiently if they are to continue to survive in a small market. All media houses are trying hard to diversify sources of revenue instead of depending on advertising only. In the future they will need to invest more to keep their businesses afloat. More market research is needed in order to establish whether pricing levels are competitive. They could also do more to train their own people in management and leadership and become more creative in developing their production and editorial capacity.

SCORES:

Individual scores: 4, 4, 3, 4, 5, 3, 3, 3, 3
 Average score: 3.6 (2005 = 3.2)

2.11 State print media are not subsidized with tax payers' money.
ANALYSIS:

The government-owned *Daily News* is still fully and directly funded by the government.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1
 Average score: 1.0 (2005 = 1.0)

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

Ever since the Botswana High Court in 2001 declared unconstitutional a government instruction to all its departments and enterprises to stop advertising in *The Botswana Guardian* and the *Midweek Sun* because of their “persistent negative and often hostile reportage on government and its institutions”, the government has not openly discriminated against the private media in the placement of advertising. There is a perception, though, that if you do not speak well of the ruling party, it can come back to haunt you in a subtle way.

The media are not as dependent on government for advertising as they used to be. But there is still not enough openness about the use of public funds to prop up the government media. An earlier study by Dr T. Balule on public sector advertising in the private media showed that there is need for safeguards against government manipulation of the private media. It also found that most government advertising is being placed in government and not the private media. Government should make the process more transparent.

SCORES:

Individual scores: 3, 1, 3, 3, 3, 2, 2, 2, 3
 Average score: 2.4 (2005 = 1.3)

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

The advertising market is large enough and new titles are coming up all the time. The estimated figure of P400 million for the total amount of ad spend given in 2005 is actually conservative. P300 million is the figure arrived at in a study done by Methaetsile Leepile but this seems to exclude the book industry and ad spend from South Africa.

Titles which have long been on the market and have developed a brand for themselves manage to survive more easily than new entries into the field. Internet, radio and others have not yet explored the advertising market thoroughly enough. Overall, there is enough money out there to sustain the industry which is growing.

SCORES:

Individual scores: 4, 4, 4, 2, 3, 4, 5, 4, 4
Average score: 3.8 (2005 = 3.0)

OVERALL SCORE FOR SECTOR 2: 2.4 (2005 = 2.0)

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.

ANALYSIS:

According to the 1998 Broadcasting Act, the National Broadcasting Board (NBB) is appointed by the minister in charge of broadcasting. The board comprises an officer from the Office of the President, an officer from the Ministry of Commerce and Industry, an officer from the Department of Cultural and Social Welfare, a representative of the Botswana Telecommunications Authority (BTA), and seven persons appointed from a list of 10 candidates nominated by a Nominating Committee.

This Committee consists of a member of the Law Society, the Vice-Chancellor of the University and a representative of the Office of the President. The Board is funded by the ministry, reports to the ministry, and the BTA serves as the Secretariat to the Board.

Especially the role of the BTA as Secretariat was questioned, given that it creates the possibility of the BTA dominating the Board in its decision-making. The Board would need to have its own independent staff to do its work without direct interference from the BTA in order to be really independent and seen to be so.

There are plans to merge BTA and NBB to set up a combined body to deal with all aspects of broadcasting and ICT.

The present minister regards such a merger as a matter of priority. Currently stakeholders have no information on the nature and structure of the envisaged Botswana Communications Regulatory Authority.

SCORES:

Individual scores: 2, 2, 2, 2, 1, 1, 2, 1, 2
Average score: 1.7 (2005 = 1.5)

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

ANALYSIS:

As outlined under 3.1 appointments are made by the minister.

The composition of the Nominating Committee might be seen as biased towards government, with two of its three members being a representative of the president's office and the Vice Chancellor of the university who is himself a government appointee.

An example for an alternative way of doing things is the Press Council of Botswana, where a Selection Committee invited people to apply and these were interviewed with the public and media present.

Interviews for NBB candidates took place behind closed doors. The names of potential members were not published and so the whole process was not open and transparent.

Despite this appointments procedure, some panelists saw the actual performance of the NBB members as proof of their acting with an independent mind.

SCORES:

Individual scores: 2, 4, 2, 3, 1, 1, 4, 1, 3
Average score: **2.3** (2005 = 2.0)

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

ANALYSIS:

With the new broadcasting policy not in place, the interests of the state continue to take precedence over those of the public, and government still has a strong political and economic grip on the state media – particularly the broadcast media.

Although regulations for licensing broadcasters were issued in October 2004, the NBB's work is hampered by the absence of a broadcasting policy. The Board, however, is free to implement these regulations regardless and issue licences.

So far, it has granted licences to *Radio Botswana* and two commercial operators (*GBC* and *MultiChoice*). Licences for national private radio stations are to be awarded in the very near future.

One of the licence conditions for *Radio Botswana* is that it should have an independent board. However, the station was not given any time frame within which to transform into a public broadcaster, and the duration of the licence is ten years.

SCORES:

Individual scores: 1, 2, 1, 3, 2, 3, 3, 2, 2
Average score: **2.1** (2005 = 1.3)

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

ANALYSIS:

The broadcasting policy was developed in an open and transparent manner. The public had a chance to submit proposals and comments and there was an extensive public consultation process. However, the policy has not been adopted by parliament and it can thus not yet serve as a basis for decisions of the NBB. Moreover, the existing document is widely regarded as a watered-down version of the original draft, in particular in regard to public broadcasting (see 2.4).

SCORES:

Individual scores: 2, 1, 1, 3, 1, 1, 1, 1, 1
Average score: 1.3 (2005 = 1.0)

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.
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ANALYSIS:

Botswana does not have a public broadcaster and there is no board representative of society at large to oversee the operations of the service. *Radio Botswana* and *Botswana Television* continue to be directly controlled and managed by the Minister of Communications, Science and Technology.

The existing Broadcasting Act defines the “public broadcasting service” as “any statutory body which is funded either wholly or partly through State revenues”.

This definition differs widely from all generally accepted definitions of Public Broadcasting.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005 = 1.0)

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 or political parties as well as those with a financial interest in the broadcasting industry.

ANALYSIS:

This requirement does not even begin to apply because there is no public broadcaster and no independent board to control it in the first place.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 1, 1, 1
 Average score: **1.1** (2005 = 1.0)

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

ANALYSIS:

There is no law on public broadcasting in Botswana and thus no guarantee of editorial independence of any sort.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
 Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

There is no such protection against arbitrary interference. The state broadcaster is funded by the government, which can cut or increase funding at its discretion.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
 Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

Botswana does not have a public broadcasting service.

85 percent of the population has access to national radio. For television the figures are 40 percent via terrestrial signals and 100 percent via satellite. Accessibility is being improved continuously.

SCORES:

Individual scores: 4, 4, 4, 4, 4, 4, 4, 3, 4
 Average score: **3.9** (2005 = 3.1)

3.10 The public broadcaster offers diverse programming for all interests.

ANALYSIS:

Although Botswana does not have a public broadcast service, it was conceded that the state broadcaster offers diverse programming. Overall, programming on radio seems more diverse

than that on television. The two radio stations offer programming for most interests, news every hour (in both main languages), current affairs, entertainment, local music, sports, and call-in shows. On *BTV* local content has increased, with the station catering for youth interests, broadcasting local music programmes on most days of the week, and covering local sports.

There is no language diversity as no languages other than English and Setswana are being catered for.

SCORES:

Individual scores: 4, 3, 2, 2, 2, 3, 3, 2, 3
Average score: 2.7 (2005 = 2.6)

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

ANALYSIS:

Given the direct control by government it is difficult for *Radio Botswana* and *Botswana Television* to offer fair and balanced information. There is bias towards the state rather than the public interest, with TV news being obliged to cover each and every minister's activities while paying little attention to stories about civil society (*BTV* is nicknamed "President Mogae's TV"). In radio, efforts are made to broadcast reasonably balanced news bulletins, and morning phone chat shows give space to all views and opinions.

SCORES:

Individual scores: 4, 3, 3, 2, 1, 2, 3, 2, 3
Average score: 2.6 (2005 = 2.6)

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

ANALYSIS:

Local content on *BTV* has increased across the board, in particular in regard to local music. But there are still too few other local productions, such as dramas or talk shows.

Radio Botswana promotes local folk music and folk musicians. Royalties to the artists are not being paid, however, by any radio broadcaster in the country, including *Radio Botswana*.

SCORES:

Individual scores: 4, 3, 2, 4, 2, 4, 3, 2, 4
Average score: 3.1 (2005 = 2.7)

OVERALL SCORE FOR SECTOR 3: 2.0 (2005 = 1.7)

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:

The Press Council of Botswana (PCB), which started its work in November 2004, is active and has experienced a very good response and support from the public in its first year of operation. It still needs to educate people more on its work, operations and structure – something it has not been able to do in a sustained manner due to scarce resources.

There have been some high profile cases, one of them involving a Member of Parliament. The case went through all the stages of the PCB process until it was settled. In all there were 12 cases in 2005, all of them resolved by the PCB, with five of them adjudicated, four mediated and three withdrawn. In 2006, there were fewer cases: four of them adjudicated, one withdrawn and one still pending.

The NBB, for its part, has dealt with complaints from individuals and its own staff about unacceptable remarks on the radio and taken up the issue with the concerned station. The radio station issued an apology as a result.

There seems to be little cooperation or coordination between the NBB and PCB – either because the PCB fails to engage the broadcasting regulatory body enough, or because NBB does not seem to recognise the PCB as a partner. For example, there was a case that involved possible racist broadcasting which could not be adjudicated properly. The NBB did not help in acquiring the tape in question although this is well within its purview. The radio station concerned claimed system breakdowns or power outages and was finally let off the hook. The NBB and PCB need to sit down together and develop clear procedures for cooperation between them to avoid having some cases fall through the cracks.

The PCB's code of ethics is readily available and has been recognised or adopted by most media houses in the country. Most major media players are members. Newspapers use the PCB logo to indicate that fact and familiarise readers with the body. They also publish its complaints procedures and contact details. Most radio stations, however, do not provide such information.

SCORES:

Individual scores: 3, 4, 5, 2, 2, 4, 3, 3
Average score: 3.3 (2005 = 3.6)

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

ANALYSIS:

The standard of reporting has deteriorated over the last two years. There are too many and frequent mistakes occurring in the Botswana media without anybody seeming to be doing much about it. There is also a lot of speculation and sensationalism in certain sections of the local press – especially in headlines. Generally too little effort is made to get the other side of

the story. Proper analysis, investigative reporting and in-depth coverage of issues of national importance are lacking.

The increase in the number of newspapers is spreading talent more and more thinly. Journalists are highly mobile and there is a high turnover of staff in most media houses. Many lack both training and work experience.

PCB has been running training workshops in the work place and expects the media to be familiar with their code of ethics and the need to carry accurate and balanced stories. Media houses themselves need to become more pro-active. They should create a culture of mentoring in their organizations and pay more attention to training. Editors should challenge their reporters more to do their work properly and make sure they adhere to the basic principles of journalism.

There is very little contact between the new Department of Media Studies of the University of Botswana and local media houses. The first head of the department actively promoted such contacts but the culture of interaction and cooperation has since died. This is unfortunate because the Department can help the media reflect on the quality of their reporting or broadcasting.

There is also no diversity of experts writing in the papers and it seems that always the same political analysts get a chance. One of the reasons cited was that a lot of people do not dare to come forward and express their opinion in writing.

SCORES::

Individual scores: 2, 2, 2, 2, 2, 3, 2, 2
Average score: 2.1 (2005 = 2.9)

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

ANALYSIS:

Overall, newspapers try to cover more or less the full spectrum of events and issues but there is a clear lack of in-depth and investigative reporting.

Many experienced journalists tend to be promoted and stop writing – which makes it necessary to train new staff in investigative reporting all the time. Others leave the profession for greener pastures, especially in public relations. Some newspapers are accused of being too cowardly and not taking up certain issues because they fear people in positions of power and influence.

Printing costs are very high and newspapers need advertisements in order to survive. The usual editorial/advertising ratio is 40:60. In view of increasing competition, the media can not afford to antagonize their advertisers. There is ongoing tension between the editorial and advertising teams, as the former always seek to cover only newsworthy events and not those directly linked to commercial interests and designed to make potential advertisers appear in a good light.

SCORES:

Individual scores: 2, 3, 4, 3, 3, 4, 3, 3
Average score: 3.1 (2005 = 3.0)

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

ANALYSIS:

Gender imbalance is not a serious problem in the country. Most companies and media houses are equal opportunity employers, with merit being the more important criterion for hiring rather than gender considerations per se.

Women are in decision-making positions as owners and/or editors at *The Voice, Botswana Gazette* and *Sunday Tribune*. *BTV* and *Radio Botswana* also have mostly women in their leadership positions.

When it comes to working on the beat, however, female journalists are often disadvantaged because they are not taken seriously by interviewees.

Given that very few women feature during journalism awards like those organized by MISA from time to time, the Botswana Media Women's Association (BOMWA) should be encouraged to make a greater effort to motivate women journalists to come forward and compete more for professional awards.

According to a study commissioned by MISA, only two media houses have gender policies in place (*Voice* and government media). Those that have no official policy claim to have unwritten gender practices and policies. Overall, there are no clear policy frameworks on gender mainstreaming. Organizations like Gender and the Media in Southern Africa (GEMSA) and Gender Links (GL) are active in helping the media to address the situation.

SCORES:

Individual scores: 2, 4, 4, 4, 2, 3, 3, 3
Average score: **3.1** (2005 = 2.9)

4.5 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

Various studies on the Botswana media such as a 2002 Gender Links study have shown that the editorial content of most media outlets is generally unbalanced, with 84 percent of all sources being male and only 16 percent female. This imbalance is getting worse rather than diminishing.

One of the reasons could be that while people generally do not trust the media and its accuracy in coverage, women are even more wary of being misrepresented and therefore tend to refuse to be interviewed.

There is a strong cultural component to this as women perceive themselves as more vulnerable and not liberated enough even though they may have climbed up the corporate ladder. Many women in high positions will rather delegate a requested interview to a male colleague. Journalists need to make a deliberate effort to seek out women and get their voices heard.

Another reason for the imbalance is that news coverage is often merely event rather than issue driven, and that gender topics could be better addressed in issue driven stories.

SCORES:

Individual scores: 2, 2, 2, 2, 2, 3, 3, 2
 Average score: **2.3** (2005 = 1.5)

4.6 Journalists and editors do not practice self-censorship.
ANALYSIS:

Self-censorship on the part of journalists is common. Botswana is a small society and many people know each other intimately. This leads to a tendency not to report things about each other for fear of being ostracized by one's own community ("He is my mate, I leave this out ...").

As far as possible, editors try not to censor themselves. But they do face some cultural constraints, such as respect for elders. Sometimes self-censorship is practiced when editors do not cover a story that could damage or offend a potential advertiser or high profile personality. Editors have to live with an "unbelieving society" that thinks newspapers are quite prepared to make up their stories. However, the situation has not become so serious as to have reached a "stage of unhealthiness".

Self censorship should not be confused with holding an opinion or taking a political position – which editors are entitled to do. Editors and journalists are also free to join political parties of their choice but they should not be seen to be blatantly peddling their party-political positions. Most newspapers and journalists, however, are not affiliated to any political party.

SCORES:

Individual scores: 2, 2, 3, 2, 2, 3, 2, 3
 Average score: **2.4** (2005 = 2.5)

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

Most newspaper managements do not interfere with the editorial independence of their publications.

Journalists are generally free to write what they want and editors only check their stories to make sure they are accurate and balanced. Editors are encouraged to be independent and non-partisan. This is included in their mission statements and holds true for most print media – with the exception of government media. Newspapers like *Mmegi*, *Botswana Gazette*, *Sunday Standard* and *Botswana Guardian* have editorial charters which define the relationship between their owners and editors. Some papers are owned by families and individuals who feel they have the right to interfere in the editorial work of their publications.

SCORES:

Individual scores: 4, 5, 4, 4, 4, 4, 4, 3
 Average score: **4.0** (2005 = 3.0)

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

ANALYSIS:

Salaries for journalists in Botswana are mostly based on comparable industry salary levels. Journalists are expected to declare gifts and the nature of such gifts to determine whether or not they should be allowed to keep them. There are clear divisions between the editorial and the marketing departments in most media houses in the country.

While salary levels generally are high enough to serve as a disincentive for corruption, there are some cases of journalists allegedly being on the payroll of powerful people in business and politics.

SCORES:

Individual scores: 3, 4, 3, 3, 4, 3, 4, 3
Average score: **3.4** (2005 = 3.4)

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

ANALYSIS:

Short-term training is available and MISA informs media houses regularly on such opportunities. Many students were trained in media all over the world on government scholarships and locally at the University of Botswana. In addition there have also been many short courses offered by several institutions in the region. At the moment, there are even too many journalism graduates in the country and not enough full-time jobs available for them.

In spite of the various training options available, these do not seem to be making much impact. Journalists are either not actively seeking out these opportunities or they are not being taught appropriate skills. There also does not seem to be a culture of journalists challenging themselves to perform better.

SCORES:

Individual scores: 5, 4, 4, 4, 3, 4, 3, 3
Average score: **3.8** (2005 = 4.0)

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

ANALYSIS:

Some of the old media organizations like the Botswana Journalists Association or the Botswana Press Club seem to have collapsed or are dysfunctional. However, apart from the Botswana MISA chapter and the Botswana Media Women's Association, there are also a number of more recently established bodies like the Botswana Media Workers' Association, the Botswana Editors' Forum, Journalists Against HIV/AIDS, the Botswana Filmmakers Association and the Botswana Independent Producers Association.

SCORES:

Individual scores: 4, 4, 4, 5, 4, 4, 4, 5
Average score: **4.3** (2005 = 3.6)

OVERALL SCORE FOR SECTOR 4: 3.2 (2005 = 3.0)

COUNTRY SCORE 2007: 2.5 (2005 = 2.2)

Developments since 2005 and the way forward

Positive developments in the last two years

- The most notable developments occurred in the regulatory arena:
- The National Broadcasting Board (NBB), has advertised three new national private radio licenses that are expected to be awarded soon.
- In October 2006, the proposed broadcasting policy for Botswana was tabled in Parliament, where it was debated at length and later deferred indefinitely. In order to get the process going again, MISA has organised a number of public relations exercises such as breakfast meetings with members of parliament.
- There has been some liberalisation of the communication technology sector in the form of the award of service-neutral licensing, which in turn is widely expected to accelerate the merger of the regulators NBB and the Botswana Telecommunications Authority (BTA). It will also allow for the production of more local content and increased accessibility of the mass media.
- The government ban on advertising in the various private newspapers has been relaxed or lifted altogether.
- The establishment of the Press Council of Botswana (PCB) has had a positive impact. Now most newspapers report more carefully, ethically and sensitively. There has also been a drop in the number of lawsuits – partly because some people now complain to the PCB instead of running to the courts every time they feel maligned by the press.
- Generally, previously hostile and antagonistic relations between the local media and the government have improved and this has been attributed in large measure to the establishment of a government ministry that focuses on the media sector and would like it to succeed as its core business – the Ministry of Communications, Science and Technology. Discussions with the new minister and her staff have become more constructive, productive and objective.

Negative developments in the last two years

- The old Mass Media Bill, which introduces a statutory press council, and a new Security and Intelligence Bill have been tabled in parliament. Given that government

is determined to push through these two widely criticized pieces of legislation designed to curb the freedom of the media, the perceived normalisation of relations between government and the media could perhaps just be a lull before the storm.

- There have also been increasing harassment and assaults of photo-journalists at the courts of law and in full view of law enforcement officers who did not bother to arrest the culprits. MISA Botswana has already met with the Commissioner of Police over this matter – who acknowledged that this is unacceptable. Unfortunately, most media houses seem to be doing nothing while members of their staff are being abused and the Botswana Editors' Forum has also been silent on this matter.
- Government is planning to revive its own printing press and stop relying on commercial printers which could dent profitability in the industry.
- There is still no access to information legislation in place.
- Foreign journalists perceived to be critical of government have been deported.
- There is a general apathy among editors in Botswana to take part in discussions on media issues.

The main drivers or actors for change

- Currently, change is mainly technology driven: Developments in information communications technology might make the media more accessible to more people – costs for production and distribution of media content could come down.
- The general public demands more local content.
- Various pressure groups like MISA, BOCCIM continue lobbying.
- The newly-established Ministry of Communications, Science and Technology should be able to focus on its mandate and on media issues in particular without these being crowded out by the diversity of other issues being handled by the Office of the President where the media was previously based.
- The NBB has learnt a lot from networking and interacting with other regional and international regulatory bodies and other structures. Its members are now more knowledgeable, confident and assertive than they were a few years ago. Lobbyists of regulatory authorities have also become more knowledgeable and smarter.

Some of the possible obstacles for further positive change

- The political landscape is expected to change with the change in presidential leadership in 2008. This will occur against the background of a weak and divided political opposition.
- The limited resources available to NGOs might force them to make more concessions to the political establishment.

- Media-owners and editors are not pro-active, not interested in media reforms, even too scared to get involved in debates on media issues.
- There is a lack of commitment to develop indigenous language media. Given that most media owners are afraid of taking the high risks involved in such an endeavour, the support of donors might be required – similar to what they did in the past to foster change in relation to media diversity and pluralism.
- Local language broadcasting might be negatively affected by the tendency of the youth to prefer English over indigenous languages.
- Language rights are not respected in Botswana but they are important for nation building and long-term peace.
- Media organizations are disorganized and there is poor commitment to professional development and growth.
- AIDS is killing capable and trained media personnel and reducing the number of buyers of media products.

Some of the activities needed over the next few years

- The NBB should do more to sensitize the public on its work and to act more independently and proactively.
- MISA and other civic groups should intensify lobbying of the various authorities against unfavourable laws and policies.
- MISA should take the lead in making citizens aware of the benefits of community radios and the establishment of a true public broadcaster.
- More test cases should be brought to court so that media law in the country can be developed further.
- The University of Botswana should introduce a community radio station and use this as a test case for the roll-out of community broadcasting to the rest of the country.

The panel meeting took place at the Cumberland Hotel, Lobatse from 17 to 18 March 2007.

The Panel:

Dr. Tachilisa Balule, law lecturer; Ms Seatholo Tumedl, English lecturer; Ms. Beata Kasale, publisher; Mr. Modise Maphanyane, media activist; Ms Felicitus Mashungwa, journalist; Ms Tholoana Phooko, attorney; Mr. Solomon Monyame, producer; Dr. Masego Ayo Mpotokwane, lecturer - environmental science; Mr Methaetsile Leepile, media consultant

The Rapporteur: Mr. Sechele Sechele

The Facilitator: Mr. Hendrik Bussiek



Mozambique 2007

Civil society perceptions on the state of
media freedom & freedom of expression

African Media Barometer Mozambique

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:

Freedom of Expression and Media Freedom are enshrined in the Constitution of the Republic of Mozambique, specifically through its Article 48. Such freedoms are effectively promoted and guaranteed by the Law Nr. 18/91 of 10 August, generally known as Media Law (Press Law). Individual scores: 5; 5; 5; 5; 5; 5; 4; 3; 5; 5
Average score: 4.7

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

Analysis:

Fear depends on each person given the fact that there is nothing to impede the exercise of the above right. The environment in which one operates is effectively democratic. Even in journalistic circles, where there are those clearly stating that they do have fear, one observes that such fear is related to expectations by specific media professionals. However, in practice and objectively, nothing exists that could raise fear.

As one moves away from the country's capital, Maputo city, one observes the clear existence of some indications and symptoms of fear among media practitioners, due to the lack of respect for Media Freedom (Press Freedom) by certain politicians. A journalist working in Quelimane, Zambézia's Provincial Capital, was dismissed from his position as head of a government media organisation for refusing to participate in a ruling Frelimo Party meeting for which he was invited in 2006.

It is imperative that media practitioners do everything in their power to be able to resist the never ending manipulation from politicians. Such manipulation is possibly stronger within the country's capital than in the various provinces. Eventually, those that are involved in manipulation certainly think that there is a tense climate in the country.

With the exception of Maputo, where there are still those that do NOT report about RENAMO, for instance, for fear of being linked to the political opposition. The fear intensifies to an extent as one is further away from the country's capital. That is exemplified clearly by what is happening with the community radios. As an example, only after one year elapsed, it was discovered that the seven million "Meticais" (N.T.: Meticals – being 1 Metical the Mozambique currency unit) allocated to the districts was being misused. This was because the community radio reporters said nothing about it due to the fear that is prevalent outside Maputo.

There is intense political intimidation away from the country's capital, many times resulting in revenge and retaliation. That raises fear among the people including journalists. In such

situation, people prefer not to expose themselves to risks, as one should protect his/her own physical integrity. Situations of misuse or abuse of power in areas away from Maputo should be promptly denounced to avoid the wide spreading of unlawful and illicit actions. For instance in 2006, a prosecutor ordered the illegal detention of three journalists in Barué, in the Manica Province. However, as soon as MISA-Mozambique denounced the occurrence the journalists were released and the Public Prosecutor (Procurador-Geral da República – PGR) brought a disciplinary action against the said Prosecutor.

SCORES:

Individual scores: 3; 5; 3; 3; 2; 3; 2; 4; 2

Average score: 2.9

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 laws that restrict the Freedom of Expression in Mozambique. One of such laws is the General Statute for Public Workers, (EGFE), preventing or thwarting public workers from speaking in public about their own work. Such provisions contribute towards the proliferation of unnamed sources in media reporting. Such provisions differ from law nr. 30/2001, which states that public workers shall cooperate with journalists in as far as access to official sources are concerned.

The Media Law (Press Law) also has some excessive provisions. For instance, article 29 (1) and (2) of this legal monument, regarding the official sources of information, are contradicting each other, one (1) states that access must be facilitated while (2) talks about consent. It is worth little to facilitate without consent.

Other areas of the Media Law (Press Law) considered to be problematic are Article 42 (on crimes of media abuse) stating that media crimes are of an urgent nature, and Article 47, stipulating that when the plaintiff is the Head of State, there is no evidence in relation to the veracity of the facts, which is unreasonable. In the draft amendment bill of the Media Law (Press Law), this article is in the process of being deleted, given that Article 153 of the Country's Constitution of 2004 stipulates that the State President is liable for criminal acts committed during his/her office, a provision that was not included in the 1990 Constitution which served as a basis for the approval of the Media Law.

It was decided that the good thing, in as far as the media crimes was concerned, was that many of those that were calumniated in real terms did not know the Media Law. Journalists should be aware that a Code of Conduct for Senior State Officials – involving ministers, provincial governors and district administrators – has provisions expressing that those mentioned above are not authorised to refer to their work outside official premises. There is another concern in as far as media crimes are concerned: the judges pronounce judgements against journalists guided almost exclusively by penal code thus completely ignoring the Media Law provisions.

SCORES:

Individual scores: 2; 2; 2; 2; 2; 2; 2; 2; 1

Average score: 1.9

1.4. Entry into and practices of the journalistic profession is legally unrestricted.

Analysis:

There is a wide lack of regulation related to the Journalist profession in Mozambique allowing any person unable to get employment to declare they are journalists.

SCORES:

Individual scores: 5; 5; 5; 5; 5; 5; 5; 5; 5

Average score: 5.0

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

Analysis:

Both the country's Constitution and the Media Law (Press Law), specifically in their Article 30, recognise the professional secrecy of journalists. However this is a matter of concern because the judicial magistrates show lack of knowledge of the legislation in relation to this issue, particularly the Media Law (Press Law).

SCORES:

Individual scores: 5; 5; 5; 5; 5; 5; 5; 5; 5; 5

Average score: 5.0

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

Analysis:

The administrative information is not easily accessible in Mozambique. MISA-Mozambique submitted to Parliament a draft proposal on the Right to Information Act, on 30 November 2005. The draft aims at filling in the gap in that area.

SCORES:

Individual scores: 1; 1; 1; 4; 1; 1; 1; 1; 1; 2

Average score: 1.4

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

Analysis:

The prevailing situation indicates that civil society organisations are not aware that their existence can not be effective without the media, hence they do very little to actively encourage and promote Media Freedom.

There is a clear lack of media culture within the Mozambique civil society organisations, which still is, in reality, very incipient. As evidence of this (lack of a media culture) many civil society organisations do not subscribe to at least one paper. They think that their only task is to build

new water wells; they clearly show lack of knowledge regarding the concept that peoples' awareness can only be effectively done with the help and usage of the media.

The situation is of such concern that even the Human Rights League (LDH), one of the most prominent civil society organisations in Mozambique, does not use correctly and effectively the *media* to create awareness among the people about what human rights are. The very few times that the Mozambican civil society organisations call a press conference, it becomes clear that their own leaders want to "call the attention of the public upon themselves" most of the times with futilities and vanities that have little news value and public interest.

On the occasion of the "Mabáruè case", in May 2006, only MISA-Mozambique took a public position, thus suggesting that for all the other civil society organisations, questions linked to the Freedom of Expression and Media Freedom are simply not relevant.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 2; 1; 1; 1; 1

Average score: 1.1

Overall Sector Score: 3.1

Sector II: 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:

There are information sources but they are not accessible. Some people with financial power are unfamiliar with and neglect media reports due to a lack of culture of information. Access to radio is reasonable. In territorial terms, radio, especially in the evening, covers the whole territory. However in terms of listenership it reaches about 90% of the population. Television covers about 70% of the territory and about 50% of the population. The newspaper readership is not wider than 2.5% of the population. Access to Internet is even smaller!

It is important to note that access to the media does not necessarily mean access to information. For instance, those that do not have a TV set in their homes go to their neighbours' houses on time to watch TV soap serials but not news programmes. Public media organisations should have the obligation of supplying a lot of information of public interest.

SCORES:

Individual scores: 3; 2; 3; 2; 3; 2; 2; 3; 2; 3

Average score: 2.5

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

There are no restrictions against both domestic and international media in Mozambique.

SCORES:

dividual scores: 5; 5; 5; 5; 5; 5; 5; 5; 5

Average score: 5.0

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

There has been no successful effort towards that objective. For instance, the State is the main shareholder of the Mozambique Airlines (LAM), but does not offer any subsidy for the transport of newspapers. The importation of paper does not benefit from tax incentives nor is it subjected to special duties. There are countries where their national Parliaments have approved media incentives, especially in relation to their wide distribution to the masses.

In Mozambique, the State does nothing towards that end which is worsened by the fact that there are State district administrators that are clearly hostile towards the presence of independent media journalists in the territorial units under their jurisdiction. A citizen who resides in the Province of Inhambane was “accused” by a State administrator for reading the “SAVANA” and the “ZAMBEZE”, two independent newspapers. At Zambézia Province level, such things occur also at Provincial Government level.

The recently concluded “Project Media” from UNESCO, which was co-financed by UNDP and the Mozambican Government, can be considered as an isolated effort towards such objective that ended up to be a total failure.

The situation in which the independent media operate shows that the government does not have a proactive attitude towards such media doing nothing towards their benefit and improvement. What the government has is an inflexible attitude towards this sector (the *media*). Government used to have until recently a newspaper called “O Campo” (The Countryside) whose periodicity was a guess. Whenever this newspaper was published it would not reach the rural areas.

The organisations operating in the print media sector are also part of the problem, because they are not seen to be properly organized. There is an organization that supposedly should do everything to improve the sector and that is the Association of Newspaper Companies (Associação das Empresas Jornalísticas) known as AEJ. However its action is negligible.

SCORES:

Individual scores: 2; 2; 2; 3; 2; 3; 1; 2; 1; 1

Average score: 1.9

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

In 1992, one year after the approval and implementation of the Media Law, a decree on the access to frequencies detailing its conditions, was approved by the Council of Ministers (CM) which is in fact the Government of Mozambique. Apart from that no other legislation exists. There is a National Information Policy that was approved in 1996 and that has no regulating power. The public sector media [Radio Mozambique (RM) and Television of Mozambique

(TVM)] are in constant competition with the private media sector. The lack of educative programmes is the same in both scenarios (public and private). As far as that is concerned, Radio Mozambique still makes an effort towards producing useful programmes. Both RM and TVM receive State Aid through the contract-programmes signed with the Government, for which there are no specific laws.

The situation of the community radios is particularly sensitive: they are always requesting for a law to be approved but no progress has been made. It is said frequently that the journalists of community radios are more of disk jockeys than journalists. In fact there is no legislation that regulates coexistence in a healthy environment.

SCORES:

Individual scores: 1; 2; 1; 1; 1; 1; 2; 1; 1

Average score: 1.2

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

Analysis:

Community radios are always an issue in the annual programmes of the government, which shows that there is a special effort for their promotion. The key question is if such radio stations are for the good of the rural communities or are in fact an extension of the public radio service. It is because of this, that these Community Radios have signed agreements with RM and TVM, particularly those linked to the Institute of Social Communication (ICS).

In Mozambique there are a number of community radio and television services that are supported by the government; others by religious congregations and another group that operates under the sphere of certain organisations of the civil society. They do enjoy some promotion.

Of some concern is the fact that community radios have to face many difficulties to be granted a licence. They are submitted to a process of licensing almost identical to the one applied to the commercial radio services. Before the licence is granted to a community radio, the political orientation of its advisors is thoroughly investigated.

SCORES:

Individual scores: 2; 1; 3; 3; 2; 2; 3; 2; 1

Average score: 2.1

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

Analysis:

The editorial independence of the print media with a strong historical link to the State is not protected against political interference. For instance, the executive editors and journalists of “Notícias” newspaper, the largest in the country, try to present an image that the newspaper is private. However, the fact that the Bank of Mozambique is the biggest shareholder of “Sociedade Notícias, S.A.” the owner of the newspaper and main financial adviser of the government, can create the idea (rightly or wrongly) that it is a newspaper that is not too far from the Government political line.

It should be stressed that during the preparation of this Media Barometer, the Chairman of the Board of Directors of “Sociedade Notícias, SA” was the Bank of Mozambique Governor. The situation was only altered with the appointment of the new Chairwoman of the Board of Directors who is also a senior staff member of the Bank of Mozambique.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 2; 1; 1

Average score: 1.1

2.7. Local and regional independent news agencies gather and distribute their information for all media.

Analysis:

There are no independent news agencies (both national and regional) in Mozambique that collect and distribute information to all media.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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

Analysis:

Reality shows that diversity is not promoted through clear rules of competition and adequate laws, as is the case with those against monopoly. The “Independent Society of Communication” (SOICO), proprietor of Stv, Sfm, FamaMagazine and the weekly publication “O País” (The Country), is a commendable case of this situation.

Stv, not being able to acquire a licence for the whole country, which is legally the monopoly of the public broadcasters (RM e TVM), it eventually requested separate licences for each one of the provinces, ending up with repeater stations throughout the country, with some exceptions. There is no proof that such a situation could promote diversity. On the other hand SOICO “is in all” because there is no anti monopoly law. It operates in the television, radio and print media.

SCORES:

Individual scores: 3; 2; 3; 2; 3; 2; 2; 3; 2; 3

Average score: 2.5

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

Analysis:

As far as the political environment is concerned, the situation is good. But economically the government does very little or nothing to promote media diversity. That can be explained by the fact that Mozambique is a country in transition towards a multiparty and liberal democracy. Up to the very recent past Mozambique was a country guided by Marxist-Leninist ideology.

SCORES:

Individual scores: 3; 2; 2; 3; 3; 2; 2; 2; 2

Average score: 2.3

2.10. Private media houses operate efficient and professional businesses.

Analysis:

Those that are operating are, to a certain point, efficient and professional. There are those that try hard to be both (efficient and professional) while others do not.

SCORES:

Individual scores: 3; 3; 2; 3; 3; 2; 2; 3

Average score: 2.5

2.11. State print media outlets operate as efficient and professional businesses.

Analysis:

This statement is a paradox. The state media, obviously, is subsidised with the tax payers' money. The problem is that the subsidy is not enough.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 2; 1; 1

Average score: 1.1

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

Analysis:

The government does not use its power through the attribution of advertising contracts to interfere in the content of the media. In general, a certain diversification in placing State advertisements in almost all media is visible, although there is a predominance of advertising in the "Notícias" newspaper given the perception of many of government leaders that it is the largest newspaper with the widest readership.

SCORES:

Individual scores: 5; 5; 5; 4; 5; 5; 4; 4; 5; 5

Average score: 4.7

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

Analysis:

On the side of the companies and entrepreneurs that operate in Mozambique there is no advertising culture. When the companies and managers advertise their products and services in the media they think they doing it for charity. With the new Procurement law, advertising in the media is increasing but it is not correct to say that the advertising market is sufficiently large to maintain the diversity of the media environment. The "Notícias" newspaper continues to benefit from the largest share of advertising in the market.

SCORES:

Individual scores: 1; 2; 2; 1; 2; 2; 2; 1; 1; 1

Average score: 1.5

Average Score Sector II: 2.2

Sector III: 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.

Analysis:

In Mozambique there are organs that are claimed to be regulators. However, their independence is, at best, questionable. As far as broadcasting is concerned, there is no regulating body in the country. There is the Mozambique National Institute of Communications (Instituto Nacional das Comunicações de Moçambique) (INCM) that is confined to grant frequencies. The High Media Council (Conselho Superior da Comunicação Social) (CSCS) attempts to be a regulator but various problems including structural problems, make it impossible for it to fulfil such a role.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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

Analysis:

There is no specific regulatory body for broadcasting in Mozambique.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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

Analysis:

There is no regulatory body for broadcasting in Mozambique, thus such statement is not applicable.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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

Analysis:

There is no regulatory body as such in Mozambique. There is the INCM that has the responsi-

bility of granting frequencies. This body operates based on two legal instruments. The INCM was the arm of the Transport and Communications Ministry and there was a decree that laid down its responsibility for the radio electrical Spectrum of the country. Another Decree from 1992 regulates the access to frequencies. The Information Office (Gabinete de Informação) (GABINFO) confines itself to confirm that the requesting media organisation is in compliance with the Media Law.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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 Board of Directors of the Public broadcasters is appointed by the Government according to a criterion that was never revealed to the public. These Boards do not represent ever the Mozambican Society.

Only one of its members is elected by the workers, but the efficacy of such a person in the protection of the workers' interests it is often very weak. Although legally the public broadcasting services are public entities, the way in which their Board of Executives are appointed based on the discretionary powers of the government, effectively transform them in state organs.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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 state and political parties as well as those with a financial interest in the broadcasting industry.

Analysis:

At the moment it is not possible to guarantee this because the model used is problematic, and in fact the members of the Board of Directors become "hostages" of the government through the Lady Prime Minister who is responsible for the nomination of the Chair Persons of such Boards.

The government, and not the National Parliament, also maintains its control over the Board through financing, which is guaranteed through contracted programmes that the public service enter with the government. (N.B. – these programmes are commissioned by the government to the public services and contracts are signed for their delivery and broadcasting, thus guaranteeing the financing of the services).

SCORES:

Individual scores: 2; 1; 2; 2; 2; 2; 2; 2; 2

Average score: 1.9

3.7. The editorial independence of the public broadcasters from commercial pressure and political influence is guaranteed by law and practices.

Analysis:

In the law there is protection from political interference. But in practice this is never applied.

SCORES:

Individual scores: 1; 2; 2; 1; 2; 1; 2; 3; 1; 2

Average score: 1.7

3.8. The public broadcasters are adequately funded in a manner that protects them from arbitrary interference with its budget.

Analysis:

There is no guarantee whatsoever of financial independence of the public broadcasting services because their budgets are not decided by the National Parliament. This is done according to the discretionary powers of the government. The so-called Contracted Programmes that they must enter with the government are not produced in their totality.

SCORES:

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 1

Average score: 1.0

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

Analysis:

The technical conditions for accessibility have been created. RM (Radio Mozambique) has transmitters in all provinces of the country and broadcasts in almost all the National Languages.

SCORES:

Individual scores: 4; 5; 5; 4; 4; 5; 5; 3; 4; 4

Average score: 4.3

3.10. The public broadcaster offers diverse programmes for all interests.

Analysis:

The programming that is offered does not satisfy all the sectors of the Mozambican society. For instance, as far as religion is concerned, only the Catholic Church has some access to the airwaves. All other religions are ignored. At the moment the public broadcasters seem to be property of the young people who have excessive time in their programming. For instance senior citizens are not even catered for in the programming. Entertainment is only dance music; for instance the public broadcasters have no programmes on literature.

SCORES:

Individual scores: 3; 3; 3; 3; 3; 3; 3; 3; 2; 3

Average score: 2.9

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

Analysis:

There is a relative balance. For instance there are some interactive programmes where the listeners participate through the telephone and sending through SMS's. In reality, anyone both from the ruling party and from any other political party can participate in these programmes. There are problems concerning the sorting of news, in most cases the sorting is in accordance with governmental hierarchies. During the period of electoral campaign the information balance is further stumped down as the ruling party, Frelimo, is always mostly benefited.

SCORES:

Individual scores: 3; 4; 5; 4; 4; 4; 3; 3; 3; 4

Average score: 3.7

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

Analysis:

The public broadcasters stopped depending on foreign sources to guarantee their broadcasts for some time now.

As far as music is concerned, a lot of locally produced music is broadcast by the public broadcasters (radio and television), which is a welcomed change from the recent past, where the music played was mainly from DRC and South Africa. Although what is done in terms of local content is reasonable, taking into consideration the financial situation, more could still be done.

SCORES:

Individual scores: 4; 4; 4; 4; 4; 4; 5; 4; 4; 3

Average score: 4.0

Average Score Sector III: 2.0

Sector IV: The media practice levels of professional standards.

4.1. The media follows voluntarily codes of professional standards which are enforced by self-regulatory bodies.

Analysis:

Effectively, the media follow certain voluntary codes but these are not imposed by any self regulating body. What journalists do is to follow the universal ethical and deontological rules of their profession.

SCORES;

Individual scores: 3; 4; 3; 3; 2; 4; 3; 3; 2; 3

Average score: 3.0

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

Analysis:

In general the media organisations follow the principles of accuracy and impartiality. However there are still some areas that interfere negatively in the reporting like, for instance, the excessive usage of adjectives.

SCORES

Individual scores: 4; 4; 3; 4; 4; 4; 4; 3; 4

Average score: 3.8

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

Analysis:

There is an effort towards that end but the media is not yet capable of covering all the relevant news events. The notion of what is really public interest is expanding throughout the media organizations.

SCORES:

Individual scores: 4; 4; 3; 4; 4; 3; 3; 3; 4; 4

Average score: 3.6

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

Analysis:

This is an area where there is not enough progress and there is still gender imbalance. Some male journalists sometimes even tell their female colleagues that journalism is not for women. This causes women not to feel motivated to join the profession. Recently there was a public recruitment drive for Radio Mozambique journalists in the capital of Zambézia Province, Quelimane. All the fifteen applications belonged to men.

SCORES:

Individual scores: 1; 1; 2; 2; 2; 1; 2; 2; 4; 2

Average score: 1.9

4.5. Gender mainstreaming is reflected in the editorial content.

Analysis:

There is a growing number of women that are sources of information at official level. However, it will be difficult to reflect gender equity in the news because the news does not depend on journalists but rather from the events.

If the protagonists are men they will be there but if those protagonists are women, men will also be there; the Mozambican society is still mainly dominated by men in as far as decision making is concerned. There are potentially more men more news prone areas and what one is witnessing in the editorial content is not intentional.

SCORES:

Individual scores: 3; 2; 2; 1; 2; 1; 1; 2; 3; 4

Average score: 2.1

4.6. Journalists and editors do not practise self-censorship.**Analysis:**

It is not easy to discuss this issue because self-censorship is an extremely subjective concept. In fact, journalists and editors do practice self censorship to a point, once journalism implies a constant decision making on what to do and how to do it at all times.

SCORES:

Individual scores: 2; 2; 2; 2; 2; 2; 2; 2; 2; 2

Average score: 2.0

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

Owners do interfere. Almost always, the owner is also a journalist himself. In Mozambique it is urgent to discuss when the owner should be separated from the editorial manager.

For instance, it is the owner that negotiates major advertising contracts and who is at the same time the manager of the publishing company.

SCORES;

Individual scores: 1; 1; 1; 1; 1; 1; 1; 1; 2; 1

Average score: 1.1

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

Salary is not condition enough to discourage corruption but it has a strong impact in it. The working conditions are also not good. In certain cases, journalists do not have transport to allow them to go on assignment. That leads them to accept lifts from news sources or news makers, thus becoming vulnerable to manipulation.

SCORES:

Individual scores: 2; 2; 2; 1; 1; 2; 1; 1; 1; 1

Average score: 1.4

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

The entities do exist, but there are journalists that do not want to study. Even when they attend short courses they want to be paid to go for training. There are opportunities but many journalists do not exploit them due to their self-indulgence.

SCORES:

Individual scores: 5; 5; 4; 5; 5; 5; 5; 4; 3; 4

Average score: 4.5

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

They are in fact organized in trade unions and / or professional associations. We have the National Union of Journalists (SNJ) (Sindicato Nacional de Jornalistas); and some associations, namely MISA-Mozambique, the Forum for Editors (SAEF-Moçambique, ex-EditMoz) (Fórum para Editores); The Association for Women in the Media (AMCS) (Associação das Mulheres da Comunicação Social); and the Association of Newspaper Enterprises (Associação das Empresas Jornalísticas) (AEJ). So, associations do exist but the adherence level is not good.

SCORES:

Individual scores: 5; 5; 5; 4; 5; 5; 5; 4; 3; 5

Average score: 4.6

Average score for Sector IV: 2.8**Overall Country Average score: 2, 5****Difference between the Average score in 2007 and in 2005** **$2.5 - 2.0 = 0.5$** **Comments to the data of the four sectors in 2007, in comparison with the results achieved in 2005:****Sector I:**

There was an improvement of 0.3 points. There is the possibility of a mistake being done for the 2005 analysis. The EGFE and the Codes for the Senior Leadership were already implemented but they were not mentioned or quoted in 2005.

Sector II:

There was an improvement of 0.5 points. In 2005 there was some problem related to the question 2.12, because it's not Government policy to use its power on the placing of advertising in the newspapers. It could have happened that some officials would choose where to place the advertisements taking into consideration their preferences in relation to the various media organizations but the Government as such, never used its power for such placements;

Sector III:

There was an improvement of 0.5 points. No comments were made;

Sector IV:

There was an improvement of 0.7 points. Nothing was said by the participants in relation to this aspect.

Comparing the data between 2007 and 2005, there is an improvement of 0.5 points.

Questions for following-up for the AMB III in Mozambique

After the debate related to the four sectors ended there was a discussion on the follow-up questions for the third round of the African Media Barometer in Mozambique. There is no intention whatsoever, of this becoming the fifth sector. The questions that were answered in a group related way were the following:

- i) Was there any change in the media environment in the past few years?
- ii) If there were positive changes which or what were the major reasons for that?
- iii) What are the most serious obstacles in the way of more positive changes?
- iv) If there were negative changes which or what were the major reasons for that?
- v) What decisive actors can bring about changes in the future?
- vi) What type of activities are needed in the next two years?

The following points were highlighted during the discussions:

- One of the things that happened in the past two years was a wider interaction between journalists, overcoming the turbulence that existed in the previous years;
- The difference between a journalist and a journalist proprietor is beginning to emerge which is being considered as a healthy situation for the development of the journalists' class;
- In 2005 there was a major concern related to the new country President, but at the moment there is a useful dialogue climate between the Presidency and the journalists;
- Institutions like the CSCS and GABINFO are being increasingly disregarded by the journalists;
- As far as ethical principles are concerned there are unkind questions being raised: in the last few months there is serious talk about corruption which is of concern to the credibility of the profession;
- There is evident promiscuity between a journalist as a professional and a press advisor or press attaché;
- Government leaders and politicians are using the courts more and more to threaten journalists that are intensifying investigative reports.
- The idea to institutionalize the Legal Fund by MISA-Mozambique is a very good one;
- There is a growing number of newspapers which is good as far as diversity is concerned; however the market is becoming saturated;
- The International Community consider the media always as partners. However it does not help training them (the last time they did that was in the mid-nineties of the twentieth century);
- The press urgently needs simple ways and mechanisms to access printing paper;
- There is a suggestion to establish a fund for investigative reporting;

- There is an urgent need to enlarge the notion of Press Freedom, eliminating the existing confusion on what is allowed but is not authorized;
- The access to sources of an administrative nature should be legislated;
- In the broadcasting sector, there should be clear distinction between what is a public service and what are the commercial and community radios;
- The process to nominate leaders to the public broadcasting services (Rádio Mozambique – RM – and Television Mozambique – TVM – should be democratized in order for such public services to become independent;
- The journalist profession should create simple but efficient mechanisms of supervision for ethical and deontological principles.

The panel meeting took place on Inhaca Island from 21 to 22 July 2007.

The Panel:

Salomão Moyana, Fernando Lima, Eduardo Siteo, Alberto Tomás, Abdul Carimo Sau, Egídio Vaz, Joana Macie, Alexandre Chiúre, João Nobre, Sérgio Mamudo

The Rapporteur: Ericino de Salema

The Facilitator: Fernando Gonçalves

Observer: Rolf Paasch



Namibia 2007

Civil society perceptions on the state of
media freedom & freedom of expression

African Media Barometer Namibia

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:

Freedom of expression is protected and guaranteed by the Namibian Constitution, but there are no other pieces of legislation, such as a Freedom of Information Act, to protect freedom of expression and freedom of the media.

Article 21 of the Constitution states: “All persons shall have the right to freedom of speech and expression, which shall include freedom of the press and other media.”

Article 22 of the Constitution states: “Whenever or wherever in terms of this Constitution the limitation of any fundamental rights or freedoms contemplated by this Chapter is authorised, any law providing for such limitation shall:

- (a) be of general application, shall not negate the essential content thereof, and shall not be aimed at a particular individual;
- (b) specify the ascertainable extent of such limitation and identify the Article or Articles hereof on which authority to enact such limitation is claimed to rest.”

Article 144 of the constitution acknowledges international conventions, such as the Universal Declaration of Human Rights with its Article 19 guaranteeing freedom of opinion and expression.

It is worth noting that a “relatively good draft media policy”, written by the Ministry of Information and Broadcasting, was released for discussion to stakeholders at the beginning of 2007. There was consensus that this draft is so progressive that it is doubtful whether it will ever become law, but it could indicate positive change in terms of the government’s attitude to the media. The draft policy recommends constitutional changes and makes provision for a self-regulatory media body.

SCORES:

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

Average score: 3.3 (2005 = 3.4)

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

ANALYSIS:

Some members of the panel felt that Namibians are not able to express themselves without fear. “Freedom of expression in Namibia is offset by some element of political fear”, which is

particularly strong in rural areas where tradition dominates and prevents the criticism of elders (“It must be a brave man to say anything against elderly person”). “People are fearful of not being regarded as part of Namibia. There is fear of the ruling party [SWAPO] and an underlying fear of the former president [Sam Nujoma, current president of SWAPO].”

Outspoken citizens in marginalised areas also feel that they “don’t have the right to talk”, and that their concerns are ignored within the broader community, where nepotism, favouritism and corruption are commonplace.

While there are no official mechanisms to counter public criticism of the ruling party, this is more subtly and ominously done through firing and sidelining. Recently callers to the Oshiwambo service of the Namibian Broadcasting Corporation (NBC) asking for Nujoma to answer to claims of being linked to the CIA were threatened by an anonymous caller warning: “Your time is numbered”, thus creating a sense of fear and limiting people’s ability to express themselves (see indicator 3.5 for more detail). The Minister of Information and Broadcasting, Netumbo Nandi-Ndaitwah, subsequently spoke publicly about “crushing” these critical callers.

It was mentioned that: “The only radio station where you can speak freely is the NBC’s Otjiherero service.”

Over the last three years there has been a tendency within the trade union movement to crush opposing views, particularly in relation to the National Union of Namibian Workers (NUNW), which is linked to the ruling party.

Other panelists felt that citizens, especially those in urban areas, demonstrate a healthy expression of opinions through the letters pages of newspapers and radio chat shows, though there was a sense that even those using these avenues are practising self-censorship.

A sense of increased freedom of expression was evident with the arrival of the free weekly tabloid, *Informanté*, in September 2006 with its bold investigative and sensationalist reporting style, as well as the proliferation of youth-driven print and Internet publications (“Very young people own little newspapers and there is no sign of fear”) as well as radio stations.

The May Day 2007 celebration in Windhoek was marked by a very poor turnout, indicative of the general political and social apathy prevalent in Namibia: “People don’t speak because they don’t care.”

SCORES:

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

Average score: 2.8 (2005 = 3.3)

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 the media.
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ANALYSIS:

One of the biggest threats to media freedom is the sluggish pace with which outdated and media-unfriendly legislation from the apartheid era is being removed from the statute books. There are some laws that restrict freedom of expression in Namibia, such as the Official Secrets Act, the Key Point Act and the Defence Law, but the question remains whether they are excessive.

Most of these acts originated in the pre-independence era. They may not be evoked, but they remain as a possible threat and thus “create indirect fear”.

In 2005 the Ministry of Information and Broadcasting commissioned the Friedrich Ebert Stiftung (FES) to investigate the laws that restrict freedom of expression and the media. To date, the ministry has made no movement to make the results public.

There is currently no Criminal Libel Act but only the common law offence of *crimen injuria*. And there has been a noticeable increase in such civil cases with people claiming substantial damages from newspapers. In a defamation case still to be heard, former president Sam Nujoma is claiming N\$5 million (1 N\$ = 1 South African Rand) from The Namibian newspaper and journalist Werner Menges, and there are a number of cases against Informanté.

SCORES:

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

Average score: 2.3 (2005 = 3.3)

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

ANALYSIS:

Legally, the ability to work as a journalist is unrestricted. All practising journalists, however, should register with the Ministry of Information and Broadcasting and carry media cards provided by the ministry. Foreign journalists also need ministerial accreditation before they can work in Namibia.

A point of concern is that the Ministry of Information and Broadcasting, rather than a journalists' association, is issuing media cards and providing journalists with accreditation, because this is open to abuse.

SCORES:

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

Average score: 4.7 (2005 = 4.9)

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

ANALYSIS:

The law does not protect confidential sources of information. There is legislation in place, such as the Magistrate's Court Act, that could compel journalists to appear in court as witnesses by way of subpoenas.

They could then be forced to give information or reveal their sources of information. Refusing to do so would mean contempt of court.

In a test case for the courts, editor of the weekly Windhoek Observer newspaper Hannes Smit was arrested and jailed in 1998 for refusing to give information about the killer of political activist Anton Lubowski.

The issue of protection of confidential sources came to the fore with the inauguration of the Anti-Corruption Commission in 2006 when civil servants who wanted to act as whistleblowers found that legally they would not be protected. President Hifikepunye Pohamba has since given the green light for a law to be created to protect whistleblowers.

The Namibian chapter of the Media Institute of Southern Africa (MISA) has been lobbying “for years” for a Freedom of Information Act, which would encompass protection of sources. “It’s a matter of political will. The Minister of Information seems to imply that a media council is the pre-requisite for any positive developments within the media.”

SCORES:

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

Average score: 1.8 (2005 = 2.1)

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

ANALYSIS:

There is no Access to Information Act. People have access to certain public information like court documents but there is no law forcing the government or companies to divulge information of public interest.

Government officials often make it difficult for journalists to get information in the public interest.

“In Namibia there is such a culture of secrecy around public information that people have stopped asking. This leaves a lot of space for officials not wanting to be transparent or open.”

Investigative journalists have found that even accessing information from the Registrar of Companies can be difficult, but the question remains whether this is intentional or as a result of sheer incompetence.

Documents that should be in the public domain, such as the budget, are made available only to certain individuals or institutions, while the government website, which could be a good tool for informing the public, is hopelessly outdated. A point was made that if you know the right person in government you can also get documents sent to you electronically.

Concern was raised that the 2006 Hansard [the official report of parliamentary debates] is still not available, and this should be a way for the government to disseminate information to the public.

Parliament is also discussing establishing regional centres around the country, which could provide Namibians with more access to documents and information of policy.

SCORES:

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

Average score: 1.8 (2005 = 2.4)

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

ANALYSIS:

While lobby groups such as MISA Namibia and the National Society for Human Rights (NSHR) are trying to advance the cause of media freedom, there was consensus that civil society in general is apathetic.

While many violations of media freedom take place, civil society does not act, perhaps out of fear. Even the media themselves are not united in supporting their own media groups, such as MISA Namibia, because it is seen to be antagonistic towards government.

While the letters pages in newspapers and radio chat shows are popular, few people go beyond verbal criticism of state action, issuing a press release, for example. Occasionally civil society will mobilise around an issue but this is usually momentary, and citizens rarely rise to the defence of broader democratic values. There has been a growing trend within the political sphere for young radicals of SWAPO, as well as other parties, to gag the press, “depending on what they are told to say”.

SCORES:

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

Average score: 3.1 (2005 = 2.8)

Overall score for sector 1: 2.8 (2005 = 3.2)

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:

There are four national daily newspapers (The Namibian and New Era in English, Die Republikein in Afrikaans and Allgemeine Zeitung in German), four national English weekly newspapers (Informanté, Namibia Economist, Windhoek Observer and SWAPO’s mouthpiece, Namibia Today) and the bi-weekly coastal newspaper, Namib Times.

According to The Namibian, its current circulation is 25 900 on Mondays to Thursdays (up from 24 500 in 2005) and 40 000 on Fridays (up from 34 000 in 2005). The free national tabloid Informanté states that it prints 70 000 copies a week. There are no confirmed figures for other newspapers.

There are approximately 10 magazines in Namibia, a substantial increase from the four in 2005. It is also encouraging to note how young people are increasingly developing their own print and Internet-based magazines. Informanté, initially published by the Trustco Group as an in-house publication, was launched as a fully-fledged weekly tabloid in September 2006

and distributed countrywide. It has made an impact on the newspaper-reading public with its investigative and sensationalist stories.

There are seven commercial radio stations and four community radio stations (four in Windhoek and one in Rehoboth), an increase from the combined total of nine commercial and community stations in 2005. The national broadcaster, the NBC, has nine local language radio services, as well as an English national radio station.

Interestingly, Radio 99 was sold to Democratic Media Holdings (DMH), owners of the Afrikaans daily *Die Republikein* and the German *Allgemeine Zeitung*, and in February 2007 South Africa's leading publishing group News24 took a 50 per cent stake in DMH.

There are three local television stations: the public/state-run NBC, the commercial One Africa Television and the community television station which broadcasts local and foreign religious programming, Trinity Broadcasting Namibia (TBN). Notably in terms of diversity, One Africa launched a daily (Monday-Friday) news bulletin at 19h30, potentially providing a good alternative to the NBC's 20h00 news bulletin. There is much diversity in terms of foreign news broadcasts on the free-to-air local channels: One Africa broadcasts a few hours a day of BBC World and BBC News, while the NBC broadcasts CNN, Deutsche Welle and CCTV.

The satellite television service, DSTV, is too expensive for most Namibians at a rate of N\$480 a month.

A new development is the sale of free-to-air satellite decoders, requiring a one-off payment of about N\$900 and a satellite dish.

These decoders allow viewers to receive the South African television channels SABC1, 2 and 3, etc, Botswana's national television (BTV) as well as numerous religious channels.

While many local radio stations rely on the NBC infrastructure to broadcast their signal, numerous obstacles were placed in the way of One Africa by the NBC to prevent the private television station from broadcasting. In parts of Windhoek and in Oshakati the NBC refused to allow One Africa to use its transmitters, meaning that One Africa had to erect its own at great cost. "Surely this is public infrastructure and should be shared by all television services in Namibia? It is worrying that NBC sees One Africa as some sort of competition."

Concern was raised that despite the many changes in the media landscape, there has not been a new and objective survey since the seven-year-old Namibian All Media Product Survey (NAMPS). According to this survey, commissioned by the NBC, there are approximately 10 readers per copy of *The Namibian*, and seven to eight for the other newspapers.

It is worth noting that during 2006, *The Namibian* and the Trustco Group (publishers of *Informanté*) jointly launched a new printing company called Free Press Printers. Although the company has experienced extreme technical difficulties with the press, which has resulted in *The Namibian* being late on the streets a number of times, this could be a positive development in light of the long-term dominance of the printing sector by Newsprint Namibia, owned by DMH, and John Meinert Printing.

While in urban areas there is a relatively wide choice of media, including imported newspapers and magazines, in rural areas access to the media is severely limited, both in terms of availability and affordability. In some areas there is no access to print media or the Internet, and the NBC is people's only source of information. Access to the media is also limited by the fact that most publications are published in English. Newspapers cost more than N\$3 each, which

is unaffordable to most Namibians, and even the free-to-air NBC can be costly in rural areas where batteries are the only source of power.

Internet is also prohibitively expensive for most Namibians. A number of players have entered the broadband sector, providing high-speed, constant Internet connections nationwide. The country's first cellular phone service provider, MTC, has also introduced 3G wireless Internet access in some areas of the country where there is cellphone coverage.

MISA Namibia is busy with a media ownership survey.

SCORES:

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

Average score: 3.9 (2005 = 3.4)

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

ANALYSIS:

Access to domestic and international media is unrestricted, though it should be noted that the continuing ban on The Namibian with regard to government advertising and purchasing of the newspaper could lead to readers not having access to certain advertisements (see indicator 2.12).

SCORES:

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

Average score: 3.7 (2005 = 4.6)

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

ANALYSIS:

The scope of circulation of the print media has improved during the last two years, notably with Trustco flying Informanté and other newspapers, like The Namibian, to Katima Mulilo, Oranjemund and Aussenkehr, meaning that readers in far-flung locations receive their newspapers on the same day that they are published. It is still very difficult to get newspapers in rural areas such as Kamanjab or in the Kavango region.

Readers with Internet access can also read most of the daily newspapers online.

SCORES:

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

Average score: 3.4 (2005 = 4.0)

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

ANALYSIS:

The Namibian Communications Commission (NCC), which manages the country's frequency spectrum, has restricted the number of FM frequencies allocated to broadcasting operators to

24. Technically the NCC could allocate up to 32 frequencies. There was consensus that the NCC's management style is haphazard and appears to favour commercial stations over community stations. A few years ago the last available FM broadcasting frequency in Windhoek was given to Radio France International, which broadcasts mostly in French, rather than to a local radio station.

Katutura Community Radio (KCR), which was off air for a number of years, has been resuscitated, although its good frequency was taken away by the NCC in the process and given to commercial radio station, Radio Energy.

The existing legislation regarding the NCC and its powers does not cover the public broadcaster and is very vague about community broadcasting. Commercial and community radio stations are not compelled to broadcast local news, with the result that they mostly play music but do not provide Namibians with information about their country.

SCORES:

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

Average score: 2.8 (2005 = 2.9)

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

ANALYSIS:

Although the NCC stipulates that community radio stations should enjoy special support, this has never been put into practice except for the fact that NCC licence fees for community broadcasters are considerably lower than those for commercial broadcasters. The NCC does not protect community broadcasting by specifying the role and number, for example, of community radio stations.

Apart from Live FM in Rehoboth, there are no community radio stations outside Windhoek which serve poor and rural communities in Namibia. Live FM provides more of a social role than that of a community forum, as it mainly broadcasts music, religious programming, advertisements and community announcements.

There are attempts to maintain the Namibian Community Radio Network (NCRN), which is being co-ordinated by MISA Namibia and which is the only organisation providing support, training and networking for community radio stations. The NCRN, based at MISA Namibia, has been beset by sustainability and capacity issues.

The Minister of Information and Broadcasting has been pushing for community radio stations and the government is currently doing a study about setting up such ventures. The government's interest in this sector could lead to 'community' radio stations pushing the government's agenda and being controlled by the state.

As the four existing community radio stations broadcast predominantly in English, they appear to be failing dismally when it comes to diversifying and empowering people to communicate in their own language.

It was felt that the lack of motivation in Namibia to set up community radio stations might be a result of the NBC's nine local language radio services fulfilling the role of community broadcasters.

SCORES:

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

Average score: 2.2 (2005 = 2.3)

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

Both New Era and the Namibian Press Agency (NAMP) receive state funds and have boards appointed solely by the Minister of Information and Broadcasting. It is apparent that the state can and does interfere in the editorial independence of New Era. For example, D'aoud Vries, news editor of New Era, was suspended and subsequently fired after a politically inflammatory letter was published in the daily newspaper. "The government didn't like what was published so he lost his job."

However, New Era has also demonstrated some surprising editorial independence over the past two years by publishing reports critical of the state. For example when the government curtailed the NBC English radio Chat Show (see indicator 3.5) a few days before World Press Freedom Day on May 3 2007, the New Era published a vicious attack on government's action.

It was noted that the government might not interfere in New Era because most of the newspaper's reporters are Otjiherero-speaking and hardly any speak Oshiwambo. "The Owambo are more sensitive and prone to self-censorship. The Herero, it seems, speak more freely."

There is an impression that there is no editorial interference from government in NAMP, and that the local news agency does not practice self-censorship. This is because NAMP has been known to carry reports critical of government. It was mentioned that this might be a question of incompetence or a result of capacity constraints, rather than official policy.

SCORES:

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

Average score: 2.7 (2005 = 1.8)

2.7 Local or regional independent news agencies gather and distribute information for all media.**ANALYSIS:**

The Echoes specialised feature service of the Polytechnic of Namibia continues to operate, particularly through commissions. During the 2005 elections these student journalists produced "some of the best ever electoral coverage", published in the daily newspapers. Echoes has been negotiating with NAMP to include its stories in the news service for distribution to all media houses, but the outcome of these negotiations is not known.

Concern was raised that there is no independent radio news service that collects local news for commercial radio stations. It was noted that community radio is more progressive in this

regard and that the NCRN is busy with an initiative to network all community broadcasters, which could result in the sharing of sound clips, especially for news.

SCORES:

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

Average score: 1.7 (2005 = 1.9)

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

ANALYSIS:

There are no regulations with regard to cross-media ownership and no legislation to prevent possible monopolisation in future. A Competition Act is still being drafted and the Communications Act is not specific, as is the case in South Africa where the law limits the number of radio or television stations that one individual or company is allowed to own.

Recent developments, particularly in terms of ownership patterns in the media, show worrying signs of big business “extending its tentacles” into the media. This is evident by South African media giant News24 buying into DMH, and by the growing involvement in the media of Trustco, originally a legal insurance company that now has multiple business interests, as well as a popular and powerful weekly newspaper (Informanté) and a printing press shared with The Namibian. Trustco ran a game show on One Africa Television until February 2007 when it gave one-day’s notice and pulled the show. The word within media circles is that Trustco is looking at establishing a television station in co-operation with the NBC.

SWAPO-owned Kalahari Holdings is still the majority shareholder of Radio Energy and subscription satellite television provider Multichoice Namibia.

SCORES:

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

Average score: 2.1 (2005 = 2.3)

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

ANALYSIS:

Government does not actively promote an environment conducive to the development of a diverse media but neither does it put any impediments in the way. If an individual or company has the money to start a radio or television station, or a newspaper, there is no government interference, although being allocated a broadcasting frequency through the NCC might be problematic (see indicator 2.4).

Most commercial radio stations in Namibia are run by middle-aged, white men and have fewer than 25 employees, meaning that they do not have to submit affirmative action reports to the government.

There are no tax incentives from the state to promote black economic empowerment in this sector.

SCORES:

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

Average score: 2.2 (2005 = 1.8)

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

Most private media outlets operate efficiently and professionally, and do fairly well in business terms. The Namibian's increased circulation over the past two years is indicative that business is booming.

Although the market is very small, especially in terms of German speakers, for example, the German newspaper Allgemeine Zeitung can still survive because this sector has a large amount of spending power. Because this newspaper is part of the DMH stable, it may also benefit from cross-subsidisation within the group.

The Namibian publishes stories in English and Oshiwambo, while Die Republikein has increased its potential markets by publishing stories in Afrikaans, English and Oshiwambo.

SCORES:

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

Average score: 4.1 (2005 = 4.3)

2.11 State print media are not subsidised with taxpayers' money.

ANALYSIS:

New Era is the only state-funded newspaper and, although it receives income from advertisements, the bulk of its funding comes from taxpayers' money.

SCORES:

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

Average score: 1.1 (2005 = 2.0)

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

ANALYSIS:

The government ban on The Namibian newspaper, which has been in place since 2001 and prohibits government bodies from purchasing the paper or from advertising in it, is still in place. It can be seen to limit democracy and the access of The Namibian readers to certain

advertisements or information, such as government employment opportunities, information about polio or how to vote, for example.

There have been dissenting voices within the ruling party about the ban, notably from politician Hidipo Hamutenya in an article published in *The Namibian* in April 2007.

It is worth noting that while former president Sam Nujoma claimed initially that the ban was a reaction to the paper's critical reporting of the government, the Minister of Information and revealed this year that it was a result of criticism of Zimbabwe and its President Robert Mugabe, a close ally especially of Nujoma.

In 2006 the state decided that government tenders would only be carried in the state-funded newspaper *New Era* and the *Tender Bulletin*.

This could be seen as discrimination and creating an unfair advantage, as only readers of the state-funded newspaper would have access to government tenders. It is also a breach of standard tender regulations, which stipulate that government tenders should be published in at least two of the most-read newspapers in the country.

SCORES:

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

Average score: 1.3 (2005 = 1.8)

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

ANALYSIS:

The advertising market is more vibrant than it was two years ago, although there is still a great deal of control over the production and placement of advertisements from South Africa. This means that Namibian talent (advertising agencies, musicians and models/actors, for example) loses out, and that the market is saturated with generic advertisements. While the big commercial newspapers are good at getting regional advertising (through the regional advertising agency CAPRO, for example), publications with smaller circulation figures, such as magazines, struggle in this regard. South African retail companies prefer to advertise in South African magazines, such as *Drum* and *You*, which are distributed in the region.

In terms of television, local broadcasters miss out on regional advertising, which goes instead to South African-based satellite service, DSTV.

SCORES:

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

Average score: 2.9 (2005 = 2.4)

Overall score for sector 2: 2.6 (2005 = 2.7)

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.

ANALYSIS:

The Namibian Communications Commission (NCC) is ostensibly an independent broadcasting regulator. However, the Minister of Information and Broadcasting is solely responsible for appointing NCC councillors, and as a result a certain level of political interference is possible. It is worth noting that David Imbili, the present chairperson of the NCC, has no media experience although he is particularly well connected politically, being the son-in-law of the former Namibian president, Sam Nujoma. As a result, the credibility of the NCC is tainted and this could compromise the body's theoretical independence.

It is also questionable whether the commissioners of the NCC are equipped to guide developments in the media landscape.

The NCC does not appear to be a proactive body in terms of monitoring adherence to its regulations. It has no monitoring department but waits for complaints before taking action. It was felt that there should be an independent broadcasting complaints commission. The NCC does not regulate the Namibian Broadcasting Corporation (NBC).

SCORES:

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

Average score: 1.9 (2005 = 1.8)

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

ANALYSIS:

The Minister of Information and Broadcasting appoints NCC members at her own personal discretion. The positions are not advertised. This procedure is neither open nor transparent and does not involve external and independent input from civil society. It is notable that the current Minister of Information, Netumbo Nandi Ndaitwah, is also the Secretary-General for Information of the ruling party, SWAPO, and it is not always clear whether she is speaking in her capacity as minister or as a senior member of SWAPO. This raises the question: how independent and neutral is she? And from whom does she take her orders? MISA has raised the issue with her, to no avail.

SCORES:

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

Average score: 1.2 (2005 = 1.1)

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

ANALYSIS:

While the many radio and television stations certainly represent a diversity of views, this seems to have come about by default rather than as a result of any involvement and intention of the NCC.

The NCC does not actively promote fairness and a diversity of views. There is no quota system for broadcasters in terms of local content. Such a quota system could stipulate the percentage of local news and music. It was noted that when quotas were imposed on local content in South Africa, the local music industry experienced phenomenal growth. There are very broad principles in the draft Communications Bill about promoting local content and culture, but it is not stipulated how this should be done.

There appears to be a paradox between the government's political policy emphasising unity in diversity, and its media policy, which does not actively encourage unity in diversity and dissenting voices.

The provision to encourage diversity and local content does exist but the regulatory body is not doing anything actively in this regard.

There was also concern that there is so much diversity within the media that many communities can isolate themselves from what is happening in Namibia – by accessing only foreign broadcasters, for example.

SCORES:

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

Average score: 1.8 (2005 = 2.0)

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

ANALYSIS:

The NCC has a policy that requires it to take into account public interest and public opinion, but there have never been any public meetings to actively involve the public in any way.

A draft Communications Act has been in existence since 2002/3. There is no independent broadcasting policy. It appears that a lack of political will is stalling any development in this area.

In September 2006, parastatal Telecom Namibia launched its new mobile phone service, Switch, offering calls at one-third the cost of cellphone calls. Soon thereafter existing cellphone service provider MTC objected, saying that Switch represented unfair competition and "infringed on the licensed right of mobile operators", MTC and newcomer Cell One. Cabinet had to intervene and the Switch service was subsequently, and apparently temporarily, restricted to certain towns. At the time of this report, Swakopmund was excluded from the service because

it was found that the frequency allocated to Switch in the coastal town clashed with that of TBN television station.

The way Switch has been handled by the authorities indicates that the NCC commissioners “do not know what they are doing”.

Interestingly, both MTC and Telecom are owned by the Namibia Post and Telecommunications Holdings Company (NPTH), although they are in effect competing against one another. Cell One, launched in March 2007, is also majority owned by a parastatal, NamPower.

SCORES:

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

Average score: 2.0 (2005 = 1.3)

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 NBC Act of 1991 is based on old South African legislation and places the public broadcaster under the supervision of a board appointed by the Minister of Information and Broadcasting. The first board of the NBC after independence was appointed in a more independent manner, but this is no longer the case. Civil society has been passive about this change in policy and allowed it to happen; therefore it has to take part of the blame.

Some members of the panel had the impression that the NBC was losing credibility, viewers and advertisers. “The irony is that if the NBC board was independently appointed and representative of a wide cross-section of society, that would go a long way to regaining the trust and confidence of the public and advertisers, and would serve to strengthen the public broadcaster.”

It was shown, however, in the last Afrobarometer analysis that there is an extremely high level of trust in the NBC, “more so than in the independent media”, and that it is therefore a pity that the public broadcaster is not independent and more representative of the people. The board is seen as neither credible nor representative because its members are political appointees.

The recent NBC ‘Chat Show’ controversy was a notable illustration of how politicised and how weak the NBC board is. The NBC national radio ‘Chat Show’ was placed under severe restrictions at the end of April 2007 after callers had demanded that former president Sam Nujoma respond to allegations that he collaborated with the CIA.

This raised much debate within civil society and government, with some politicians saying that the show allowed too much freedom of speech. The Minister of Information and Broadcasting then gave direct instructions to the NBC’s Director General Vezera Bob Kandetu, without going through the board, to alter the ‘open line’ format of the ‘Chat Show’ and restrict daily discussions to specific themes.

A public uproar followed. Subsequently, the state broadcaster put control mechanisms in place to cut out on-air abuse. This involves producers/gatekeepers (up to then the host received calls without any pre-check) and delay devices for all language services, and the ‘Chat Show’ is now back to the normal ‘open line’ format.

At no point during the ‘Chat Show’ controversy did the board issue a comment. The panel agreed that the NBC board is clearly very weak, divided and not independent, as it did not protect the DG.

This incident demonstrated the fact that civil society does indeed have power and can rise up to effect change. It also showed the lack of proper training of NBC presenters and talk show hosts, many of whom are young and inexperienced. “To expose a young person [on air] with no delay device, no producer, to political callers ... it’s a recipe for disaster.”

It is worth noting that the same day that the NBC ‘Chat Show’ was curtailed, commercial station Radio 99 launched its own chat show.

There was the impression among the panellists that this healthy competition may have been a factor in the NBC show being brought back on air as before.

SCORES:

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

Average score: 1.2 (2005 = 1.0)

<p>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 state and political parties as well as those with a financial interest in the broadcasting industry.</p>

ANALYSIS:

The board of the NBC does not include any members with commercial interests. It is not known whether there are any office bearers with the state or political parties among them but the mere fact that all appointments are made by the Minister of Information and Broadcasting is an indicator that the board is not free from political influence.

There was consensus among the panelists that all NBC board members are SWAPO supporters. The appointment of board members is related to their political affiliation rather than the intention to bring about a diversity of skills in, for example, broadcasting, economics and civil society issues.

SCORES:

Individual score: 1, 1, 3, 3, 1, 2, 1, 1, 1

Average score: 1.6 (2005 = 1.9)

<p>3.7 The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practiced.</p>

ANALYSIS:

The NBC Act does not make any reference to an editorial policy. While the NCC Act refers to good journalistic practice and provides a list of professional standards and requirements, this does not apply to the NBC as it is a separate statutory body. It is worth noting that the draft Communications Bill aims to bring the NBC under the overall broadcasting regulatory framework.

A chilling example of political interference happened in 2005, when, shortly after her appointment, the Minister of Information and Broadcasting told NBC staff that they must promote the SWAPO manifesto in all their programmes. While this was a Cabinet directive issued to all ministries, it is a point of grave concern that NBC journalists were instructed to favour one party's manifesto over others when the NBC should be a neutral, public and independent broadcaster.

While there is no general editorial policy at the NBC, the state broadcaster does have a strict election-coverage policy in terms of giving equal airtime to each party. There are loopholes, however.

For example, in the run-up to the last elections, former president Nujoma was known to hijack legitimate news events to promote SWAPO by wearing the party's colours.

Many of the news journalists at the NBC are young, new to the job and very inexperienced. "To throw them in at the deep end with no support from senior journalists or management, and no internal editorial policy, results in poor editorial decisions being taken."

Editorial interference appears to be happening in a more subtle manner. "You don't have to interfere in the editorial policy when people are not doing any critical reporting. There is wide-scale self-censorship among [NBC] journalists."

Because these young journalists do not want to rock the boat, and possibly lose their jobs, investigative journalism suffers. The reason for the high degree of self-censorship might also be that some key staff members are political appointees.

There is the impression that the NBC does have some journalists capable of doing in-depth, professional interviews (notable when the opposition is in trouble) but this is not put into practice across the board.

There was consensus that the degree of editorial independence differs among the various language services of the NBC. While the newsroom controls news centrally, the language services have a higher degree of independence when it comes to programmes. The formerly hard-hitting, investigative programme Open File, however, has been scaled down, resulting in more social commentary and soft stories.

The tendency in television and radio news to give priority coverage to the activities of the president and ministers has been less evident since Pohamba became president two years ago. "There does seem to be more space ... The current president doesn't have the same stature as Nujoma." The NBC now covers news about the National Society of Human Rights, for example, something unheard of during Nujoma's reign.

The state broadcaster does appear to be bowing to commercial pressure, as is evident by local language news broadcasts being downgraded and shifted to a 07h00 slot the following day. In their place soap operas are now being broadcast. The NBC used to be a 24-hour station, but it now closes at 00h00 and opens at 06h00. This is possibly related to the growth in popularity of One Africa Television, to increased competition and DSTV's prominence among the elite.

A worrying sign is the apparent content change on radio in terms of less news and debate being broadcast in favour of more music. This signals the erosion of NBC's mission primarily to inform and educate, and lastly to entertain.

SCORES:

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

Average score: 1.4 (2005 = 1.5)

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

The funding NBC receives from government is not adequate. In her budget speech the Minister of Information and Broadcasting threatened to curtail funding for the NBC even more. She also recently announced that the state broadcaster is in debt to the tune of N\$200 million. It is questionable why the NBC should be in such financial trouble, since it receives at least N\$60 million a year from government in addition to license fees and advertising revenue. Since its infrastructure is established and salaries for its 383 full-time employees cost about N\$37 million a year, its only expenditure is for purchasing programming and depreciation.

Notably, during the Parliamentary budget debate, SWAPO MPs spelled out that because the NBC is state-funded it must promote state activities.

Financial control at the NBC seems to be extremely poor. There have been many highly publicised cases of financial irregularity, corruption and the abuse of power. The General Manager for Human Resources was suspended over financial irregularities, while the Managing Director was fired over allegations of possible theft, which are still being investigated.

In another scandal, a British company is suing the state broadcaster for N\$140 million after the NBC signed a contract to build new transmitters and then reneged on the deal, allegedly because of political interference.

The other major and very costly disaster was the commercialisation of license fees, which the NBC had outsourced to a company called Penduka, with dismal results. The whole experience cost the NBC an estimated N\$20 million. The collection of license fees is now done by the NBC in co-operation with Nampost.

It is clear that the NBC is so vulnerable to political interference because of poor management, a lack of corporate governance and its reliance on government support.

SCORES:

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

Average score: 1.6 (2005 = 2.8)

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

The NBC has installed new transmitters in the last two years, but it is not known by how much they have expanded the corporation's coverage. The Medium Term Expenditure Framework for 2007/08 to 2009/10 released by the Ministry of Finance states that 94 per cent of the population had radio access in 2005-2006. The report forecasts that this will increase to 98 per cent in 2009-2010. The same report states that while television access stands at 64 per cent in 2005-2006, the goal is to provide television access to 70 per cent of the population by 2009-2010.

SCORES:

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

Average score: 3.9 (2005 = 3.9)

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

In terms of news, NBC television does not cater to Afrikaans-speakers, for example, as there are no broadcasts in this language, despite it being more widely spoken in Namibia than English. It was felt that perhaps this is because other media in the country adequately cater for this sector of society.

In terms of programming the NBC does attempt to provide a broad variety of programmes for diverse interests, from women to farmers, the youth and sports fans, for example. Many of the programmes, especially the films, are outdated, which is probably related to lack of funding. The NBC's approach to current affairs is selective – with more of a focus on social issues rather than human rights, constitutional education and media freedom.

Credit was given to the state broadcaster for catering to deaf viewers with sign language interpreters during news and current affairs broadcasts.

SCORES:

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

Average score: 3.3 (2005 = 2.4)

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

It was noted that NBC coverage of opposition politics has become fairer under the Pohamba regime, with parties like the Congress of Democrats being given more space. Under Nujoma, the language used on the NBC was exclusive: “my government” and “my party”.

Over the last two years this has changed to the more inclusive “our government”, an important development showing that the public broadcaster is becoming more aware of the realities and the language suitable for a multi-party government governing with the consent of the minority. It was noted that the ‘Good Morning Namibia’ programme had improved to provide a variety of views.

Panelists felt that NBC journalists generally failed to provide sufficiently balanced views in their stories. “They just report and don’t bother to source comment from the other side.”

Generally, there is very little commentary on the NBC and little attempt to frame stories. Perhaps this is a result of a lack of skills or self-censorship. “This is worrying because it is not good journalism.” Production quality at the NBC was described as mediocre, and the quality of the picture “is still not up to standard”.

SCORES:

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

Average score: 2.4 (2005 = 2.4)

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

Production of own programmes is still a problem because it is prohibitively expensive. While there is more local news and current affairs content than imported programming during peak viewing times, there are no local soap operas, dramas or comedies on air.

The fact that more local artists and musicians are receiving coverage on NBC was regarded as a positive development.

Another positive trend is that there are a number of independent companies that produce documentaries for the NBC. It was noted, though, that independent producers are sometimes asked to pay the NBC for their programming or films to be broadcast, while in fact just the opposite should be happening: the NBC should be paying the local producers and thereby promote the local film and production industry.

Both radio and television charge for covering events, so the public can in effect “buy the NBC”. “If the show ‘Tutaleni’, for example, is invited to cover a function, you must pay them ... For sports coverage, The Namibian paid the NBC N\$35 000 to cover the newspaper’s annual soccer tournament.”

SCORES:

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

Average score: 3.3 (2005 = 2.8)

Overall score for sector 3: 2.1 (2005 = 2.0)

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:**

There is still no media council or other self-regulatory body. “What is becoming worrying is that the Minister of Information, at almost every opportunity, refers to this as a prerequisite for any other positive developments within the media sector.”

Because the media is highly polarised, there has been great reluctance among editors to come together and discuss the establishment of a media council. MISA Namibia is trying to resuscitate

the debate around a code of conduct/ethics, and has had some success this year with agreement to participate in such a meeting from all the country's editors, through the Editors' Forum, with the exception – not surprisingly - of Namibia Today, the SWAPO newspaper.

Namibia Today apparently objects to three clauses of the code of conduct that relate to issues of partiality, balance and objectivity.

After its launch in 2002, the code of conduct, developed by MISA, was publicly denounced by Namibia Today and thereafter received very damaging publicity on the NBC's current affairs television programme 'Talk of the Nation'. As a result of this, together with the fact that MISA was driving the process and was seen to be generally antagonistic towards the government, the code of conduct was not adopted by the media sector.

Reviving the self-regulatory body is regarded as a priority to prevent the government from enforcing a state-controlled regulatory body.

There was consensus that MISA and the Editors' Forum should pursue the issue, without waiting for the participation of Namibia Today.

A media council failed to take off in the mid-1990s, while the position of a media ombudsman, created in 2002 to monitor adherence to the code of conduct, became defunct a few months later due to a lack of public response. In future, the sustainability of the media council should be addressed first. There was consensus that a media council is important to protect the professional integrity of the media, and that an advocacy campaign around the formation of both the media council and the code of conduct needs to be undertaken.

SCORES:

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

Average score: 2.0 (2005 = 2.3)

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

ANALYSIS:

The media's reporting appeared to be accurate and fair, despite some instances to the contrary.

It was noted that court reports in the daily newspapers are especially accurate because they are written by "senior and very skilled journalists".

Regular corrections in the daily newspapers are indicative of the media attempting to be accurate, while journalists also make it clear when they have not been able to get comment.

"The media is regularly castigated for not being balanced and fair and having a hidden agenda, but this might possibly be a result of people in high places not making themselves available for comment."

It is important to take into account the difficulties surrounding access to public information in Namibia and how this impacts on the media's ability to report accurately and fairly.

There was the impression that analysis of issues had become more shallow, however, and that the “focus was more on the person and not the issue”.

Since Informanté is still a relatively new player on the media scene, it remains to be seen how the generally sensationalist tabloid will fare in terms of accuracy and fairness.

SCORES:

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

Average score: 3.6 (2005 = 3.0)

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

ANALYSIS:

There has been a substantial improvement in the media covering the full spectrum of events in the last few years, particularly with the emergence of specialist magazines and online publications dedicated to sports, economics, music and culture, for example.

Unfortunately most of these developments are centred in the capital, Windhoek. In this regard, it is particularly disappointing that community radio stations have not taken off in rural areas to cover local issues. Little has changed since 2005: people with money and living in Windhoek can get the full spectrum of news but the greater the distance from the centre, the less choice people have.

The free-to-air local channels provide a broader perspective on global events by broadcasting BBC (One Africa Television) and CCTV, Deutsche Welle and CNN (NBC).

It was felt that the daily newspapers have not built up their pool of specialised skills to report certain subjects in depth. On a positive note, investigative reporting has improved in the last two years, particularly by The Namibian, New Era, Insight and Informanté.

In terms of geographic coverage there have also been some positive developments since the 2005 report, with Die Republikein, New Era and The Namibian seemingly reinventing themselves by regularly covering areas formerly marginalised by the press: eastern and southern Namibia.

SCORES:

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

Average score: 3.7 (2005 = 3.1)

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

ANALYSIS:

The panel agreed on the definition of gender mainstreaming in this context being that both sexes have equal opportunities, professionally, in the newsroom.

The degree to which gender mainstreaming is promoted in terms of equal participation of both sexes in the production process is mixed. While the staff of the NBC German service and The

Namibian is predominantly female, most of the media houses (notably the NBC in general, Allgemeine Zeitung, Die Republikein and the Windhoek Observer) are dominated by white men. Their staff complement is so small (less than 25), however, that they fall below the radar of affirmative action reports.

There is a sense that there have been areas of progress around gender mainstreaming in the media, but there are no official, in-house policies in this regard.

All the country's newspaper editors are men, except for Gwen Lister of The Namibian. The Namibian appears to be particularly gender balanced: the complement of journalists working on the daily comprises four female and four male reporters.

SCORES:

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

Average score: 3.2 (2005 = 3)

4.5 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

During the last two years there have been no new national or regional studies specifically on gender and the media. In 2005, there was a follow-up to the MISA/Genderlinks Gender and Media Baseline Study of 2003, but this was broader in scope and looked not only at the media's coverage of gender but of HIV and AIDS as well.

There is little reflection on gender mainstreaming in the editorial policies of newspapers, as well as in editorials and opinion pieces.

And "only three editorials in The Namibian and New Era in the last year addressed issues of gender-based violence in Namibia".

The international '16 Days of Activism' campaign is held from November 25 each year, and during that period gender becomes a major focus in the Namibian media, but this coverage is not sustained throughout the year.

While the mainstream media does tend to respect gender and women, Informanté seems to present women in a fairly sexist and degrading way with, for example, its 'Chick pic of the week'.

The impression is that the voices of women in rural areas, trapped in poverty and marginalised, are not heard in the media. Instead the media is to be blamed for focussing on the opinions of men and 'executive' and 'high-flying' women, as well as those who are 'politically correct' and close to the ruling party.

As a result, many laudable women's initiatives in rural areas and those by Sister Namibia, for example, are not covered in the media.

SCORES:

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

Average score: 2.6 (2005 = 1.9)

4.6 Journalists and editors do not practice self-censorship.

ANALYSIS:

There is the impression that cases of self-censorship do exist in both state and private media, partly as a result of ownership. Informanté, for example, seems to be very partial to exposing others, but does not report on negative stories about the newspaper's owners: the paper ignored the story about Trustco's Managing Director Quinton van Rooyen being involved in an accident, which resulted in the death of another driver, but the paper did publish a story about the editor of another newspaper being arrested for drunken driving.

Compared to 2005, self-censorship, in general, seems to be less common at New Era, but this improved record was tainted by the firing of D'aoud Vries (see indicator 2.6). As previously mentioned (also in indicator 2.6) there appears to be no self-censorship at NAMPa. Since Pohamba took over the presidency, there also seems to be less self-censorship evident at the NBC.

SCORES:

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

Average score: 2.8 (2005 = 2.5)

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

ANALYSIS:

There is a feeling that owners of private media do interfere with editorial independence, but the degree to which this happens varies among media houses.

Direct and indirect interference was likely at Informanté, as it is a large company with many commercial interests (see indicator 4.6).

Increasingly, Die Republikein has been writing favourably about the Republican Party, the party that started the newspaper before joining the Democratic Turnhalle Alliance (DTA). Although the newspaper is now part of the DMH group, since the Republican Party broke away from the DTA in late 2003, the newspaper's editorial stance has appeared to reflect the Republican voice.

Owned by a trust, The Namibian's trustees appear to have little say in the content or production of the newspaper. It is worth noting, however, that since the newspaper became a co-shareholder with Trustco in Free Press Printers, Trustco-related stories have received front-page priority a number of times.

It was mentioned that Insight appears to be run fairly democratically, even to the point that individual journalists do not receive credit for their stories but remain anonymous. Community media are not seen to be as impartial as they should be, with UNAM Radio having to reflect the University of Namibia (UNAM) in a positive light, and Katutura Community Radio (KCR) operating as a mouthpiece for non-governmental organisations rather than truly reflecting community issues.

SCORES:

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

Average score: 2.9 (2005 = 3.0)

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

Generally, Namibian journalists working in private media are earning good, industry-related salaries compared to many neighbouring countries, with senior journalists getting about N\$14 000 a month.

Informanté managed to poach a number of good journalists from other newspapers by increasing their salaries – some now earn up to N\$22 000 pre-tax. Junior journalists and those working in the state media, however, receive much less. Journalists with the NBC, for example, get N\$8 000 but have a better package overall. NBC staff recently went on strike as a result of having had no increase for three years. “There have been quite a few cases of corruption at the NBC, but I am not sure if there is a link to lower salaries.”

‘Brown envelope journalism’ as practised in other countries, where journalists get paid for following external directives about how to cover a particular story, is fortunately still unknown in Namibia.

SCORES:

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

Average score: 3.1 (2005 = 3.6)

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

The University of Namibia (UNAM) offers a four-year, full-time degree in media studies as well as a two-year diploma in information studies. The Polytechnic of Namibia offers a three-year part-time diploma in media studies. The Media Arts and Technology Studies department of the College of the Arts offers a three-year Applied Arts Diploma, with a focus on electronic media.

While employees of the NBC used to have access to free training, this is no longer the case and the training department is closed.

At Namibian tertiary institutions, there are no specialised and officially recognised courses for practising journalists to develop their skills further, for instance in photojournalism or environmental reporting. It was felt that there is a need for independent, professional training for working journalists.

A point was raised that there is a lack of media text on Namibia. “Training institutions are not creating an environment where Namibian journalists can do additional research on Namibia, for a Masters degree, for example.”

Due to a shortage of staff at most media houses, editors of the main newspapers are reluctant to release journalists for one-month's training in another country, for example, and prefer in-house, on-the-job training. The disadvantage of this is that those receiving such training do not acquire any formal qualification.

There was a feeling that the government should realise the importance of sending its journalists away for intensive training. "Government journalists are not well equipped. Perhaps they have just a diploma. They do not specialise in anything. The government should look into this for their own interests."

In an important development, both UNAM and the Polytechnic are preparing to submit their curricula for accreditation under the National Qualifications Framework, which will accredit these qualifications at appropriate levels. A key point is that these institutions are involving the industry in this process to ascertain where training is lacking and what kind of training is relevant.

It was suggested that media houses should offer bursaries or scholarships to students of media studies to enhance the profession, as is the case, for example, with banks.

SCORES:

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

Average score: 3.0 (2005 = 2.8)

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

ANALYSIS:

Employees of the state-owned media belong to the Public Workers Union. Private media workers are not unionised. The Windhoek-based press club has been inactive for years.

Some journalists are members of MISA Namibia and/or the Editor's Forum. Membership of both the Editor's Forum and MISA Namibia is less divided than was the case two years ago. The MISA board, too, has become much more representative of the industry, as it has members from the state broadcaster (NBC), a state-funded newspaper (New Era), the private print media (The Namibian), private television (One Africa) and community radio (KCR). This indicates some progress in uniting a long-divided sector.

There has been much talk within the industry about establishing a media workers' trade union. The International Federation of Journalists (IFJ) has set up a regional office in Johannesburg to try to establish unions for journalists in the Southern African Development Community (SADC) region. It remains to be seen how this intervention will develop.

SCORES:

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

Average score: 2.9 (2005 = 2.9)

Overall score for sector 4: 3.0 (2005 = 2.8)

OVERALL COUNTRY SCORE FOR 2007 2.6 (2005 = 2.7)

Developments since 2005 and THE WAY FORWARD

Positive developments in the media environment in the last two years

- The perception, at least, that the political situation in Namibia has changed with President Pohamba assuming the presidency in 2005. This new political climate has been accompanied by a new political language, which continues to emphasise unity, development and reconciliation through positive language instead of the derogatory narrative under former president Nujoma. Pohamba has emphasised the importance of transparency and how the media can assist in this regard.
- The establishment of the Anti-Corruption Commission, as this emphasises the need for access to information legislation and protection of sources.
- An increase in diversity of media products, partly related to improved technology and a positive economic situation in the country.
- The strengthening of One Africa Television, especially the daily news bulletins which give local free-to-air viewers a choice.
- Areas that were neglected by the media in the past feature much more regularly now in both print and electronic media. These include culture, poverty and the youth.
- The role of the public in the ‘Chat Show’ debacle and how, by putting pressure on the NBC/government, the public managed to bring the show back on air, as before.
- A marginal improvement in the salaries of journalists in the private media.
- The increase in circulation of the daily newspapers, which goes against international trends.
- The advent of Informanté, which has “stirred up the media pot” and created more competition in the sector.
- Healthy competition in the media industry: notably if Radio 99 had not jumped in to launch its own chat show, following the curtailment of a similar show on NBC radio, the state broadcaster might not have resuscitated its original ‘Chat Show’.
- Both MISA Namibia and the Editor’s Forum have become more inclusive and representative of the industry.
- There is now greater access to radio chat shows through lower prices with the introduction of Telecom’s Switch and new cellphone service provider, Cell One, as well as the expansion of the cellphone network, particularly in rural areas.

Negative developments in the media environment in the last two years

- MISA Namibia, as a lobby group, has failed to link up with civil society to make freedom of expression and access to information national issues.
- The perception of stagnation within MISA Namibia, evidenced by the lack of progress being made on establishing a media council.

- The lack of transparency, poor fiscal management and governance at the NBC, as well as the escalating debt of the state broadcaster.
- Continuing under-investment in human resource development within the media. Very few, if any, privately initiated training programmes for journalists exist.
- The failure to set up an independent broadcasting complaints commission.
- The fact that NCC commissioners lack an understanding of media issues.
- The over-commercialisation of the NBC, which results in the state-funded broadcaster neglecting its public mandate to inform, educate and entertain.
- The continued lack of access to the media in rural areas, and the absence of true community radio stations in local languages and in rural areas.
- Poor gender mainstreaming.
- While it has improved since 2005, the amount of local content is still insufficient on local television and radio stations.

The main drivers or actors for positive developments

- The perception of a change of attitude by government and an improved political climate have made it possible to discuss media issues more openly. The democratic culture in general has become more consultative, as a result of President Pohamba's more inclusive approach.
- Increased competition, which drives development.
- Journalists who report without fear or favour.
- The judiciary, which has helped to protect the rights of the media.
- Young people making use of improved technology to create new publications and disseminate information.
- The National Society for Human Rights has been very active in terms of freedom of expression and human rights. Increasingly, MISA Namibia should be taking the lead in this regard.
- Informanté - for having "shaken things up".
- Civil society, with regard to the public outcry that led to the NBC 'Chat Show' being reinstated.

Some of the possible obstacles for further positive change

- While President Pohamba promises a new climate of openness and inclusiveness, in reality the Minister of Information and Broadcasting Nandi-Ndaitwah, possibly as a result of her also holding the position of Secretary-General for Information in the

ruling SWAPO, appears to hamper developments within the media by sitting on reports, policy development and legislation.

- Stagnation in the country's politics and policy decisions may be a result of a schism within SWAPO, broadly comprising one faction led by Pohamba with his deliberately inclusive approach, and the other by more hard-line former president Nujoma, now president of SWAPO. Some critics claim that as a result of this unresolved leadership issue, Nujoma is in fact still running the country, through SWAPO.
- The fact that there is still outdated legislation on the statute books and the sluggish process of implementing new legislation. This could be a result of the weakness of the legislature, with the executive dominating the parliamentary process and thus undermining much of the work the legislature should do, such as the repeal of outdated laws and the introduction of policies and bills, for example.
- MISA Namibia's apparent inactivity.

Some of the activities needed over the next few year:

- MISA Namibia and the Editor's Forum need to be strengthened and should be much more active.
- A media council should be established as a matter of urgency.
- MISA Namibia needs to involve civil society more in its activities and lobbying. The Namibian chapter needs to lobby for the creation of an independent broadcasting complaint commission, a "people's board".
- The media as a whole needs to be more active in informing civil society about issues of media freedom, freedom of expression and human rights in general.
- MISA Namibia and other institutions should prepare for intervention when the draft media policy is finally published.
- Pressure should be put on the Ministry of Information and NCC commissioners an independent process.
- The NNC and the NBC need to be set on an independent course: a broadcasting regulating law and public broadcasting law need to be developed.
- The survey of laws that restrict freedom of expression and the media, commissioned by the Ministry of Information and Broadcasting and done by the FES in 2005, needs to be publicised.
- The draft Communication Bill should be revisited and revised by MISA Namibia.
- Parliament should be more involved in these debates to give more clout to members of parliament by providing them with more knowledge.
- Government needs to update the Hansard and its official websites.

- Specialised/advanced training needs to be launched for practicing journalists in the fields of law, economics, photo journalism and investigative journalism, for example.
- The management level of media organisations needs to be strengthened to ensure that newly trained media workers do not leave the company.
- MISA Namibia needs to continue to campaign, with a renewed spirit, for access to information legislation.

The panel meeting took place at Greiter's Conference Centre, May 11 – 13 2007.

The Panel:

Ms. Rachel Cloete, Civil Society Activist; Mr. Clement Daniels, Lawyer; Mr. Andre Du Pisani, Political Science Lecturer; Mr. Paul Helmuth, Civil Society Activist; Mr. Christof Maletsky, Journalist; Mr. Phil ya Nangolo, Human Rights Activist; Mr. Andre Strauss, Cultural Activist; Ms. Zoé Titus, Journalist; Mr. Robin Tyson, Media Lecturer

The Rapporteur: Ms. Sarah Taylor

The Facilitator: Mr. Hendrik Bussiek



Swaziland 2007

**Civil society perceptions on the state of
media freedom & freedom of expression**

African Media Barometer Swaziland

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:

The Constitution of the Kingdom of Swaziland came into effect on 8 February 2006. Freedom of expression and freedom of the media are guaranteed and protected by the Constitution, but there are no other pieces of legislation that protect these twin freedoms.

Section 24 of the Constitution states:

“(1) A person has a right of freedom of expression and opinion.

(2) A person shall not except with the free consent of that person be hindered in the enjoyment of freedom of expression, which includes the freedom of the press and other media...”

However, Section 24 (3) contains broad limitations on the right to freedom of expression which can undermine the protections provided in clauses (1) and (2).

It states: “Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of –
 - (i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;
 - (ii) preventing the disclosure of information received in confidence;
 - (iii) maintaining the authority and independence of the courts;
 - (iv) regulating the technical administration of the technical operation of telephony, telegraphy, posts, wireless broadcasting or television or any other medium of communication;
- (c) that imposes reasonable restrictions upon public officers, except so far as that provision or, as the case may be, the thing done under the authority of that law is shown not to be reasonably justifiable in a democratic society.

Such elaborate limitations can be used to curtail freedom of expression and freedom of the media. For example, allowing freedom of expression to be restricted in the interests of public morality gives huge scope for prohibiting free speech since there are no agreed moral standards. Further,

some of these limitations actually entrench existing restrictive laws. For instance, preventing the release of information because it is received in confidence can be used to justify the Official Secrets Act 1963, which prohibits access to any kind of government-held information.

Before the Constitution was finalised, there were many objections to this basic law, “but it was pushed through anyway.” Ironically, those who pushed it through are now reluctant to allow constitutional rights in practice.

Customary law, which under Swaziland’s dual legal system has equal status with the Roman Dutch Common Law and statutes, continues to restrict freedom of the media and freedom of expression. For instance, there are cultural dictates that prevent people from criticising or questioning those in authority, especially the King. Although, in theory, the Constitution is supreme over all other laws, unwritten customary law wields enormous power in practice and because Swazi Law and Custom is not codified, it cannot yet be tested against the Constitution.

Section 268 of the Constitution states that the Constitution is to prevail when in conflict with existing legislation. However, this does not mean all laws that contradict the Constitution are automatically nullified. There is a raft of laws restricting media freedom and freedom of expression that remain on the statute books (see 1.3). Only when these laws are challenged in court, repealed or amended will they cease to have an impact. As long as these laws remain unchallenged, “we are at sea.” For example, the Constitution protects freedom of association and assembly, but the 1973 Proclamation banning political parties has not been declared unconstitutional, so there is much reservation and uncertainty about registering political parties.

The prevailing feeling is that there has been little real progress with regard to protecting and guaranteeing freedom of expression and media freedom because of the onerous list of limitations in Section 24 (3) of the Constitution, the failure to repeal or amend the laws that inhibit these freedoms, the power of customary law and the ruling elite’s reluctance to see the constitutional guarantees in action.

It should be noted that the Ministry of Public Service and Information is attempting to introduce new media laws, including freedom of information legislation, aimed at reforming the media landscape. Consultations on the draft bills are ongoing.

SCORES:

Individual scores: 2, 2, 2, 2, 2, 2, 3, 2
Average score: 2.1 (2005=1.5)

1.2 The right to freedom of expression is enforced and citizens, including journalists, are practised without fear.

ANALYSIS:

There has been a noticeable increase in the exercise of freedom of expression, both by individuals and the media. It is more common now to hear people challenging government and speaking out. The media is giving voice to a greater diversity of opinions. During a recent workers’ strike, trade unionists and other progressives were granted considerable airtime on state television: “They wouldn’t have had such a platform in the past.”

This increase in free expression can be credited, in part, to the adoption of the Constitution, which has created greater public awareness about freedom of expression. The fact that the

current government is more tolerant of free expression and freedom of the media has also contributed to the increased openness.

But this new openness is not exercised without fear and there remain considerable restraints on the practice of freedom of expression. “People still talk in hushed tones.” Some panellists spoke of being regularly followed by police, and having their work monitored. Government spies “always” attend public events where their presence alone “is enough to just shut you up.” These tactics of intimidation result in reduced criticism of the ruling elite and less political activism.

People can suffer retribution for speaking out against the status quo, though this often happens in a “subtle and covert” manner. Land expulsion is the most threatening form of retribution. The majority of Swazis live on Swazi national land, which is controlled by the traditional authorities. “Speak too openly and you risk eviction from your home”. The lack of land tenure inhibits the practice of freedom of expression.

Fear of those in power (both traditional and political authorities) means people only express their political views “behind closed doors”. Political debate does not occur publicly and is suppressed by the cultural dictate that those in authority must not be questioned. The media is often told not to question the King on sensitive political issues, and they always follow suit. Criticism of the monarchy remains strictly off-limits. When the *Times of Swaziland* recently published a story that blamed the dwindling economy on the King’s lavish spending, the paper was forced to issue an apology immediately or face closure.

The constitutional protection of freedom of expression was described as mere “window-dressing”, guaranteeing this right “on paper only, not in practice.”

SCORES:

Individual scores: 1, 3, 3, 2, 2, 2, 2, 2
Average score: 2.1 (2005=1.6)

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 the media.

ANALYSIS:

There are still at least 32 pieces of legislation on the statute books that restrict freedom of expression and/or media freedom, many dating back to the pre-independence era.

The Proscribed Publications Act 1968 gives the Minister of Information sole power to declare a publication “prejudicial to the interests of defence, public safety, public morality or public health”. The Sedition and Subversive Activities Act 1968 criminalises the making of statements that “bring into hatred and contempt” the King, his heirs or successors; “raise discontent or disaffection” among the people of Swaziland and “promote feeling of ill-will and hostility” between different groups.

The Books and Newspapers Act 1963 requires all print operators to be licensed and places a prohibitive cash bond of E15,000 (Emalangenis equals South African Rand) on entry into the print media industry. The Officials Secrets Act 1963 prohibits access to government-held information, except on approval by senior government officials.

Efforts are under way to reform some of these laws. The Ministry of Public Service and Information has produced six draft bills, including the Freedom of Information and Protection of Privacy Draft Bill 2007, which is meant to replace the Official Secrets Act. There is also the Books and Newspapers (Amendment) Draft Bill 2007. However, this amendment bill does not reduce the restrictive cash bond required of print media operators.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=1.3)

1.4 Entry into and practice of the journalistic profession is unrestricted.

ANALYSIS:

There is no law restricting the entry into and practice of journalism in Swaziland. However, the Media Commission Draft Bill 2007 introduced by the Ministry of Public Service and Information gives powers to the Commission to introduce compulsory registration and accreditation of journalists and media institutions.

The media has categorically rejected the draft bill and is fast-tracking the establishment of a self-regulatory mechanism to thwart government attempts to impose these restrictions on the practice of journalism.

SCORES:

Individual scores: 5, 5, 5, 4, 4, 5, 5, 4
Average score: 4.6 (2005=4.7)

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

ANALYSIS:

There is no law protecting confidential sources of information. Journalists subpoenaed to appear in court can be forced to disclose their sources. If they refuse to do so they risk being found guilty of contempt of court under the Criminal Procedures Act.

The Prevention of Corruption Act 2006 does protect whistleblowers, but it does not provide specific protection for journalists. The Freedom of Information and Protection of Privacy Draft Bill does not contain any protection of confidential sources.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=1.0)

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

ANALYSIS:

There is no freedom of information legislation in Swaziland. The government and public institutions cannot be forced to disclose information of public interest. The Official Secrets Act

1963 makes it entirely the government’s prerogative whether to release information or not, and there is no means of appealing against government decisions. There are no formal procedures for obtaining public information and requests often get caught up in bureaucratic red tape. Information that should be in the public domain, such as the defence budget and the budget of the King’s office, is never disclosed. There is an attempt to introduce freedom of information legislation in the Freedom of Information and Protection of Privacy Draft Bill 2007. However, there are concerns that the draft bill contains too many restrictions on accessing information and, in fact, “turns the whole idea of FOI on its head” by opening up ways for the government to access private information, rather than opening up the public’s access to public information.

SCORES:

Individual scores: 1, 2, 1, 1, 1, 1, 1, 1
Average score: 1.1 (2005=1.3)

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

ANALYSIS:

Civil society and other lobby groups are not doing enough to advocate for media freedom. The little activism that is done is not cohesive and often not visible. Weak relationships between the media and civil society organisations (CSOs), where both sides often fail to support the other, are partly to blame. There is no sense of solidarity and shared purpose. When the *Times of Swaziland* was recently forced to issue a front-page apology for publishing an article critical of the King, civil society was silent. The response from one political lobby group, angry that the *Times* would not give them more coverage was, “Serves you right.” There is also pervasive apathy and lack of leadership (“It’s like building a castle on the sand”).

Fear is another factor in the failure to react to media freedom violations. Most media institutions and many CSOs are financially dependent on government and fear falling out of favour with the authorities if they are too vocal.

The Media Institute of Southern Africa (MISA) - Swaziland chapter has found media owners are more concerned about protecting their business than fighting for media freedom. Often MISA Swaziland’s attempts to receive coverage on media freedom issues get rebuffed. The media itself is not presenting a united front. It is a fractious industry and the media associations are ineffective and do not garner wide support. The most well-known group, the Swaziland National Association of Journalists (SNAJ), was described as a “toothless dog”.

The existing media organisations are: Swaziland National Association of Journalists (SNAJ); MISA Swaziland; Media Workers Union of Swaziland (MWUS); and Gender and Media Swaziland (GEMSWA).

SCORES:

Individual scores: 2, 2, 2, 2, 3, 2, 3, 2
Average score: 2.3 (2005=2.1)

Overall score for sector 1: 2.0 (2005 = 1.9)

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:

Radio is the most accessible and affordable source of information for most people in Swaziland. There are two domestic stations - the state broadcaster, Swaziland Broadcasting and Information Services (SBIS), and the religious station, Voice of the Church (VOC), established by Transworld International.

SBIS has two channels – SBIS 1 (siSwati) and SBIS 2 (English) – which cover approximately 95% of the country. VOC reaches about 70% of the country. VOC is becoming increasingly popular and has recently introduced non-religious content, creating real competition for SBIS.

Listeners are not restricted to the local stations because South African radio floods the market and is very popular. There is no community radio in Swaziland.

The choice of local television stations is limited. There are just two domestic channels: Swazi TV and Channel Swazi. The smaller of the two, Channel Swazi, (privately owned “on behalf of His Majesty”) is not available in most parts of the country, even in the major towns, due to lack of transmitters. Swazi TV, the state broadcaster, has a reach of 75%, but is not popular. Those who do watch it “don’t have a choice.”

Those with choice watch South African television channels accessible through satellite decoders, which cost between E800-1,200. Decoders enable viewers to receive SABC 1, 2, 3 and eTV.

The satellite television service, DSTV, is available, but at a minimum of E350 a month it is unaffordable for most of the population.

There are two national daily newspapers, the *Times of Swaziland* (private) and the *Swazi Observer* (owned by the king through a royal conglomerate). Both are published in English. The *Times* has an average daily print run of 26,000 and an estimated readership of 100,000. The *Observer* averages 15,000 prints a day with an estimated readership of 85,000. At E2.20 a copy, newspapers are affordable even for many rural communities (a loaf of bread costs E4.00).

The only siSwati newspaper, *Tikhatsi TeMaswati*, a translation of the *Times*, ceased publication in November 2006, as it was no longer commercially viable. But according to the *Times*, rural readers have been demanding its return. It was suggested that had *Tikhatsi* provided original siSwati content, it might have been successful. However, its main obstacle was attracting advertisers who assume people reading siSwati are poor and are, therefore, not worth advertising to.

There has been one new entrant into the newspaper industry, *Ligoli*, a privately owned weekly sports newspaper. A new player in the magazine industry brings the numbers up to three monthly publications - *The Nation*, *Youth Connexion* and the newly established *Business World*. *The Nation* has the largest circulation at 3,500-4,000 per month. *Youth Connexion* has a print run of 2,000. The majority of Swazis cannot afford magazines which average E10.00 per copy.

There are a wide variety of imported newspapers and magazines available in urban centres.

Internet is still unaffordable for most Swazis and is limited to the main towns. Most Internet cafés charge at least E20.00 for 15 minutes. Broadband is still not available, as the government is yet to license operators, so connections are slow and unreliable.

SCORES:

Individual scores: 3, 3, 3, 4, 3, 2, 4, 3
Average score: 3.1 (2005=2.9)

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

ANALYSIS:

Access to domestic and international media is not restricted by the state. State television, Swazi TV, relays CNN and Deutsche Welle daily. State radio, SBIS, provides live feeds of BBC World and Voice of America (VOA) news programmes.

But there have been incidents where international content is censored by the authorities. The *Times* was recently threatened with closure for publishing a story from the international Afrol news agency that criticised the king. The paper was forced to retract the story and publish two front-page apologies. However, access to the Afrol story online was not restricted.

SCORES:

Individual scores: 4, 4, 4, 4, 3, 4, 3, 3
Average score: 3.6 (2005=4.0)

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

ANALYSIS:

The *Observer* makes some effort to widen its circulation by conducting road shows in outlying towns. But it doesn't venture into the far-flung rural communities because it is not economical. The *Times* does very little to broaden its circulation base and as such it is largely restricted to the main towns.

SCORES:

Individual scores: 3, 2, 4, 2, 3, 3, 1, 2
Average score: 2.5 (2005=2.9)

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

ANALYSIS:

Existing legislation does not create an environment where public, commercial and community broadcasting can flourish. The government effectively maintains a monopoly in the broadcasting sector.

The parastatal, Swaziland Posts and Telecommunications Corporation (SPTC), governed by the SPTC Act 1983, issues radio and telecommunication licenses and all frequencies (including television frequencies). The state-owned Swaziland Television Authority (STVA), which operates Swazi TV and is governed by the STVA Act 1983, issues television licenses. These two Acts set up a major conflict of interest in allowing government to be both an operator and the regulator. Thus, the broadcasting sector is uncompetitive. There are no adhered-to rules and procedures for granting licenses. In practice, getting a broadcasting license is a very murky and cumbersome process that discourages new players. The only two non-state broadcasters, VOC and Channel Swazi, were issued licenses under “gentlemen’s agreements”.

However, there are efforts under way to reform broadcasting legislation. The Information and Media Policy adopted in 2005 promotes the three-tier broadcasting system and calls for an independent broadcasting regulator. The Ministry of Public Service and Information, tasked with implementing the policy, has produced two draft bills. The Broadcasting Draft Bill 2007 repeals the STVA Act 1983 and seeks to establish an independent regulator, and the Public Broadcasting Corporation Draft Bill 2007 seeks to transform the state broadcasters into public broadcasters.

The consultation process on the draft bills is ongoing, but stakeholders have expressed dissatisfaction with the Commonwealth consultant and are concerned that the consultations have not been inclusive.

Meanwhile, the Ministry of Tourism, Environment and Communications (MOTEC) has drafted the Telecommunications Bill to replace the SPTC Act 1983. This bill covers regulatory powers, as does the Broadcasting Draft Bill. However, there was no collaboration between MOTEC and the Ministry of Public Service and Information in the drafting of these two bills. The consensus is that they need to be harmonised to establish a single communications regulator.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 2, 2, 1
Average score: 1.3 (2005=1.1)

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

ANALYSIS:

There are still no community radio stations operating in Swaziland. The Lubombo Community Media Group has been trying to establish a station for the past eight years, but is yet to be granted a license. This despite the fact that the former Minister for Information promised to issue several community licenses after the adoption of the Information and Media Policy in 2005. The Policy states, “As a means of expanding public access and participation in mass media and development, community radio stations shall be introduced in the Kingdom of Swaziland, licensed for an initially renewable period not exceeding 24 months, owned and managed by a particular community through a trust or association, and whose main aims shall be to serve and benefit the community in question.”

Lubombo Community Radio (LCR) has been granted three temporary licenses to broadcast royal events. The most recent was a 3-day license to broadcast the King’s birthday celebrations. But the licensing process was frustratingly slow and the license was only granted on the day the station was scheduled to begin broadcasting, preventing LCR from raising funds, advertis-

ing the frequency and preparing programme content. The failure, so far, to issue a permanent licence to LCR has meant the station's equipment has not been maintained and volunteers who were trained have now moved on.

Community radio is viewed as competition for the state-owned SBIS. It is, therefore, not in the interest of government to promote it.

The Ministry of Public Service and Information, however, lays the blame for the lack of community stations at the feet of the communities for not equipping themselves with the necessary resources. The costs for setting up a station, though, are so prohibitive that most communities cannot raise enough funds.

It should be noted that the Broadcasting Draft Bill does include community broadcasting.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 1, 1, 1
Average score: 1.1 (2005=1.1)

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

ANALYSIS:

The *Swazi Observer* is owned and published by Tibiyo TakaNgwane, which in turn is owned by the King on behalf of the Swazi nation. There was much debate among panellists as to whether Tibiyo could be classified as a public authority because legally it is a private entity. It was agreed that although Tibiyo is registered as a private company and does not use taxpayer funds, it is effectively controlled by the King and "held in trust for the Swazi nation" and, therefore, is a public authority. Tibiyo appoints the board of the *Observer* and though the King is not directly involved in the appointments, he is kept informed and theoretically could influence the decisions. The dominant public perception is that the *Swazi Observer* is a state newspaper.

The *Observer* is not able to publish criticism of the King and the Queen Mother, but "this is the only editorial restriction." And the same restriction applies equally to the privately owned *Times of Swaziland*. The *Observer* regularly carries stories critical of government and public bodies: "For all intents and purposes it is a free paper."

SCORES:

Individual scores: 2, 3, 2, 2, 3, 3, 2, 2
Average score: 2.4 (2005=1.9)

2.7 Local or regional independent news agencies gather and distribute information for all media.

ANALYSIS:

There are no news agencies currently operating in Swaziland.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
 Average score: 1.0 (2005=1.0)

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

ANALYSIS:

There is no legislation that promotes competitive practices and ensures media diversity.

The Information and Media Policy adopted in 2005 states: “An independent regulator shall enforce fair and competitive market practices and discourage monopolistic tendencies in the information and media industry in accordance with the Fair Competition Act” (7.7.3). But in the absence of both an independent regulator and a Fair Competition Act, this policy statement is yet to be realised. A competition bill has been piloted under the Ministry of Enterprise and Employment.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 2, 1, 1
 Average score: 1.3 (2005=1.3)

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

ANALYSIS:

The adoption of the Constitution and the Information and Media Policy indicates that government is attempting to open up the media landscape. But existing legislation still inhibits media diversity.

The STVA Act 1983, for example, confers power on the operator of Swazi TV, the Swaziland Television Authority (STVA), to regulate the television industry. Similarly, the radio sector is extremely uncompetitive since the dominant player, government, also governs licensing and frequency distribution through the parastatal, the SPTC.

The Books and Newspapers Act 1963 is still in place, making it prohibitively expensive for new players to enter the print industry. The Act stipulates that a cash bond of E15,000 must be paid to the Registrar of Books and Newspapers to establish a newspaper. An amendment to the Act has been drafted, but it does not remove or even reduce the cash bond.

There are no practical efforts, such as tax incentives for media operators, to encourage media diversity. In fact, the general environment is becoming even more regulated and restrictive: “They are creating more monopolies all the time.”

SCORES:

Individual scores: 3, 1, 2, 2, 2, 1, 1, 1
 Average score: 1.6 (2005=1.0)

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

The *Times of Swaziland*, the dominant private media outlet, makes a substantial profit and has seen circulation increase over the last two years, an indication that it is operating efficiently and professionally.

The other private publication, *The Nation* magazine, is doing reasonably well in business terms, though profits are modest. However, *Youth Connexion* magazine is struggling and sometimes has to forego monthly editions.

SCORES:

Individual scores: 4, 3, 4, 4, 3, 3, 4, 4
Average score: 3.6 (2005=2.6)

2.11 State print media are not subsidised with taxpayers' money.

ANALYSIS:

The *Swazi Observer*, the only state print media, is not subsidised with taxpayers' money. It is subsidised by the royal conglomerate Tibiyo TakaNgwane, but Tibiyo does not use tax funds.

SCORES:

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5
Average score: 5.0 (2005=4.8)

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

ANALYSIS:

The government is the biggest single advertiser and wields enormous power in the small advertising market. Government regularly uses this power to control media content.

Recently the Ministry of Health ran a series of announcements in the *Observer*; but refused to run them in the *Times*. When the newspaper confronted the Ministry, they said they withheld the advertisements because they were unhappy with the *Times'* criticism of the Ministry over the public health crisis. The *Observer* has had similar experiences of government withholding advertisements on particular issues. This is not the result of top-level policy, but rather "just depends on which government department it is."

The media itself is to blame for sometimes being complicit in government's interference with content. Newspapers offer articles as part of advertising packages, but do not mark these articles as advertorials. This is justified as "a marketing tactic."

SCORES:

Individual scores: 2, 1, 1, 1, 2, 2, 1, 2
Average score: 1.5 (2005=2.9)

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

ANALYSIS:

The advertising market in Swaziland is too small to sustain a multiplicity of media outlets. Government and parastatals are the big advertisers and if they were removed from the market, the media would barely survive. Advertising from private businesses is rare and ad hoc. The *Times*, however, generates considerable revenue from the classifieds.

SCORES:

Individual scores: 1, 1, 1, 1, 2, 2, 2, 1
Average score: **1.4 (2005=2.2)**

Overall score for sector 2: 2.3 (2005 = 2.2)

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.

ANALYSIS:

There is no independent broadcasting regulator in Swaziland. Regulatory power is split between two government-owned bodies, the Swaziland Posts and Telecommunications Corporation (SPTC) and the Swaziland Television Authority (STVA). This regulatory system reinforces the government's monopoly over broadcasting and leaves the sector extremely vulnerable to political interference.

There is an inherent conflict of interest in the regulatory set-up since government is both an operator (through SBIS and Swazi TV) and a regulator (through the SPTC and STVA). The board of the parastatal, the SPTC, is appointed by the Minister for Tourism, Environment and Communications and has sole power to issue and revoke radio licenses. The SPTC Act 1983 does not contain any procedures for parties to appeal against licensing decisions. The only non-state radio broadcaster in Swaziland, Voice of the Church, was issued a license through a "gentleman's agreement" in 2003 because the government was seeking to block the transmission of the South African stations, Radio Zulu and Radio siSwati.

The STVA board is also appointed by the Minister for Public Service and Information and has broad-ranging powers to issue and withdraw licenses and even censor programme content. The only non-state television broadcaster, Channel Swazi, was also issued a license under a

“gentleman’s agreement”. Channel Swazi is run by a relative to the King and was originally set up to promote the king and the royal family.

The Information and Media Policy states that “an independent regulator shall be established to regulate private, public, community and commercial broadcasters...appointments to the regulating body shall be made through a transparent process, including the procedures for issuing rulings and decisions, and the processes for petition or appeal by applicants.” In an effort to implement this policy, the Broadcasting Draft Bill seeks to set up an independent broadcasting regulator. However, stakeholders have lodged objections to the bill’s failure to include adequate protections against political interference.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=1.2)

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

ANALYSIS:

The appointments procedure for the SPTC Board and STVA Board is neither open nor transparent. The relevant ministers directly appoint members for each board. The positions are not advertised and there is no effort to include participation from civil society.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=1.1)

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 no evidence of the regulating bodies acting in the public interest and promoting fairness and diversity in the broadcasting sector. Since they are effectively government-controlled and not accountable to the public, they are not expected to espouse these principles, nor do they demonstrate any effort to do so.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=1.0)

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

ANALYSIS:

Licensing decisions are not informed by sound policy. In the absence of an independent regulator, government interests determine licensing decisions. As the Information and Media

Policy acknowledges: “The authority to grant broadcast licenses is vested with authorities whose organisations are also competitors in the same lines of business”. The Policy promotes independent and transparent licensing decisions, but this cannot be realised until legislation is passed to establish an independent regulator.

The panel noted that the Policy was not developed in a transparent and inclusive manner.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=1.0)

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 Swaziland Broadcasting and Information Services (SBIS) are state-owned and accountable only to government. The service operates as a department within government and therefore does not have a board.

Swazi TV is a parastatal established under the STVA Act. The Minister for Information directly appoints the STVA board. There are no measures in place to ensure the board is representative of society and accountable to the public.

It should be noted that the recently drafted Public Service Broadcasting Corporation Draft Bill aims to transform both SBIS and Swazi TV into full public broadcasters with a single board appointed through an open and transparent process.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0 (2005=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 state and political parties as well as those with a financial interest in the broadcasting industry.

ANALYSIS:

There are no restrictions on who is eligible to serve on the STVA board. The minister can make appointments at his own discretion and his decisions are not scrutinised. Further, according to the Public Enterprises (Control and Monitoring) Act 1989, every parastatal must have at least one government representative on its board.

SCORES:

Individual scores: 1, 1, 1, 3, 1, 1, 1, 1
Average score: 1.3 (2005=2.2)

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

ANALYSIS:

The editorial independence of Swazi TV and SBIS is not guaranteed in law, though in practice there is some effort to resist political influence.

Journalists at both broadcasters are demonstrating more freedom in editorial decision-making and taking more risks by including progressive voices and running stories critical of government. For example, during the recent strike, trade unionists were given considerable airtime on both SBIS and Swazi TV to air their grievances.

In part, this new editorial license has been put down to the protections brought in by the Constitution. But mostly it is thought to be motivated by a staff rebellion against management (particularly in the case of SBIS). In other words, it is not so much fuelled by a desire to fight for media freedom, but rather driven by internal politics and personality issues.

Despite efforts to exercise greater editorial independence, journalists still work under considerable constraints. For instance, the crippling border blockades instigated by a group lobbying for political reform were not given any coverage on SBIS. The consensus is that journalists will not be able to resist political influence in editorial decision-making until they have legal protection.

SCORES:

Individual scores: 1, 1, 1, 2, 2, 1, 2, 2
Average score: 1.5 (2005=1.1)

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

ANALYSIS:

Neither SBIS nor Swazi TV is adequately funded or protected from budgetary interference.

Poor funding is particularly evident at Swazi TV where resources are scarce, quality of programmes is poor and there is very little local content. Swazi TV relies mostly on government subsidies, but supplements its income with license fees and advertising. SBIS is exclusively reliant on government funding. What little advertising income that station generates is directed back into general revenue.

SCORES:

Individual scores: 4, 1, 2, 2, 2, 1, 1, 2
Average score: 1.9 (2005=2.1)

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

ANALYSIS:

The two channels on state radio, SBIS 1 and SBIS 2, reach approximately 95% of the country. Swazi TV has considerably less coverage at about 75%.

SCORES:

Individual scores: 3, 4, 4, 4, 2, 4, 4, 2
Average score: 3.4 (2005=3.8)

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

SBIS performs reasonably well in providing a wide range of programmes, but some interest groups are not catered for. Several NGOs broadcast programmes on health, social and development issues. There are youth programmes, programmes on women's issues and a plethora of sports programmes. However, children's programming is very scant, there are no human rights-based programmes and no programmes servicing minority religious groups. In fact, recently members of the Bahai faith applied for airtime, but were reportedly denied on the basis that they do not preach the gospel. SBIS and the Ministry of Home Affairs are now negotiating their application.

There was considerable concern about the station's continued commitment to broadcast a satirical show called 'Khalamdumbadumbane', where the presenters are frequently accused of perpetuating harmful gender stereotypes and being misogynists. It was said the show does a disservice to women and to the cause of gender equality, particularly because the main presenter is the traditional prime minister and wields enormous influence.

There is much less diversity of programming on Swazi TV than on radio. The programme guide is still dominated by foreign content – news (CNN and Deutsche Welle), movies and soap operas. There has been a slight increase in local content in the last two years, but the lack of programme diversity is still severe enough to drive many (those who can afford it) to watch South African television.

SCORES:

Individual scores: 3, 3, 5, 2, 3, 4, 4, 3
Average score: 3.4 (2005=2.3)

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

The last two years have seen a slight improvement at SBIS in providing balanced and fair content. The daily breakfast show, for example, presents a greater diversity of voices and airs opinions that might challenge the *status quo*.

However, in terms of news content, stories are still packaged around the king and the government. Single-sourced stories are common, capturing only the views of government. There is a definite hierarchy that must be followed – stories about the King always lead, followed by the Prime Minister, Cabinet and then individual ministers and MPs. As an example of the preference given to government stories, it was confirmed that if the choice of lead story were between the PM delivering a speech or major bush fires that wiped out hundreds of homes, the PM's speech would always lead. MPs are allocated exclusive airtime on SBIS once a week to air their views.

News content on Swazi TV is similarly skewed toward government interests and stories about the king always get preference. If footage of the king comes in too late to be allocated the top story, the presenter will have to explain on air why the story was not given priority.

SCORES:

Individual scores: 3, 1, 4, 3, 2, 3, 3, 2
Average score: 2.6 (2005=1.6)

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

ANALYSIS:

SBIS radio offers a wealth of local content on both channels. Local content on Swazi TV, however, is still very limited, although there has been a slight increase in domestic production in the last two years. New programmes include a show on siSwati praise names, an interview programme and programmes promoting local musicians. But resources are scarce, so the quality of production is poor.

SCORES:

Individual scores: 2, 4, 4, 3, 3, 4, 2, 3
Average score: 3.1 (2005=2.4)

Overall score for sector 3: 1.9 (2005 = 1.8)

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:

The media has adopted a code of ethics developed by the Swaziland National Association of Journalists (SNAJ), but there are no self-regulatory bodies to monitor adherence and awareness and understanding of the code in newsrooms is scant.

Efforts to establish a self-regulatory mechanism for the print media were kick-started 10 years ago, but there is still no functioning complaints commission.

The fifth attempt to launch the Media Complaints Commission (MCC) was carried out early in 2007 after the media categorically rejected the government's Media Commission Draft Bill 2007. The bill is the government's second attempt to introduce statutory regulation.

Failure to establish the MCC in the past was partly due to a lack of commitment from the broadcasters who were insisting on a separate regulatory body. Now that the government has

drafted legislation to establish an independent broadcasting regulator, the MCC is to go ahead as a print media regulator only.

MISA Swaziland and SNAJ are driving the process of making the MCC operational. They are currently involved in registering the MCC as a company, securing funding to cover administrative costs and identifying five commissioners. Both national newspapers, *Times of Swaziland* and *Swazi Observer*, have indicated their support and are willing to make a financial commitment, although the *Observer* is awaiting confirmation of legal registration and a draft budget before giving final approval.

There is a sense of urgency about making the MCC operational as the threat of statutory regulation still hangs over the industry. Despite the media's objection to the Media Commission Draft Bill, the government has not indicated that the bill will be abandoned. The media is thus fearful of the government's agenda. But at the same time, there is some doubt amongst media practitioners themselves that self-regulation will really work.

SCORES:

Individual scores: 3, 3, 3, 1, 2, 3, 3, 3
Average score: 2.6 (2005=1.3)

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

ANALYSIS:

While the basic principles of accuracy are, for the most part, upheld by the media, the standard of reporting is lowered by repeated failure to be fair and balanced.

A monitoring study conducted by MISA Swaziland on the print media indicated significant flaws in the standard of news reporting, such as a majority of single-sourced stories and a high incidence of failing to present competing perspectives and seek rejoinders. A second study on the reporting of gender violence indicated a propensity to report gender violence and child abuse stories unfairly.

The drop in reporting standards is blamed on the lack of training and experience in the newsrooms: "There are no quality journalists any more." Senior journalists are leaving the profession at a rapid rate and cub reporters (usually school leavers or at best diploma graduates from the University of Swaziland [UNISWA]) are thrown in the deep end, given no tutelage or mentorship ("Editors don't have the time").

The high staff turnover in newsrooms is due to poor pay and lack of benefits. Most of the experienced journalists have moved into more lucrative positions in government or the NGO sector. The drain from the profession is also partly because of "political encroachment" where the government deliberately poaches journalists for well-paying government jobs. It was also suggested that the "right calibre" of people are no longer attracted to the profession.

SCORES:

Individual scores: 3, 3, 3, 2, 3, 2, 2, 3
Average score: 2.6 (2005=2.6)

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

ANALYSIS:

The breadth of content in the media is satisfactory, but investigative stories are “no longer here” and the depth of reporting generally is very poor. Most reports are superficial, lacking adequate information and analysis: “Journalists can be patronisingly simple.”

Lack of skills and experience, both in print and broadcasting, is a key reason for simplistic reporting. In addition, journalists don’t specialise in select fields to enable them to produce in-depth stories and this is compounded by journalists’ tendency to rely on their own knowledge rather than seek analysis and comment from experts. “Most journalists assume they know everything.” This know-it-all attitude together with an increased awareness of workplace rights has meant editors are less inclined to come down hard on reporters to produce better quality work: “Editors are not as tough on reporters as they used to be.”

Media houses don’t invest time and money in investigative reporting. Journalists are rarely afforded the time and resources to develop stories over a long period.

SCORES:

Individual scores: 3, 4, 3, 2, 2, 3, 2, 3
Average score: 2.8 (2005=3.4)

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

ANALYSIS:

Although no media house has adopted gender policies that promote equal opportunities for both sexes, there is a sense that more women are working in the media than two years ago.

The *Times of Swaziland* has women in a few key positions – entertainment editor, business editor and world news editor. But notably all senior editors are men. Similarly at the *Observer*, while the CEO, marketing manager and business editor are women, the top editors are all men.

A MISA Swaziland study revealed that in print news reporting, 21% of stories are written by female journalists.

It was agreed that women do have equal opportunity in the media industry: “Opportunities are there, but women don’t push hard enough.” But there was also acknowledgement that gender prejudices persist. For example, some editors prefer to assign stories to male reporters because they trust them to get the job done (“Women can’t detach from the story”).

SCORES:

Individual scores: 2, 4, 3, 3, 3, 3, 2, 3
Average score: 2.9 (2005=2.1)

4.5 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

Gender mainstreaming is not a priority for the media and is largely viewed as a foreign concept. As such, reporting can often be gender blind and perpetuate gender prejudices.

The prevailing feeling is that “women’s voices are silent.” Research by MISA Swaziland showed that 23% of all sources in news stories were female. Reporters are partly to blame for overlooking female sources, but the low representation of women’s voices also reflects the reluctance of women to speak to the media. Culturally it is the men who do the talking, so even if reporters do try to use female sources, they may often fail. Swazi society is still very much a male-dominated culture and the media tends to reinforce this rather than challenge it.

Though high-profile women often get media coverage, positive stories of ordinary women are extremely rare because “they don’t sell.”

MISA Swaziland’s study on the reporting of the 16 Days Campaign Against Gender Violence in 2006 showed that the campaign received very little coverage in print and even less on radio and TV. Many gender violence stories during that period perpetuated gender stereotypes, ignored the gender perspective and often gave unfair portrayals of the abused women.

SCORES:

Individual scores: 2, 3, 2, 2, 2, 2, 3
Average score: 2.3 (2005=1.7)

4.6 Journalists and editors do not practice self-censorship.

ANALYSIS:

Self-censorship is common across all media. There are four key areas where the media exercise self-censorship: the monarchy and traditional authorities, culture, media owners and advertisers.

Content that may be deemed critical of the King or the Queen Mother is automatically a no-go area for the media. The *Times* was threatened with closure earlier in the year when it published a story that claimed the country’s economic decline was in part due to the unchecked spending of the King and his large family. The media is very careful not to criticise polygamy because this is seen as a direct criticism of the King.

The cultural expectation that elders must be respected means self-censorship also extends to senior traditional figures: “There are certain things you can’t say about senior people with status.” The lack of land tenure is a contributing factor to this type of self-censorship. If a journalist criticises the traditional authorities they can risk land expulsion for themselves or members of their family. Chiefs can exert a lot of “subtle and insidious” pressure on journalists (“Whose land is this?”).

The media often censor their reporting on cultural issues as well because “some (cultural) subjects are taboo.” For example, the media don’t cover all the goings-on at incwala (the King’s annual men’s ritual) and they have in the past censored the real meaning of rituals at umhlanga (the Reed Dance). Those who dare to expose cultural “secrets” are labelled unSwazi.

One of the most powerful causes of self-censorship in the media is the need to protect advertising revenue. Censoring content to protect advertisers has become increasingly common. And since the government and parastatals are the biggest advertisers, this means information critical of government and public bodies can be withheld from the public.

Corruption amongst journalists was also cited as a cause of self-censorship.

SCORES:

Individual scores: 2, 2, 1, 1, 2, 1, 1, 2
Average score: 1.5 (2005=1.4)

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

ANALYSIS:

At the main private media outlet, the *Times*, the owner interferes heavily with editorial independence. The owner is “literally in the newsroom” and regularly sits in on editorial meetings. Staff feel pressure to accede to the owner’s editorial demands and if they don’t, they risk being “victimized”.

One of the main reasons owners try to influence editorial content is to protect advertisers. Recently the *Times* rejected an investigative piece that dug up dirt about a major advertiser. The same article has been submitted to the *Nation* magazine, the second biggest private media operator where the editor is also part owner, but is yet to be published.

Media owners also want input on editorial decisions to ensure libellous content is avoided. It was observed that “owners must put more trust in their editors.”

SCORES:

Individual scores: 2, 2, 1, 1, 1, 3, 1, 2
Average score: 1.6 (2005=1.6)

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

ANALYSIS:

There has been considerable improvement in salary levels and working conditions over the past two years. The resurrection of the union provided major impetus to improve conditions and media owners realised they would continue to lose valuable staff unless salary levels were increased.

The average salary for junior reporters has more than doubled to E2,200-2,500. Senior reporters receive no less than E3,500. Journalists all receive medical aid and some media houses offer pension schemes as well. It is worth noting, however, that salaries in the media industry are still low compared to other sectors. But the low salaries are not necessarily linked to levels of corruption. The consensus was that corruption will exist “no matter how much you pay a person.”

Corruption in the media is rife. Reporters are offered large sums to drop a story altogether

or to put a positive spin on it. Some journalists demand to be paid in exchange for silence. Journalists are often given freebies, many of which are quite obviously bribes - for example, an excessive E1,000 for “lunch money”. “They (bribers) may not expect results immediately, but they’ll want it eventually.”

SCORES:

Individual scores: 3, 3, 3, 2, 3, 3, 3, 2
Average score: 2.8 (2005=1.4)

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

ANALYSIS:

The little journalism training available in Swaziland is steadily being improved upon. The 3-year diploma offered by the University of Swaziland is soon to be upgraded to a 4-year degree. MISA Swaziland has partnered with the South African Institute for the Advancement of Journalism (IAJ) to deliver courses in Swaziland and enrolments for the first course are currently being sought. MISA Swaziland has also launched a programme with the Nordic-SADC Journalism Centre (NSJ) to provide in-house training at the media houses.

A major obstacle to training working journalists is finding the means to balance study and work simultaneously as media owners are often reluctant to release staff for extended periods.

SCORES:

Individual scores: 4, 4, 3, 4, 4, 4, 2, 5
Average score: 3.8 (2005=1.9)

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

ANALYSIS:

The Media Workers Union of Swaziland (MWUS) was launched in 2006 to replace the defunct Swaziland Media Publishers and Allied Workers Union (SMEPAW). The union has a membership of over 270.

Some media practitioners are also members of Swaziland National Association of Journalists (SNAJ), MISA Swaziland and Gender and Media Swaziland (GEMSWA),

SCORES:

Individual scores: 3, 3, 4, 4, 4, 4, 3, 4
Average score: 3.6 (2005=3.0)

Overall score for sector 4: 2.7 (2005 = 2.0)

Overall country score for 2007 2.3 (2005 = 2.0)

Developments since 2005 and the Way Forward

Positive developments in the media environment in the last two years:

- The adoption of the Constitution, which guarantees both freedom of expression and media freedom.
- Increased public consciousness of the right to freedom of expression and increased effort by the media to enable people to exercise their right to freedom of expression.
- The drafting of six new media bills, designed to introduce freedom of information legislation, legislation establishing a public broadcasting corporation and an independent broadcasting regulator, amend the Books and Newspaper Act and replace the outdated Cinematography Act.
- Increased editorial freedom and independence at the state broadcasters, spearheaded by journalists willing to challenge the status quo.
- The resurrection of the media union with the launch of the Media Workers' Union of Swaziland (MWUS).
- Increased salaries for media practitioners.

Negative developments in the media environment in the last two years:

- The attempt by government to introduce statutory regulation with the Media Commission Draft Bill 2007.
- Little improvement in media diversity. There have been just two entrants to the media industry in the last two years: one monthly magazine and a sports weekly. Notably, there are no new players in the broadcasting sector.
- The stagnation of efforts to establish community radio, despite the commitment from government that licenses would be issued after the adoption of the Information and Media Policy two years ago.

Main drivers/actors for positive change:

- Government's change in attitude, making it more open to free media activity, has been an important catalyst for change and is evidenced, for example, by government's efforts to reform some media laws and provide funds to train journalists.
- Media managers who are determined to bring about industry reform and development.
- The Media Institute of Southern Africa (MISA) Swaziland has been instrumental in many different areas of media development, e.g. facilitating exchange programmes and in-house training for journalists, assisting with the launch of the MCC and

voicing opposition to statutory regulation, critiquing the six media bills and conducting media content research.

- The Ministry of Public Service and Information (in particular the Director of Information), which is tasked with implementing the Information and Media Policy and is overseeing the drafting of new media legislation.
- Journalists who are willing to take risks by resisting self-censorship and censorship from the authorities.

Possible obstacles for further development:

- Parliament: despite the adoption of the Constitution, Parliament has demonstrated opposition to freedom of expression and media freedom, in particular. For example, there have been two parliamentary investigations into journalists who criticised public officials or institutions. In addition, politicians generally assume they ought to sue for defamation when criticised in the media for the performance of their public duties.
- Individual ministries that try to hamper media activity; e.g. Ministry of Health recently barred journalists from entering government hospitals.
- The Media Commission Draft Bill, which is an attempt by the Ministry of Public Service and Information (MOPSI) to introduce statutory regulation.
- The consultation process on the six media bills has been poorly managed by the consultant and, so far, not included all stakeholders. Stakeholders who participated and expressed their dissatisfaction with the draft bills and the consultant have not been informed by the MOPSI as to how the process will move forward.
- The lack of law reform. All 32 media unfriendly laws identified by MISA Swaziland in 2003 remain on the statute books and need to be systematically repealed or amended to bring them into line with the Constitution. However, there is no Media Reform Commission to spearhead this.
- Certain cultural expectations (e.g. do not question or criticise those in authority), which suppress freedom of expression and media freedom.
- Swazi Law and Custom, which can conflict with the constitutional protection of freedom of expression, but is unwritten and cannot be tested against the Constitution.

Activities needed over the next few years:

- A skills audit should be conducted in all media houses to assess the existing capacity of media practitioners at all levels.
- Skills development opportunities for working journalists should be increased, both in-house training as well as enrolment in external part-time or full-time courses.

- On-the-job training and mentorship programmes need to be established in all media houses to ensure entry-level reporters are given sufficient direction and guidance.
- Civic education on freedom of expression, access to information and media freedom needs to be conducted by the media and civil society organisations.
- The law reform process needs to be launched to ensure all media unfriendly laws are repealed or amended to conform with the Constitution. The establishment of a law reform commission should be fast-tracked.
- A national conference on law reform should be conducted to produce an action plan and way forward on the law reform process.
- The consultation process on the six draft bills needs to continue with a new consultant and should include a broader base of stakeholders.
- The Media Complaints Commission should be made fully operational and sustainable.

The panel meeting took place at Nhlangano Hotel from July 27-29 2007.

The Panel:

Phepisa Khoza, news editor, Thandi Khumalo, sociologist, Alec Lushaba, editor, Comfort Mabuza, media activist, Myzo Magagula, media manager (print), Cyril Maphanga, lawyer, Vusi Sibisi, journalist, Bongiwe Zwane, journalist,.

The Rapporteur: Mrs Mary Ellen Rogers

The Facilitator: Mr Hendrik Bussiek



Zambia 2007

**Civil society perceptions on the state of
media freedom & freedom of expression**

African Media Barometer, Zambia

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:

While there is a constitutional review process under way in Zambia, for the time being the present constitution is still in force. Article 20 (1) enshrines and broadly protects freedom of expression, Article 20 (2) guarantees freedom of the press. However, the guarantee of both media freedom and freedom of expression are conditional. Article 20 (3) states that laws restricting these rights may be passed, if they are – among others – “reasonably required in the interests of defence, public safety, public order, public morality or public health.”

A Freedom of Information Bill which would effectively have promoted the right to freedom of the media and expression was tabled in parliament in 2002, but later withdrawn by government for unexplained reasons. Another law, which establishes an independent broadcasting authority to promote independent broadcasting media, was passed in 2003 but is not being implemented. The Minister of Information and Broadcasting Services still issues licenses to broadcasters without any reference to the law which provides for an independent licensing mechanism.

SCORES:

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

Average score: 2.3 (2005 = 2.0)

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

ANALYSIS:

Citizens generally express themselves freely, critically and without restraint, even in rural areas. Private media – both print and broadcasting - have become the main channel for such expression, although many people are complaining that they are not getting their voices disseminated as broadly as they would wish. Opinions expressed on private and increasingly community radio phone-in talk shows tend to be explicit, critical and unrestrained. For that reason, such programmes are growing in popularity and regularly attract large audiences. Government is not always amused by the views expressed and outspoken newspapers and radio stations have been the subject of veiled and even explicit threats of dire consequences, including the closing down of the media house concerned.

State-owned media are generally subdued and practice an easily recognizable form of self-censorship – playing down some issues, bending them to suit the authorities or simply leaving out views that are strongly critical of the government. Top managers of the state media - who are state appointees - would appear to be under instructions or are eager to protect their jobs

and often “doctor” or seek to suppress stories likely to embarrass their superiors. More junior journalists, on the other hand, have a genuine desire to work professionally. The fact that the country’s two major dailies and the largest broadcaster are state-owned tends to reduce significantly the overall channels available for free expression.

The increasing diversity of the media in Zambia, however, makes it ever harder for authorities to keep control as they might wish.

SCORES:

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

Average score: **2.9** (2005 = 2.3)

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 the media.

ANALYSIS:

In early 2002, a Task Force on Media Law Reform, comprising all media stakeholders including the Ministry of Information and Broadcasting Services, found – amongst others – “that there are a number of statutes on the statute books, which directly and indirectly hinder the press freedom and ultimately the very survival of media institutions”. Ever since, though, not one of these laws has been changed or repealed.

Laws restricting freedom of expression and those that unreasonably interfere with the operations of the media exist and remain in force, some of them going back as far as 1911. Some examples:

The Penal Code, in force since 1930, empowers the President to ban publications deemed to be against the public interest (Section 53) and criminalizes publication of “false news with intent to cause fear and alarm to the public” (Section 67). Sections on sedition and related practices proscribe public debate on issues and publication of information deemed likely to arouse popular disaffection against the state. Section 177 (1) criminalizes publication of obscenity (imprisonment of up to five years) without defining what is deemed to constitute obscene matter. Sections 57 (1) and 60 (1) prohibit sedition (jail term of seven years) and defines “seditious intention” among others as the “intention ... to excite disaffection against the government” or “to raise discontent or disaffection among the people of Zambia”. Section 69 deals with defamation of the president and provides that “any person who, with intent to bring the President into hatred, ridicule or contempt, publishes any defamatory or insulting matter ... is guilty of an offence and is liable on conviction to imprisonment for up to three years”, without the option of a fine.

Section 4 of the State Security Act makes it an offence (punishable by up to 25 years imprisonment) to retain or communicate to other persons any information obtained as a result of one’s present or former employment with government.

Parliament enjoys special ‘protection’ under Section 19 of the National Assembly Act. To “show disrespect in speech or manner towards the Speaker” or to “commit any other act of intentional disrespect with reference to the proceedings of the Assembly” is an offence liable to a fine or imprisonment with or without hard labour for a period not exceeding three months.

These and other restrictive laws are increasingly – and successfully – being challenged in the courts.

SCORES:

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

Average score: **1.1** (2005 = 1.3)

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

ANALYSIS:

There are no restrictions to entry into and practice of the journalistic profession. An attempt to introduce compulsory registration through a statutory Media Council by way of a Media Council Bill in 1997 was thrown out by the High Court of Zambia.

SCORES:

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

Average score: **4.9** (2005 = 4.6)

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

ANALYSIS:

There is no law to protect confidential sources of information (or whistleblowers) although the draft Constitution of Zambia that still has to be enacted does make provision for that. The absence of such a law is undermining mutual confidence between journalists and their sources and thus freedom of expression as it inhibits sources from disclosing information for fear of being named.

The Prohibition and Prevention of Money Laundering Act of 2001 imposes an obligation on anyone who might be reasonably expected to know of someone being involved in money laundering to report that person to the authorities. This obligation extends to journalists who might acquire such knowledge in the pursuit of a story and, in effect, undermines the principle of source confidentiality. In reality, however, this legal requirement has not been invoked and put to the test yet.

SCORES:

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

Average score: **1.1** (2005 = 1.2)

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

ANALYSIS:

Zambia has not yet enacted freedom of information legislation. The Freedom of Information Bill that was before the National Assembly was withdrawn for “further consultations” in No-

vember 2002, citing the events of 9/11 as a reason. It has not been re-tabled despite ongoing pressure from media associations and some sections of civil society. As recently as 2006, the then Minister of Information and Broadcasting Services still talked about “ongoing consultation”, but nobody knows who the government might have been consulting with.

The State Security Act still prohibits disclosure of government-held information. As a result government operations are, for the most part, shrouded in secrecy. Access to government-held information is not seen as a right but a privilege. Government’s policy is still based on the principle of need-to-know. Unorthodox means of information gathering put journalists in danger of violating the law: an impediment to investigative journalism.

SCORES:

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

Average score: 1.2 (2005 = 1.0)

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

ANALYSIS:

Since the introduction of multi-party democracy in Zambia in 1991, in addition to the then only media lobby group Press Association of Zambia (PAZA), several others have come into being. The first was the Zambia chapter of the Media Institute of Southern Africa (MISA) which represents independent media. Other organisations are the Zambia Media Women’s Association (ZAMWA), the Zambia Union of Journalists (ZUJ), the Press Freedom Committee within the Post media house and the Commonwealth Press Union (CPU) Zambia Chapter. PAZA and the Post’s Press Freedom Committee recently signed a Memorandum of Understanding, designed to help PAZA out of its financial straights, in which the two parties agree on close cooperation in various fields.

Overall, there is a high degree of collaboration and mutual trust on media freedom issues amongst all six organisations. All of them, for example, are opposed to any statutory regulation of the media and lobby for self regulation (although for different models). They staged a successful joint campaign against the planned introduction of Value Added Tax (TAX) on newspapers in 2006. They jointly took legal action to enforce implementation of the Independent Broadcasting Authority (IBA) and Zambian National Broadcasting Corporation (Amendments) Acts, made a joint submission to the Constitution Review Commission (CRC) and continue to jointly push for general media law reform. There is, however, still need for improved and focused co-ordination, collaboration and closer linkages between civil society (including churches) and the media on issues of common concern.

SCORES:

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

Average score: 4.3 (2005 = 3.9)

Overall score for sector 1: 2.5 (2005 = 2.3)

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:

A wide range of sources of information - print, broadcast, and internet - is available, but there are problems over distribution and affordability. Major strides have been and continue to be made in the area of broadcasting which has seen considerable growth in the number of radio stations in recent years. Radio is by far the most widespread medium in the country, with commercial stations spreading to rural areas. All the country's nine provinces now have at least one or two commercial or community radio stations. Most community stations are in the rural districts. Presently, a total of 30 radio stations are licensed. Community radio stations broadcast mainly in local languages, affording rural audiences access to information in their mother tongues. The state broadcaster's radio signal covers all parts of Zambia with the ZNBC claiming that radio now reaches 6 million people (the overall population is 10.5 million).

Television is still predominantly an urban medium, although the signal of state-owned ZNBC-TV now extends to all parts of the country. Two new private television stations have been established during the last few years, the Movie channel and Copperbelt Television (CBTV).

Internet is readily available in Internet cafés in the urban areas and is relatively affordable at a cost of between 50 and 100 Kwacha per minute. It is increasingly available in many rural parts of the country at between 400 and 500 Kwacha per minute.

There are three daily (The Post, Zambia Daily Mail, Times of Zambia) and a variety of weekly and fortnightly newspapers (e.g. Sunday Times of Zambia, Sunday Mail, The Guardian Weekly). However, their combined total circulation is less than 70,000 with the readership per copy estimated at 10 - 20 persons. This number may increase thanks to a recent practice by newspaper vendors to "lease" newspapers for a few minutes. - One reason for the low print-runs is certainly the prohibitive price of K3,000 (\$0.65) per copy. With the price of a loaf of bread at between K2,500 and K3,500 and (officially) 67 % of the population living on less than one US\$ a day, newspapers are far beyond the reach of the great majority of citizens.

SCORES:

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

Average score: 3.0 (2005 = 2.6)

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

ANALYSIS:

Citizens' access to international media is unfettered, although direct relaying of foreign television programmes is generally prohibited in accordance with limitations imposed in the licence conditions (with the exception of ZNBC which carries BBC World Service at certain times). BBC radio has an FM licence for Lusaka and the Copperbelt. The relatively affluent can access international television channels via pay television providers, such as M-Net and DSTV. The import of "pornographic" material - largely undefined in nature - is prohibited.

SCORES:

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

Average score: 4.2 (2005 = 3.6)

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

Although newspapers are a predominantly urban medium, the three dailies have arrangements in place to deliver a limited number of copies to rural areas on the day of publication. An average 30 copies are being sent to each of the provincial capitals on a daily basis and arrive there by midday at the latest. Because of the distances involved and the low numbers, this kind of distribution means a financial loss to the newspapers. In a Memorandum of Understanding, the privately-owned Post and PAZA (representing state-run dailies) have agreed to distribute one copy each free to rural schools and public libraries.

SCORES:

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

Average score: 3.7 (2005 = 2.8)

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

The relevant laws, the Zambia National Broadcasting Corporation (Amendment) Act and the Independent Broadcasting Authority Act, were passed by parliament in 2002 and are being enacted. Both pieces of legislation were meant to create a conducive environment for public, commercial and community broadcasting. However, the ZNBC (Amendment) Act has been implemented only in part, with the state broadcaster now collecting licence fees from viewers. This is obviously in the interest of the state which seeks to cut down on its budgetary subsidies to ZNBC. The IBA Act remains completely un-enforced to this day.

This means that the political objective of the two acts – the transfer of controlling powers from the state to independent boards – has not been achieved. Appointment committees – consisting mainly of civil society representatives – have duly appointed the members of the boards, but the Minister of Information and Broadcasting Services refused to pass on the names to parliament for ratification, as provided for in the acts. The media associations jointly went to court to force the minister to comply with the act.

In 2004, the High Court ruled in their favour, arguing that the state tried to “frustrate” the spirit of the reforms to detach government from the day-to-day running of media. The state appealed and the High Court verdict was overturned on 15 March 2007 by the Supreme Court which argued that the Minister of Information and Broadcasting Services has the power to vet appointments to the boards. This is precisely the authority that the media associations sought to have removed from the Minister. They were unsuccessful with their argument that the intention of the two pieces of legislation, i.e. to remove government’s power over broadcasting, needed to be preserved. As a result of the judgement the Minister might now feel entitled to reject every

recommendation by the Appointments Committees until he finds boards which suit him. In the case of the ZNBC this would mean perpetuating the illegality of the present ZNBC board which has been in place since August 2003. In the case of broadcasting regulation, the Minister still grants licences to new operators without regard to the fact that this should be done by the Independent Broadcasting Authority under the IBA Act.

Five years after the enactment of the laws, the Independent Broadcasting Authority (IBA) has not been established and the ZNBC is still controlled by a government appointed board.

SCORES:

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

Average score: **2.1** (2005 = 2.1)

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

ANALYSIS:

The growing number of new radio stations is evidence of the support and attention given to community broadcasting in Zambia. The Media Trust Fund, run by donors and the six media associations, actively assists the establishment of new stations and provides support for programming content. The Media Trust Fund is on course in the establishment of five new rural radio stations. Community radio stations are controlled by NGOs and church organisations with the majority owned by the Catholic Church. Only a few are purely community-driven.

SCORES:

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

Average score: **3.6** (2005 = 4.0)

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

ANALYSIS:

The editorial independence of the two state-owned newspapers - Zambia Daily Mail and the Times of Zambia - is not protected in any sense from undue political interference. The boards of the two organisations are appointed by and answerable to the Minister of Information and Broadcasting Services, and the Ministry's Permanent Secretary sits on both boards. The stated mission of the two publications is clear: "to advocate public policy".

Political interference is the reason for declining professional standards especially in regard to political reporting or the coverage of potentially contentious issues where government or the ruling party are involved.

Top employees are under constant threat of being fired but rank-and-file editors do have a certain degree of freedom as it is very difficult under the labour laws to dismiss them.

SCORES:

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

Average score: **1.2** (2005 = 0)

2.7 Local or regional independent news agencies gather and distribute information for all media.

ANALYSIS:

There are no local or regional news agencies of any significance operating in Zambia. The Zambia News Agency (ZANA), now incorporated into the Zambia News and Information Services (ZANIS), is wholly owned and funded by government.

SCORES:

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

Average score: **1.1** (2005 = 1.3)

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

ANALYSIS:

In theory, the Fair Practices Act which is enforced by the Zambia Competition Commission provides for adequate competition and generally proscribes monopolies. However, the Competition Commission lacks the capacity to deal with the specific issue of media diversity, given that the current competition law does not provide any guidelines on ownership structures and promotion of media diversity. The IBA/ZNBC Acts sought to enhance media diversity as they provide for independent boards with the mandate to promote just that. But their non-implementation means that this objective has so far not been met.

SCORES:

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

Average score: **2.0** (2005 = 2.1)

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

ANALYSIS:

The Fifth National Development Plan (2006-2010) which was also endorsed by the international donor community seeks to promote growth of private media and envisages the creation of a Media Development Fund by 2007. The fact that this part of the plan has not been implemented yet seems to conform with the common pattern of a disconnect between official policies and actual deeds of government.

All materials for the production of newspapers need to be imported – from newsprint to ink. High import duties and taxes impact adversely on media diversity. Government, however, has reduced import duties on computers and does not impede private investment in the media industry in any way. Further, through the Ministry of Communications, it has provided office space and technical expertise to the RANET (Radio & Internet) programme which the government as well as local and international NGOs use to procure and distribute communication equipment to up-coming community radio stations and local communities.

Still, there appears to be no real political will on the part of government to help create a diverse media landscape. It has rejected media representations to reduce duty on newsprint and other consumables for the print media sector as well as import duties for broadcasting equipment. The government's wavering stance on the IBA and ZNBC Acts is seen as further proof of this lack of political will.

SCORES:

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

Average score: **1.8** (2005 = 1.5)

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

One view is that only The Post newspaper and the commercial radio station Phoenix are operating in line with sound business practices. The other view is that even the smaller, upcoming newspapers are efficient businesses, seeing that they continue to publish even though they appear irregularly - they must be doing something right.

SCORES:

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

Average score: **2.6** (2005 = 2.0)

2.11 State print media are not subsidised with taxpayers' money.

ANALYSIS:

Neither the Zambia Daily Mail nor the Times of Zambia receive a regular subsidy from government. The government does, however, occasionally source donor funding for certain projects such as the recent purchase of ten vehicles with the help of China. Occasionally, government also assists in the settlement of financial disputes involving the papers, as it did in 2005 when it stepped in to clear a newsprint debt of about K2 billion for the Zambia Daily Mail.

SCORES:

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

Average score: **3.4** (2005 = 2.5)

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

ANALYSIS:

There is a strong perception that government, being the biggest advertiser, does use its power over the placement of advertisements to favour certain publications over others. An unnamed

government contractor was reportedly warned against continuing advertising in an unnamed independent newspaper that government or its officials were unhappy with. The contractor heeded the warning so as not to endanger his business interests with government. At the University of Zambia's radio station, a sponsor withdrew sponsorship of a programme because it was perceived to be critical of government. The programme has however continued without the sponsor. Other radio programmes such as a talk show on Radio Phoenix only survive because of independent sponsorships from organisations such as MISA.

There may be no clear guidelines on the matter and officials may just be using their judgement - or lack of it - to discourage those they do business with from being seen to give support to publications critical of government. In the case of The Post newspaper government has no choice but to place its ads (e.g. tenders) there because of the daily's reach and circulation.

SCORES:

Individual scores: 1, 5, 4, 4, 2, 4, 3, 3, 3, 2

Average score: 3.1 (2005 = 2.0)

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

ANALYSIS:

Despite the general economic malaise in the country, the advertising market seems to be large enough to support the existing number of media houses. Overall adspend has even grown with the emergence of new financially strong mining companies, new supermarket chains and cell phone providers. Community radio stations especially in the rural parts of the country have a problem with attracting enough advertising depending on their location and the level of business activities in their areas. Most rural businessmen consider it prestigious to advertise and do so to be seen to be ahead of their competitors or successful in their endeavour.

SCORES:

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

Average score: 4.4. (2005 = 2.5)

Overall score for sector 2: 2.8 (2005 = 2.3)

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.

ANALYSIS:

As outlined under 2.4, a Supreme Court ruling that clarified the appointment procedures for the board of the Independent Broadcasting Authority (IBA) was made in March 2007. The IBA, however, is still not in place because the Ministry of Information and Broadcasting Services has not acted on the judgement. Some of the proposed members nominated in 2003 by the ad-hoc appointments committee have moved on and it may be necessary to start the whole process all over again. The national budget for 2007 includes an allocation of K230 million for the establishment of the IBA, indicating that there may be some progress on this matter in the course of this fiscal year.

SCORES:

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

Average score: 1.3 (2005 = 1.0)

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

ANALYSIS:

According to the IBA Act, the appointment procedure is generally open and transparent and civil society is involved. However, the ruling of the Supreme Court which allows the Minister of Information and Broadcasting Services to veto nominees to the board without giving reasons reduces this transparency and openness. It is not clear what is supposed to happen in the case of the Minister rejecting proposed names and there is a danger of candidates being decided upon in shady deals between the Ad-hoc committee and the Minister.

SCORES:

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

Average score: 1.9 (2005 = 4.1)

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

ANALYSIS:

The regulatory body is not functional yet.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1
 Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

Because the body is not in place, a broadcasting policy has not been developed. The Minister of Information and Broadcasting Services continues issuing licences contrary to the provisions of the IBA Act which is in force and makes this the sole competency of the IBA.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1
 Average score: **1.0** (2005 = 1.0)

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 Zambia National Broadcasting Corporation (ZNBC) is still being run by a board appointed by the Minister of Information and Broadcasting Services although its tenure was effectively nullified by the ZNBC (Amendment) Act in 2002. The current board is illegal since it was appointed by the minister and not the IBA as stipulated by the new law. The term of office of the present ZNBC board expired in August 2005.

SCORES:

Individual scores: 1, 1, 2, 1, 1, 1, 1, 1, 2
 Average score: **1.2** (2005 = 1.0)

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:

While the ZNBC (Amendment) Act stipulates that persons with a vested interest (political or economic) are to be excluded from membership, some state and ruling party office holders are sitting on the current ZNBC board, among them the Permanent Secretary for the Ministry of Information and Broadcasting Services and a constituency chairman of the ruling Movement for Multi-party Democracy (MMD) who is also an aspiring candidate for the post of party Vice-President.

SCORES:

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

Average score: **1.2** (2005 = 1.1)**3.7 The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practiced.****ANALYSIS:**

The letter and spirit of the ZNBC (Amendment Act) 2002 removed ministerial control over the ZNBC and thus also guaranteed its editorial independence. By giving the Minister of Information and Broadcasting Services the right to veto nominations for board members, the Supreme Court in its March 2007 judgement effectively nullified this guarantee.

SCORES:

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

Average score: **1.2** (2005 = 1.1)**3.8 The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.****ANALYSIS:**

ZNBC is reasonably well funded. Revenues come from television licence fees, advertising, and government subvention in the order of at least K20-30 million in grants per month. Through the government grant, which is supposed to cover the salary bill, interference is possible.

Licence fees are collected through the Zambia Electricity Supply Corporation (ZESCO) customer billing system and the Residents' Development Committees in townships. These fees have contributed substantially to the recent improvement in ZNBC's financial position.

However, the system of ZESCO collecting the fees is presently subject to a legal challenge on the grounds that ZESCO can only levy for electricity. Another reason forwarded is that not everyone who uses electric power necessarily has a TV set or access to television signals.

SCORES:

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

Average score: **1.6** (2005 = 1.1)**3.9 The public broadcaster is technically accessible in the entire country.****ANALYSIS:**

ZNBC radio and television broadcasts now reach all 72 districts in Zambia. The TV signal, though, does not get through to a few very remote areas of the country.

SCORES:

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

Average score: **3.9** (2005 = 3.0)**3.10 The public broadcaster offers diverse programming for all interests.****ANALYSIS:**

Generally, ZNBC offers diverse programming. But there are gaps: the service offers no children's programmes and few local dramas. Economic issues are covered only once in a while and there is a lack of proper sports analysis. ZNBC is uneasy with open debate on the political/democratization process and prefers pre-recorded political programmes over live discussions. Though some attempts have been made, the corporation has not adequately incorporated the use of sign language in its news bulletins.

SCORES:

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

Average score: **1.8** (2005 = 1.3)**3.11 The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.****ANALYSIS:**

Coverage of news and current affairs continues to be heavily slanted in favour of the activities of government and the ruling party, with the president dominating air time and ministers and other state officials following according to rank ("the pyramid"). Coverage of civil society events depends on whether the first lady or a government minister officiates as guest of honour. Whereas opposition political parties are made to pay for air time, the government is given free access for its "Government Forum" programme. Live talk shows are allowed only when they deal with what the government perceives as "soft" or "safe" topics. During phone-in discussions, telephone lines have occasionally been known to suddenly develop "technical faults", blacking out voices that might have "negative" contributions to make.

SCORES:

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

Average score: **1.1** (2005 = 1.0)**3.12 The public broadcaster offers as much diverse and creative local content as economically achievable.****ANALYSIS:**

ZNBC offers a great deal of local content in its programming, both on radio and television. Its news bulletins contain a lot of local material, perhaps due to its dependence on stories generated by the Zambia News and Information Services (ZANIS), a government unit. ZNBC-TV has continued to allocate air time to vernacular broadcasts in addition to the news in local languages.

Radio One is wholly dedicated to programmes in seven Zambian languages. Radio Two is an English service channel that also runs a few programmes in two Zambian languages. Radio Four is predominantly a music channel which, along with Radios One and Two, has done a lot to promote and popularise Zambian music. But all these efforts do not seem to be sufficient yet, especially in regard to local drama.

SCORES:

Individual scores: 1, 2, 2, 3, 2, 2, 2, 2, 1, 1
Average score: 1.8 (2005 = 3.1)

Overall score for sector 3: 1.6 (2005 = 1.7)

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:

The constitution of the Media Council of Zambia (MECOZ) - the self-regulatory body established by the media in July 2003 - includes a code of ethics and conduct to which all MECOZ members must adhere. Membership of MECOZ is both individual and institutional. With the exception of the Post newspaper, all major media institutions now subscribe to MECOZ and have accepted the code and its principles. MECOZ has been in on-going discussions with the Post in an effort to persuade it to join as well. So far, though, the paper has made no decision on the matter claiming that joining the Council is, after all, voluntary. More recently, MECOZ has started to negotiate Memorandums of Understanding with individual member organizations in order to establish a direct link between itself and its members.

As a self-regulatory body, MECOZ's major strength is that it is a "court of honour" rather than a court of law. Its secretariat is headed by a full-time Chief Executive employed on a three-year contract. This was initially funded for one year by the Friedrich Ebert Stiftung of Germany and efforts are under way to secure additional funding to maintain operations. It is doubtful that MECOZ will be able to sustain itself without financial support from its media house members. So far there is no indication that this will be forthcoming.

Up to now MECOZ has dealt with not even a handful of cases – causing the public to ask whether the Council really is an effective mechanism. In one case it decided against the Sunday Mail. A further decision is expected shortly in a matter involving former Information Minister Vernon Mwaanga and the Post newspaper. Though Mwaanga did not complain to the Council directly, he accepted MECOZ arbitration after it took up the matter on its own accord. MECOZ can take up matters involving non-member newspapers if they are deemed to be in the public interest.

MECOZ has a mountain to climb: with a major newspaper - The Post - still outside its ambit, problems of sustainability, as well as the desirability and prudence of maintaining a full-time chief executive which seems questionable in light of the low case load. Further, its ideals and

procedures are still largely unknown even among its stakeholders and more so the public at large. MECOZ needs restructuring and a concerted publicity effort to promote itself and the ideal of self-regulation for which it was created.

Improving the performance of MECOZ is seen as a matter of highest urgency as government is now – again – threatening to impose statutory regulation for the media.

SCORES:

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

Average score: **3.0** (2005 = 3.3)

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

ANALYSIS:

Generally, reporting follows the basic principles of accuracy and fairness. Newspapers make amends for errors through apologies and clarifications and they honour the right to reply in instances of inaccurate reporting through specialized columns and Letters to the Editor. There is, however, a general perception that ownership influences the degree of accuracy and fairness exercised. The question posed is whether reporters do indeed report events and developments as they see them – or whether they are told how to see them?

Even though the stated policy of the state-owned media is to defend and protect the public interest, in practice it is the interest of the executive that they seek to defend and protect. Their reporting tends to be characterized by excessive deference to the executive branch of government. This deference sometimes results in under-reporting, omission or distortion of stories apparently in order to suit the agenda of the executive or for fear of certain repercussions.

The private media can be personal and shrill in their commentary on matters of public interest. The passion with which it pursues issues sometimes leads to distortions. Equally, though, it also results in forcing action from the authorities. Reporters of the privately-owned The Post are guided by an editorial policy and an agenda with 'good governance' as its top priority. Readers acknowledge that the Post does not make any bones about this agenda and tries to be as fair as possible. The paper has the highest circulation because "they will at least not hide anything."

SCORES:

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

Average score: **2.8** (2005 = 2.5)

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

ANALYSIS:

Politics and business dominate coverage in all media. There is not much investigative reporting generally and almost none in the state-owned media. The result is that overall, media coverage tends to be predominantly elitist and personality-centred.

Issue-based stories rarely get lead-story treatment. This is especially true of the front pages and news bulletins of the mainstream media. A fuller spectrum of issues is covered on the inner pages, although grassroots activities, women and elders hardly get any mention. Community media do a lot better in this respect. They go out of their way to cover business, economic, cultural and other issues of relevance to their respective local communities.

Mainstream newspapers are businesses and therefore focus on stories which sell. Readers/listeners are said to be preferring personalized over issue-based stories.

There is a tendency in the media to cover only those events officiated by ministers and other senior government officials to the almost complete exclusion of those organised and run by non-governmental groups or private citizens. No minister, no coverage, seems to be the rule of thumb, and whenever there is a minister only what he/she says will be reported. As a result ordinary people do not see themselves reflected in the media.

SCORES:

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

Average score: **3.2** (2005 = 2.5)

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

ANALYSIS:

No precise statistics are available, but there appear to be more women than men working in the Zambian media today. All media recognize the need for gender mainstreaming and have various policies and practices to promote it. This is largely “work in progress.” So far, some positive strides have been made and there have been significant advances. For example, out of nine line editors at the Zambia Daily Mail, four are women. The Times of Zambia has a gender policy in the workplace and the Post is also an equal opportunity employer. In radio and television stations women also make up a large part of the workforce in various production roles.

Gender mainstreaming should not mean just giving preference to women as such but also be linked to the ability to meet set qualification standards and to deliver the work requirements.

SCORES:

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

Average score: **3.1** (2005 = 3.0)

4.5 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

Coverage in most media is slowly moving away from concentrating on high profile females, such as ministers and civil society activists, in favour of women on the ground. Community media are taking the lead in this respect. Given their growing presence and spread this could prove the trigger for better overall gender reflective coverage. The Guardian is also making a conscious effort to look out for female sources in its coverage.

Reporting on gender and the amount and quality of gender-related content, however, is generally still at an unsatisfactory level.

SCORES:

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

Average rate: 3.7 (2005 = 2.4)

4.6 Journalists and editors do not practice self-censorship.

ANALYSIS:

Self-censorship is inherent in the ownership structures of the media that virtually dictate the operating parameters, with state-owned media more susceptible to self-censorship. For journalists it comes down to whether or not you can bite the hand that feeds you. Thus self-censorship is an unwritten rule. Journalists and editors are generally aware of what is expected from them depending on whether they work for the state-owned or private media. This is reflected in the tone and text of stories, especially sensitive ones.

SCORES:

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

Average rate: 2.0 (2005 = 1.4)

4.7 Owners of private media do not interfere with editorial independence

ANALYSIS:

Owners do interfere with editorial independence, especially in cases where the owner is also the editor of the publication. In general, owners try to maintain their business interests and thus – to various degrees – take an interest in editorial matters. Most of them meddle in the editorial decisions and sometimes in the coverage preferences of their respective media. The ownership and administrative structure at the Post newspaper where the majority shareholder is also the Managing Director and Editor-in-Chief, places that person in a uniquely powerful position to dictate editorial policy, content and coverage preferences, although he is said not to interfere with the day-to-day business which is left to a Managing Editor.

SCORES:

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

Average score: 1.8 (2005 = 1.4)

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

ANALYSIS:

Salaries are low and working conditions generally poor. Average monthly salaries after tax are around K1.2 million for junior reporters and K1, 500,000 for senior reporters. The salary of a senior reporter barely covers the cost of the basic food basket estimated at K1, 300,000 for a family of six. Any additional income is, therefore, welcome.

The poverty of journalists exposes them to offers of various forms of gratification and other back-handers from sources in return for favourable coverage and the promotion of private agendas. There is a perception, therefore, that journalists are indeed vulnerable to corruption. In fact, however, it is claimed that cases of bribery are few. Although young journalists from time to time may ask for “something”, this is not really going to influence the content of the publication because decisions are taken at the editorial level. Generally, the risk of exposure for unprofessional behaviour has increased over the past few years thanks to a broad anti-corruption campaign in the country. Accordingly, cases of serious corruption in the media have decreased.

SCORES:

Individual scores: 2, 2, 3, 3, 2, 3, 1, 3, 3, 3
Average score: 2.5 (2005 = 1.3)

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

ANALYSIS:

Journalism training is provided by three major institutions: the Evelyn Hone College (EHC), Zambia Institute of Mass Communication (ZAMCOM) Trust, and the Department of Mass Communication at the University of Zambia, as well as by a number of private institutions. EHC has a one-year certificate course and a three-year diploma course. The Department of Mass Communication offers a four-year professional Bachelor of Mass Communication (BMC) degree. In addition, it has two masters programmes: the Master of Mass Communication (MMC) and the Master of Communication for Development (MCD), which run over two years and a year and a half respectively. In-service training for practicing journalists is obtainable at the ZAMCOM Trust which has also added a diploma programme to its offerings, although not on a regular basis. Another major in-service training provider is the Nordic SADC Journalism Centre (NSJ). The Post and the Times of Zambia also have in-house training programmes for their staff.

Taken together with numerous ad hoc seminars and workshops, all these institutions provide sufficient facilities and opportunities for journalists to upgrade their skills and acquire new ones.

SCORES:

Individual scores: 5, 4, 4, 4, 4, 4, 5, 4, 5, 4
Average score: 4.3 (2005 = 2.6)

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

ANALYSIS:

The majority of Zambian journalists and other media practitioners are members of professional organisations such as MISA-Zambia, The Press Association of Zambia (PAZA), the Zambia Media Women’s Association (ZAMWA) or the somewhat moribund Commonwealth Press Union (CPU) Zambia Chapter. All staff of the Post are members of the company’s Press

Freedom Committee (with fees being deducted from their salary checks). At the state-owned newspapers all employees (with the exception of management) have to be members of the Zambia Union of Journalists (ZUJ).

SCORES:

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

Average score: **4.5** (2005 = 4.5)

Overall score for sector 4: 3.1 (2005 = 2.5)

Overall country score: 2.5 (2005 = 2.2)

Developments since 2005

Positive developments in the media environment in the last two years:

- Successful campaign against the imposition of VAT on newspapers
- Closer collaboration and understanding between the six media associations as evidenced in the anti-VAT campaign
- Memorandum of Understanding between PAZA and the Post's Press Freedom Committee
- Growth of community media, especially radio
- Increased participation of women in the media
- Significant investments in public media (ZNBC, Zambia Daily Mail)
- Conclusion of the IBA/ZNBC court case, which means that the pending case can no longer be used as an excuse for non-implementation of the legislation
- An official undertaking by the Inspector-General of Police to discipline policemen who harass journalists

Negative developments in the media environment in the last two years:

- The unsatisfactory outcome of the IBA/ZNBC court case which means that the sitting ZNBC board is illegal and that the IBA has not been established
- Non-enactment of the Freedom of Information Bill
- Absence of political will for overall media law reform

- Constitutional reform process stalled
- Failure of MECOZ to live up to expectations
- Poor newspaper sales
- No changes to penal laws impacting on the media
- Poor training environment for journalists; classes meant for 25 now have as many as 50 students
- Pay and conditions of service for journalists still not adequate
- No relief in tax/duty regime for imports for the media industry

The main drivers or actors for negative developments:

- The political leadership has stalled reform processes and lacks genuine will to democratize the media environment.
- Most journalists do not play an active role in the media reform process.
- There is no will on the part of media houses to sufficiently support the Media Council MECOZ.
- Media Associations are not doing enough to sensitize journalists and the public/civil society on the Freedom of Information Bill and other issues pertaining to the media.

The main drivers or actors for positive developments:

- Collaborative efforts of all media associations and a sustained TV/radio campaign for media reform in the face of all odds
- Some Members of Parliament who supported legislation on ZNBC, IBA and Freedom of Information
- Churches which provided channels for communication
- The public in general which lent effective support to media reform campaigns

Some of the activities needed over the next few years:

- Engage the Minister of Information and Broadcasting Services and the Attorney General to get the broadcasting legislation implemented and the Freedom of Information Bill back to parliament
- Engage Attorney General on media law reform generally
- Strengthen MECOZ to forestall statutory regulation of the media
- Embark on a public awareness campaign to publicize the self-regulatory mechanisms

- Engage civil society and Members of Parliament in support of a programme of action for overall media reform
- Establish closer cooperation of media associations and Council of Churches on media reform issues
- Embark on a sustained campaign by media associations to publicize media issues and enlist the support of the public

The panel meeting took place at Fringilla Lodge, Chisamba, 15 – 17 June 2007.

The Panel:

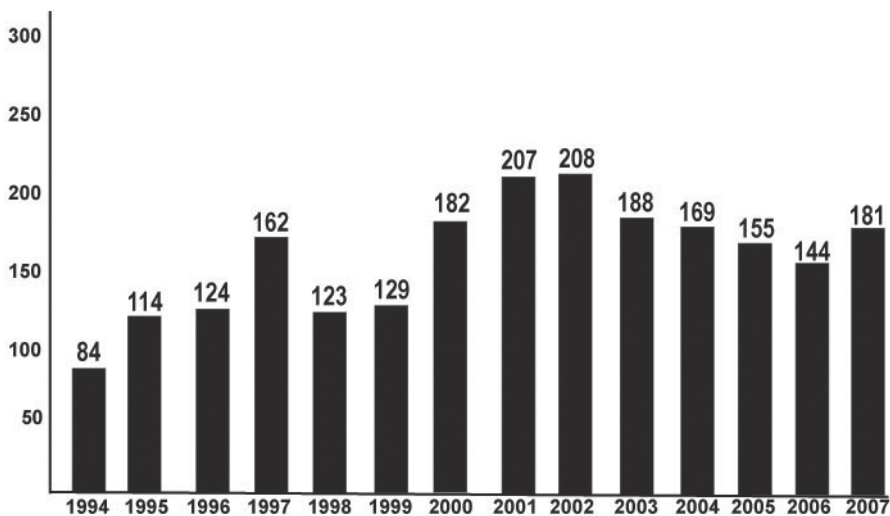
Amos Chanda, journalist/media activist, Sheikh Chifuwe, journalist/media activist, Zarina Geloo, newspaper owner/editor, Lee M. Habasonda, civil society activist, Mutemwa Makomani, journalism lecturer, Kenny M. Makungu, mass communications lecturer, Suzanne Matala, religious leader, Dr. Patrick Matibini, law lecturer, Wendy M. Nawishi, radio journalist, Joy Sata, journalist/media activist

The Rapporteur: Arthur Simuchoba

The Facilitator: Hendrik Bussiek

Monitoring Statistics

Total alerts issued: 2007



Breakdown by country / violation

	Beaten	Bombed	Censored	Detained	Expelled	Killed	Legislated	Others	Sentenced	Threat	Victory	TOTAL
Angola								1	2			3
Botswana	7		2	1			2	2		1		15
Lesotho		1	3	2	1			1		7		15
Malawi		1	15	1				1		3	2	23
Mozambique	1		5	1			2		1		1	11
Namibia			3				2	3		5		13
South Africa	3		3	1			1	3		2	3	16
Swaziland	1		5				3			5	3	17
Tanzania	1						1	1			1	4
Zambia		1	4				1			1		7
Zimbabwe	2		8	11	1	1	4	12	6	11	1	57
TOTAL	15	3	48	17	2	1	16	24	9	35	11	181

AFRICAN MEDIA BAROMETER - BOTSWANA, 2007

SECTOR 1:

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



- 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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



- 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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



- 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

SECTOR 4:

The media practise high levels of professional standards

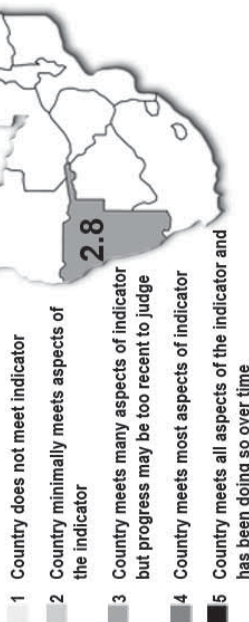


- 1 Country does not meet indicator
- 2 Country minimally meets aspects of the indicator
- 3 Country meets many aspects of indicator but progress may be too recent to judge
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator and has been doing so over time

AFRICAN MEDIA BAROMETER - NAMIBIA, 2007

SECTOR 1:

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



SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



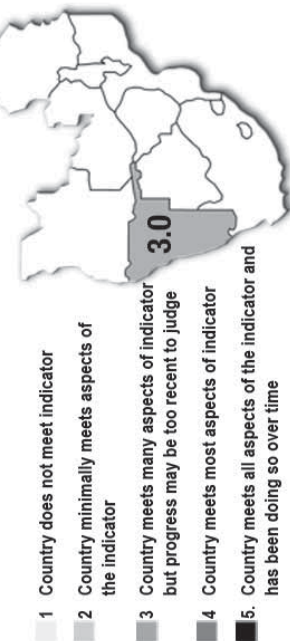
SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



SECTOR 4:

The media practise high levels of professional standards



AFRICAN MEDIA BAROMETER - SWAZILAND, 2007

SECTOR 1:

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

- 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

2.0

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability

- 1 Country does not meet indicator
- 2 Country minimally meets aspects of the indicator
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- 5 Country meets all aspects of the indicator and has been doing so over time

2.3

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster

- 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

1.9

SECTOR 4:

The media practise high levels of professional standards

- 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

2.7

AFRICAN MEDIA BAROMETER - ZAMBIA, 2007

SECTOR 1:

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



- 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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



- 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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



- 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

SECTOR 4:

The media practise high levels of professional standards



- 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
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- 5 Country meets all aspects of the indicator and has been doing so over time

MISA's Annual Press Freedom Award

The Media Institute of Southern Africa (MISA) is inviting nominations for its annual MISA Press Freedom Award which is brought to you in conjunction with Southern Africa Trust. The award, with a cash prize of US\$2 500, is given to honor excellence in journalism.

Excellence in journalism may be described as the upholding of ethics of the profession at all costs and the relentless pursuit of truth behind the bare facts. The award is also in recognition of the work of an individual or institution where this is considered to have made a significant contribution to the promotion of media freedom in the region. The excellence which the award acknowledges, can be achieved either through reportage or in other ways such as media reform, lobbying or training.

Eligibility: The MISA Press Freedom Award is open to all forms of media e.g. photography, print, video, internet, or media associations and institutions. Eligible individuals or institutions should be based in the Southern African region.

Nominations: The press freedom award can only be entered into through nominations. All nominations should be accompanied by a motivation not exceeding 1500 words stating how the nominee meets the above criteria and the CV of the nominee. Where applicable a copy of the work, or a portfolio of work, should be included with the nomination. Nominations should be sent to the MISA secretariat for the attention of the Regional Director by 12 August 2008.

Postal: Private Bag 13386 Windhoek Namibia,
Fax: +264 61 248016
Email: communications@misa.org or director@misa.org

Deadline: August 12, 2008

For more information contact the Programme specialist: Communications and Media Development on +264 61 232975 or communications@misa.org or visit www.misa.org

Brought to you in conjunction with



The 2007 winner of the MISA Press Freedom Award

Aleke Banda



Aleke Banda is a Malawian journalist who is now the proprietor of a newspaper chain. He became involved in journalism from the age of 13 when he was put in charge of the school newspaper. Later, his school paper stories appeared in the then *African Weekly* and the *Bantu Mirror* publications. His articles also appeared in the renowned South African magazine, *Drum*.

As early as 1959, he was detained for his work at Khami Prison in Bulawayo, Zimbabwe. He was deported to the then Nyasaland on May 7, 1959. In December of the same year, he became editor of *Malawi News*, a paper that lives on to this day. *Malawi News* started as a mouthpiece of the Malawi Communist Party but it later grew into a fully-fledged weekly newspaper.

In April 1960, Mr. Ian MacLeod, the then British Colonial Secretary, visited Malawi, lifted the State of Emergency and released Dr Kamuzu Banda from detention on April 1, 1960.

In June 1960, Malawi Press Limited was established and Aleke was appointed its first Managing Director. A small printing press was bought. From January to December, 1963, he spent several months at the British Broadcasting Corporation (BBC) in England and after that he was appointed as the first Director General of the Malawi Broadcasting Corporation in 1964, working up to July 1966, when he was appointed as Cabinet Minister for Development and Planning in Malawi also responsible for information and broadcasting.

From January 1980 to July 1992, Aleke was detained without trial, having fallen out with Dr Banda over some policy matters relating to the Malawi economy and management of Press Holdings Limited.

After his release from detention, he joined the movement to bring about multi-party democracy in Malawi. His interest in journalism and belief in the power of the media to inform, educate and influence events, led his family to establish Nation Publications Limited to publish and print a newspaper which started off as a bi-weekly and grew to a daily, *The Nation*. This was followed by *Saturday Nation* (now *Weekend Nation*), *Nation On Sunday* and *Nation OnLine*.

The organisation has been guided by an Editorial Policy which in part reads: 'It is a fundamental constitutional right to have freedom of opinion and expression. This includes the right to hold, receive and impart opinions... Freedom of the press shall mean and include that freedom from restraint which is essential to enable proprietors, editors and journalists to advance the public interest by publishing facts and opinions without which any democratic society cannot develop, progress or make responsible judgment.'

This is supported by the Nation Publications slogan which reads: "Freedom of expression the birthright of all."

Previous winners of the MISA Press Freedom Award

■ 1993 - Onesimo Makani Kabweza

The late Onesimo Makani Kabweza, as editor of *Moto* in Zimbabwe, was one of the first Zimbabwean journalists to break the “culture of silence” which followed the country’s independence in 1980. Onesimo dared to take a critical stand against the new Zimbabwean government under Robert Mugabe at a time when others were too scared to criticise or speak out against any government wrongdoing. He was very enthusiastic about the need for southern African media workers to unify and thus shared the dreams and aspirations of MISA. At the time of his death in 1993, Onesimo was on his way back from a trip to Harare on MISA business.

■ 1994 - Basildon Peta

By the time the young Basildon Peta was awarded MISA’s Press Freedom Award, he had already come up against the full might of the Zimbabwean police. The senior reporter at the *Daily Gazette*, Basildon was incarcerated in 1994 for a week, enduring long sessions of interrogation by the police, who failed to break his determination to stand by the truth. Basildon was also not cowed into silence and he went on to expose further incidents of corruption and abuse of power in government.

■ 1995 - Fred M’membe

Fred M’membe, probably one of the most persecuted journalists in his country and the rest of the region, is a qualified accountant who, along with colleagues John Mukela, Masautso Phiri and Mike Hall, founded *The Post* newspaper in Zambia in 1991. Since its founding as a weekly paper and its swift progress to a daily paper, *The Post* under the helm of Fred, tirelessly kept a watch on the government, exposing numerous incidents of corruption, illegal activities, bad governance, human rights abuses and lack of respect for the rule of law. In the process, and despite enormous efforts on the part of the government to harass *The Post* and Fred in particular, Fred has distinguished himself as a consistent and fearless journalist, committed to the ideals of media freedom.

■ 1996 - Allister Sparks

Allister Haddon Sparks has played a phenomenal role in the media in South Africa. Starting out as a reporter on the Queenstown Daily Representative in 1951, Allister rose to become a sub-editor under the renowned Donald Woods at the *East London Daily Dispatch*, the editor of the *Sunday Express*, and then the editor of the great Rand Daily Mail. It was during his tenure at the *Rand Daily Mail* in the late 1970’s that Allister distinguished himself as a journalist of great valour and strength, willing to stick his neck out for a story even though it might have reached into the deep echelons of government. In 1992, a decade after being dismissed from the *Rand Daily Mail*, Allister was instrumental in setting up the Institute for the Advancement of Journalism (IAJ), based in Johannesburg, South Africa. At the time of receiving the MISA Press Freedom Award, Allister was serving on the Board of the South African

■ 1997 - Gwen Lister

Gwen Lister, as editor of *The Namibian*, almost single-handedly kept up the mantle of press freedom in Namibia, both before and after independence. Starting out as a journalist at the Windhoek Advertiser in 1975, she eventually went on to establish *The Namibian*, which hit the streets for the first time in August 1985. From the outset, *The Namibian* was the only newspaper in Namibia that was brave enough to expose ongoing atrocities and human rights abuses being committed by the South African occupation forces. Gwen’s determination to uncover and report the truth never wavered, despite concerted attempts to harass and intimidate her and the rest

of *The Namibian* staff. Gwen's commitment to a free press remained steadfast after Namibia's independence in 1990, and her paper continued to adopt a watchdog role, this time over the new government of the South West African People's Organisation (Swapo).

■ 1998 - African Eye News Service (AENS)

African Eye News Service was the first media institution to be honoured with the MISA award. Based in the first South African province of Mpumalanga, AENS had established itself as one of the sub-region's truly investigative news services. In its three years of existence, AENS, under the editorship of Justin Arenstein, had either halted or uncovered a series of corrupt practices in the public sector - some of which had led to public commissions of inquiry, or resignations of the affected officials. Its bold and extremely courageous reporting earned it several enemies in both the public and private sectors of the South African community. The agency attracted numerous multimillion rand defamation suits, and to date it had won every case. Its team of journalists, especially Mr. Arenstein, had also been the targets of physical and verbal harassment, including death threats and threats of assault, while also being personally maligned. Despite this harassment and hostility, the AENS team carried on its mission with excellence, exhibiting mature and professional journalism with depth and carefully verified detail.

■ 1999 - Bright Chola Mwape

The late Bright Chola Mwape was still a young man when he tragically died as a result of injuries sustained in a car accident in August 1999. In 1994 Bright was Managing Editor of *The Post*, Zambia's leading and only independent daily newspaper. An article in 1996, in which he criticised a Zambian politician for attacking a Supreme Court judge who had earlier struck an important victory for the Right to Protest and Freedom of Assembly, saw him being condemned to indefinite imprisonment. Along with his editor-in-chief Fred M' membe and fellow columnist, Lucy Sichone, Bright went into hiding to avoid being hauled off to prison.

Later on Bright and Fred handed themselves over to the police in an act of defiance and bravery that challenged the Zambian Parliament to take their unjust decree to its logical conclusion. They were freed after 24 days. In 1997, Bright joined MISA's regional secretariat to head the Media Information Unit. His disdain for the hypocrisy of the SADC governments was evident on the occasion of May 3 1999 in a dynamic speech he delivered in Windhoek, Namibia. In his speech, Bright angrily dismissed a proposed Media Award the SADC governments were considering, questioning their moral right to confer such an award amid their obvious reluctance to refrain from or condemn government infringements on the rights of the media.

■ 2000 - Geoffrey Nyarota

Geoffrey Nyarota, as editor-in-chief of *The Daily News* in Zimbabwe has displayed skill and vision in keeping afloat the spirit and voice of independent media in a country where independent media exist in a minefield of treacherous laws and intolerant authorities. Geoff has come a long way since his days as a reporter at the Zimbabwe Herald newspaper. In the process he has also ploughed a lonely furrow which is unavoidable for people like him who fail to seek shelter in the ever convenient shade of complacency, silence or political cover-ups.

As editor of the *Chronicle*, he exposed corruption in high places in what was to become known as the "Willowgate scandal". The resilience of Geoff came of age in a sense, with the launching of *The Daily News* in March 1999. It was a magnanimous dream that had as its roots - service to the Zimbabwean citizenry. The newspaper has grown from strength to strength almost solely due to Geoff's skill in assembling a team of some of Zimbabwe's most skilled and professional newspaper practitioners in every field. The trail that *The Daily News* blazes has come at a price - the paper's journalists have been harassed and attacked; in some parts of the country people can only read the paper in secret for fear of reprisals. The application of the Access to Information and Protection of Privacy Acts in Zimbabwe has led to the closure of *The Daily News* and its sister paper, *The Daily News on Sunday*.

■ 2001 - Carlos Alberto Cardoso

The late Carlos Alberto Cardoso, editor of *Metical*, was murdered on 22 November 2000. A fearless campaigner for freedom and a lifelong socialist who committed his life to the African revolution and the struggle against imperialism, Cardoso was gunned down in what appears to have been a planned and professional assassination. Carlos' exceptional talents as a writer ensured a rapid rise in the world of journalism. He worked first on the weekly magazine *Tempo*, then briefly on Radio Mozambique, before he was appointed chief news editor of the *Mozambique News Agency* (AIM) in 1980. In 1990, Cardoso was among a group of journalists campaigning for the inclusion of a specific commitment to press freedom in the new constitution. The clauses on the media in the 1990 constitution, and the follow-up press law of 1991, are among the most liberal in Africa.

In 1992, Cardoso and a dozen others founded a journalists' cooperative, Mediacoop, launching Mediafax. A dispute in Mediacoop in 1997 led to Cardoso leaving the cooperative to set up *Metical*. Cardoso campaigned tirelessly against what he regarded as the disastrous recipes for the economy imposed by the World Bank and the IMF, championing the fight of the cashew processing industry and later of the sugar industry, against liberalisation measures.

Among the scandals Cardoso had been investigating in the last months of his life, one stands out above all others. This was the largest banking fraud in the country's history. In 1996, a well-organised criminal network stole the equivalent of \$14 million out of Mozambique's largest bank, BCM. Although the names of the main suspects were known there was no prosecution and no trial.

■ 2002 - No award was presented in 2002. MISA celebrated its 10th anniversary in Maputo, Mozambique

■ 2003 - Dr. Augusto Raul Paulino

Through the award MISA recognizes the incalculable contribution made by Judge Paulino to the judicial process in Mozambique, as well as access to information and freedom of expression in the region. Judge Paulino presided over the celebrated trial and conviction of six men accused of murdering Carlos Cardoso, one of Mozambique's top investigative journalists. The trial was hailed widely as both a triumph of the openness of the court proceedings and an indictment of the corruption among the country's rich and powerful. By allowing the electronic media to cover the case live Judge Paulino gave the public an opportunity to form its own opinion and that has been a major step and a positive example for the whole continent to emulate. Although many Mozambicans may not be satisfied by the outcome, they have witnessed that the judicial system can work.

■ 2004 - Methaetsile Leepile

In March 2002 under Methaetsile Leepile's guidance, the first ever vernacular Setswana broadsheet newspaper, *Mokgosi*, was born in Botswana. The weekly broadsheet has a circulation of 10 000 copies.

Leepile believes that there are compelling reasons to protect indigenous languages from extinction because when a language dies, a people's knowledge dies with it. Editorially *Mokgosi* newspaper also tackles social, political and economic issues from a developmental agenda, ensuring that a previously large sector of the Botswana population is able to access credible information on issues that affect their livelihood. Mr Leepile is however no stranger to MISA. He was amongst the group of media practitioners who met in Chobe 1989 to discuss the future of the media in our region. These discussions finally led to the formation of MISA through the Windhoek Declaration. He became the first director of MISA in 1994 and left its head office in Windhoek in 1999 to take up the management of the Southern Africa Media Development Fund (Samdef). He left Samdef in 2003 to enter the private sector.

■ 2005 - Raymond Louw

Louw holds numerous positions in the media. He is the Editor and Publisher of *Southern Africa Report*, a weekly current affairs briefing. He further acts as the Africa consultant for the World Press Freedom Committee, is a council member of the South African National Editors' Forum and the Freedom of Expression Institute. Louw is a general consultant on media, politics and governmental affairs. He is actively campaigning, on behalf of several organisations, for the recognition of a free media in the New Economic Partnership for African Development (Nepad) African Peer Review Mechanism (APRM). He has made several interventions on behalf of endangered journalists and was successful in securing the release of at least two journalists, Pius Njawe (Cameroon, 1998) and Ali Lamrabet (Morocco, 2004) who were detained under 'insult' laws. Louw continues to make substantial contribution to media freedom in SADC and Africa.

■ 2006 - Alaudin Osman

Osman has had a long career as a media personality and media leader. He was among the media pioneers involved in crafting the Windhoek Declaration on Promoting an Independent and Pluralistic African Press in 1991. Osman has had an illustrious career on both sides of the divide. He served as press secretary to the head of state during which time he improved relations between state house and the media. In a sometimes volatile media environment especially when the then ruling party youths were hostile towards journalists Osman often stepped in to diffuse tense situations and explain the role of the media in a democracy. At present he is challenging the government of Malawi over the Protected Names Emblems Flags and Places Act which makes it unlawful to undertake any act that may bring the presidency in disrepute. Whilst a decision is awaited this particular case is of great interest for media freedom and freedom of expression activists. His pioneering spirit is still evident. He is the Publicity Secretary for the Malawi Editors Forum and is at the forefront of media debates in the country and the region. Unlike many private media institutes *Capital Radio*, which he owns, is very conscious about the development of its staff.

How to report an attack on the media

The Media Institute of Southern Africa (MISA) needs your assistance to compile accurate and detailed alerts on abuses of press freedom in the Southern African region.

Alerts serve a very important function in the advocacy work of MISA. The ultimate aim of the alert is to spur people on to take action in the light of a particular violation. Apart from that, the alert serves the purpose of reporting and recording a specific event or incident, which either amounts to a violation of media freedom or freedom of expression, or significantly advances it. The alert is thus part of one of the most essential tools of advocacy - information.

What to report:

Journalists who are:

- Assaulted
- Arrested
- Censored
- Denied credentials
- Harassed
- Kidnapped
- Killed
- Missing
- Threatened
- Wrongfully expelled
- Wounded
- Wrongfully sued for libel or defamation

News organisations that are:

- Attacked or illegally searched
- Censored
- Closed by force
- Raided, where editions are confiscated or transmissions are jammed. Materials confiscated or damaged
- Wrongfully sued for libel or defamation

What to include in your report

MISA needs accurate and detailed information about:

- Names of journalists and news organisations involved
- Date and circumstances of the incident
- Detailed background information

Anyone with information about an attack on the media should call the Researcher at MISA by dialling +264 61 232975 or by sending e-mail to alerts@misa.org

Contact information for MISA country offices: See page 203.

What happens with your information?

Depending on the case, MISA will:

- Investigate and confirm the report
- Pressure authorities to respond
- Notify human right groups and press organisations around the world, including IFEX, Article 19, Amnesty International, Reporters San Frontiers, Human Rights Watch and the International Federation of Journalists and
- Increase public awareness through the press
- Publish advisories to warn other journalists about potential dangers
- Send a fact-finding mission to investigate

MORE ABOUT MISA ALERTS

The alert is different to a media statement that the latter is more a reaction and comment on an incident, while an alert is simply a report about it. Where comment is included in an alert

it is best reported as a quote.

Action alerts also educate people about the nature of media freedom violations, leading to greater sensitivity to threats and violations, thus ensuring that more and more violations do not go unreported. MISA alerts are used as a source of information by media freedom organisations around the world and serve to augment important international reports and publications which in turn are used as advocacy tools or research documents.

What types of incidents are reported in an action alert?

1. Direct violations against journalists' right to operate or report freely - these include physical or verbal attacks or threats against journalists during the course of their work or as a result of their work; journalists being barred illegally from observing events or incidents or inspecting areas, journalists evicted or deported from a country because of their work, journalists imprisoned or detained and, journalists killed during the course of or as a result of their work.
2. Censorship - this is where media workers, institutions or activities are banned or blocked. Where this does happen always indicate who issued the ban, why and in terms of which laws the ban was issued (sometimes countries have more than one law which could be used to censor media).
3. Court cases - these are court cases involving the media or concerning issues which affect the media (e.g. a 1995 case in Zimbabwe involving cell phone company Retrofit did not include the media but significantly advanced freedom of expression and required to be reported). Alerts are not normally issued for trials or cases which are in progress (unless something significant happens), the commencement and conclusion (judgement) are the most important to report (it requires however that the entire trial be monitored). Background information is very important in alerts relating to court cases e.g. where a newspaper is being sued over an article, find out when the contentious article was published and give a brief idea of what the article said or reported. This helps to assess whether a trial is reasonable and fair. In the case of a criminal trial, indicate exactly which law and sections thereof the journalist or media is being charged under.
4. Legislation - This refers to the introduction, amendment or repealing of all legislation affecting media in some way or the other. Very draconian legislation is usually monitored and reported from the stage at which it is mooted. When issuing an alert around legislation, we make sure to explain precisely which parts of the law affect the media and how.
5. Policies and statements by elected government officials - these are monitored and reported in so far as they have a direct bearing on the workings and operations of the media. Verbal threats or attacks on the media are crucial to report, as well as statements advancing new policies or clarifying, government policies with respect to the media.

About MISA

MISA's Mission, Vision and Values

The **mission** of MISA is to play a leading role in creating an environment of media freedom that promotes independence, pluralism and diversity of views and opinions, sustainability and competency. In dealing with these elements, MISA will ensure that gender-specific needs form an integral part of all activities. MISA aims to create an environment in which civil society is empowered to claim information and access to it as unalienable rights and in which - the resultant freer information flow strengthens democracy by enabling more informed citizen participation.

MISA will work:

- To create and maintain a media environment in which there is transparency, accountability, independence, pluralism and diversity;
- To improve the skills base and professionalism among media workers;
- To promote and facilitate more effective use of and access to the media by all sectors of society;
- To develop and maintain an environment conducive to relevant and effective advocacy campaigns on media freedom issues and media violations on an international, regional, national and local basis;
- To deliver timely, comprehensive and accurate information on media freedom issues and violations; and
- To exercise its functions in an efficient, cost effective and transparent manner, with full participation of all stakeholders.

MISA's **vision** is of a Southern African region in which the media enjoys freedom of expression, independence from political, economic and commercial interests, pluralism of views and opinions. Our vision is of a region where members of society, individually or collectively are free to express themselves through any media of their choice without hindrance of any kind. Access to information must be unhindered

This environment will be characterised by:

- A media that is free, independent, diverse and pluralistic.
- Access to the media and information by all sectors of society.
- Media workers who are competent, critical, accountable, sensitive to gender issues and aware of their responsibility to society.
- Legislation, regulations and policy environments that support media independence, diversity and pluralism.
- Citizens in the SADC region are empowered to claim information as a basic right.

The mission and vision of MISA are based on **values** that seek to:

- Advance the aims and objectives of the Windhoek Declaration of 1991 and the African Charter on Broadcasting of 2001;
- Promote a self reliant, non-partisan and independent media that informs, empowers, educates and entertains;
- Nurture media freedom in an ethical, competent and professional media environment;
- Strengthen and support the development of a vibrant and participatory media sector;
- Lobby for access to information in order to enhance transparency and citizen participation in government, judiciary and legislative issues; and

- Promote democracy, human rights and the advancement of equality, human dignity, freedom and non-discrimination.
- Advocate and advance gender equality to redress imbalances in the media and society.

MISA History and legal status

MISA was established in 1992 as a non-governmental organisation (NGO) and registered as a Trust in Windhoek, Namibia following the adoption of the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press. MISA seeks to contribute to the implementation of this declaration in the SADC region. MISA operations are conducted by its Regional Secretariat based in Windhoek, Namibia which is guided by the Regional Governing Council made up of the Regional Council Chairperson and the chairpersons of the national chapters. The MISA Trust Funds Board, which is autonomous, has oversight over the financial and objectives of the organisation.

MISA currently has national chapters in 11 SADC countries – Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Each national chapter is serviced by a national secretariat under the guidance of the National Governing Council. Membership in MISA is open to individual media practitioners, media houses and associations who join MISA at national level.

MISA's main achievements are in the areas of media freedom monitoring and the issuing of action alerts highlighting violations of this right in the southern African region. It has campaigned for an enabling environment for media to operate freely as part of a democratic system.

During the last 14 years, MISA has provided skills training opportunities for many media workers in the region.

Over 600 journalists and media practitioners and managers have received training in computer aided and internet research, editorial and circulation management, financial and strategic management, project, marketing and business management, community radio management, thematic reporting skills training (financial, economic, elections and gender). During this period over 80 journalists and media practitioners and managers took part in the MISA exchange programme, allowing them the opportunity to learn new skills or improve on existing ones outside their place of employment and mostly in another southern African country.

MISA has sponsored over 24 journalists and media managers to attend Highway Africa, the premier ICT annual event hosted by Rhodes University for the last 5 years.

In line with the 1991 Windhoek Declaration, MISA established the Southern Africa Media Development Fund (SAMDEF) which provides media businesses with loan and venture capital and the Southern Africa Institute of Media Entrepreneurial Development (SAIMED) which offers media management training and development services.

MISA Activities and programmes

From April 2002, MISA work has been centred on five programme areas as identified by its members and elaborated in its Strategic Partnership Programme April 1, 2002 to March 31, 2005. These are:

1. Freedom of Expression and Right to Information Campaign: which seeks to campaign for citizens to embrace their right to be informed through unhindered access to information. Laws and policies that militate against these rights will be challenged and grassroots campaigns on

the concept of information as a basic right and need will be done. The basis of this programme area is founded on the principle that informed citizens will make the best decisions for their wellbeing and in so doing empower themselves. This will ensure that they can hold their governors accountable and in so doing lead to the reduction of poverty and disease.

2. Media Freedom Monitoring programme which seeks to continue the work MISA is renowned for: monitoring and reporting media freedom violations in the region. Through this programme, reports of incidents of media freedom violations, mostly by state authorities are made and campaigns against such violations intensified. MISA is a member of the International Freedom of Expression network (IFEX) since 1994 and has published an annual year book on the state of media freedom in the region (So this is Democracy?) every year from 1994.

3. The Campaign for Broadcasting Diversity programme seeks to continue the work on broadcasting policy MISA started in 1995 which laid the foundation for the role of broadcasting in the region to enable this major source of news and opinions to operate effectively. The three tier system of public, commercial and community broadcasting, if operated in the correct manner, can provide services that assist in the development and maintenance of democracy. These have since been adopted as a part of the African Charter on Broadcasting adopted by media practitioners and media freedom activists who gathered in Windhoek under the auspices of UNESCO and MISA in May 2001 to commemorate the 10th Anniversary of the Windhoek Declaration of 1991. The African Commission on Human and Peoples' Rights adopted similar principles in their Declaration on Freedom of Expression in Africa in October 2002.

4. Media Support Activities which form the basis of the fourth programme area seeks to enhance Media Accountability and Professionalism, Community Broadcasting and The MISA News Exchange. The first programme area of media accountability and professionalism seeks to assist the media in ensuring that media products are professionally provided and the media is accountable to the general citizenry and consumers of media products. It is the aim of this programme area to ensure that code of ethics and a self-regulatory system are established for each of the eleven countries in which MISA operates. The Community Broadcasting programme is an initiative to assist in the establishment of community broadcasting stations in the region. The News Exchange which started in 1994, will continue and be extended to include a Portuguese language exchange and a 'rip and read' service for broadcasting stations most of which do not have resources to gather news.

5. Over the years, MISA has assisted media practitioners and houses with legal fees to enable them to engage lawyers for their defence in courts of law, mostly brought against them by the State. The majority of cases concern criminal defamation, which is still quite prevalent in the region. The **Legal Support** programme area is the subject of assistance MISA plans to continue to give to media houses and practitioners who may find themselves under such situations. The major element of this programme area is the plan to establish a Legal Defence Fund in each of the countries where MISA operates.

Two strategies will assist MISA in reaching its objectives outlined in its five programme areas. These are respectively the strategies for Communication, Dissemination and Publications and the Implementation and Monitoring. The first strategy recognises that an effective communication and information dissemination system is essential to an advocacy organisation. Furthermore, the fact that the organisation is spread across eleven countries requires an efficient exchange of information to allow for frequent interaction.

The second strategy is concerned with the management of the Strategic Partnership Programme. This includes systematic planning and monitoring, a transparent and accountable financial system, new criteria for budget allocations, a dynamic and cohesive organisation and strong governance structures. It also underlines that gender sensitivity and networking efforts permeate all five of MISA's programme areas.

Finances

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Appendices

- Windhoek Declaration
- African Charter on Broadcasting
- African Media Barometer Score Sheets / Indicators
- Declaration of Principles on Freedom of Expression in Africa
- Declaration of Table Mountain

The Windhoek Declaration

Declarations on Promoting Independent and Pluralistic Media - 3 May 1991 Endorsed by the General Conference at its twenty-sixth session - 1991

We the participants in the United Nations/ United Nations Educational, Scientific and Cultural Organization Seminar on Promoting an Independent and Pluralistic African Press, held in Windhoek, Namibia, from 29 April to 3 May 1991,

Recalling the Universal Declaration of Human Rights,

Recalling General Assembly resolution 59(I) of 14 December 1946 stating that freedom of information is a fundamental human right, and General Assembly resolution 45/76 A of 11 December 1990 on information in the service of humanity,

Recalling resolution 25C/104 of the General Conference of UNESCO of 1989 in which the main focus is the promotion of “the free flow of ideas by word and image at international as well as national levels”,

Noting with appreciation the statements made by the United Nations Under-Secretary-General for Public Information and the Assistant Director-General for Communication, Information and Informatics of UNESCO at the opening of the Seminar,

Expressing our sincere appreciation to the United Nations and UNESCO for organizing the Seminar,

Expressing also our sincere appreciation to all the intergovernmental, governmental and non-governmental bodies and organizations, in particular the United Nations Development Programme (UNDP), which contributed to the United Nations/UNESCO effort to organize the Seminar,

Expressing our gratitude to the Government and people of the Republic of Namibia for their kind hospitality which facilitated the success of the Seminar,

Declare that:

1. Consistent with article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development.
2. By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of newspapers, magazines and periodicals.
3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.

4. The welcome changes that an increasing number of African States are now undergoing towards multi-party democracies provide the climate in which an independent and pluralistic press can emerge.
5. The world-wide trend towards democracy and freedom of information and expression is a fundamental contribution to the fulfilment of human aspirations.
6. In Africa today, despite the positive developments in some countries, in many countries journalists, editors and publishers are victims of repression-they are murdered, arrested, detained and censored, and are restricted by economic and political pressures such as restrictions on newsprint, licensing systems which restrict the opportunity to publish, visa restrictions which prevent the free movement of journalists, restrictions on the exchange of news and information, and limitations on the circulation of newspapers within countries and across national borders. In some countries, one-party States control the totality of information.
7. Today, at least 17 journalists, editors or publishers are in African prisons, and 48 African journalists were killed in the exercise of their profession between 1969 and 1990.
8. The General Assembly of the United Nations should include in the agenda of its next session an item on the declaration of censorship as a grave violation of human rights falling within the purview of the Commission on Human Rights.
9. African States should be encouraged to provide constitutional guarantees of freedom of the press and freedom of association.
10. To encourage and consolidate the positive changes taking place in Africa, and to counter the negative ones, the international community-specifically, international organizations (governmental as well as non-governmental), development agencies and professional associations-should as a matter of priority direct funding support towards the development and establishment of non-governmental newspapers, magazines and periodicals that reflect the society as a whole and the different points of view within the communities they serve.
11. All funding should aim to encourage pluralism as well as independence. As a consequence, the public media should be funded only where authorities guarantee a constitutional and effective freedom of information and expression and the independence of the press.
12. To assist in the preservation of the freedoms enumerated above, the establishment of truly independent, representative associations, syndicates or trade unions of journalists, and associations of editors and publishers, is a matter of priority in all the countries of Africa where such bodies do not now exist.
13. The national media and labour relations laws of African countries should be drafted in such a way as to ensure that such representative associations can exist and fulfil their important tasks in defence of press freedom.

14. As a sign of good faith, African Governments that have jailed journalists for their professional activities should free them immediately. Journalists who have had to leave their countries should be free to return to resume their professional activities.
15. Cooperation between publishers within Africa, and between publishers of the North and South (for example through the principle of twinning), should be encouraged and supported.
16. As a matter of urgency, the United Nations and UNESCO, and particularly the International Programme for the Development of Communication (IPDC), should initiate detailed research, in cooperation with governmental (especially UNDP) and non-governmental donor agencies, relevant non-governmental organizations and professional associations, into the following specific areas:
 - (i) identification of economic barriers to the establishment of news media outlets, including restrictive import duties, tariffs and quotas for such things as newsprint, printing equipment, and typesetting and word processing machinery, and taxes on the sale of newspapers, as a prelude to their removal;
 - (ii) training of journalists and managers and the availability of professional training institutions and courses;
 - (iii) legal barriers to the recognition and effective operation of trade unions or associations of journalists, editors and publishers;
 - (iv) a register of available funding from development and other agencies, the conditions attaching to the release of such funds, and the methods of applying for them;
 - (v) the state of press freedom, country by country, in Africa.
17. In view of the importance of radio and television in the field of news and information, the United Nations and UNESCO are invited to recommend to the General Assembly and the General Conference the convening of a similar seminar of journalists and managers of radio and television services in Africa, to explore the possibility of applying similar concepts of independence and pluralism to those media.
18. The international community should contribute to the achievement and implementation of the initiatives and projects set out in the annex to this Declaration.
19. This Declaration should be presented by the Secretary-General of the United Nations to the United Nations General Assembly, and by the Director-General of UNESCO to the General Conference of UNESCO.

African Charter on Broadcasting

There have been significant gains in media freedom in Africa since the adoption of the Windhoek Declaration on Promoting an Independent and Pluralistic African Press in 1991. However, the declaration focused primarily on the promotion of the print media and was silent on issues such as broadcasting liberalisation and the globalisation of the communications industry. These issues have far reaching social and economic implications for media freedom and threaten to jeopardize the production of media that reflects Africa's rich cultural diversity.

A representative group of African media practitioners sought to address these concerns at a UNESCO conference called to celebrate the 10th anniversary of the original Windhoek Declaration. The result was the African Charter on Broadcasting, which serves as a modern blueprint for policies and laws determining the future of broadcasting and information technology in Africa.

We the Participants of Windhoek+10 Declare that:

Acknowledging the enduring relevance and importance of the Windhoek Declaration to the protection and promotion of freedom of expression and of the media;
Noting that freedom of expression includes the right to communicate and access to means of communication;

Mindful of the fact that the Windhoek Declaration focuses on the print media and recalling Paragraph 17 of the Windhoek Declaration, which recommended that a similar seminar be convened to address the need for independence and pluralism in radio and television broadcasting;

Acknowledging the enduring relevance and importance of the Windhoek Declaration to the protection and promotion of freedom of expression and of the media;

Noting that freedom of expression includes the right to communicate and access to means of communication;

Mindful of the fact that the Windhoek Declaration focuses on the print media and recalling Paragraph 17 of the Windhoek Declaration, which recommended that a similar seminar be convened to address the need for independence and pluralism in radio and television broadcasting;

Recognising that the political, economic and technological environment in which the Windhoek Declaration was adopted has changed significantly and that there is a need to complement and expand upon the original Declaration;

Aware of the existence of serious barriers to free, independent and pluralistic broadcasting and to the right to communicate through broadcasting in Africa;

Cognisant of the fact that for the vast majority of the peoples of Africa, the broadcast media remains the main source of public communication and information;

Recalling the fact that the frequency spectrum is a public resource which must be managed in the public interest.

Part One

GENERAL REGULATORY ISSUES

- 1 The legal framework for broadcasting should include a clear statement of the principles underpinning broadcast regulation, including promoting respect for freedom of expression, diversity, and the free flow of information and ideas, as well as a three-tier system for broadcasting: public service, commercial and community.
- 2 All formal powers in the areas of broadcast and telecommunications regulation should be exercised by public authorities which are protected against interference, particularly of a political or economic nature, by, among other things, an appointments process for members which is open, transparent, involves the participation of civil society, and is not controlled by any particular political party.
- 3 Decision-making processes about the overall allocation of the frequency spectrum should be open and participatory, and ensure that a fair proportion of the spectrum is allocated to broadcasting uses.
- 4 The frequencies allocated to broadcasting should be shared equitably among the three tiers of broadcasting.
- 5 Licensing processes for the allocation of specific frequencies to individual broadcasters should be fair and transparent, and based on clear criteria which include promoting media diversity in ownership and content.
- 6 Broadcasters should be required to promote and develop local content, which should be defined to include African content, including through the introduction of minimum quotas.
- 7 States should promote an economic environment that facilitates the development of independent production and diversity in broadcasting.
- 8 The development of appropriate technology for the reception of broadcasting signals should be promoted.

Part Two

PUBLIC SERVICE BROADCASTING

- 1 All State and government controlled broadcasters should be transformed into public service broadcasters, that are accountable to all strata of the people as represented by an independent board, and that serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender.
- 2 Public service broadcasters should, like broadcasting and telecommunications regulators, be governed by bodies which are protected against interference.
- 3 The public service mandate of public service broadcasters should be clearly defined.
- 4 The editorial independence of public service broadcasters should be guaranteed.
- 5 Public service broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets.
- 6 Without detracting from editorial control over news and current affairs content and in order to promote the development of independent productions and to enhance diversity in programming, public service broadcasters should be required to broadcast minimum quotas of material by independent producers.
- 7 The transmission infrastructure used by public service broadcasters should be made accessible to all broadcasters under reasonable and non-discriminatory terms.

PART Three

COMMUNITY BROADCASTING

- 1 Community broadcasting is broadcasting which is for, by and about the community, whose ownership and management is representative of the community, which pursues a social development agenda, and which is non-profit.
- 2 There should be a clear recognition, including by the international community, of the difference between decentralised public broadcasting and community broadcasting.
- 3 The right of community broadcasters to have access to the Internet, for the benefit of their respective communities, should be promoted.

PART Four

TELECOMMUNICATIONS AND CONVERGENCE

- 1 The right to communicate includes access to telephones, email, Internet and other telecommunications systems, including through the promotion of community-controlled information communication technology centres.
- 2 Telecommunications law and policy should promote the goal of universal service and access, including through access clauses in privatisation and liberalisation processes, and proactive measures by the State.
- 3 The international community and African governments should mobilise resources for funding research to keep abreast of the rapidly changing media and technology landscape in Africa.
- 4 African governments should promote the development of online media and African content, including through the formulation of non-restrictive policies on new information and communications technologies.
- 5 Training of media practitioners in electronic communication, research and publishing skills needs to be supported and expanded, in order to promote access to, and dissemination of, global information.

PART Five

IMPLEMENTATION

- 1 UNESCO should distribute the African Charter on Broadcasting as broadly as possible, including to stakeholders and the general public, both in Africa and worldwide.
- 2 Media organizations and civil society in Africa are encouraged to use the Charter as a lobbying tool and as their starting point in the development of national and regional broadcasting policies. To this end media organisations and civil society are encouraged to initiate public awareness campaigns, to form coalitions on broadcasting reform, to formulate broad casting policies, to develop specific models for regulatory bodies and public service broadcasting, and to lobby relevant official actors.
- 3 All debates about broadcasting should take into account the needs of the commercial broadcasting sector.
- 4 UNESCO should undertake an audit of the Charter every five years, given the pace of development in the broadcasting field.
- 5 UNESCO should raise with member governments the importance of broadcast

The African Media Barometer Score sheet / Indicators

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	Civil 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.

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.

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:

I 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.
3. States should adopt effective measures to avoid undue concentration of media ownership, although such measures shall not be so stringent that they inhibit the development of the media sector as a whole.

XV Protection of Sources and other journalistic material

Media practitioners shall not be required to reveal confidential sources of information or to disclose other material held for journalistic purposes except in accordance with the following principles:

- the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence;
- the information or similar information leading to the same result cannot be obtained elsewhere;
- the public interest in disclosure outweighs the harm to freedom of expression; and
- disclosure has been ordered by a court, after a full hearing.

XVI Implementation

States Parties to the African Charter on Human and Peoples's Rights should make every effort to give practical effect to these principles.

Declaration of Table Mountain

Abolishing “Insult Laws” in Africa and Setting a Free Press Higher on the Agenda

The World Association of Newspapers and the World Editors Forum, meeting at the 60th World Newspaper Congress and 14th World Editors Forum Conference in Cape Town, South Africa, from 3 to 6 June 2007,

Note that in country after country, the African press is crippled by a panoply of repressive measures, from the jailing and persecution of journalists to the widespread scourge of ‘insult laws’ and criminal defamation which are used, ruthlessly, by governments to prevent critical appraisal of their performance and to deprive the public from information about their misdemeanours,

State their conviction that Africa urgently needs a strong, free and independent press to act as a watchdog over public institutions,

Consider that press freedom remains a key to the establishment of good governance and durable economic, political, social and cultural development, prosperity and peace in Africa, and to the fight against corruption, famine, poverty, violent conflict, disease, and lack of education,

Reaffirm our responsibility as the global representative organisations of the owners, publishers and editors of the world’s press to conduct “aggressive and persistent campaigning against press freedom violations and restrictions”,

Reaffirm our commitment to freedom of the press as a basic human right as well as an indispensable constituent of democracy in every country, including those in Africa,

Note that Article 19 of the Universal Declaration of Human Rights guarantees freedom of expression as a fundamental right, and emphasise that freedom of expression is essential to the realization of other rights set forth in international human rights instruments,

Recall that those principles have been restated and endorsed in the 2002 Declaration on Principles of Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples’ Rights and the African Union, thus requiring member states of the African Union to uphold and maintain press freedom,

Recall also the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press,

Observe that despite numerous opportunities for a free press to emerge from national independence, fully-fledged press freedom still does not exist in many African countries and that murder, imprisonment, torture, banning, censorship and legislative edict are the norm in many countries,

Recognise that these crude forms of repression are bolstered by the deliberate exclusion of certain newspapers from state-advertising placement, the burden of high import taxes on equipment and newsprint and unfair competition from state-owned media,

Note that despite the adoption of press freedom protocols and the repression of that freedom on a wide scale in Africa, the African Union in instituting its African Peer Review Mechanism under the NEPAD (New Partnership for Africa’s Development) programme has excluded

the fostering of a free and independent press as a key requirement in the assessment of good governance in the countries of the continent, and

Identify as the greatest scourge of press freedom on the continent the continued implementation of “insult laws,” which outlaw criticism of politicians and those in authority, and criminal defamation legislation, both of which are used indiscriminately in the vast majority of African states that maintain them and which have as their prime motive the “locking up of information”,

Declare that

African states must recognise the indivisibility of press freedom and their responsibility to respect their commitments to African and international protocols upholding the freedom, independence and safety of the press, and

To further that aim by, as a matter of urgency, abolishing “insult” and criminal defamation laws which in the five months of this year have caused the harassment, arrest and/or imprisonment of 229 editors, reporters, broadcasters and online journalists in 27 African countries (as outlined in the annexure to this declaration),

Call on African governments as a matter of urgency to review and abolish all other laws that restrict press freedom,

Call on African governments that have jailed journalists for their professional activities to free them immediately and to allow the return to their countries of journalists who have been forced into exile,

Condemn all forms of repression of African media that allows for banning of newspapers and the use of other devices such as levying import duties on newsprint and printing materials and withholding advertising,

Call on African states to promote the highest standards of press freedom in furtherance of the principles proclaimed in Article 19 of the Universal Declaration of Human Rights and other protocols and to provide constitutional guarantees of freedom of the press,

Call on the African Union immediately to include in the criteria for “good governance” in the African Peer Review Mechanism the vital requirement that a country promotes free and independent media,

Call on international institutions to promote progress in press freedom in Africa in the next decade, through such steps as assisting newspapers in the areas of legal defence, skills development and access to capital and equipment,

Welcome moves towards a global fund for African media development and recommends that such an initiative gives priority attention to media legal reform and in particular the campaign to rid the continent of “insult” and criminal defamation laws,

Commit WAN and WEF to expand their existing activities in regard to press freedom and development in Africa in the coming decade.

WAN and WEF make this declaration from Table Mountain at the southern tip of Africa as an earnest appeal to all Africans to recognise that the political and economic

progress they seek flourishes in a climate of freedom and where the press is free and independent of governmental, political or economic control.

This Declaration shall be presented to: The Secretary-General of the United Nations with the request that it be presented to the UN General Assembly; to the UNESCO Director-General with the request that it be placed before the General Conference of UNESCO; and to the Chairperson of the African Union Commission with the request that it be distributed to all members of the African Union so that it can be endorsed by the AU at its next summit of heads of states.

Cape Town, 3 June 2007

