



# So This is Democracy?

State of media freedom in southern Africa 2008

Annual publication of the Media Institute of southern Africa (MISA)

# So This is Democracy?

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

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## 2008



*Burnt truck and newspapers of The Zimbabwean newspaper. Unknown assailants on May 23, 2008 waylaid and set ablaze a truck-load of 60 000 copies of The Zimbabwean on Sunday newspaper and assaulted its driver, Christmas Ramabulana, a South African national, and distribution assistant Tapfumaneyi Kancheta. Ramabulana and Kancheta were stopped 67km from Zimbabwe's southern town of Masvingo and forced to drive along the Chivi-Mandamabwe road for 16 km before turning into Mandamabwe Road where the truck and its contents were set alight. They were severely beaten and dumped in that area. Picture courtesy of The Zimbabwean newspaper.*

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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 this annual publication.

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 make 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:



**Assaulted**



**Bombed**



**Censored**



**Legislated**



**Detained**



**Banned**



**Killed**



**Sentenced**



**Threatened**



**Victory**



**Others**

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 that 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.



**ASSAULTED** - This includes incidents where journalists are attacked physically, beaten, tortured or wounded by other means 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 prevented from getting their information out. It involves straight forward 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.





**BANNED** - This category relates to the free movement of media workers. It involves incidents where journalists are expelled from a country or from a place within a country; are stopped from covering an event, barred from covering an event or entering a place; are prevented from entering a country (denying of visas, work papers or accreditation) or 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 does not only refer to violations, as 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/ HARRASSED** - 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 statistic 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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## Southern Africa Media in 2008: Call to build government capacity

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A journalist from Namibia's independent television station, One Africa TV, asked me in November 2008 what appeared to be a simple question: why is there no political support for media development in southern Africa? This led to a moment of reflection, focusing on the capacity and ability of southern African governments to participate in the development of the media. Media development is intrinsically linked to the government because policymakers can provide an environment that is conducive to the media's growth. Struggles to improve the media in the region have been labelled as anti-government, because criticism of government in the region is perceived as political and negative. Rarely is criticism taken in the spirit of constructive engagement.

It must be noted, however, that great strides have been made since the 1991 Windhoek Declaration, which called upon African governments to do more to open the media space. Across Southern Africa there are now far more radio stations and newspapers, and more people are accessing the internet and mobile telephony. Governments in Zambia, Namibia and Mozambique are more open to engage with the media than before. These are commendable and positive developments. However, many other governments are still hostile to the private media, while maintaining a stranglehold over state-owned media, and the region remains a jungle when it comes to democratic media and communication policies.

The media is very sensitive to threats, and investors and communities with interests in media are wary of any indications of hostility from governments. Often it is assumed that governments will acknowledge that democratic governance goes hand-in-hand with a free media, and that those in power will understand their obligations to the people, even those who oppose them, by expanding the democratic space. However, this is not the case in southern Africa. The region still has varying, restrictive and contradictory laws and policies that contribute to media stagnation and regression in countries such as Zimbabwe and Swaziland. The question by the One Africa TV reporter still remains: why is there no political support for media development?

The answer, I feel, lies in the corridors of the region's executive offices and information ministries. Most governments in southern Africa lack the capacity to understand and appreciate the relevance, importance and role of the media. Most government ministries dealing with information and communication are largely seen as government public relations departments. They are not developmental ministries. Worse still, democracy is seen not as part of the national development processes, but rather a nuisance to which lip service is paid at election time. These ministries are orientated towards defending the government and the ruling party, running down the national broadcasters and, in cases like Zimbabwe, are staffed with individuals who are both media workers and political party commissars. Most governments in the region are still caught up in the struggle against enemies, real or perceived, internal and external, to the detriment of engaging their communities in developing the media. For this reason, in Zimbabwe, the state media is part of the third 'Chimurenga' or third revolution. The enemies and victims are fellow citizens, local journalists and media organisations that have been shut down: a typical case of the revolution devouring its own children. This struggle has left the people behind, with the leaders marching on their own to defend the "gains of independence": in other words, defending their political turf and privileges.

The capacity to formulate and implement policies that help the media to grow is, therefore, far removed from the developmental agendas of governments in the region. Most governments are comfortable to license commercial entities that bombard citizens with foreign content, rather than develop independent voices that can carry the diversity of views within that specific society.

This question of a lack of political support for media in the region is poignant, as we see hitherto stable countries such as Tanzania closing down newspapers because of critical reporting. South

Africa, the region's political and economic giant, struggles to manage its national broadcaster, the South Africa Broadcasting Corporation (SABC). Many governments are prepared to dismiss any criticism as politically motivated and the real role of the media as a watchdog on centres of power is regarded grudgingly.

Citizens of southern Africa, however, want jobs; health facilities; empowering information; policies that enhance their ability to communicate; policies that develop information communication technologies (ICTs) in education and health, among others. None of these can be divorced from the political will to consult, and the media cannot be excluded from the process of consultation. The media provides a platform for governments and citizens to reach one another. The above citizens' wish list cannot be separated from governance issues that impact on how national resources are spent; how officials are appointed; and how corruption is dealt with, for example. In the long run, media that is non-critical does not assist the people on the ground and is not beneficial to the country as a whole. Governments in southern Africa, therefore, need to change from being paternalistic to having a more interactive, consultative and engagement role. They need to accept and tolerate a critical media, and they need to develop the same media for the good of socio-economic and political development, not out of benevolence.

As such, the media in southern Africa in 2008 has faced many of the same issues and challenges as in previous years. Newspapers have been closed in Tanzania. There have been more arrests, beatings and threats in Zimbabwe and Swaziland and more spasms of hope in Zambia with President Rupiah Banda openly expressing support for self-regulation and media law reform. In Swaziland, the process of opening the airwaves remains in limbo.

Nevertheless, the struggle must go on. Media organisations such as the Media Institute of Southern Africa (MISA) and others should make an effort to engage governments more often. Capacity around media development is not only a challenge for media organisations and civic society, but for policymakers as well. Efforts, therefore, must be made to create platforms of engagement with governments in the region. Civic society also needs to be engaged more by the media. The cholera epidemic that has killed thousands in Zimbabwe demonstrated how the availability of information could mean the difference between life and death. In Tanzania, the media has landed senior government and political figures in prison for corruption. It seems that we need more, not less, of the media.

## **Medias da África Austral em 2008: A maioria, apela a capacitação institucional dos governos - Rashweat Mukundu**

Um jornalista Namibio ao serviço da One TV network a única estação televisiva independente da Namíbia, colocou o que pareceria ser uma pergunta simples numa entrevista realizada em Novembro de 2008. A pergunta genérica foi porque razão não há nenhum apoio político para o desenvolvimento dos media na África Austral. Isto representou um momento de reflexão, incidindo sobre a capacidade e a habilidade dos governos dos Estados membros da África Austral de participarem no desenvolvimento dos media para o melhor. O desenvolvimento dos media está intrinsecamente ligado aos governos porque os media precisam de um ambiente favorável para empreenderem os seus esforços e os governos, como fazedores de política, devem prever isso. Os esforços que visam melhorar os media na região tem sido rotulada directa ou indirectamente como anti-governamentais. Isto é assim porque a crítica aos governos na região é tida como de natureza política e antigovernamental. Dificilmente a crítica é assumida no espírito do empenho construtivo.

Entretanto, se reconhece que várias conquistas registam-se desde a declaração de Windhoek

datada de 1991, que instou os governos africanos para se empenharem mais na liberalização do espaço dos media. Há muito mais estações de rádio em alguns países da África Austral, mais jornais, mais cidadãos que acessam a Internet e a telefonia móvel. Por outro lado, a África Austral, em muitos aspectos, continua uma selva em termos de media e políticas de comunicação consistentes e democráticas. Os governos da Zâmbia, Namíbia, e Moçambique são mais abertos para interagirem com os meios do que antes. Estes são os desenvolvimentos positivos dignos de elogio que merecem menção. Muitos outros ainda são hostis aos media privados, enquanto mantêm um forte apoio aos media estatais

Os media são muito sensíveis às ameaças e os investidores e as comunidades interessados nos meios preocupam-se por quaisquer indicações de hostilidade dos governos, sejam reais ou fictícias. Muitas vezes assume-se que os media seriam facilmente compreendidos, que os governos assumiriam visto que os governos democráticos devem estar de mãos dadas com os media livres e que os que estão no poder compreenderiam as suas obrigações perante os cidadãos em geral mesmo os que os opõem, através da expansão do espaço democrático. Entretanto, a realidade manda dizer que este não é o caso da África Austral. A região tem ainda as leis e as políticas divergentes, restritivas, contraditórias contribuindo todas para a estagnação e regressão em países como o Zimbabwe e a Suazilândia. A pergunta colocada pelo repórter da One Africa-TV, continua pertinente, porque razão não há nenhum apoio político para o desenvolvimento dos media. A resposta na minha opinião reside nos corredores de muitos ministérios da informação e instituições governamentais. A maioria dos governos da África Austral tem falta de capacidade de compreensão e apreciação da relevância, importância e papel dos media. A maioria dos ministérios da informação e comunicação são maioritariamente vistos como departamentos de relações públicas do governo. Não são ministérios em prol de desenvolvimento. O pior ainda, a democracia não é vista como parte de processos do desenvolvimento nacional, mas antes um incómodo isto é, no melhor serviço pago através de eleições regulares. Estes ministérios são orientados para defender o governo e o partido no poder; que dirige as rádios e televisões nacionais e nalguns casos como o Zimbabwe, afectam-se indivíduos que desempenham duplos papéis, como comissários de partidos políticos e profissionais de comunicação social. A maioria dos governos da região ainda travam batalhas contra os inimigos, reais ou fictícios, internos e externos em detrimento do envolvimento das suas comunidades no desenvolvimento dos meios. Por esta razão, no Zimbabwe os media do estado são parte da terceira Chimurenga da terceira revolução. Os inimigos e as vítimas são concidadãos, jornalistas locais e empresas jornalísticas que são fechadas. Um exemplo típico da revolução que devora os seus próprios filhos. Esta luta deixou de longe os povos atrás e os líderes estão marchando sózinhos na defesa das “conquistas da independência”, ou seja na defesa da sua turfa e privilégios políticos.

A capacidade de formular e implementar políticas que cultivam os media é por conseguinte bastante afastada das agendas de desenvolvimento dos governos na região. Muitos governos estão abertos ao licenciamento e livre criação de entidades comerciais que bombardeiam os cidadãos com conteúdo estrangeiro, ao invés de desenvolverem vozes independentes que podem portar a diversidade de opiniões da sociedade.

Esta pergunta da falta de apoio político para o desenvolvimento dos media na região é aguda como se vê nos países até aqui estáveis como a Tanzânia, fechando jornais por causa de relatórios críticos. A África do Sul, o gigante político e económico, esforça-se para controlar a sua rádio e televisão (SABC). Muitos governos estão preparados para rotular qualquer crítica como sendo de motivação política. O papel real dos media como um fiscal nos centros do poder é considerado de má vontade.

Entretanto os cidadãos da África Austral precisam de emprego, unidades sanitárias, os cidadãos querem informação informativa e empoderadora, os cidadãos precisam de políticas que reforcem

as suas capacidades de se comunicarem, os cidadãos querem políticas que desenvolvam as TICs no ensino, na saúde e numa miríade de outras coisas. Tudo isto, não se pode separar da vontade política de consulta e os media não podem estar separados ou divorciados dos processos de auscultação. Os meios fornecem uma ligação e uma plataforma que os governos e os cidadãos possam usar para se alcançarem mutuamente. A lista do desejo dos cidadãos acima não pode ser separada das questões de governação que têm impacto sobre como os recursos nacionais são despendidos, como se nomeiam os oficiais, como se combate entre outras questões. Por outras palavras, os governos não podem querer o desenvolvimento dos media e TICs, de uma maneira não crítica. Por conseguinte, os governos devem deixar este papel paternalista que assumem, para passarem para um papel mais interactivo, consultivo e envolvente. Os governos da África Austral precisam de ganharem o hábito de lidarem com os media críticos, e devem desenvolver os mesmos meios para o bom do desenvolvimento socio-económico e político, não da benevolência.

A situação é tal que a África Austral ainda enfrenta mais situações do género. Encerramentos de jornais na Tanzânia. Mais detenções, repressões físicas e ameaças no Zimbabwe e na Suazilândia. Mais esforços inúteis de esperança na Zâmbia com o Presidente Rupiah Banda que manifesta abertamente o seu apoio para a autoregulação e a reforma da lei dos media. Na Suazilândia, o processo de liberalização do espectro electromagnético continua em ostração. O esforço ainda tem que continuar. As instituições dos media como o MISA e outras, devem fazer um esforço de envolverem mais frequentemente os governos. A capacidade em torno do desenvolvimento dos media não representa apenas um desafio para instituições dos media e a sociedade civil, mas também para os fazedores de política. Por isso, há que envidar esforços no sentido de criar plataformas de envolvimento com os governos da região. A sociedade civil deve também ser mais envolvida no uso dos media. A epidemia da cólera que dizimou milhares de Zimbabwenses, demonstrou como a disponibilidade da informação pode significar uma diferença entre a vida e a morte. Na Tanzânia, os media levaram altas figuras do estado e da arena política à prisão por corrupção. Parece que nós necessitamos mais e não menos dos media.



## *National overview*

*By Rashweat Mukundu and Jerry Dos Santos,  
MISA Regional Secretariat staff*



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## Angola



**I**n many respects, the situation in Angola remains the same as during 2007. The ruling Movement for the People's Liberation of Angola (MPLA) remains firmly entrenched after winning the 2008 parliamentary elections. Since the end of the Angolan civil war in 2002, there has been little change in media governance. The media still faces threats from the ruling party and government officials.

The media coverage of the elections was no different to previous polls, with the state broadcaster openly showing support for the ruling party, to the extent of suspending state media journalists for apparently lacking allegiance to the ruling party. Although a new private radio and TV station entered the media market, these private interests are unlikely to have an impact on media freedom in Angola as they are both linked to the ruling elite. Economic profit interests drive media diversity in Angola and, thus, editorially, the new broadcasting stations are not expected to differ from state media.

Radio Ecclesia remains the lone, independent force in Angola's broadcasting environment, as it attempts to give a voice to those sectors left out of the mainstream media. Radio Ecclesia journalists are still treated with suspicion, harassed and beaten when it is deemed necessary. Angola's security forces remain hostile to the private media and this scenario is unlikely to change in the near future.

Corruption is of critical importance in the relationship between the Angolan media and the ruling elite. Despite the country's wealth and huge investments, the majority of people remain extremely poor, continually shifted from location to location as they are seen as a nuisance to the wealthy. Journalists Graca Campos and William Tonet face defamation cases for reporting about alleged corruption by powerful entities in Angola. The ruling elite is quick to defend itself against accusations of corruption by having journalists arrested and making them face exorbitant damages claims.

Transformation of the media in Angola is critical if the media is to play any role in the reconstruction of the country. There remains a need to transform the state-owned Televisão Pública de Angola (TPA) into a public broadcaster and enact laws that guarantee access to information.

Commendably the government-run Angola Press Agency (ANGOP) does play a key information distribution role, touching on developmental issues such as poverty, education and health. From time to time, ANGOP has written critical articles. The news agency is, however, limited by the nature of its state ownership.

While the Angolan media seem to be cautious about opening the democratic space, arguing as always that the effects of the civil war cannot be dealt with easily, the country's long-term interest can only be protected if its citizens are guaranteed more freedom and space to interact with the government and other sectors. At the moment it remains business as usual in Luanda.

## **Angola**

### **Panorâmica sobre Angola: por Rashweat Mukundu, e Jeremias André dos Santos - MISA Funcionário do Secretariado Regional**

Em Angola, quase tudo continua na mesma. O Movimento Popular de Libertação Total de Angola (MPLA), no poder, continua enrincheirado firme no poder, depois de emergir vitorioso nas eleições legislativas de 2008. O período pós guerra em Angola, trouxe poucas mudanças na liberdade dos Média. A comunicação social continua sendo vítima de ameaças desencadeadas

por oficiais do partido e do governo que literalmente deprava a vida social em toda Angola.

A cobertura das eleições não foi de forma alguma diferente, uma vez que a Televisão estatal demonstrou abertamente o seu apoio ao partido no poder, ao ponto de suspender o jornalista Ernesto Bartolomeu, o principal apresentador do noticiário do canal 1 da Televisão Pública de Angola (TPA) por alegada violação do regime de sigilo profissional que vigora na instituição e falta de fidelidade ao partido no poder.

A entrada da nova rádio e do canal privado de televisão no Mercado da comunicação social, em nada vai mudar o espectro social em Angola, porque os interesses dos mesmos estão, de uma forma ou de outra, mais ligados a elite no poder.

A diversidade da média é agora liderada por ganhos económicos, mesmo assim, ainda não é previsíveis mudanças editoriais nos órgãos de comunicação social controlados pelo governo. A Rádio Ecclesia continua a ser uma força na radiodifusão em Angola, tentando dar voz aos sectores abandonados pelos principais órgãos de comunicação social.

Os jornalistas da Rádio Ecclesia continuam sendo hostilizados, torturados e tratados com suspeição, pelas forças de segurança. Estas forças que deviam garantir a segurança dos cidadãos e dos jornalistas que jogam um papel fundamental na manutenção da paz, democracia e bem-estar social, continuam hostis a comunicação social privada. E pelo que tudo indica, não parece haver qualquer indício que visa mudar este cenário num futuro breve.

O factor crítico é ainda a relação entre o governo, a comunicação social e a elite no poder, sem se esquecer da corrupção, o maior cancro do país. Não obstante as riquezas que o país desvende, maior parte da população continua extremamente pobre, continua sendo destituída de um local para o outro para dar lugar aos interesses dos famosos ricos e poderosos.

Por reportar sobre estes casos de corrupção os jornalistas Graça Campos e William Tonet continuam enfrentando casos de difamação levantados pela elite. A elite no poder não perde tempo em defender-se contra as acusações de corrupção, recorrendo a medidas coercivas, o encarceramento dos jornalistas e reclamação em compensação somas de valores avultados por alegados danos.

O processo de transformação da comunicação social em Angola requer aceleração se, se espera que a mesma jogue um papel preponderante na reconstrução do país. Grande é a necessidade de se democratizar a Televisão Pública de Angola (TPA), actualmente controlada pelo governo e a promulgação de leis que garantem o acesso à informação.

São louváveis os serviços que a Agência de Notícias Angolana (ANGOP), gerida pelo governo, tem prestado. Esta agência joga um papel importante na disseminação de informações sobre aspectos relacionados com o desenvolvimento, redução da pobreza, educação e saúde. A ANGOP tem vindo a redigir e disseminar artigos críticos. Todavia, a ANGOP ainda está limitada por ser propriedade de quem é.

Com o país a tomar precauções na abertura do espaço democrático, argumenta como quase sempre que os efeitos da guerra civil não serão ultrapassados facilmente. Mas os críticos também argumentam que os interesses a longo termo dos Angolanos, só serão protegidos quando e se os cidadãos tiverem maior liberdades e espaços para inteirarem-se com o governo e outros sectores da sociedade. Actualmente tudo continua na mesma em Luanda e no país.

• **ALERT**

Date: June 24, 2008

Persons: Graca Campos and William Tonet

Violation/issue: Charged and sentenced

Angolan journalist Graca Campos, director of the *Weekly Semanario Angolese*, was sentenced on June 23 by an Angolan court to six months in prison for allegedly defaming former Justice Minister Paulo Tjipilika. Campos' lawyer launched an appeal and it was accepted. William Tonet, the Director of the *Weekly Folha 8* is also on trial on defamation charges brought by Angolan First Lady, Ana Paula Dos Santos.

• **ALERT**

Date: August 28, 2008

Institution: Media

Violation/issue: Other

Journalists of private and state communication organs were warned by political analyst Ismael Mateus of the importance of impartial coverage of the electoral campaign, in order to aid the population in voting. Mateus made these remarks during a workshop on 'The Impact of the Media in Elections' organised by the Council of Christian Churches of Angola (CICA). Speaking at the same event, the secretary general of the Angolan Journalists' Trade Union (SJA), Luisa Rogério, said that although journalists vote, they have to place aside their political affiliations to report impartially.

• **ALERT**

Date: December 10, 2008

Institution: Media

Violation/issue: Other

The Angolan syndicate of journalists at the national radio, Rádio Nacional de Angola (RNA), blasted the coverage of the September 5, 2008 parliamentary election saying that it favoured the ruling party. About 70 journalists from the radio station appealed against biased reporting, stating that efforts should be made not to repeat this during future elections. Mario Maiato, head of the syndicate at RNA, was quoted by Portuguese News Agency as saying: "We all followed the news on the television broadcaster, and we saw how they reproduced the same news of the opposition and double the news articles of the ruling party. The ruling party would have four to five minutes while the opposition was given one minute." According to Maiato, although journalists were trained in principles of journalism, including impartiality, in practice "these values were constantly violated".

He said that a working group will be created within the RNA syndicate of journalists to study the issue within the organisation. Despite an invitation, RNA management did not attend the meeting.

Reginaldo Silva, a journalist and political analyst, said that it was a "good sign to see courageous people denouncing such practices".

"The public media is becoming more and more attached to political parties and this has been accentuated since the last elections," Silva said. The RNA syndicate of journalists seeks to protect and defend the rights of journalists.

• **ALERT**

Date: January 30, 2008

Persons: José de Belém and Matilde Vanda Media

Violation/issue: Beaten, detained, harassed

On January 30, 2008 José de Belém and Matilde Vanda, both reporters from Radio Ecclesia, were interrupted by armed military officers from the presidency while carrying out their duties at Boavista suburb of Luanda. The journalists were investigating reports on the demolition of houses in a poor community to make way for the construction of new infrastructure. De

Belém was physically assaulted and lost his glasses. The keys of their vehicle were removed. Luis Afonso, the driver, said that the military officers confiscated the mobile phones of both journalists for several hours. The journalists were released hours later only after they were presented to the commander of the officers at the scene.

Fernando Macedo, a human rights activist and president of the Association of Justice, Peace and Democracy (AJPD), said during an interview with Radio Ecclesia that if there was no acceptable reason for the journalists being detained, then the military officers had violated press freedom. Macedo said that the law provides for competent authorities to facilitate the work of journalists.

• **ALERT**

**Date: April 30, 2008**

**Person: Ernesto Bartolomeu**

**Violation/issue: Censored/harassed**

Ernesto Bartolomeu, news anchor on the main news channel 1 of Televisão Pública de Angola (TPA), is facing disciplinary procedures for publicly saying things that did not please both the television management and ministry of information officials.

The “evil words”, as they put it, were said by Bartolomeu during a conference on journalism and elections, held at the Journalism Training Centre (CEFOJOR) during the last week of April 2008. While posing a question to the speaker, Luis Costa Ribas, Bartolomeu described the regular editorial interference in stories at the broadcaster to suit the ruling party, the MPLA. According to Bartolomeu, pressure is often exerted on reporters even by telephone while they are on air, to favour one political party over the other for allocation of more airtime.

Bartolomeu wanted to know how to reconcile this with good journalism practice during an election period. These statements led to his suspension. Bartolomeu received telephone calls 10 minutes after asking the question asking him if “he had lost his head”. TPA argues that Bartolomeu revealed information regarded as professional secrecy at the broadcaster.



## *National overview*

*By Tiro Sebina, university academic and  
political-cultural analyst*



# Botswana

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In many respects, 2008 was a turning point for media freedom and freedom of expression in Botswana. The 2008 Reporters Sans Frontiers report observed that there are problem areas that render work difficult for journalists. In this report, the state of the media environment in Botswana dropped in rank from “satisfactory situation” to “noticeable problems”. There are many reasons for the current state of affairs. On April 1, 2008 Botswana’s political landscape was transformed by the inauguration of Ian Khama Seretse Khama as the head of state. The Khama-led administration came into office when there was already underway a slew of government-initiated legislative and administrative mechanisms and processes that were viewed by many within the media and civil society as a lethal blow to democratic and civil liberties. The media community in Botswana was irked by the new president listing media indiscipline and recklessness among the many social ills plaguing the country, equating it with spousal abuse and drunken-driving. The frigid view that Khama held towards the independent print media in his previous position as army commander seemed set to continue in his presidency.

## Legislative environment

The Media Practitioners Act of 2008 was the sticking point in the relations between the government and the media. The passing of this Act in December 2008 has far-reaching implications for the media in Botswana. The government, through the Ministry of Communications, Science and Technology, saw the need to pass a legislative act of Parliament to establish a media council to monitor the activities of the media and ensure the maintenance of professional standards. The act also calls for the registration and accreditation of resident media practitioners, and imposes heavy penalties of P5000 (equivalent to about US\$670 at April 2009 exchange rates) or up to three years’ imprisonment or a combination of the two for anyone reporting on an event without accreditation.

The act criminalises ordinary citizens’ involvement in media activities, narrows the scope of media practice and may be used to suppress alternative and dissenting views. The act also undermines editorial independence, while giving too much power to the minister. A considerable number of media stakeholders strongly disapprove of the Media Practitioners Act, as it serves to restrict media practices in violation of the country’s constitutional provisions of freedom of speech.

The passing of this act is accompanied by a set of legislative measures that limit basic civil and democratic liberties. The establishment of a Directorate of Intelligence and Security Services is viewed by sections of the media and civil society as having chilling implications on the country’s democratic traditions and culture.

The passing of the Public Service Act; the institution of a Government Communications and Information Systems; and the government’s reluctance to introduce a Freedom of Information Act hinder press freedom and the free flow of information. The recent move by the government to impose a prohibitive fine of P1000 (about US\$134) and a waiting period of 12 months on individuals who need replacements for lost passports has serious implications for freedom of movement and, subsequently, that of expression.

## Media-government relationship

The relationship between the government and the media is characterised by mutual distrust, accusations and counter-accusations. The state is biased against the media, particularly the independent media. This is reflected in the government’s tendency to institute measures that restrain the emergence of independent media, by, for example, the recent commercialisation of state media. The Constitution of the Republic of Botswana upholds freedom of expression,

albeit limited by considerations of national security, public safety, public order and the individuals' right to privacy and so on.

Historically, the Botswana government has dominated the country's media sector and this uncongenial trend continues to hold. In 2008, there were many instances of government interference and manipulation of state media.

A presenter on the national radio station, Radio Botswana, was forced to bring to an end his morning show on November 17, 2008 on instructions from the station director, Mogomotsi Kaboyamodimo. The programme was discussing the suspension of a ruling party Member of Parliament who had questioned actions of the ruling party and the president regarding the appointment of military persons to civil service roles.

In a desperate move to get public sympathy and win the liquor war, the Office of the president ordered the state media to broadcast emphasising the negative effects of alcohol. The directive ordered the state media, both electronic and print, to depict alcohol as socially unacceptable and destructive to society. This was done against the backdrop of a court case against the government launched by beer brewing, distribution and retail companies challenging as illegal the president's alcohol restriction campaign.

The state-controlled media, both print and electronic, remains dominant. The government-controlled weekday newspaper, the *Daily News*, which features largely government news and announcements, is distributed free of charge and competes unfairly with independent media by selling advertising space. The government planners are still reluctant to acknowledge the independent press as a viable employment-generation enterprise. As a consequence of the government's railroading of the Media Practitioners Act, the tenuous relations between the government and the media have reached a very low ebb. The president's reluctance to meet the media in an open press conference and the government's proclivity to enact legislation that serves to suppress press freedom continue to undermine government-media relations. This is exacerbated by the fact that Botswana does not have an Access to Information Act that could address issues of news 'black-outs' that in most cases frustrate not only media practitioners but also legislators. The level of secrecy exercised by government agencies continues to be a major stumbling block to transparency in public affairs. It undercuts the healthy flow of information and denigrates citizens' right to know about the operations of public institutions that shape their lives.

## Broadcasting

The government delay in formulating a national broadcasting policy that facilitates the use of radio and the development of community radio is a challenge to the expansion and diversification of broadcasting media. Legislative constraints, bureaucratic bungling, and vague procedures impede the broadcasting media in Botswana. State-controlled Radio Botswana was issued with a licence as a public broadcaster in December 2004. By the end of 2008 Radio Botswana had still not made the necessary transformation into a public broadcaster. As such, the broadcasting environment remains unevenly skewed in favour of government control and dominance of the airwaves.

## Media diversity

In recent years, there has been a proliferation of newspapers, magazines, broadcasters, trans-national satellite television networks, publishing houses and printing presses in Botswana. Some of the media establishments, however, have since closed shop due to financial constraints.



On a positive note, in 2008 private radio stations Duma FM, GabzFM and YaronaFM were awarded licences for national coverage by the National Broadcasting Board. Be-mobile, a mobile subsidiary of Botswana Telecommunications Corporation, was also granted a licence.

**At the end of 2008, the following newspapers and magazines were in operation:**

<b>Newspaper</b>	<b>Publisher</b>	<b>Circulation</b>	<b>Distribution</b>	<b>Frequency</b>
Botswana Gazette	News Company Botswana (PTY) Ltd	23,000	National	Once a week
Botswana Guardian	CBET	19,000	National	Once a week
Daily News	Department of Information Services, Ministry of Communications, Science and Technology	65,000	National	Daily
Echo	Echo Property Limited	15,000	National	Once a week
Economic Express	Brainpower Enterprises	8,000	National	
Independent Informer	Isa Consulting (PTY) Ltd	5,000	National	
Midweek Sun	CBET		National	Once a week
The Mirror	The Mirror (PTY) Ltd	15,000	National	Once a week
Mmegi	Dikgang Publishing Company	Friday - 22,4000 Tue-Thur - 11,000	National	Daily
Monitor	Dikgang Publishing Company	16,000	National	Once a week
Ngami Times	Ngami Times Printing & Publishing Co. (PTY) Ltd	10,000	National	Once a week
Sunday Standard	Tsodilo Services (PTY) Ltd	17,000	National	Once a week
Sunday Tribune	Bukinemo Enterprising	8,000	National	Once a week
Tswana Times	Tsolohi Communications	5,000	National	Fortnightly
The Voice	The Francistowner	29,400	National	Once a week

Although Botswana media continues to grow, some observers are of the opinion that media diversity in the country is highly compromised. In his analysis of the local media landscape,

academic Tachilisa Balule defines diversity in the media as having several components that include, among others, intellectual and ideological diversity, regional diversity, cultural diversity, cultural diversity and diversity of format. He argues that “... applying these standards to the private media in Botswana, there is a lack of diversity in the sector” (source: Tachilisa Balule, ‘Transparency, Accountability & Corruption in Botswana’, 2008).

## Broadcasting

**At the end of 2008, the following radio stations were in operation:**

Radio	Owner	Classification	Coverage
Duma FM	Duma FM (PTY) Ltd	Private	National
Gabz FM	Your Friend (PTY) Ltd	Private	National
Radio Botswana 1	Government	Government	National
Radio Botswana 2	Government	Public/commercial	National
Voice Of America	Foreign State	Foreign state	World
Ya Rona FM	Toyen (PTY) Ltd & others	Private	National

TV Station	Owner	Classification	Coverage
Botswana Television (BTV)	Government	Government	National
DSTV	Multi-Choice Botswana (PTY) Ltd	Private	Pan-African
Gaborone Broadcasting Company (GBC)	Gaborone Broadcasting Co. (PTY) Ltd	Private	Gaborone radius 25km

## Conclusion

The increasing diversity, sophistication and rising self-consciousness of media practitioners signify a marked improvement in the media environment. The main challenge facing media is the need to formulate a coherent strategy of constructively engaging the government and mobilising public support with regards to freedom of expression and press freedom.



*Por Tiro Sebina*

*Tiro Sebina é docente universitário e analista político/ cultural*



## Botswana

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O ano de 2008 marca, em muitos aspectos, o ponto de viragem em termos de liberdade dos órgãos de comunicação social e de liberdade de expressão no Botswana. O relatório de 2008 da organização Repórteres Sem Fronteira afirma que existem áreas problemáticas que tornam o trabalho dos jornalistas difícil. O país passou de uma “Situação Satisfatória” para uma situação de “Problemas Visíveis”. Existem muitos motivos para o actual ponto da situação.

O ano 2008 foi de sucessão automática do presidente. No dia 1 de Abril de 2008, a panorama político do Botswana foi transformado com a tomada de posse de Ian Khama Seretse Khama como chefe do estado e a administração Khama entrou em vigor numa altura em que já estava em curso a aprovação de uma série de mecanismos e processos legislativos iniciados pelo governo anterior e que eram vistos por muitos na comunidade dos órgãos de comunicação social e pela sociedade civil como o golpe fatal à amada democracia e das liberdades cívicas de que o Botswana desfrutou no passado.

A comunidade dos órgãos de comunicação social no Botswana mostrou-se surpresa por ter sido catalogada pelo novo Presidente da República, como sendo indisciplinada e negligente, ao considerar que os órgãos de comunicação são responsáveis pelos males sociais que enfermam o país, tais como a violência doméstica e a condução em estado de embriaguez.

A visão frígida de Khama em relação aos órgãos de comunicação social emergentes impressos, resulta de uma contenda com a imprensa independente, na altura em que ocupava o cargo de Comandante do Exército. Nessa altura a imprensa dizia que Khama parecia determinado a ascender a presidência da república, e agora, a percepção geral dos órgãos de comunicação social é que a atitude de Khama em relação a *Media*, especialmente a independente, é muito fria.

## Ambiente Legislativo

A aprovação da Lei do Jornalista em 2008, marcou o ponto de partida das relações do Governo com os órgãos de comunicação social, com estes últimos a considerarem que a aprovação desta Lei constitui uma manobra legislativa com aplicações que não proporcionam um ambiente salutar para o exercício das actividades dos órgãos de comunicação social no Botswana.

O Governo, através do Ministério das Comunicações, Ciências e Tecnologia viu a necessidade de aprovar uma lei que criasse um Conselho dos Órgãos de Comunicação Social para monitorar as actividades dos órgãos de comunicação social e garantir a manutenção dos padrões profissionais.

Segundo essa Lei todos jornalistas residentes no país devem ser registados e acreditados. A infracção deste dispositivo incorre a uma multa de P5000 ou de 1 aos 3 anos de prisão ou a combinação de duas penas para qualquer pessoa que faça a reportagem ou cobertura de um evento sem acreditação.

A Lei criminaliza o envolvimento de cidadãos comuns em actividades dos órgãos de comunicação social, limita a área de actuação da prática desta actividade, pelo que pode ser utilizada para suprimir pontos de vista alternativos ou diferentes.

A Lei do Jornalista põe em causa a independência editorial e ao mesmo tempo atribui amplos poderes ao Ministro, ao habilita-lo para nomear vários comités, como por exemplo o Comité de Petições e o Comité de Recurso.

Uma secção considerável dos actores da comunicação social repudia veemente a Lei do Jornalista sob pretexto de que a mesma serve para impor restrições ao exercício das actividades da comunicação social numa clara violação das disposições constitucionais do país que consagram a liberdade de discurso e ou de expressão.

Para além da aprovação da Lei do jornalista, foi criada ainda em 2008, a Direcção dos Serviços Secretos e de Segurança, que é vista pela fraternidade dos órgãos de comunicação social como tendo implicações podem por em causa a cultura e tradição democrática do país, acreditando que a sua criação ira limitar as liberdades civis e democráticas.

Foi também aprovada a Lei do Serviço Público, esta em curso a criação do Sistema de Comunicação e Informação do Governo, entretanto há relutância do Governo em introduzir a Lei de Liberdade de Informação, cuja inexistência dificulta o livre fluxo de informação e concorre contra a liberdade de imprensa.

A atitude recente do Governo de impor uma multa proibitiva de P1000 e um período de espera de doze meses para pessoas que precisem de repor passaportes perdidos tem implicações sérias para a liberdade de movimento e subsequentemente, para a liberdade de expressão.

## **Relacionamento órgãos de comunicação social - Governo**

O relacionamento entre o Governo e os órgãos de comunicação social é caracterizado por mútua desconfiança, acusações e contra – acusações. O Estado tem preconceitos em relação aos órgãos de comunicação social, particularmente em relação aos órgãos de comunicação social independentes, por isso a tendência do Governo de instituir medidas que criam restrições aos órgãos de comunicação social independentes. Um dos exemplos desta situação é o facto de, num passado não distante, os órgãos de comunicação social estatais terem de tornado instituições com objectivos meramente comerciais.

A Constituição da República do Botswana defende a liberdade de expressão embora limitada por questões de segurança de estado república, ordem pública e o direito dos indivíduos a privacidade e por aí em diante.

De um ponto de vista histórico, o Governo do Botswana tem dominado os órgãos de comunicação social do país e esta tendência inapropriada continua a prevalecer. Em 2008, houve muitos casos de interferência e manipulação governamental nos órgãos de comunicação social estatais. Um apresentador da estação de Rádio Nacional, a Rádio Botswana, foi forçado a cancelar o seu programa matinal no dia 17 de Novembro de 2008, por ordem do Director da Rádio, Mogomotsi Kaboyamodimo.

Numa tentativa desesperada de conquistar a simpatia do público e vencer a batalha contra o álcool, a Presidência da República ordenou aos órgãos de comunicação social estatais que divulgassem histórias e programas enfatizando os efeitos negativos do álcool. A directiva, da mais alta instância, ordenava que a imprensa estatal escrita e electrónica retratassem o álcool como sendo socialmente inaceitável e com efeitos destrutivos para a sociedade. Isto foi feito ao cair do pano de um caso contra o Governo.

Os órgãos de comunicação social, escrita e electrónica, controlados pelo Estado continuam dominantes. O jornal diário controlado pelo Governo, que apresenta na sua maioria notícias e anúncios do Governo, é distribuído gratuitamente e compete de forma injusta com os órgãos de comunicação social independentes através da venda de espaço para publicidade.

Os planificadores do Governo continuam relutantes em reconhecer a imprensa independente como um empreendimento viável de geração de emprego. Por estas e outras razões como a aprovação, pelo Governo da Lei do Jornalista de 2008, o frágil relacionamento entre o Governo e os órgãos de comunicação social atingiu um ponto baixo.

A relutância do actual Chefe do Estado em se encontrar com os órgãos de comunicação social, numa conferência de imprensa aberta e a propensão do Governo em aprovar leis que sirvam para suprimir a liberdade de imprensa continuam a minar o relacionamento Governo – órgãos de comunicação social. Isto é também exacerbado pelo facto de Botswana não possuir uma Lei de Acesso à Informação que poderia, genuinamente, resolver as questões de apagão, vulgo *black-out* de notícias que frustram, em muitos casos, não somente os jornalistas mas outros cidadãos Tsuanas incluindo as legislaturas.

O elevado nível de segredo (do Estado) exercido pelas agências governamentais continua a ser o maior impedimento a prática da transparência em questões públicas. Interrompe o fluxo saudável de informação e denigre o direito do cidadão de saber sobre as operações das instituições públicas que moldam as suas vidas.

## Radiodifusão

O atraso do governo em formular uma política nacional de Radiodifusão que facilite o uso do rádio e o desenvolvimento de rádios comunitárias constitui um desafio à expansão e diversificação dos órgãos de comunicação social e da Radiodifusão. A criação de órgãos de comunicação social Radiofónicos no Botswana é retardada por constrangimentos da lei, burocracia, e procedimentos vagos.

A Rádio estatal, Rádio Botswana, teve a sua licença como emissora pública emitida em Dezembro de 2004. Até finais de 2008, a Rádio Botswana ainda não havia feito as transformações necessárias para se tornar numa emissora pública. O ambiente de Radiodifusão continua desigualmente balanceado a favor do controlo e domínio governamentais das ondas de rádio.

## Diversidade dos órgãos de comunicação social

Ao longo dos anos, o Botswana tem assistido a proliferação de jornais, revistas, emissoras, redes transnacionais de TV satélite, casas de publicação e imprensa escrita. Alguns destes estabelecimentos fecharam devido a constrangimentos de ordem financeira.

De um ponto de vista positivo, em 2008, as emissoras; Duma FM, GabzFM e Yarona FM receberam licenças de cobertura nacional emitidas pelo Conselho Nacional de Rádio e Televisão. A Be-mobile, uma empresa subsidiária do Botswana Telecommunications Corporation também recebeu a sua licença.

**No final de 2008, estavam a operar os seguintes jornais e revistas:**

### Escrita

Jornal	Editor	Circulação	Distribuição	Frequência
Mmegi	Dikgang Publishing Company	Sexta-Feira 22,4000 Terça – Quinta 11,000	Nacional	Diariamente
Monitor	Dikgang Publishing Company	16,000	Nacional	Semanalmente

Voice	The Francistowner	29,400	Nacional	Semanalmente
Guardian	CBET	19,000	Nacional	Semanalmente
Sun	CBET		Nacional	Semanalmente
Sunday Standard	Tsodilo Services (PTY) Ltd	17,000	Nacional	Semanalmente
The Mirror	The Mirror (PTY) Ltd	15,000	Nacional	Semanalmente
The Gazette	News Company Botswana (PTY) Ltd	23,000	Nacional	Semanalmente
Sunday Tribune	Bukinemo Enterprising	8,000	Nacional	Semanalmente
The Echo	Echo Property Limited	15,000	Nacional	Semanalmente
Ngami Times	Ngami Times Printing & Publishing Co. (PTY) Ltd	10,000	Nacional	Semanalmente
Economic Express	Brainpower Enterprises	8,000	Nacional	
Independent Informer	Isa Consulting (PTY) Ltd	5,000	Nacional	
The Tswana News	Tsolohi Communications	5,000	Nacional	Quinzenalmente

Apesar dos órgãos de comunicação social do Botswana continuarem a crescer, alguns observadores são da opinião que a diversidade dos órgãos de comunicação social no país está altamente comprometida. Analisando dos órgãos de comunicação social locais, o académico Tachilsa Balule define a Diversidade dos órgãos de comunicação social como tendo várias componentes que incluem, entre outras, a diversidade cultural e a diversidade de formato. Ele defende que “...aplicando estes padrões aos órgãos de comunicação social privados no Botswana, existe a falta de diversidade no sector.” (Tachila Balule – Transparency, Accountability & Corruption in Botswana, 2008).



## Rádio e Televisão

No fim de 2008, estavam em funcionamento as seguintes estações de Rádio e Televisão:

Rádio	Proprietário	Classificação	Cobertura
RB1	Governo	Governamental	Nacional
RB2	Governo	Pública/ comercial	Nacional
Gabz FM	Your Friend (PTY) Ltd	Privada	Nacional
Duma FM	Duma FM (PTY) Ltd	Privada	Nacional
Ya Rona FM	Toyen (PTY) Ltd & others	Privada	Nacional
Voice of America	Estado Estrangeiro	Estado Estrangeiro	Mundial

Estação de TV	Proprietário	Classificação	Cobertura
BTV	Governo	Governamental	Nacional
DSTV	Multi-Choice Botswana (PTY) Ltd	Privada	Pan africana
GBC	Gaberone Broadcast Co. (PTY) Ltd	Privada	Área de Gaberone – 25 KM

## Conclusão

A crescente diversidade e sofisticação bem como a crescente auto-consciência dos jornalistas, significa uma melhoria visível no ambiente dos órgãos de comunicação social, pelo que o principal desafio enfrentado pelos órgãos de comunicação social é a necessidade de formulação de uma estratégia coerente de empenho construtivo do Governo e mobilização do apoio público no referente a liberdade de expressão e a liberdade de imprensa, especialmente a Lei do Jornalista de 2008.

- **ALERT**

Date: July 10, 2008

Persons/Institutions: Telecommunications (mobile phone users)

Violation/issue: Legislation

On July 9, 2008 the Botswana Telecommunications Authority announced that prepaid subscribers of mobile phone would be registered from September 15, 2008 to curb, among others, mobile phone crimes. MISA Botswana and other media and freedom of expression organisations expressed concern that this move would violate the privacy rights of citizens, especially after the passing of Botswana intelligence legislation. The Chief Executive of Botswana Telecommunications Authority (BTA), Thari Pheko, denied suspicions that the move could be related to the newly established Directorate of Intelligence and Security (DIS) but said the authority is merely following international trends. The registration process is expected to be completed by December 31, 2009 and those not registered by then will be disconnected.

- **COMMUNIQUE**

Date: July 18, 2008

Institutions: Media

Violation/issue: Legislation/censorship

On July 18, Gaborone North Member of Parliament (MP) Keletso Rakhudu said he intends to table a motion requesting government to pass a Freedom of Information Act during the forthcoming parliamentary session. Rakhudu said his recent experiences when he was an election observer in Zimbabwe, where the government banned the private and international press, would also assist his presentation. In an interview with *Mmegi* on July 17, 2008 Rakhudu said that it is difficult for MPs to get information from government because the state regards all information as classified. He cited an incident in his constituency when he was asking for the number of destitute persons so that he could donate some blankets to them.

“The response I got from social workers was that they needed to get permission from their seniors before sharing [this information] with me,” he said.

- **ALERT**

Date: August 22, 2008

Persons/Institutions: Media Telecommunications (mobile phone users)

Violation/issue: Legislation

Botswana Minister of Communications, Science and Technology Ponomi Venson-Moitsoi on August 20 removed from discussion the Media Practitioners Bill and deferred it to the November 2008 parliamentary session. The deferment comes after Members of Parliament pressurised the minister to go back to the concerned stakeholders for further consultations. In her statement the minister emphasised that the Bill had the intention “to recognise the complexion of self-regulation and uphold the rights of all our people”. MISA Botswana objects to, among other aspects of the bill, the registration of media practitioners, the minister’s involvement in the appointment of a Press Council Committees and the prescriptive nature of the right to reply enforcement. The bill was gazetted on June 27, 2008. It came under attack from Members of Parliament, with MP for Mogoditshane, Patrick Masimolole, saying the Bill should be dropped as it gave too much power to the Minister of Communications, Science and Technology. Contributing on the same issue Letlhakeng East MP, Dr Gordon Mokgwathi, said the news media should be accorded the right to regulate itself through its code of ethics. Mokgwathi said the proposed bill gave the minister the right to appoint members of crucial committees, which contravenes the principle of self-regulation as desired in news media practice. The bill seeks to establish a press council for Botswana for the purpose of “preserving the maintenance of high professional standards within the industry as well as register journalists”. Only registered journalists would be allowed to work in Botswana. He said the fact that government would be financing the activities of the proposed press council through taxpayers’ money meant somebody

would have to account to the public, which will undermine the principle of self-regulation.

• **ALERT**

**Date:** October 3, 2008

**Person/Institutions:** Media

**Violation/issue:** Legislation

MISA Botswana expressed concern at the gazetting of the Media Practitioners Bill for the second time after its withdrawal to allow for consultations. The bill was brought back despite the fact that no such consultations on the proposed law had taken place between government and media stakeholders. In a statement, MISA Botswana maintained: “The bill is an unfortunate occurrence in Botswana’s democracy as it steals away the very central pillar of people’s rights, which is freedom of expression.”

MISA Botswana warns that the proposed law will damage Botswana’s reputation and image as journalism will be criminalised, as is the case in The Gambia and Zimbabwe. MISA Botswana further adds that it will continue to support the Press Council of Botswana (PCB) either to stop the adoption of the bill or identify better ways of dealing with the post-adoption of the bill in its current format. Media stakeholders in Botswana argue that self-regulation is the best form of regulation that avoids heavy handedness in dealing with the media.

**Date:** December 10, 2008

The Botswana Parliament pressed ahead with passing the controversial Media Practitioners Bill. The bill, which faced fierce objections and outcry from the media and the public in general, is now at the parliamentary committee stage before the final vote. Meanwhile the media has mandated the Press Council of Botswana to take legal recourse. In a press statement, the Press Council of Botswana (PCB) laments the turn of events, stating: “Experience with the Botswana legislative system shows that parliamentary process is, in the majority of instances, merely a rubber-stamping exercise.”

• **ALERT**

**Date:** October 10, 2008

**Institutions:** State media

**Violation/issue:** Other

The *Mmegi* newspaper of October 9, 2008 reported that the state-owned media is being used as mouthpieces to advance government positions on civic issues such as its fight against alcohol abuse. The newspaper also reported that a similar directive was given regarding the government position on the Zimbabwe crisis. However, the Minister of Communications, Science and Technology, Pelonomi Venson-Moitoi, denied the anti-alcohol abuse directive, saying no such directive was issued. MISA Botswana is opposed to interference in the editorial independence of any media. MISA Botswana noted that the state media has in the past proven vulnerable to abuse by the government as state-owned media is seen as government’s public relations unit. MISA Botswana continues to call for the transformation of the state broadcaster into a true public broadcaster as a way of guaranteeing its editorial independence.

• **COMMUNIQUÉ**

**Date:** October 13, 2008

**Institutions:** Bank of Botswana/Parliament

**Violation/issue:** Other

The *Sunday Standard* newspaper on October 12, 2008 reported that the Bank of Botswana (BoB) manipulated a report to Parliament, suppressing crucial information in the process. The issue emerged after Member of Parliament Gordon Mokgwathi asked questions pertaining to the lifestyle of the bank’s governor.

MISA Botswana views this as supporting the call for a freedom of information law, which

would give society the right to access information that affect the governance of the country. As this case demonstrates, government business is closed even to legislative bodies such as Parliament. As it appears, without an access to information law, such bodies as BoB are not obliged to release vital information to the public.

- **ALERT**

**Date:** November 17, 2008

**Person/Institutions:** Mmoloki Mothibi and Radio Botswana

**Violation/issue:** Censored

Radio Botswana presenter Mmoloki Mothibi was forced to bring to an end his morning show, Masa-a-sele, on November 17, 2008 on instructions from the station director, Mogomotsi Kaboyamodimo. The discussion on the programme was on the recalling of a ruling party Member of Parliament, Pono Moatlhodi.

Moatlhodi, an MP for the Tonota constituency, was recalled from standing for the upcoming elections after he criticised what he called the “militarisation of the civil service”. Mothibi said he had invited the ruling BDP to come and explain the reasons for the MP’s recall, which the party declined, saying they are not prepared to discuss the issue. Moatlhodi was also invited but was dropped since BDP was not coming. Political analyst Dr Botlhale was invited instead to present his analysis. As the phone lines opened, the station director entered the studio to stop the programme. Masa-a-sele is a popular Radio Botswana morning show. It has different segments including live interviews, discussions and phone-ins from the general public.

- **ALERTS**

**Date:** December 3, 2008

**Person:** Kebofhe Mathe

**Violation/issue:** Beaten

On December 3, journalists in Botswana petitioned the Botswana Football Association (BFA) over the reported assault of photojournalist Kebofhe Mathe by the chairperson of Mochudi Centre Chiefs football club, Earnest Molome. The petition, which is in the possession of MISA Botswana, was signed by a number of sport journalists, including newspaper editors. The scribes threatened to boycott fixtures of Mochudi Centre Chiefs until the football body, through its Premier League Committee, reports back on the investigations after receiving the complaint from the photographer. Molome is reported to have assaulted Mathe on November 30 after his team lost to Gaborone United in Gaborone. He allegedly charged at the photographer and hit his camera. MISA Botswana has in the past raised concerns about press freedom violations at sports events, where journalists are routinely abused.



## *National overview*

*By Mzimkhulu Sithetho, freelance journalist and the Media and Advocacy Officer for the Transformation Resource Centre*



## Lesotho

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The formation of opposition party, the All Basotho Convention (ABC), changed the political landscape for the first time since Lesotho entrenched democratic rule in 1993. As a result of the ensuing political struggles, the media fell short in observing the cardinal tenets that underpin the journalism profession. This resulted in the ruling party, the Lesotho Congress for Democracy (LCD), responding to the situation by imposing legal controls. The intention was to control the many dissenting voices that erupted. Media practitioners, opposition leaders and other business people were hauled before the courts and charged with treason and other related charges. Some cases are still pending in the High Court, while other accused persons have been acquitted. Some cases have gone full circle and are back for retrial.

After the political unrest that followed the February 2007 elections, Lesotho's media faced another challenging year in 2008, marked by repressive laws being mooted by the state with the intention of shutting critical voices. The year was also characterised by heavy defamation damages imposed on newspapers which were taken to court by senior government officials.

## **The state of the media**

The media fraternity faced an overt war, waged by the state when the Communications Ministry mooted an amendment to the Lesotho Communications Authority (LCA), the broadcasting regulator. The new amendment seeks to limit the freedom enjoyed by broadcasting houses by vesting the communications minister with powers to revoke a license and close the communication services of a media organisation if he/she believes that the services may prejudice or endanger the public interest. According to the new law, this can be done without a hearing, a situation that appalled the media. The new law also seeks to empower the minister to deny access to any information requested by a journalist for publication purposes, if he/she feels it is necessary to protect national security. This legislation has the effect of stalling media development in Lesotho as envisioned in the national Vision 2020 development programme.

Further, this law undermines concerted efforts by media groups that have been calling for the passage of the Receipt and Access of Information Bill. This bill has been stalled for eight years, since 2001, when it was sent to Parliament for enactment. As part of the state's efforts to tighten screws on the media, the new law also increases the fine for persons who flout broadcasting regulations from M2,000 (as of April 2009, this was worth about US\$220) to M6,000 (US\$660) or imprisonment of no less than six months or both. The LCA Act also increased license fees dramatically: from the equivalent of US\$400 to US\$3,000 per year.

The new charges are seen by media practitioners as a way for government to close down radio stations and publications that are critical of government. Since 2005, private media outlets have survived economic difficulties owing to moves by government to withdraw advertising from all media critical of government. It remains to be seen if they will survive the latest fees and legislative onslaught.

When the amendment bill was presented to Parliament for approval by the Communications Portfolio Committee, opposition parties expressed concern that it would take away media rights. However, some MPs argued that too much freedom without restrictions is dangerous to the stability of the country.

## **The state of broadcasting**

The selection of the Board of Lesotho's broadcasting and telecommunications regulator, the LCA, has sent shockwaves through the media fraternity. All new members are either related

or have a political relationship with one another. After the former Communications Minister and now leader of new opposition party ABC, Thomas Thabane, quit the ruling party, Cabinet appointed LCD Secretary General and then Minister of Trade and Industry, Mpho Malie, to act in that ministry until the holding of elections in February 2007. Mpho Malie presided over the selection of the board calling upon the public, in October 2006, to nominate candidates to the board and for interested people to submit their *curriculum vitae* (CVs) for selection. However, the outcome and composition of the current board does not reflect the diversity of Lesotho society.

The new members of the board include Malie himself, who acted as Communications Minister at the time of the selection process. Others are Teboho 'Mokela, wife of the Permanent Secretary in the Ministry of Communications; Refiloe Lehohla, sister of the Deputy Prime Minister (DPM) and of the Chief Justice; and private lawyer, Salemane Phafane, who regularly represents the government and the ruling party in criminal defamation lawsuits against the media. Phafane is also the maternal uncle of Mrs 'Mokela. The other board member is Paseka Khetsi, a lawyer and brother of the permanent secretary in the Ministry of Labour. Many members of the broadcast media are incensed by the selection of the board along partisan lines and perplexed at how Malie could have submitted his application to join the board. At the time applications were solicited for short-listing, he was the minister responsible for such selection and he could not and should not have selected himself. People wonder if 'Mokela recused himself from assisting the new minister in his selection when it came to the nomination of his wife.

Another key development this year was the closure of private radio station, Harvest FM, on allegations brought by senior civil servants. Harvest FM, now back on air, had several run-ins with the government, which accuses the station of negative reporting against the ruling elite.

## The print media

The end of 2007 saw the emergence of many newspapers joining the country's fragile print media market. The new development ushered in hope that print media plurality would provide much-needed platforms for people to express their views. The scramble for advertising has, however, sparked a silent war among some newspapers. These media wars are even resulting in attacks communicated through newspaper columns. The beginning of 2008 saw some newspapers being freely distributed to increase public reach and attract advertisers.

## Projections for 2009

There are promising signs for Lesotho's media as, by the close of 2008, a new Communications Policy became effective. The policy moots new regulatory reforms that call, among others, for the transformation of the state broadcaster into a public service broadcaster. This is a welcome development following a long and overdue call for the national broadcaster to represent all voices in Lesotho. This had been triggered by a need for an independent, professional broadcasting board that will serve the interests of the people and not the ruling elite.

The policy envisages that the state broadcaster will be accountable to an independent board with a goal of serving the public interest. It will be editorially independent and any content restrictions or requirements will be contained in its charter along with other clear guidelines on management and editorial issues. The new policy draws some of its provisions from contributions made by the local MISA chapter in its position paper on the Communications Act, especially with regards to the transformation of the state broadcaster. One such adoption from the MISA Lesotho policy paper is the need for regulatory independence in implementing policy without interference from politicians or industry lobbyists.

The new policy envisages universal access of media content by a wide populace in the 'mountain



kingdom'. There are currently 10 radio stations in the country, most limited to broadcasting within a few kilometres of the capital city, Maseru. Only the state-run Radio Lesotho covers the whole country.

Another positive development is that the LCA is proposing the formation of a self-regulatory body that will adjudicate on complaints brought against radio and television stations. The new policy recently endorsed by the cabinet envisages the formation of a Broadcast Dispute Resolutions Panel (BDRP) that will adjudicate over complaints lodged about radio and TV content. This will be a self-regulatory means for broadcasting houses to use to correct shortfalls in their own industry.

The new body will operate in the format that is applied by the Broadcasting Complaints Commission of South Africa (BCCSA). It will consist of representatives from the broadcasting industry and will be empowered by the LCA to resolve content disputes. This move is seen as a relief to the overburdened LCA, the role of which as regulator has become blurred with partisan politics. The proposition for such a body comes amid incessant calls by MISA Lesotho for a media council that will adjudicate over complaints from consumers over content of all media houses, including newspapers.

*Por Mzimkhulu Sithetho*

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## Lesotho

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## Introdução

A formação da All Basotho Convention (ABC) mudou o panorama político pela primeira vez desde que a democracia se instalou no Lesotho em 1993. Como resultado das anteriores lutas políticas, os órgãos de comunicação social falharam na observação dos dogmas sagrados que minam a profissão do jornalista e como resultado disso, o partido no poder, o Lesotho Congress for Democracy (LCD) procura formas de responder a situação através de imposições de controlo legais.

A intenção era de controlar as vozes dissidentes que emergiram. Os jornalistas, os líderes dos partidos da oposição e outros empresários arrastados para os tribunais, acusados de traição e outras ofensas relacionadas. Alguns casos ainda estão pendentes no Tribunal Supremo, enquanto outros são julgados e os réus absolvidos, outros tiveram que reiniciar todo processo de instrução para serem julgados novamente.

Após a agitação política no período posterior as eleições de Fevereiro de 2007, os órgãos de comunicação social do Lesotho despertaram para mais um ano repleto de desafios (2008) que foi marcado pelo facto de as leis repressivas terem sido debatidas pelo Estado com a intenção de silenciar as vozes críticas. O ano foi também caracterizado pelo aumento de queixas de difamação contra jornais, intentadas por membros do Governo levadas ao tribunal Governo.

## Situação dos órgãos de comunicação social

A comunidade dos órgãos de comunicação social enfrentou uma guerra pública promovida pelo Governo quando o Ministro das Comunicações propôs um debate para a uma emenda das disposições que regem a Lesotho Communications Authority (LCA) (Autoridade de Comunicações do Lesoto – ACL), o órgão regulador da radiodifusão no país.

A nova emenda procura caçar a liberdade desfrutada pelas instituições de radiodifusão ao conferir ao (à) ministro/a das comunicações poderes para revogar uma licença e encerrar os serviços de uma organização de comunicação social se ele/ ela acreditar que os serviços podem prejudicar ou por em perigo os interesses públicos.

De acordo com a nova lei, isto pode ser feito sem uma audiência, situação que chocou os órgãos de comunicação social. A nova lei também procura dar poderes ao ministro para recusar o acesso a qualquer informação requerida por um jornalista para fins de publicação, se ele/ achar que tal é necessário para proteger a segurança nacional.

Esta legislação tem o efeito de retardar o desenvolvimento dos órgãos de comunicação social no Lesotho tal como previsto no programa de desenvolvimento da Visão Nacional 2020.

Esta Lei, inutiliza os esforços concertados de grupos de órgãos de comunicação social que têm apelado a aprovação da Lei de Recepção e Acesso a Informação. Esta lei é protelada há oito anos, desde 2001 quando deu entrada no Parlamento para aprovação. Como parte dos esforços do Estado para cerrar o controlo dos órgãos de comunicação social, a nova lei também aumenta a multa para a pessoa que viole os regulamentos de radiodifusão de M2,000 (USD 200) para M6,000 (USD 600) ou encarceramento por um período não inferior a seis meses ou ambos.

A LCA também aumentou a taxa de licença em mais de 100 por cento para os órgãos de radiodifusão. Os novos preços de licença dispararam de M2,800 (USD 280) para M1,000 (USD 10,000) por ano. Acredita-se que o estabelecimento destas novas taxas tenha como intenção

levar ao encerramento de todas as rádios e publicações críticas ao Governo.

Desde 2005, os órgãos de comunicação social privados têm sobrevivido com dificuldades económicas resultantes de manobras do governo quem tem em vista a retirada da publicidade em todos os órgãos de comunicação social críticos ao Governo e agora a crise acentua-se com a aprovação das taxas acima referidas e aos violentos ataques legislativos.

Quando a lei emendada foi apresentada ao Parlamento para aprovação pela Comissão de Comunicações, os partidos da oposição expressaram mostraram-se preocupados por considerar que a mesma visava retirar os direitos dos órgãos de comunicação social. Contudo, alguns parlamentares defenderam que liberdade a mais, sem restrições, é perigosa para a estabilidade do país.

## Situação da Radio e Televisão

A estrutura da Direcção do Regulador de Rádio e Televisão e Telecomunicações do Lesotho, LCA, indignou toda a comunidade dos órgãos de comunicação social, por todos os novos membros partilharem dos mesmos ideias políticos ou estarem ligados por laços familiares.

Depois do antigo Ministro das Comunicações, agora líder do partido da oposição, ABC Thomas Thabane retirar-se do partido no poder, o Conselho de Ministros indicou o Secretário-geral do LCD e então Ministro do Comércio e Indústria, Mpho Malie, para o cargo de ministro das comunicações até a realização das eleições em Fevereiro de 2007.

Mpho Malie presidiu a selecção da Direcção do Regulador de Rádio e Televisão e Telecomunicações do Lesotho apelando ao público, em Outubro de 2006, para a nomeação dos candidatos do LCA à Direcção e as pessoas interessadas a submeterem os seus CVs candidatando-se a cargos de direcção. Contudo, a composição da actual Direcção não reflectem a diversidade da sociedade do Lesotho.

Os novos membros da Direcção do Regulador de Rádio e Televisão e Telecomunicações do Lesotho incluem o próprio Malie, que desempenhava as funções de Ministro da Comunicação na altura do processo de escolha, os outros membros são: Teboho Mokela, esposa do Secretário Permanente do Ministério da Comunicação, Refiloe Lehohla, irmã mais nova do Vice-primeiro-ministro (VPM) e do Presidente do Tribunal Supremo, e o advogado independente, Salemane Phafane que representa sempre o Governo ou o partido no poder em casos de difamação criminal contra os órgãos de comunicação social. Ele é também tio materno de Mokela. O outro membro da Direcção é um advogado com o apelido de Khetsi e irmão mais novo do Secretário Permanente do Ministério de Trabalho. Os órgãos de comunicação social de radiodifusão estão indignados com a composição da direcção com base em linhas partidárias, perguntando-se como poderia o Sr. Malie submeter o seu pedido para ele mesmo fazer parte da direcção. Na altura em que os pedidos foram solicitados, ele era o Ministro responsável por tal selecção e ele não poderia ter-se escolhido a si mesmo. Foi questionado se Mokela recusou-se a prestar assistência ao novo ministro aquando da nomeação da sua esposa, para membro da Direcção do Regulador de Rádio e Televisão e Telecomunicações do Lesotho.

O grande marco deste ano para a comunicação social, foi o encerramento de uma estação de rádio privada, a Harvest FM, devido a queixas apresentadas por altos funcionários públicos. A Harvest FM, que já voltou a emitir, teve várias confrontações com o Governo que acusa a estação de reportar negativamente contra o partido no poder.

## Imprensa escrita

Nos finais de 2007, assistiu-se no Lesotho, a emergência de muitos jornais que se juntaram à

frágil Imprensa do país. Os novos órgãos de comunicação social trouxeram a esperança de que a pluralidade da imprensa escrita iria criar as plataformas necessárias para as pessoas expressarem os seus pontos de vista.

Entretanto, o surgimento de mais jornais despoletou uma guerra por publicidade entre os órgãos através de colunas publicadas nesses jornais. Contudo, esta guerra não coibiu a distribuição gratuita de mais jornais, estrategicamente adoptada a fim de atrair mais publicidade.

## Projecções para 2009

Existem sinais promissores para os órgãos de comunicação social do Leshoto pois no final de 2008, entrou em vigor a nova Política de Comunicação, que debater novas reformas regulatórias que propiciem entre outros aspectos a transformação da rádio estatal numa emissora de serviço público. Isto foi despoletado pela necessidade de uma direcção de radiodifusão independente e profissional que sirva os interesses das pessoas e não da elite no poder.

A política prevê que a rádio estatal passe a prestar contas a um órgão independente com o objectivo de servir aos interesses públicos. Terá independência editorial e qualquer restrição ou requisito de conteúdo estará patente na sua carta igualmente com outras directrizes sobre questões de gestão e editoriais.

O MISA – Leshoto apresentou a sua posição que estabelecia as exigências dos órgãos de comunicação social para a emissora estatal. As disposições da nova política inclui tas contribuições feitas pelo MISA- Leshoto retiradas do seu documento sobre a Lei de Comunicação.

Uma das adopções do documento de política do MISA – Leshoto é a necessidade de independência do regulador na implementação da política sem interferência de qualquer político ou influente industrial.

A nova política prevê o acesso universal aos conteúdos dos órgãos de comunicação social para a maioria da população no Reino Montanhoso. Actualmente existem dez estações de rádio e a maioria tem um raio de alcance limitado a alguns quilómetros a partir da cidade capital, Maseru. Somente a Rádio Lesotho tem cobertura nacional.

Outro desenvolvimento positivo é que a LCA está a propor a formação de um organismo auto-regulador que vai administrar as queixas submetidas contra estações de rádio e televisão. A nova política recentemente endossada pelo Conselho de Ministro prevê a formação do Painel de Resolução de Litígios de Rádio e Televisão (BDRP) que se vai encarregar da resolução de queixas dos consumidores de conteúdos de estações de Rádio e Televisão. O mesmo será auto-regulador, o que significa que as estações de Rádio e Televisão deverão utilizar os défices correctos na sua própria indústria de Rádio e Televisão.

A nova instituição vai operar com o formato que é utilizado pela Comissão de Petições da África do Sul (BCCSA). Será composto por representantes da indústria de Rádio e Televisão e será autorizada pelo LCA para resolver disputas de conteúdo. Esta acção é vista como um alívio para a sobrecarregada LCA cujo papel de regulador estava envolvido em políticas partidárias.

O organismo surge acompanhado por apelos incessantes da MISA - Leshoto por um Conselho dos Órgãos de Comunicação Social que se encarregue das queixas de consumidores sobre o conteúdo de todos os órgãos de comunicação social, incluindo os jornais.

• **ALERT**

**Date:** April 27, 2008

**Person:** Marafaele Mohloboli, Kenny Ntoane and Nthakeng Selinyane

**Violation/issue:** Harassed and banned

On April 27, MISA Lesotho Deputy Chairperson Marafaele Mohloboli, a reporter with IntelServ, was allegedly sexually harassed by the Lesotho Congress for Democracy (LCD) MP for Matsieng, Mootsi Lehata, during the Women's League conference in Maseru. Mohloboli says Lehata had parked his car near the hall at the Lesotho co-operatives college when she arrived for the event and started saying how "appetising" she was.

"He then called me and touched my thighs and cleavage," she told MISA Lesotho. Mohloboli laid charges of sexual harassment with the Maseru Central Police against the ruling party's lawmaker. The date of the case has not been set.

At the same conference Nthakeng Selinyane of *Public Eye* newspaper and the SABC's Kenny Ntoane were chased away by members of the ruling party who alleged that they belonged to the opposition party, the All Basotho Convention (ABC). Ntoane was manhandled and pushed from the hall by LCD members who also confiscated his equipment. Insults were hurled at the three reporters as they were chased away from the conference. Prime Minister Pakalitha Mosisili's son and Deputy Principal Secretary in the Ministry of youth and sports, Rethabile Mosisili, are alleged to have further fuelled the mayhem.

• **ALERT**

**Date:** May 12, 2008

**Person/institutions:** Broadcasting media

**Violation/issue:** other

The Lesotho Communications Authority (LCA) on May 12 slapped broadcasters with a more than seven-fold hike in license fees. The LCA sent invoices to radio stations with new licence fees, increased from the equivalent of US\$400 to US\$3,000 per year. This shocked the broadcasting media, especially the private media, as it has experienced economic suffocation in recent years from the government which, among other things, mostly limits its advertising to the state-owned media. MISA Lesotho expressed concern at the fee hike, noting that most radio stations are already struggling to meet day-to-day running costs.

• **ALERT**

**Date:** July 12, 2008

**Person:** Thabo Thakalekoala

**Violation/issue:** Charged and sentenced

Broadcast journalist Thabo Thakalekoala gave evidence in his defence in the Lesotho High Court on June 10-11, 2008. Thakalekoala was charged with sedition after reading a letter from Lesotho's oppositional groups in 2007. The state charges that the letter is seditious. Thakalekoala, arrested on June 22, 2007, was sentenced on October 22, 2008 in the High Court of Lesotho by Judge Gabriel Mofolo to two years in prison or a fine of M200 (USD \$17.50). The High Court further sentenced Thakalekoala to a further two years for criminal defamation and subversion. The two-year sentence was wholly suspended on condition that Thakalekoala does not commit a similar offence in the next three years.

• **ALERT**

**Date:** July 21, 2008

**Institution:** Harvest FM

**Violation/issue:** Charged, banned and sentenced

On July 21, the Lesotho Communications Authority (LCA) imposed a nine-month suspension on Harvest FM for what it called failure to co-operate with the authority. LCA chairperson Metsing Mangoaela said the station would be suspended for nine months, six of which would

be set aside if the station does not commit a similar offence during that time. The station was accused of defaming the commissioner of police and the principal secretary in the Ministry of Communications. The two filed complaints with LCA, claiming Harvest FM had broadcast opinions that were intended to damage their dignity as individuals. MISA Lesotho intervened in the closure of the station, arguing for the ban to be lifted. The LCA, however, contended that the matter was already in the hands of the courts as Harvest FM had lodged a case demanding annulment of the suspension. Noting that the legal case could have delayed the reopening of the station even further, MISA Lesotho advised the station to withdraw the case and accept the three-month suspension, which ended on October 21, 2008. Harvest FM began broadcasting again on October 22, 2008.

- **ALERT**

**Date:** July 21, 2008

**Institution:** Lesotho Telecommunications Authority (LCA)

**Violation/issue:** Legislation (regulation)

The board composition of the LCA has come under the spotlight with allegations of conflicts of interest as the former acting minister and the current secretary general of the ruling Lesotho Congress for Democracy, Mpho Malie, who was an overseer in the recruitment process of the board, now sits on the same board.

The wife of the principal secretary (PS) in the Ministry of Communications, Teboho 'Mokela, is also a board member. The PS was highly involved in the recruitment of the LCA board members. Other members of the board include the ruling party's legal representative and a relation of 'Mokela, Salemane Phafane; the brother of the principal secretary in the Ministry of Labour, Paseka Khetsi; and the sister of the deputy prime minister, Refiloe Lehohla. MISA Lesotho has raised concern that this board is not representative of the diverse interest groups in Lesotho but selected along partisan lines. Thus, the LCA does not reflect the diversity of Lesotho and cannot, in its present form, manage the affairs of broadcasting and telecommunications fairly, said MISA Lesotho.

- **ALERT**

**Date:** July 28, 2008

**Person:** Mohapi Moeketsi

**Violation/issue:** Harassed

On July 27, *Public Eye* photographer Mohapi Moeketsi was manhandled by All Basotho Convention (ABC) supporters in Rothe constituency. They confiscated his camera and pushed him around. The photographer had gone to Rothe to cover the protest by the ABC supporters who held the Independent Electoral Commission (IEC) personnel hostage, protesting that election results should not be announced before alleged irregularities were addressed. The photographer suffered no serious injuries during the incident.

- **ALERT**

**Date:** October 10, 2008

**Institutions:** *The Mirror* newspapers

**Violation/issue:** Charged and sentenced

A defunct Lesotho weekly, *The Mirror*, its editor and EPIC Printers were slapped with a M50,000 (then the equivalent to about US\$8,000) fine by the High Court of Lesotho on September 29 for defaming Lesotho Prime Minister Minister Pakalitha Mosisili. Justice Nomngongo said the publication, its editor and EPIC Printers were jointly convicted and ordered to pay M50,000. *The Mirror* stopped publishing in 2005, citing financial constraints. Lesotho's statutes still carry insult laws which senior politicians and government officials have used against the media to demand hefty compensation on allegations of defamation. Often the demands have left media organisations bankrupt.

- COMMUNIQUE

Date: October 14, 2008

Institutions: Media

Violation/issue: Legislation

On October 11, the Lesotho Minister of Communications, Science and Technology, Mothejoa Metsing, addressed a MISA Lesotho strategic planning meeting and stated that he was ready to pass the media policy. Metsing said he had his “sleeves rolled up for the passing of the media policy”, adding that his ministry is still waiting for consultants to bring back the draft document that would be merged with the one that was developed by MISA Lesotho. MISA Lesotho has been pushing for the adoption of a national media policy, which would be used as a framework to develop the media, especially guaranteeing media freedom and developing the broadcast and telecommunication sector.

- ALERT

Date: December 2, 2008

Institutions: MISA Lesotho and UNESCO

Violation/issue: Other

On November 28, Lesotho's local newspaper *MoAfrika* attacked and remonstrated against MISA Lesotho and UNESCO's initiative to set up a radio station in Mafeteng, a district 93km from the capital, Maseru. In its issue volume 17 No.48 of November 28, 2008, *MoAfrika* noted in the editorial comment that by doing so, MISA Lesotho and UNESCO were helping the opposition in that constituency, which was won by the deputy Prime Minister Lesao Lehohla. The paper remonstrated that MoAfrika FM, a private radio station owned by the same media group as the newspaper, is already doing community broadcasting. Mafeteng has access to only two radio stations in the country: state-owned Radio Lesotho and MoAfrika FM, which has publicly declared its support for the ruling party and present government. The newspaper says the community radio station seeks to “*kunyula bo-Morgan Tsvangirai ba Lesotho nako e sa le teng*” (loosely translated: “to assist the Morgan Tsvangirais of Lesotho to campaign for the next election”). The MISA Lesotho / UNESCO initiative would be the first community radio station in Lesotho. All other radio stations are based in Maseru and do not address relevant adequately community issues in the country, as all private radio stations broadcast only in a 50km radius, according to MISA Lesotho.





## *National overview*

*By Mavuto Kapyepye, organisation and social development consultant and director of Mlambe Consulting Firm (MCF) in Blantyre*



## Malawi

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The media industry in Malawi continued to consolidate its place as an important force in Malawi's democracy during 2008. The year was an assortment of triumph, hope and zeal, on the one hand, and enduring the not-so-favourable atmosphere on the other. On a number of occasions the media made stunning revelations that were initially denied as rumours only to be confirmed later as the truth. On January 15, 2008 *The Nation* ran a front-page headline "Malawi dumps Taiwan", reporting on Malawi's switch in diplomatic ties from Taiwan to China. Minister of Foreign Affairs Joyce Banda had been quoted in the same newspaper on January 4, 2008 describing anything that was being said in this regard as rumour. Ten days later she addressed a press conference to confirm the "rumour".

The media further confirmed its watchdog role when a shocking story of under-age street boys, recruited by a restaurant owner in the capital city, Lilongwe, to clear a sewer pipe without protective gear, led the authorities to arrest the culprit for flouting labour laws.

On a sad note, media practitioners did not escape victimisation ranging from beatings and harassment as Deborah Chipofya Nyangulu from Blantyre Newspapers Limited (BNL) would attest when she was harassed in the line of duty by ruling party supporters at a presidential press conference in early October for asking a question they considered "inappropriate". Some public officials resorted to beating journalists, as was the case of a District Commissioner from the Eastern district of Machinga who beat journalist Wyford Banda of Zodiak Broadcasting Station (ZBS) for seeking his comments on the 2008 national population census.

## State of the media

On a positive note, the Media Council of Malawi (MCM), which was resuscitated in early 2007, got a further boost when it became incorporated as a legal entity by the Malawi government. MCM's presence on the scene provides an opportunity for self-regulation of the media and enhancement of professionalism through various avenues, such as alternative dispute resolution rather than resorting to the courts of law.

The battle to pass the Access to Information Bill rages on. Progress on the bill has been made, despite the process having dragged on for some years. MISA Malawi is playing a pivotal role in the process and the Ministry of Information has since submitted the bill to the Ministry of Justice and Constitutional Affairs to prepare a cabinet paper. However, caution needs to be taken despite the success recorded so far. Firstly, the bill may not receive priority attention in Parliament within the current term, which expires around March 2009. The current government suffers a Parliamentary minority and the opposition has its own grievances that it wants prioritised to the extent that days can pass with little progress on deliberations. Secondly, all key players in the final stages of the legislative process are likely to be focusing on electioneering ahead of the Parliamentary and presidential polls on May 19, 2009.

The executive arm of government banned live coverage of Parliamentary proceedings by the state broadcaster, the Malawi Broadcasting Corporation (MBC), and Malawi Television (TVM), stating that the language used in the house was sensitive. This move has denied people the opportunity to access information by following proceedings of the house and monitoring the performance of their representatives. The decision appeared excessive and to some extent ironic, since MBC continues to use excerpts of the same verbal debates in Parliament in some of its satirical programmes, such as *Makiyolobasi*.

## State of broadcasting

The Malawi Communications Regulatory Authority (MACRA) regulates the broadcasting

and telecommunications industry in Malawi. As of December 2008 there were 23 licensed broadcasters in Malawi. The radio category accounts for 20, including one state-owned radio. The country has three licensed television stations: one state-owned and two privately owned by the Catholic and All for Jesus churches. The latter was licensed in March 2008 and is expected to be on air by May 2009. The large number of privately owned radio stations, in particular, provides a wide choice for people to access information of interest.

However, the state broadcaster was once again denied public funding by the opposition-dominated Parliament, citing biased coverage as the reason. "It doesn't matter how much you weep: the funding for these two unusually primitive organisations cannot pass. Not in this house," a senior opposition legislator, George Ntafu was quoted as saying. Mtafu was a cabinet minister until 2004, under whose regime these two institutions did not perform any better but got the funding anyway. It is, therefore, easy to conclude that the decision is not in the interests of the greater good but rather a show of political muscle. The finance minister could only allocate the nominal one Malawi Kwacha (a tenth of one United States cent) to the state broadcaster.

By denying the two broadcasters access to public finances, Parliament displayed a lack of moral high-ground, considering that the two institutions have a legal obligation towards the public to provide information, education and entertainment on a range of social issues such as health, HIV and AIDS, agriculture and many more. MBC and TVM enjoy the widest coverage in their respective categories.

On the flipside, the two state broadcasters have not helped themselves by taking initiatives that put them directly in the firing line. Some of the programming, such as the satirical *Makiyolobasi* and the panel discussion show *Mizwanyanya*, has clearly displayed the broadcasters' agenda to demonise opposition leaders. For instance, *Makiyolobasi* uses the voices of opposition leaders and portrays them as villains. This should, to some extent, explain the anger in Parliament. Both the Malawi Electoral Commission (MEC) and MACRA cautioned the two broadcasters during the course of the year (March and June respectively) on broadcasts that were perceived to promote hate speech or offensive language.

Private radio stations provide an alternative to the state broadcasters despite their limitations in terms of infrastructure and coverage. Zodiak Broadcasting Station (ZBS) stands out among those whose main target is the rural audience. The station scooped an international award on human rights reporting during the year. Joy FM, on the other hand, had a fair share of tribulations as its relationship with MACRA degenerated into a cat-and-mouse chase. On October 17 MACRA ordered Joy FM to stop broadcasting. It was only served by the courts and was back on air two days later. When MACRA challenged the ruling, silence once again engulfed the airwaves of Joy FM on November 20, after the High Court threw out the station's injunction barring MACRA from shutting it down. Once again Joy was saved by the court following the Supreme Court's ruling in early December pending a judicial review. Joy FM is in a very precarious position due to its ties with former President Bakili Muluzi, a prominent opponent of the government.

The community radio sector is still under-developed and yet it provides great potential for strengthening grassroots democracy. Malawi has four community radio stations.

The Communications Act of 1998 is overdue for revision following the experiences in its application. It needs to be realigned with the Communications Sector Policy on a number of areas such as the definition of a community radio and the status of private satellite television.

## State of print media

The print media continues to be dominated by two media houses with each one producing three publications: a daily, a Saturday newspaper and a Sunday newspaper. Some new entrants also joined the fray in 2008, notably the *Weekend Express* from the Malawi Institute of Journalism (MIJ) and *The News*, a weekly publication.

Journalists from the Malawi print media shone on the both the international and regional map with Brian Ligomeka scooping the WHO/Stop TB Award for Excellence in Reporting TB, while Charles Mpaka and Mike Chipalasa laid their hands on the John Manyarara Investigative Journalism Award, a MISA regional media award.

## Projections for next year

The year 2009 is a watershed period for media practice in Malawi. The political stakes have never been higher and the media will not be spared the heat. Political influence on editorial decisions may come in an overt or covert manner. There is likely to be an influx of newspapers with various political agendas in the run-up to elections and the MCM should brace itself for many complaints on media reporting.

*Por Mavuto Kapyepye*

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Malawi

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## Introdução

Em 2008, a indústria de comunicação social no Malawi continuou a consolidar o seu lugar como uma importante força na democracia do Malawi. O ano foi um sortido de esperança e entusiasmo por um lado, e por outro uma contínua atmosfera não favorável em alguns casos. Às vezes, os *Media* fizeram revelações chocantes que foram inicialmente negadas e vistas como rumores por confirmar. O jornal *The Nation*, na sua edição de 15 de Janeiro de 2008 teve a manchete em destaque de primeira página *Malawi dá os pontapés a Taiwan* relatando sobre a mudança das relações diplomáticas de Taiwan para China. A Ministra dos Negócios Estrangeiros Joyce Banda, que foi citada dizendo qualquer coisa que não passava de boato, no Jornal *The Nation*, na sua edição de 4 de Janeiro de 2008, agora confirmou o “boato” numa conferência de imprensa, que deu no dia 14 de Janeiro de 2008.

Os *Media* mais tarde confirmaram o seu papel de supervisor numa história chocante de menores de rua que foram recrutados para limpar um tubo de esgoto sem equipamento de protecção por um proprietário de restaurante na cidade capital Lilongwe, o que levou o governo a tomar medidas e prender o culpado por violar a lei do trabalho.

Numa triste nota, os profissionais de comunicação não escaparam à vitimização que se estendeu desde o espancamento até à perseguição já que Deborrah Chopofya Nyangulu, da Blantyre Newspaper Limited (BNL) pôde testemunhar quando foi assaltada durante o cumprimento do seu dever pelos apoiantes do partido no poder, na conferência de imprensa presidencial em Outubro passado, por fazer uma pergunta considerada “inapropriada”.

Alguns dirigentes públicos recorrem à violência contra jornalistas, como foi o caso do administrador do distrito oriental de Machinga que espancou o jornalista Wyford Banda da Zodiak Broadcasting Station (ZBS) por analisar os seus comentários sobre uma questão de importância pública, o censo populacional de 2008.

## Situação dos Meios de Comunicação Social

Numa nota positiva, o Conselho de Comunicação Social do Malawi (MCM), ressuscitado nos princípios de 2007, teve um impulso adicional quando finalmente foi incorporado como uma entidade legal pelo governo do Malawi. A presença do MCM no cenário providencia uma oportunidade de auto-regulação da *Media* e melhoramento do profissionalismo através de várias formas, tais como a opção de disputas e deliberações tal e qual nos tribunais da justiça.

A batalha para obter a Proposta de Lei do Acesso à Informação ainda continua vigorosa. Registou-se progresso na Proposta de Lei, apesar do processo se arrastar há vários anos, o MISA-Malawi desempenha um papel fundamental no processo e o Ministro da Informação, um parceiro chave neste processo, submeteu desde então esta Proposta de Lei ao Ministro da Justiça e dos Assuntos Constitucionais, para trabalhar sobre o material e preparar um documento do Conselho de Ministros.

Contudo, prudência deve ser tomada apesar do sucesso alcançado até agora. Primeiro, a Proposta de Lei não pode receber atenção prioritária no Parlamento dentro do presente mandato que expira por volta de Março de 2009. O governo actual sofre uma minoria parlamentar e a oposição tem as suas próprias razões de queixa que as quer priorizadas até ao ponto de que os dias podem passar com pouco avanço sobre as deliberações. Em Segundo lugar, todos os actores chave nas fases finais dos processos legislativos parecem estar a focalizar sobre a campanha eleitoral à frente da votação parlamentar e presidencial de 19 de Março de 2009.

O poder executivo do governo banuiu a cobertura das sessões parlamentares ao vivo através da Rádio e Televisão Estatal, a Malawi Broadcasting Corporation (MBC) e Malawi Television (TVM), dizendo que a linguagem usada no parlamento era delicada. Este acto negou às pessoas a oportunidade de aceder à informação através do acompanhamento das sessões parlamentares e também do monitoramento do desempenho dos seus representantes. A decisão pareceu excessiva e até certo ponto irónica, uma vez que a MBC continua a usar excertos dos mesmos debates verbais no parlamento num dos seus programas satíricos tais como *Makiyolobasi*.

## Situação da Transmissão

A Autoridade Reguladora das Comunicações do Malawi (MACRA) regula a indústria da Rádio e Televisão, e das Telecomunicações no Malawi. Em Dezembro de 2008 havia vinte e três (23) Rádios e Televisões, licenciadas no Malawi.

A categoria de rádio conta com vinte estações, sendo uma Rádio Estatal, e três estações televisivas sendo uma estatal, e duas privadas pertencentes à Catholic and All for Jesus Churches. O último foi licenciado em Março de 2008 e espera-se que esteja no ar até Maio de 2009.

O maior número de estações privadas especialmente na categoria de Rádio providenciam uma múltipla escolha para as pessoas acederem à informação do seu interesse.

Todavia, a Rádio e Televisão Estatal, foi uma vez mais lhe negado o financiamento público pela oposição que domina o parlamento, invocando razões tendenciosas. “*Não importa quão vós choram, o financiamento para estas duas organizações invulgarmente primitivas não podem passar. Não neste parlamento*”, disse um legislador sénior da oposição, George Ntalu foi citado dizendo. Ntalu, ele mesmo foi um ministro do Conselho de Ministros até 2004, ironicamente sob esse regime em que estas duas instituições não tiveram melhor desempenho mas tiveram o financiamento mesmo. Daí ser fácil para qualquer um concluir que a decisão não é para o bem maior mas sobretudo uma demonstração de poder.

O Ministro das Finanças poderia apenas alocar o nominal Um Kwacha malawiano (o décimo de um cêntimo do dólar americano) à Rádio e Televisão Estatal.

Ao negar o acesso ao financiamento público às duas Rádio e Televisão, o parlamento revelou falta de extrema moral tendo em conta que as duas instituições têm uma obrigação social para com o povo, sob a Lei de providenciar informação, educação e entretenimento em todos os assuntos sociais tais como a saúde, HIV & SIDA, agricultura e muito mais. MBC e TVM detêm a mais vasta cobertura nas suas respectivas categorias.

Doutro lado, os dois órgãos estatais de comunicação social não se ajudam ao tomar iniciativas que directamente as coloquem numa linha de fogo. Alguns dos programas tais como *Makiyolobasi* e *Mizwanya* (um painel de debate) tem demonstrado claramente que a sua agenda é de demonizar os líderes da oposição. O *Makiyolobasi*, por exemplo, um programa satírico usa vozes dos líderes da oposição retratando-as como as de vilões e as dos políticos do governo como as dos heróis. Isto pode, até certo ponto explicar a ira no parlamento. Tanto a Comissão Eleitoral do Malawi (MEC) como MACRA advertiram os dois órgãos de comunicação social durante o ano (Março e Junho respectivamente) acerca das transmissões que eram concebidas para promover discurso de ódio e linguagem ofensiva.

As estações radiofónicas privadas providenciam uma alternativa a Rádio e Televisão Estatal apesar das suas limitações em termos de infra-estruturas e cobertura. Zodiak Broadcasting Station (ZBS) sobressai dentre aquelas cujo alvo principal é a audiência rural e conseguiu um prémio internacional sobre a cobertura dos direitos humanos durante o ano.



Joy Rádio por outro lado, teve uma porção de tribulações à medida que o seu relacionamento com o MACRA degenerou numa Guerra entre gato e rato.

No dia 17 de Outubro o MACRA ordenou a Joy Rádio para que parasse de transmitir e serviu-se dos tribunais para que pudesse voltar a. Quando o MACRA desafiou o governo, o silêncio, uma vez mais, engoliu as ondas da Joy Rádio, no dia 20 de Novembro, depois de o Tribunal Supremo arremessar o embargo do MACRA que barrava a estação e obrigava-a a fechar.

Uma vez mais a Joy foi salva pelo tribunal seguindo a pendente revisão do processo judicial do Tribunal Supremo no passado Dezembro. A Joy Rádio está numa posição precária devido às suas ligações com o antigo Presidente Bakili Muluzi, um proeminente opositor do governo.

O sector da rádio comunitária ainda está subdesenvolvida e ainda providencia uma maior perspectiva que fortifica as democracias populares. Malawi tem quatro estações de rádio comunitária.

A Lei das Comunicações de 1998 está atrasada em relação à revisão tendo em conta as experiências na sua aplicação. Precisa de ser reajustada com a Política do Sector das Comunicações em várias áreas tais como a definição de uma rádio comunitária e a situação jurídica de uma televisão transmitida via satélite.

## Situação da Imprensa Escrita

A imprensa escrita continua a ser dominada por duas instituições de comunicação social, cada uma delas produzindo três publicações, o diário, o jornal de sábado e o jornal de domingo. Alguns novos estreantes também se juntaram à luta em 2008, particularmente o *Weekend Express* do Instituto do Jornalismo do Malawi (MIJ) e o *The News*, uma publicação semanal.

## Perspectivas para o Próximo Ano

O ano de 2009 é um momento crítico para o exercício da actividade dos *Media* no Malawi. Os interesses políticos nunca estiveram tanto no topo da agenda e os *Media* não irão poupar esforços. A influência política sobre as decisões editoriais poderá vir de maneira clara ou dissimulada. Parece que haverá um fluxo de jornais com várias agendas políticas na corrida eleitoral e o MCM poderá se confrontar com mais queixas sobre a reportagem dos *Media*.

• **ALERT**

**Date:** June 6, 2008

**Institutions:** Capital Radio and Nation Publications

**Violation/issue:** Other

On June 5, 2008 Capital Radio, a private radio station, wrote to the state broadcaster, Malawi Broadcasting Corporation (MBC), demanding a retraction and an apology of a story run by the station alleging that Capital Radio and other media houses were being financed by the opposition, United Democratic Front (UDF), to dent government's image. Capital Radio Managing Director Alaudin Osman threatened to sue MBC should it fail to meet their demands. MBC, on two occasions, alleged in its news bulletins that journalists working for Capital Radio, Zodiak Broadcasting Station (ZBS) and Nation Publications Limited (NPL) are being financed by the UDF to discredit government through negative reporting. In an editorial on June 6, 2008 *The Nation* disassociated itself from the allegations by MBC.

• **ALERT**

**Date:** June 8, 2008

**Person:** Wyford Banda

**Violation/issue:** Beaten/ Threatened

On June 7, 2008, Machinga District Commissioner (DC) Lawrence Makonokaya assaulted Zodiak Broadcasting Station (ZBS) correspondent Wyford Banda for trying to get the DC's comments on the arrest of people involved in a fight with the police over participation in the Malawi Housing and Population Census. According to Banda, Makonokaya pushed him three times in the presence of police officers and Deputy Minister of Trade and Industry Ellock Maotcha Banda, a Member of Parliament for the area. Banda said the DC also intimidated him the following day, asking why Banda reported the matter to ZBS management instead of sorting out the issue between the two of them. But Makonokaya said he only held Banda by the shoulder and asked the ZBS correspondent to contact him later as he did not have information readily available.

MISA Malawi National Director Innocent Chitosi condemned Makonokaya's conduct, saying that his behaviour did not befit a public officer. He also said Makonokaya was a custodian of information and, therefore, has no right to classify who gets information.

• **ALERT**

**Date:** June, 10 2008

**Person/institutions:** Media

**Violation/issue:** Banned

On June 10, 2008 former Justice and Constitutional Affairs Minister Bazuka Mhango, who is also a Member of Parliament, barred the media from reporting on allegations levelled against him by fellow Parliamentarian, Ibrahim Matola. Matola, an opposition United Democratic Front (UDF) legislator alleged during deliberations on the 2008/09 national budget that Mhango dubiously got more than MK42 million (approximately US\$ 310,000) from government in legal fees when he was in cabinet. This was against government's code that prohibits ministers from engaging in legal work while in government. In stopping the media from covering this issue, Mhango said parliamentary privilege does not extend to the media, warning the press not to report on the matter, which he said was in court. But Member of Parliament for Blantyre South West, Gerald Mponda, argued that the former minister has no right to stop the media from reporting on parliamentary proceedings.

• **ALERT**

**Date:** June 10, 2008

**Person/institutions:** Joy FM, Malawi Broadcasting Corporation and Malawi Television

**Violation/issue:** Threatened

The Malawi Communications Regulatory Authority (MACRA) summoned Joy Radio Limited, owned by former President Bakili Muluzi, and state broadcasters Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM) for breaching the Broadcasting Services Code of Conduct. In a letter dated May 30, 2008 to Joy FM and signed by MACRA Director General Allexon Chiwaya, five charges against the station were listed. The letter further states that Joy FM's reports relating to government and the president are not truthful, accurate and objective, contrary to Section 3(1) of the Broadcasting Services Code of Conduct. MACRA stated that MBC and TVM had breached the Broadcasting Services Code of Conduct in some of their programmes.

• **ALERT**

**Date:** June 19, 2008

**Person/institutions:** Wisdom Chimgwede/ Zodiak Broadcasting Station

**Violation/issue:** Banned

The Chinese Embassy in Malawi removed Zodiak Broadcasting Station (ZBS) Editor Wisdom Chimgwede from the list of journalists travelling to China on a media visit sponsored by the embassy. This followed instructions from the Ministry of Information and Civic Education. The visit was planned for June 21, 2008. The Ministry on Information had earlier accused the editor of writing negatively about the government. An official from the embassy, David Zhang, confirmed receiving instructions from the Ministry of Information and Civic Education to remove Chimgwede's name from the list. At a press briefing on June 17, 2008, Kaliati accused Chimgwede of circulating a document allegedly issued by the opposition United Democratic Front (UDF) aimed at denting government's image.

• **ALERT**

**Date:** July 9, 2008

**Institutions:** Joy FM

**Violation/issue:** Threatened

Malawi's State House Press Officer Chikumbutso Mtumodzi on July 9 warned Joy FM against what he termed embarking on a disinformation crusade, airing libellous and slanderous programmes and playing derogatory lyrics against President Bingu wa Mutharika. In a press statement, Mtumodzi also accused the opposition United Democratic Front (UDF); its chairperson, former president Bakili Muluzi; and station Manager Peter Chisale of being architects of the alleged disinformation campaign against the president and the ruling Democratic Progressive Party (DPP).

• **ALERT**

**Date:** July 10, 2008

**Institutions:** Joy FM

**Violation/issue:** Charged, Threatened/banned

Immigration authorities on July 10 stormed Joy FM premises searching for foreigners allegedly employed by the station. The incident happened barely a day after State House Press Officer Chikumbutso Mtumodzi warned the station against what he termed embarking on a disinformation crusade. Mtumodzi also alleged that the station's manager, Peter Chisale, was a Zambian and threatened to deport him. But Chisale has refuted the State House's claims, arguing his station is professional and that he is a bonafide Malawian. Joy FM, which is owned by former President Bakili Muluzi, has operated on constant threats of closure by government.

• **ALERT**

**Date:** October 18, 2008

**Institutions:** Joy FM

**Violation/issue:** Banned

The Malawi Communications Regulatory Authority (MACRA) ordered Joy FM to stop broadcasting, allegedly for failing to comply with licence conditions and provisions of the Communications Act. The station stopped broadcasting on October 17, 2008 at 6pm local time. The ban was communicated in a letter dated October 16 and signed by MACRA director general, Alexxon Chiyaya

**October 19, 2008:**

Joy FM, which had its license suspended on October 17, resumed broadcasting after a High Court injunction restrained Malawi Communications Regulatory Authority (MACRA) from revoking its licence. MACRA had ordered the station to cease broadcasting on allegations of not complying with licence agreement and provisions of the Communications Act. Ralph Kasambara, the station's lawyer, told MISA Malawi that the High Court judge felt that closing down the station could deprive Malawians of their right to information, which the radio station, as a component of the media, champions. Following the injunction, the station resumed broadcasting at 2.30pm on October 19, 2008. The injunction will be valid for seven days while waiting for Joy FM's case to be reviewed. The Director of Broadcasting for MACRA, James Chimera, told a local newspaper that the station had been closed because it transferred ownership and was effectively in the hands of politicians, contrary to section 48(7) of the Communications Act. According to MACRA, the station was now owned by former Malawian President and national chairman of the opposition United Democratic Front (UDF) Bakili Muluzi; his wife, Patricia Shanil Muluzi; his son, Atupele Muluzi; and a Tanzanian investor.

• **ALERT**

**Date:** October 23, 2008

**Person:** Emmanuel Chibwana

**Violation/issue:** Beaten

On October 23, 2008 Malawi police arrested and assaulted a Zodiak Broadcasting Station reporter, Emmanuel Chibwana, over a remark he made on why the law enforcers arrested a man dressed in camouflage, while ignoring shops and vendors selling the camouflage. The remark followed an incident in which police arrested and assaulted a man who was dressed in army camouflage on October 22, 2008 and Chibwana was overheard discussing with a colleague on why police ignored those selling the clothes and targeted buyers only. Chibwana was released by the police unconditionally on the night of the same day only to be re-arrested the following morning when he went to the police station to obtain a report that would have enabled him to access treatment at the hospital. In an interview, Chibwana complained that he bled profusely on that night as one of the officers hit him and he was denied access to communication.

• **ALERT**

**Date:** November 7, 2008

**Person/institutions:** Journalists/Media

**Violation/issue:** Threatened

The Anti-corruption Bureau (ACB) has warned that it would soon start arresting, on charges of obstructing justice and hiding evidence, journalists who allege corruption but refuse to co-operate during investigations. ACB Director Alex Nampota said the bureau was failing to investigate a lot of alleged corruption cases published or broadcast in the media because reporters were not assisting with investigations. Nampota made these statements on November 6 in a story carried by *The Daily Times*. Commenting on this MISA Malawi chairperson Brian Ligomeka said that as much as journalists were playing a crucial role in fighting corruption, the bureau

should not expect them to disclose their sources as that would violate their ethical conduct.

• **ALERT**

**Date:** November 20, 2008

**Institutions:** Joy FM

**Violation/issue:** Banned

The Malawi Communications Regulatory Authority (MACRA) once again shut down Joy FM after the High Court in Blantyre lifted an injunction that the radio station obtained on October 17, 2008. The injunction restrained MACRA from closing the station on accusations of breaching licence conditions, failing to comply with the provisions of the Communications Act and for effectively transferring its ownership into the hands of politicians. However, MACRA challenged the injunction obtained by Joy FM and High Court Judge Joseph Manyungwa ruled in favour on the regulatory body on November 19. The head of news at Joy FM, Lloyd Zawanda, said they stopped all broadcasting at 10am on November 20, 2008 and referred the issue to their lawyers.

• **ALERT**

**Date:** November 20, 2008

**Person:** Maxwell Ng'ambi

**Violation/issue:** Detained/ harassed

The Magistrate's Court in Lilongwe acquitted Nation Publications journalist Maxwell Ng'ambi of the charge of providing false information to a public officer. Ng'ambi was arrested on May 17, 2008 at Maula Prison where he was suspected of planning to interview a former speaker and minister of education, Sam Mpasu, who is serving a jail term. The prison authorities handed him over to the police and he was charged with providing false information to a public servant whereby he had allegedly lied that he was related to Mpasu. Senior Magistrate Kettie Nthara said she could not convict Ng'ambi because the Police did not have enough evidence to support the charge.

• **ALERT**

**Date:** November 26, 2008

**Institutions:** Joy FM

**Violation/issue:** Banned

Joy FM is appealing to the Supreme Court to reverse the High Court ruling that resulted in the station going off air on November 20, 2008. The High Court ruling lifted an injunction that Joy FM had obtained, which prevented the Malawi Communications Regulatory Authority (MACRA) from revoking their broadcasting licence. MACRA maintains that the station, which is privately owned by the country's former president and current United Democratic Front presidential candidate Bakili Muluzi, contravened the Communications Act, which bars politicians from owning radio stations.

• **ALERT**

**Date:** November 26, 2008

**Person/institutions:** Joy FM/ public

**Violation/issue:** Banned

Police, on November 26, 2008 stopped a march by concerned listeners of Joy FM who wanted to deliver a petition to the district commissioner to have the radio back on air. According to chairperson of the organising committee for the march, Harris Chisale, the march was to express their concern over the station's closure, which he said has deprived them of their primary source of information and business communication.

"Joy FM offers competitive [advertising] rates that we small-scale business persons could afford. With the closure, we have no where [to go] as other radio stations are expensive. We could even bargain with Joy for lower rates," he said.

- **ALERT**

Date: December 16, 2008

Person/institutions: Joy FM/ public

Violation/issue: **Victory**

Joy FM station resumed broadcasting on December 16, 2008, 30 days after Malawi Communications Regulatory Authority (MACRA) revoked its broadcasting license for non-compliance with the Communications Act and licence agreements.

The resumption of broadcasting followed the Supreme Court of Appeal's reinstatement of an injunction obtained on October 17, 2008 by Joy FM, which restrained MACRA from revoking the radio station's broadcasting licence. However, MACRA challenged this injunction and it was struck down by a High Court judge on November 19, 2008.

Delivering the verdict in his chamber, Justice Singini said he reinstated the injunction pending a judicial review hearing on the matter.

"I must, therefore, consider the judicial review matter as being part of the totality of the circumstances of the case before me," the judge said.

He, however, cautioned Joy FM, saying reinstatement of the injunction was not a licence for wrong-doing in the period pending determination of judicial review proceedings.

"The licensee under the act, is under the legal, indeed statutory, obligation at all times to comply with the requirements of act," Justice Singini said.

He also added that as a matter of public interest, the Communications Act represents an important public policy framework, in which he observed that it was important for the licensed service providers to comply with requirements of the law under the act.



## *National overview*

*By Paulo Daniel Comoane, a lawyer and lecturer at the Faculty of Law, Eduardo Mondlane University, Maputo*



## Mozambique

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The importance of the media in Mozambique cannot be underestimated. The media plays an important social and political role. People use the media to address social problems that they are not confident to find solutions to through official mechanisms, namely administrative and judicial tools. In the political arena, media is a watchdog of democracy and the rule of law. Public interest issues are often discussed primarily via the media. Due to the high interference of the media in people's private lives and public institutional activity, it is not surprising that journalists and media companies are often involved in controversies. For instance, during 2008 two Mozambican journalists were threatened on October 15 by opposition party members and accused of biased coverage in favour of a rival candidate.

## Legal framework of media: expected legal reform

The Constitution defines the state of Mozambique as a state of rule of law based on pluralism of expression, democratic political organisation and respect and protection of human rights<sup>1</sup>. As proclaimed by the Constitution, freedom of expression constitutes an important foundation of the country's legal system and democracy. Article 11, (a, f, g, e, h) also favours freedom of expression. The main provision for freedom of expression, in the Mozambican Constitution is article 48. According to article 48, no. 1, all citizens are entitled to the fundamental right to freedom of expression, freedom of the press and right to information. Censorship is forbidden by the Constitution<sup>2</sup> and freedom of the press comprises freedom of expression, access to information and intellectual freedom of journalism, protection of independence and journalistic secrecy, and freedom to create newsletters, publications and other means of information diffusion<sup>3</sup>. The Law 18/91, of August 10, regulates both the principles that govern the media and rights and duties of media professionals.

Regarding the prevailing legal framework, media professionals as well as civil society have been pressuring the government to embark on legal reform. It was expected that during 2008, the National Assembly would discuss and adopt a new law on access to information, but apparently this was not given priority.

## The reality on the ground

In 2008, three journalists faced criminal charges for threatening state security after they wrote an article questioning the nationality of the Mozambican prime minister. The charge was submitted to court by the Maputo city public attorney. Apart from this charge, there are some other files in different courts against journalists. It is now routine for journalists to be hauled before the courts in the course of their duty. Charges against journalists have raised public concern that the judiciary is being used to hamper freedom of expression. The question in Mozambique is how far freedom of expression rights can be exercised and with what limitations, in respect of other rights.

In the above-referred case, the state accused the journalists of threatening state security, but the court decided that the case was in fact one of defamation against the prime minister. At least, this decision indicated how the independence of courts can play an important role in protecting and defining the limits of freedom of expression<sup>4</sup>.

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<sup>1</sup> Article 3 of the Constitution of the Republic

<sup>2</sup> Article 48, nr 2

<sup>3</sup> Article 48, nr 3

<sup>4</sup> Cf. Heleen Bosma. *Freedom of Expression in England and under the ECHR. In search of a common ground.* School of Human Rights Research. HART.INTERSENTIA, Antwerp, Groningen, Oxford, 2000 pg 35

## The challenges of democracy

On May 3, 2008, Maputo hosted an international celebration of World Press Freedom Day. The President of Mozambique, Armando Guebuza, assured his political commitment and that of his government to respecting freedom of expression and freedom of the press.

During 2008 the media in Mozambique faced a number of other challenges, such as suspicious break-ins and theft of computers from media houses. On July 20, Alternativa, one of Mozambique daily news organisations, lost equipment in an apparent robbery at the office. Such assaults against media companies occurred throughout the year, raising suspicion that there is more to this than mere burglaries. So far there is, however, no direct link or indication that these assaults were meant to silence the media.

The coverage of the local elections was also an important event in 2008. Editors of different media organisations adopted a code of conduct for election coverage. The code espoused important principles, such as the need for independence, impartiality, objectivity and respect for human dignity. This is an indication of the maturity of media organisations and the media professionalism in Mozambique. The presence of the media on the ground made it possible for citizens to have a clear picture of what was happening. The opposition, however alleged, alleged fraud, which the media could not identify..

## The way forward

The status of the media in Mozambique is much the same as in previous years. However, more still needs to be done. Reform of the law governing access to information must be taken as a priority. There is also need for more training for the judiciary and media lawyers in order for legal cases concerning the media to be dealt within the ambit of internationally accepted principles.



*Por Paulo Daniel Comoane*

*Paulo Daniel Comoane é um advogado e Docente na Faculdade de Direito da Universidade Eduardo Mondlane.*



Mozambique

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## Introdução

A importância dos meios de comunicação social em Moçambique não pode ser sub-estimada. Nos dias que correm, os *Media* desempenham um importante papel sócio-político. A importância social dos *Media* parte do princípio de que as pessoas usam-na para falar sobre problemas sociais que não estão seguras em encontrar soluções através de mecanismos oficiais, nomeadamente instrumentos administrativos e judiciais. Na arena política, os *Media* são um supervisor da democracia e o princípio condutor da lei. Questões de interesse público são na maioria das vezes discutidas primeiramente via *Media*. Não surpreende que, por causa da alta interferência da *Media* na vida particular das pessoas ou do funcionamento das instituições públicas, a actividade dos jornalistas e das empresas de comunicação social estejam muitas vezes envolvidas em controvérsia. Por exemplo, dois jornalistas moçambicanos foram ameaçados no dia 15 de Outubro por membros do partido da oposição, acusando-os de cobertura tendenciosa à favor do candidato rival.

## Quadro Jurídico-legal dos Meios de Comunicação Social: reforma legal prevista

A Constituição da República de Moçambique define o Estado Moçambicano como estado de direito baseado no pluralismo de expressão, organização político-democrática, respeito e protecção dos direitos humanos<sup>1</sup>. Conforme consagrado pela Constituição, a liberdade de expressão constitui um importante alicerce do sistema jurídico-legal e democrático de Moçambique. O Artigo nº 11, alínea f), g), eh) é também favorável por uma liberdade de expressão, desde que, através da Declaração Universal, este direito pertence à lista dos direitos humanos.

A principal cláusula de liberdade de expressão, na Constituição de Moçambique, é o Artigo 48. De acordo com o Artigo 48, nº 1, a todos os cidadãos assiste lhes o direito fundamental à liberdade de expressão, liberdade de imprensa e direito à informação.

A Censura é proibida pela Constituição<sup>2</sup>, e a liberdade de imprensa abrange a liberdade de expressão, o acesso à informação e a liberdade intelectual jornalística, a protecção da independência e o sigilo jornalístico, a liberdade de criação de boletins informativos, as publicações e outros meios de difusão de informação<sup>3</sup>.

A Lei 18/91, de 10 de Agosto regula ambos os princípios que regem os *Media* e os direitos e os deveres dos profissionais de comunicação social.

Relativamente ao prevalecente Quadro Jurídico-legal, os profissionais de comunicação social assim como a sociedade civil têm pressionado o governo para embarcar numa reforma legal. Esperava-se que durante o ano de 2008 a Assembleia da República pudesse debater e aprovar uma nova lei sobre o acesso à informação, mas aparentemente a esta não figurou entre as prioridades.

## Realidade no Terreno

### *Ameaças: será que o acesso à justiça está a estorvar a liberdade de expressão?*

Em 2008 três jornalistas enfrentaram acusações criminais, acusados de ameaçarem a segurança do Estado depois de terem escrito um artigo na qual questionam a nacionalidade da Primeira-ministra de Moçambique. A acusação foi submetida pela Procuradoria da Cidade de Maputo. Para além desta acusação, existem outros processos noutros tribunais contra jornalistas. É rotina agora que os jornalistas sejam arrastados para os tribunais durante o exercício das suas

<sup>1</sup> Article 3 of the Constitution of the Republic

<sup>2</sup> Article 48, nr 2

<sup>3</sup> Article 48, nr 3

funções. Acusações contra jornalistas trouxeram uma preocupação pública de que o poder judicial estaria a impedir a liberdade de expressão. A questão em Moçambique é de que até que ponto os direitos da liberdade de expressão podem ser exercidos e com que limitações em relação a outros direitos.

No caso acima referido, o Estado acusou jornalistas de ameaçarem a segurança do Estado mas o tribunal decidiu que o caso foi de facto uma difamação contra a Primeira-ministra. Pelo menos, esta decisão indicou como a independência dos tribunais pode desempenhar um papel importante na protecção e definição dos limites da liberdade de expressão<sup>4</sup>.

## **Outros Eventos de 2008: os desafios da democracia, dos meios de comunicação social e do direito da liberdade de expressão**

No dia 3 de Março de 2008, Maputo acolheu a celebração internacional do Dia Mundial de Liberdade de Imprensa. O Presidente de Moçambique assegurou o seu cometimento político e do seu governo para respeitar as liberdades de expressão e da imprensa.

No ano de 2008 os *Media* moçambicanos enfrentaram uma série de outros desafios tais como arrombamentos e roubos suspeitos de computadores nas instituições dos *Media*. No dia 20 de Julho, “Alternativa”, um dos diários de Moçambique perdeu equipamento num aparente assalto ao escritório. Tais Assaltos contra empresas dos *Media* eram recorrentes ao longo do ano, levantando suspeitas de que existe mais alguma coisa do que meros arrombamentos. Até agora não há, contudo, ligações directas ou indicadores de que estes assaltos tencionam silenciar os *Media*.

A cobertura das eleições foi também um evento importante em 2008. Diferentes editores de sociedades de informação adoptaram um Código de Conduta para a cobertura eleitoral. O Código contém importantes princípios, tais como a necessidade de independência, imparcialidade, objectividade e respeito à dignidade humana. Este é um claro indicador da maturidade da organização dos *Media* e dos profissionais de comunicação social em Moçambique. A presença dos *Media* no terreno tornou possível aos cidadãos terem uma imagem clara do que estava a acontecer. A oposição, alegou contudo, uma provável fraude que os *Media* não puderam apontar.

## **Conclusões e Recomendações**

O estatuto jurídico dos *Media* em Moçambique ainda é a mesma tal e qual nos outros anos. Contudo, muito ainda está por fazer. A reforma legal da lei que rege o acesso à informação deve ser tomada como prioridade. Há também uma necessidade de formação sobre o direito e advocacia de informação de modo a abordar questões de justiça dos meios de comunicação social dentro do espectro dos princípios internacionalmente aceites.

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<sup>4</sup> Cfr. Heleen Bosma. *Freedom of Expression in England and under the ECHR. In search of a common ground.* School of Human Rights Research. HART.INTERSENTIA, Antwerp, Groningen, Oxford, 2000 pg 35

• **ALERT**

Date: July 20, 2008

Institutions: Alternativa

Violation/issue: Other

The independent media organisation, Alternativa, one of Mozambique's daily news organisations that distributes news by fax and e-mail, lost equipment in a break in on July 19, 2008. The news organisation lost four computers, according to editor Sérgio Massinga. Massinga told MISA Mozambique that the computers that were stolen contained stories, which had been prepared for the upcoming edition. As such, the issue had to be cancelled. "That was all we had in terms of computers, so we are really in a bad situation," he added. This break-in and theft of computers is the latest in a long string of such events, raising suspicion and concern that there is more to these events than mere burglary.

• **ALERT**

Date: July 22, 2008

Person/institutions: Fernando Veloso, Luís Nhachote, Alvarito de Carvalho and *Zambeze* newspaper

Violation/issue: Charged

The Maputo Judicial Court postponed on July 21, 2008 the trial of three *Zambeze* journalists. The three – Fernando Veloso, Luís Nhachote and Alvarito de Carvalho –are accused of threatening state security after they wrote an article questioning whether the country's Prime Minister, Luís Diogo, was Mozambican or Portuguese. The trial has been postponed to August 12, following a request by the Prosecution Authority, which said its representative in that case was not available. Observers who spoke to MISA Mozambique questioned the speed at which the matter was conducted, an unusual development in Mozambique, where the justice system is normally. The authors of the article were called to appear in court 24 hours after the issue was published. And in two months the trial was almost done with.

• **ALERT**

Date: August 20, 2008

Person/institutions: Mediafax

Violation/issue: Charged

Mozambique's news agency, AIM, reported on August 19, 2008 that the independent daily newsheet, Mediafax, had apologised to the President of Mozambique's Supreme Court, Mario Mangaze, five years after it carried an opinion piece accusing him of failing to pay land fees on 5,530 hectares of land to which he held title. The author of the piece, Charles Baptista (who writes under the pen name Edwin Hounnou), was threatened with a libel suit by Mangaze. Baptista subsequently wrote a letter of apology admitting that there was no truth in the allegation, published on May 15, 2003, and that the land fees owing had, in fact, been paid.

• **ALERT**

Date: September 3, 2008

Person/institutions: Fernando Veloso, Luís Nhachote, Alvarito de Carvalho and *Zambeze* newspaper

Violation/issue: Sentenced

Three journalists working for *Zambeze* newspaper – Fernando Veloso, Luís Nhachote and Alvarito de Carvalho – were sentenced to six months in prison, converted to a monetary fine of 30 Mozambican Meticals (US\$1,2). The ruling was made on August 29, 2008. The three were charged for allegedly defaming Prime Minister Luís Diogo and threatening state security. The court dismissed the state's request that the journalists pay a fine of US\$400. Eduardo Jorge, the journalists' lawyer, told MISA Mozambique that he is going to appeal the sentence, saying he was not happy with it.

- **ALERT**

**Date:** October 20, 2008

**Persons:** Moisés Saela and Francisco Raiva

**Violation/issue:** Threatened

Two Mozambican journalists based in Beira were on October 15 threatened by leaders of the opposition political party, Renamo. This is according to a report that appeared in the daily issue of *Notícias* on October 17, 2008. According to *Notícias*, Moisés Saela of Radio Mozambique was publicly berated by José Cazonda, the head of Renamo in the Beira Municipal Assembly, for interviewing Moisés Machava, the man who is now functioning as ‘spokesperson’ of the divided opposition in the province.

The second journalist, Francisco Raiva of independent TV station Stv, told *Notícias* that he had been threatened by the Beira head of Renamo Youth League, Arnaldo Tivane, who accused Stv of biased coverage in favour of a rival candidate. Related to this, Edwin Honnow, a citizen who regularly writes for several Mozambican newspapers, told reporters in Beira that he has received threatening phone calls from Tivane, who accused him of working for a rival political candidate.





## *National overview*

*By Jonathan Beukes, former MISA Namibia Information Officer  
and currently employed as a journalist for The Namibian  
newspaper*



# Namibia

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The year 2008 will be remembered in Namibia for numerous court cases, some victories and some losses for the media. After almost a decade of stagnation, swift progress was made during 2008 on the Communications Bill following a cabinet reshuffle in April and the subsequent appointment of Joel Kaapanda as the Minister of Information and Communication Technology. This bill, however, was cause for much of the strain between the media and the ministry.

Government appears to have heeded a call by the outgoing chairperson of MISA Namibia's National Governing Council on May 3, World Press Freedom Day, not to impose statutory regulation on the media and to support efforts to set up self-regulatory structures. Tensions, however, rose again when the Communications Bill gazetted by government indicated intentions to force mobile phone and internet service providers to make information available to the government, without any judicial oversight.

### Call to curb media rights

Another area of contention was the call by the ruling South West African People's Organisation (SWAPO) party Members of Parliament (MPs) for the rights of the media to be curbed. Deputy Chairperson of the National Council Margaret Mensah-Williams tabled a motion calling for an independent investigations to be conducted by the office of the Ombudsman to establish whether people were "breaking the law" by venting their frustrations through an SMS page in *The Namibian* newspaper and on the Namibian Broadcasting Corporation (NBC) national radio chat show programmes.

*The Namibian* started publishing readers' text messages daily in 2007, much to the annoyance of some MPs, who accuse the newspaper of denigrating SWAPO leaders through the SMSes. Over the year, the ruling party leaders made similar allegations of media bias. Addressing an election rally at Eenhana in the Ohangwena Region in February 2008, SWAPO Vice President and Minister of Trade and Industry Hage Geingob said some reporters were publishing lies, "because they want to be arrested ... We in SWAPO believe in freedom of the press, but you have to report the truth".

Geingob claimed, for example, that some media houses had reported untruths about the number of people who attended SWAPO rallies at the port town of Walvis Bay and Omuthiya, a town in northern Namibia.

In other developments, the government introduced a levy on prepaid cellular phone airtime. Value Added Tax (VAT) of 15 per cent is thus deducted for mobile phone usage. This has negatively impacted on the poor, as access to communication is now a luxury many can no longer afford.

There is still no access to information law in Namibia that enables citizens and media workers to access even the most of trivial of information from a government department. Accessing state information is a cumbersome process as senior officials are empowered to authorise or refuse the release of information. Where information is deemed sensitive, it might well never be released.

### Defamation cases on the rise

During 2008, a high number of defamation cases against the media were recorded and journalists and media institutions spent a lot of time and money fighting legal suits. The free weekly newspaper *Informanté* had to fight a number of court battles as a result. Among these cases was a suit against the newspaper's journalists and its owners, Trustco Group International, by the Mayor of Windhoek for an article that alleged his involvement in shady property deals.

A number of cases against the media were withdrawn after aggrieved parties realised that their cases might not stand up in court. Namibia's founding President Sam Nujoma withdrew an N\$5 million lawsuit against *The Namibian* newspaper. Another politician, Deputy Minister of Youth Pohamba Shifeta, won a libel case against the state-owned daily, *New Era*. He received only 10 per cent of the N\$500,000 he claimed from the newspaper for alleged damage to his reputation. Judge Collins Parker ruled that one of the articles was indeed damaging to Shifeta's reputation, but ordered the newspaper to pay Shifeta only N\$50,000 for the defamation claimed. By claiming N\$500,000, Shifeta "has set his eyes too high, without taking into account the economic reality of Namibia, as a developing country", Judge Parker stated. Shifeta sued *New Era*'s Editor Rajah Munamava; its Chief Executive Officer Sylvester Black, the parastatal company owning the newspaper, New Era Corporation; reporter Kuvée Kanguuehi, and Kanguuehi's alleged source for the stories.

Journalist Werner Menges wrote in *The Namibian*: "The [Shifeta/New Era] judgement represents a landmark in the evolution of the law on defamation in a media context in Namibia. Judge Parker's decision is the first in which a Namibian court has expressly declared that the legal doctrine of strict liability – in which the media was held strictly liable for the publication of any false defamatory allegations – should be discarded in favour of an approach focusing more on the constitutional right to free speech that has been the law in South Africa since 1998."

## Broadcasting issues

Competition from One Africa Television forced the NBC to switch their most popular programme, the 20h00 news bulletin, to 19h00. One Africa broadcasts its news bulletin at 19h30. The quality of NBC programmes remains poor and, overall, the content of the station is dull. The perilous state of the national broadcaster is the source of regular shocking articles in the print media. The management of the NBC also came into question with reports that the state broadcaster owes the revenue authority over N\$250 million (approximately US\$25 million) in unpaid taxes.

Management issues also saw the Ministry of Information and Communication Technology attempting to get rid of NBC Board Chairman Ponhele ya France, as he was deemed too closely aligned to Director General (DG) Bob Kandetu. Both Kandetu and Ya France were alleged in media reports to be close to former SWAPO politician Hidipo Hamutenya, now opposition leader of the Rally for Democracy and Progress (RDP). The NBC saga took another turn at the end of 2008, when an RDP flag was shown on the screen after President Hifikepunye Pohamba's New Year's message. At the time of writing this report an investigation was underway to establish whether the flag appeared by accident or whether it was deliberately inserted. After this incident the SWAPO Secretary for Information and Mobilisation called for the sacking of the NBC DG. [Note: Kandetu has since been fired from his post on allegations of mismanagement.]

The appointment of the new Information and Communication Technology minister saw a flurry of activity at the state-owned media. Apart from the circus at the NBC, a new chairperson was appointed to the board of the joint-venture newspaper of Namibia and Zimbabwe, after the resignation of board chairman Vilbard Usiku. Shortly afterwards, acting chairperson Katrina Sikeneni also resigned.

## Media diversity and ethics

Media diversity remains a matter of concern in Namibia with the state remaining the largest media owner. By the end of 2008, the country's biggest daily newspaper, *The Namibian* was offloading its shares in Free Press Printers, the joint venture with Trustco Group International,

which publishes the weekly tabloid, *Informanté*. This would further strengthen the monopoly of Newsprint, a division of Democratic Media Holdings, which prints the dailies *Republikein*, *Algemeine Zeitung*, *New Era* as well as the weekly *Namibian Sun*.

On the media ethics front, the issues of freebies and other questionable interactions between media and business continue to arise. The media fraternity in Namibia remains divided on this matter. It was revealed that a leading cellular phone operator spends approximately N\$300,000 (US\$30,000) per year on airtime allowances, mobile handsets, accommodation, transport and daily allowances for sponsored events and gifts for journalists.

Of relevance to the media landscape is the fact that a number of outdated and media-unfriendly laws, some inherited from the pre-independence era, are still in existence and need to be examined. These laws continue to impact on media freedoms and can be used against journalists. Section 205 of the Criminal Procedure Act, for example, empowers a magistrate, at the request of a public prosecutor, to enquire 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, also 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 houses and the Namibia Communications Commission make provision for the minister to appoint the governing board. This has brought the independence of these bodies into question.

*Por Jonathan Beukes.*

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Trabalha como jornalista no Namibian, o diário de maior  
circulação na Namíbia.*



Namibia

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O ano 2008 será recordado pelos numerosos casos judiciais, algumas vitórias e algumas derrotas para os *media*.

Após quase uma década de estagnação, o ano 2008 registou um rápido progresso na nova proposta de lei de comunicações quando o novo Ministro de Informação e Comunicação, Joel Kaapanda foi nomeado na remodelação do Conselho de Ministros. Entretanto, esta Proposta de Lei foi motivo de muita tensão entre os *media* e o Ministério.

Embora, o governo pareça ter prestado atenção à exortação por ocasião do Dia Mundial da Liberdade de Imprensa feita pelo presidente cessante do Conselho Nacional Governativo do MISA-Namíbia no sentido de não impor a regulação estatutária sobre os *media* e para apoiar os esforços de criação de estruturas auto reguladoras. Entretanto, uma vez mais, suscitaram-se tensões quando a proposta de Lei de Comunicações publicada no Boletim da República, indicava as intenções de obrigar os Provedores de Serviços de Telefonia Móvel e Internet a disponibilizar a informação ao governo, sem nenhuma supervisão judicial.

Uma outra área de disputa foi o apelo do partido no poder aos Deputados do SWAPO para que os direitos dos *media* sejam refreados. A Vice-Presidente do Conselho Nacional, Margareth Mensah submeteu uma moção que apela para que seja realizada uma investigação independente pelo Gabinete do Provedor da Justiça a fim de se apurar se as pessoas “violavam a lei” no processo de manifestar as suas frustrações através da página de sms no jornal Namibian e nos programas nacionais de debate radiofónicos produzidos pela Namibian Broadcasting Corporation (NBC). O jornal Namibian começou a publicar os comentários das cartas dos leitores, com periodicidade diária, em 2007, criticando alguns Deputados. Os Deputados acusam o jornal de denegrir os líderes da SWAPO através do serviço de mensagens curtas, vulgo SMS. Ao longo do ano, os líderes do partido no poder fizeram alegações similares de preconceitos dos *media*. Dirigindo-se aos presentes num comício durante a campanha eleitoral em Eenhana na Província de Ohangwena em Fevereiro de 2008, o vice-presidente do partido SWAPO e Ministro de Comércio e Indústria, Hage Geingob afirmou que alguns repórteres publicavam mentiras, “porque querem ser detidos... nós no seio do Partido SWAPO, acreditamos na liberdade de imprensa, todavia vocês devem reportar a verdade.”

Geingob reivindicou que alguns órgãos de comunicação social tinham reportado inverdades sobre o número de pessoas que participaram nos comícios do Partido SWAPO no Porto de Walvis Bay e Omuthiya, uma cidade situada na região norte da Namíbia.

Noutros desenvolvimentos o governo introduziu um imposto sobre as recargas para os telefones celulares. Por conseguinte, deduz-se o Imposto de Valor acrescentado (IVA) na ordem de 15% pelo uso do telefone móvel. Isto afectou negativamente os pobres que não têm capacidade financeira para pagar mais pela comunicação. O acesso à comunicação é agora um luxo que muitos já não têm capacidade financeira para pagarem. Ainda sobre as leis e as políticas, a Namíbia não tem nenhuma lei sobre o acesso à informação que permite aos cidadãos e aos trabalhadores dos *media* acederem mesmo à maioria da informação trivial de um Ministério. Aceder à informação do governo é um processo complicado, pois os quadros superiores têm o poder de autorizarem ou recusarem a divulgação de informação. Igualmente, quando a informação se mostrar sensível, nunca pode ser divulgada.

O ano 2008 também registou um elevado número de casos de difamação contra os *media*. Consequentemente, um semanário gratuito teve que travar uma série de batalhas judiciais. O caso mais proeminente foi a acusação contra os jornalistas e os proprietários, do Grupo Trustco Internacional, pelo Presidente do Conselho Municipal de Windhoek por causa de um artigo que alegava negócios duvidosos de bens da cidade. Os jornalistas e as instituições dos *media*

viram-se obrigados a despende muito tempo e dinheiro na batalha judicial. Vários casos foram retirados após o Partido queixoso ter compreendido que os seus casos não podem permanecer pendentes no Tribunal. O fundador da Namíbia, Sam Nujoma retirou um processo de indemnização na ordem de N\$ 5 milhões contra o jornal Namibian. Um outro político, o Vice Ministro da Juventude, Pohamba Shifeta, ganhou um caso de difamação contra o diário estatal, Nova Era, tendo recebido somente dez por cento dos N\$500 000 que reivindicava do jornal pelos alegados danos à sua reputação. O Juiz Collins Parker proferiu a sentença que faz saber que um dos artigos era efectivamente prejudicial à reputação de Shifeta, mas ordenou o pagamento a Shifeta de somente N\$50 000 pela difamação reivindicada. Werner Menges escreveu no Namibian, “o julgamento representa um marco na evolução da lei sobre a difamação no contexto dos *media* na Namíbia.” A decisão do Juiz Parker é a primeira na qual um Tribunal Namibiano declarou expressamente que a doutrina legal da responsabilidade estrita - na qual os *media* foram estritamente responsabilizados pela publicação de todas as alegações difamatórias falsas - deve ser descartada a favor de uma abordagem que incida mais sobre o direito constitucional à liberdade de expressão que é uma lei vigente na África do Sul desde 1998. “Shifeta processou o Editor da Nova Era, Rajah Munamava, o Director Executivo do jornal, Sylvester Black, a empresa pública proprietária do jornal, New Era Corporation, o repórter Kuvée Kangueehi, e a alegada fonte das histórias de Kangueehi. Ao reivindicar N\$500 000, Shifeta “fixou a fasquia demasiado alta, sem tomar em consideração a realidade económica da Namíbia, como um país em vias de desenvolvimento”, afirmou o Juiz Parker.

Na vertente da Rádio e Televisão, a concorrência da One Africa forçou a NBC a mudar o seu programa de maior audiência, o noticiário das oito horas, para as sete horas. A estação One Africa transmite o noticiário às 19:30. A qualidade dos programas do NBC continua inferior e o conteúdo global da estação é pouco transparente. O arriscado estado da Rádio e Televisão Nacional é a fonte de artigos chocantes regulares na imprensa escrita. A Direcção da NBC também questionou os relatórios que revelam que a Rádio e Televisão Estatal devem à Autoridade Tributária mais de N\$ 250 milhões (aproximadamente USD 25 milhões) em impostos vencidos. Questões de gestão também obrigaram o ministério da informação a exonerar o PCA da NBC, Ponhele ya France pois mostrava-se íntima e demasiadamente ligado ao Director-Geral, Vezera Bob Kandetu. Tanto Kandetu quanto Ya France, foram mencionados nos *media* e na *fábrica de boatos* de Windhoek de terem aproximação com o ex- político Hidipo Hamutenya da SWAPO, actual líder da oposição que lidera o Rally for Democracy and Progress (RDP). A saga pegou outra vez da reviravolta de 2008, quando uma bandeira de RDP foi mostrada no ecran, após a mensagem do presidente Hifikepunye Pohamba, por ocasião do ano novo. Na altura da elaboração do presente relatório decorria uma investigação com vista a apurar se a bandeira apareceu acidentalmente ou se foi inserida deliberadamente. Depois deste incidente, o Secretário do Partido SWAPO para a Informação e Mobilizaçã, instou a demissão do DG da NBC. [ o Director-Geral do NBC, Bob Kandetu foi exonerado sob alegações de má gestão ] A nomeação do novo Ministro da Tecnologia de Informação e Comunicação, registou uma lufada de actividade nos órgãos de comunicação social estatais. Para além do circo na NBC, a empresa jornalística mista Namíbia- Zimbabwe, the Southern Times, registou-se a nomeação de um novo PCA após a demissão PCA Vilbard Usiku e pouco depois, a exoneração também do PCA interino, Katrina Sikení.

A diversidade dos *media* continua a constituir uma preocupação na Namíbia com o estado continuando a ser o maior o proprietário dos órgãos de comunicação social. Até o fim de 2008, o diário de maior circulação no país, o Namibian estava a livrar-se das suas quotas nas imprensas de imprensa livre, a Empresa mista com a Trustco Group International que publica o tablóide semanal Informante. Isto fortaleceria ainda mais o monopólio do newsprint, uma divisão da Democratic Media Holdings, que imprime os diários Republikein, Allgemeine Zeitung e o New Era, bem como o semanário Namibian Sun. Na frente da ética as questões dos entretenimentos



ou excursões para jornalistas a anteceder a publicidade e outras interações questionáveis entre os *media* e os empresários continuam a levantar-se. A fraternidade dos *media* na Namíbia continua dividida sobre esta matéria. Revelou-se que o maior operador de telefonia móvel gasta aproximadamente N\$ 300 000 (USD 30 000) por o ano em subsídios de recargas, telemóveis, alojamento, transporte e ajudas de custo para eventos patrocinados e brindes para jornalistas. Apesar de tudo isto há que salientar que as más leis dos *media*, algumas herdadas da era colonial estão ainda em vigor e carecem de revisão. Estas leis continuam a surtir efeitos nas liberdades dos *media* e incluem:

A Secção 205 do Decreto Lei do Processo Criminal. Através desta lei autoriza-se ao Juiz de instrução, a pedido do Ministério público, inquirir qualquer pessoa provável de apresentar provas ou prestar informação relevante a respeito de uma ofensa para se fazer presente perante a si para a investigação realizada por um procurador. A secção 189 do Decreto Lei confere poderes ao Juiz de instrução para inquirir qualquer recusa por qualquer pessoa para responder as perguntas a si colocadas e para condenar essa pessoa à prisão se não houver nenhuma causa justa para que recusar responder às perguntas. Estas leis podem ser usadas contra aos jornalistas. A protecção da Lei de informação, que impõe o dever do segredo aos funcionários públicos, inibe também a livre circulação da informação. Mesmo que as liberdades dos *media* estejam previstas na alínea a) do paragrafo 1) do artigo 21 da constituição da Republica da Namíbia, esta garantia está sujeita ao paragrafo 2) do artigo 21 que prevê as limitações permissíveis específicas nestas liberdades. Além disso, a garantia está também sujeita ao artigo 22, a cláusula geral da limitação para todas os direitos e liberdades consagrados na Constituição. Além disso, as várias leis que criam os *media* financiados pelo governo e a Comissão das Comunicações da Namíbia, prevêm que o ministro possa nomear o Conselho de Direcção. Isto suscitou a pergunta em torno da independência dos órgãos.

• **ALERT**

Date: June 3, 2008

Person/institutions: *Informanté* newspaper

Violation/issue: Banned

MISA Namibia noted with concern complaints by *Informanté* that the organisers of the Miss Namibia beauty pageant had refused to grant the tabloid's journalists entry to the pageant for coverage. According to *Informanté* reporter Elvis Mboya the organiser of the annual Miss Namibia pageant, Connie Maritz, made it "categorically clear that *Informanté* will not cover this year's event". Mboya said Maritz singled out the weekly tabloid because of what the "negative publicity" the event has received in the paper's reports. Meanwhile, in a telephonic interview with MISA Namibia, Maritz emphasised: "I did not invite the *Informanté* to the event and I will not allow any interviews to be conducted with any *Informanté* reporters. Any and all the reports done by *Informanté* on the pageant and events around the pageant have been incorrect, unethical and untrue! For that reason, they have not been invited." National Director of MISA Namibia Mathew Haikali said the incident cannot be described as anything other than discriminatory as well as a violation of freedom of expression and freedom of speech.

• **COMMUNIQUE**

Date: June 20, 2008

Person/institutions: Communications industry

Violation/issue: Other

Following the move by the government of Namibia to scrap value added tax (VAT) of 15 per cent on food imports, MISA Namibia took the opportunity to urge the government to further extend the scrapping of VAT on mobile prepaid services that was imposed in February 2008. "Access to communication, like food, is a basic and fundamental human right," said MISA Namibia Director Mathew Haikali.

MISA Namibia said the imposition of VAT on telecommunications services, however, places further obstacles to universal access to communication and is clearly not in the spirit of Vision 2030, the SADC ICT Declaration and the Millennium Development Goals.

"The extra cost of telecommunications services is no doubt most felt by the poor and other marginalised sections of society, who are already struggling to make ends meet due to the escalating cost of living in Namibia," said Haikali.

• **ALERT**

Date: July 23, 2008

Person/institutions: Media/Namibian Polytechnic

Violation/issue: Banned/policy

MISA Namibia came out strongly against the decision by the Polytechnic of Namibia to make its premises off-limits to journalists covering student events. According a news story in the *New Era* of July 23, 2008, titled "Journalists barred from Polytechnic", journalists cannot enter the institution's premises unless authorised by the Rector or the Vice Rector. The National Director of MISA Namibia expressed disappointment at the decision taken by the Polytechnic. *New Era* journalist and author of the story in question, Desie Heita, said he had experienced difficulties when trying to gain access to the Polytechnic premises to write a story on student matters. Heita explained he was ordered not to enter the premises at all because of the nature of his profession.

• **ALERT**

Date: July 23, 2008

Person/institutions: *Informanté* newspaper

Violation/issue: Banned

MISA Namibian expressed concern over a letter from law firm Dr Weder, Kauta & Hoveka Inc stating that all *Informanté* journalists are banned from the Masquerade nightclub in the

capital, Windhoek. The letter, forwarded to MISA Namibia by an *Informanté* journalist states that: “We hold instructions that the nightclub welcomes various people across all communities of Namibia. Our clients instruct us that all journalists at *Informanté* are a threat to the club in that, by the nature of their duties, they would infringe the privacy of our clients’ customers.” In response, Director of the Legal Assistance Centre (LAC) Norman Tjombe said: “The restrictions that are placed on the journalists by the nightclub violate a number of human rights, such as the right to freedom to practice one’s profession or trade, freedom of expression and media freedoms, and the freedom of movement. The nightclub, even though privately owned, provides a service to the members of the public on payment of the relevant fees at the entrance, and it will be unfair to single out certain members of the public because of their lawful trade or profession.”

He further noted that, the privacy of the nightclub’s customers should be respected and protected, and the restrictions should rather be directed at that, and not have a blanket ban for all journalists from a particular media house. He suggested that there could be a restriction that people should not take photographs inside the night club, for example.

• COMMUNIQUÉ

Date: October 14, 2008

Person/institutions: State media

Violation/issue: Other

On October 14, *The Namibian* newspaper reported that the Minister of Information and Communication Technology was struggling to manage state-owned newspapers and broadcasting stations. *The Namibian* reported that within the first two months of his reign at the renamed Ministry of Information and Broadcasting, Joel Kaapanda witnessed the resignation of the chairman of the New Era Board of Directors, Vilbard Usiku, in June 2008. On October 10, acting chairperson of the board, Katrina Siken, also resigned. Both these resignations, *The Namibian*, established, concern issues around the chief executive officers of *New Era* and its sister paper, *Southern Times*. On both occasions, Minister Kaapanda was not happy with the way the boards of *New Era* and *Namzim Newspapers*, the holding company of *Southern Times*, dealt with the appointments of and disciplinary issues concerning the CEOs of the two papers. *The Southern Times* is jointly owned by the Namibian and Zimbabwe governments.

• COMMUNIQUÉ

Date: October 31, 2008

Person/institutions: Media/communications

Violation/issue: Legislation

MISA Namibia acknowledged the Ministry of Information and Communication Technology for taking swift steps to finalise the Communication Bill. MISA Namibia Broadcasting and ICT Research Officer Ngamane Karuaihe-Upi said the process to speed-up the finalisation of the bill by the ministry is a welcome sign of liberalising information technology and the operating mechanisms of the media industry. “The final act of the bill is envisaged to bring about an independent, self-regulating and self-sustaining media council for Namibia,” he also noted. Karuaihe-Upi, however, encouraged key media players to make sure that they acquaint themselves with the final draft of the Communication Bill before it is tabled. At a media briefing at the Ministry Information and Communication Technology on October 30, Minister Joel Kaapanda revealed that his ministry is committed to finalising the draft bill for tabling in Parliament at the beginning of the next parliamentary session in February 2009.

• COMMUNIQUÉ

Date: November 25, 2008

Person/institutions: National editors/media

Violation/issue: Other

MISA Namibia commended the Namibian Editors' Forum (NEF) for putting in place mechanisms for the self-governing and self-regulation of the media. This was done in order to promote ethical reporting, and bring integrity and transparency to the media industry.

An illustration of how a media self-regulatory grievance procedure would work was presented by the Director of the Legal Assistance Centre, Norman Tjombe, at the NEF's first Annual General Meeting, held in Windhoek on November 24. This decision was accepted by all NEF members present at the meeting.

- **ALERT**

Date: November 25, 2008

Person/institutions: Media/citizens

Violation/issue: Legislation

MISA Namibia noted with grave concern the provision for the interception of electronic communications in the draft Communication Bill. In a statement MISA Namibia said that the provision will infringe on the rights and civil liberties of Namibian citizens. MISA Namibia commented that the bill in its present state constitutes a gross infringement on the fundamental and constitutional rights of Namibians to freedom of expression and right to information. It went further to say the bill violates the constitutional right to privacy as guaranteed in Article 13 of the Namibian Constitution that "no person shall be subject to interference with the privacy of their homes, correspondence or communications". The media body added that the bill is too wide, vague and open to abuse, while sweeping powers are given to individual staff members at the agency to monitor and intercept communication. MISA Namibia recommended that there be a system of checks and balances and judicial review of any warrant for interception. Private communication between citizens should not be intercepted with impunity, added MISA Namibia.

- **ALERT**

Date: December 5, 2008

Person: Bonita Nuttal

Violation/issue: Detained/ charged

In an article written in *The Namibian* newspaper of December 2, 2008 it was reported that a presenter for Carte Blanche, a programme of South African subscription television channel M-Net, Bonita Nuttal, was arrested at Hosea Kutako International Airport and detained for a day, before appearing in the Windhoek Magistrate's Court in Katutura. She was charged for having contravened a section of the Immigration Control Act by allegedly providing false information to immigration officers about her true intentions for visiting Namibia. She was released after posting a security of N\$2,000 to the immigration officials. She appeared again at the Windhoek Magistrate's Court in Katutura where the matter was postponed to February 4, 2009. She was granted bail of N\$8,000, after which she left Namibia.

- **ALERT**

Date: December 9, 2008

Person/institutions: *The Namibian* newspaper

Violation/issue: Other

In a news article published in *The Namibian* newspaper on December 9, 2009 the chairperson of Namibia's legislative body, the National Council, Margaret Mensah-Williams, was reported to have called on the Ombudsman's Office to investigate the readers' SMS page as to whether it was being used to demonise Namibian leaders. *The Namibian* newspaper publishes mobile phone (SMS) messages from readers on various topics in Namibia. In response, MISA Namibia stated that this call was not healthy for a growing democracy such as Namibia, adding that it should be understood by all Namibians that media freedom is enshrined in the Constitution under Article 21 1 (a). Further, freedom of expression is an inalienable right of every Namibian. These two provisions emphasise the role of the media in our society to serve as the fourth estate

of government and to keep a steady flow of information between the people of Namibia and the three arms of government, namely the executive, judiciary and legislature.

## *National overview*

*By Ferial Haffajee*

*Editor of the Mail & Guardian newspaper*



## South Africa

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**I**n 2008, relations between government and the media and among media institutions calcified. Four issues stood out:

- Firstly, the ruling African National Congress (ANC) set the tone for the year when at its national conference in Polokwane at the end of 2007, it passed a resolution declaring its intention to form a media appeals tribunal as a way of ensuring that better checks and balances were placed on the fourth estate.
- The second issue was that of cartoonists and politicians as the ANC sued cartoonist Jonathan Shapiro, who works under the name Zapiro, for a hard-hitting drawing of its president, Jacob Zuma, raping lady justice. Shapiro is facing several defamation suits by the ANC president.
- Thirdly, the SABC made more headlines than it broadcast, as a series of internecine battles saw its board pitted both against management and the ANC in parliament, which sought to pass a law in order to fire a set of board members it felt had been foisted on it by former president Thabo Mbeki. At the time of writing, the Communications Portfolio Committee was attempting to pass a Broadcasting Amendment bill that would allow it to alter the composition of the board.

## Media appeals tribunal

By the end of 2008, the ANC faced so many challenges that it appeared to have taken the idea of a tribunal off its immediate agenda. But throughout the year, ANC spokesperson Jessie Duarte, as well as chairperson of the ANC's sub-committee on communications Pallo Jordan and other members of the broad Tripartite Alliance, continued to advocate for the tribunal. Broadly, the ANC believes that the self-regulatory system of media regulation lacks teeth and does not hold the media sufficiently in check. Initial plans were for a statutory media tribunal but the ruling party is now contradictory on this, saying that no firm decision has been taken on whether the tribunal should be statutory or non-statutory.

A self-regulatory system with an active and present press ombudsman and a press council is recognised globally as the gold standard of self-regulation. The South African newspaper industry has recently strengthened the office, appointing veteran journalist Joe Thloloe to the position of press ombudsman. In addition, he is ably assisted by a Press Council comprised of a diverse range of South Africans. At the time of writing, the print media industry had decided to further improve the press ombudsman's office by appointing a deputy ombudsman and further assistance.

The tribunal would have authority over both the print, broadcast and online sectors of the media, which also throws up complex questions about where this leaves the Broadcasting Complaints Commission and the complaints system available to the public through the regulator, the Independent Communications Authority of South Africa (ICASA). The tribunal should be the key topic on the watch-list of media watch-dogs across our region.

## The cartoonist and the president

It was a stark image by anybody's tally: Lady Justice lay in palpable pain, her hands pinned down by a gang which included Cosatu's General Secretary Zwelinzima Vavi, SACP Secretary General Blade Nzimande, the ruling party's Youth League leader Julius Malema and ANC secretary-general Gwede Mantashe. Zapiro had drawn them looking like a band of common thieves, all looking up at their master as he readied himself for rape. He had his hand at his belt buckle: it was open and ready for attack. The shower drawn, attached to the head of the image of Jacob Zuma, looked more phallic than it usually does. The implication was clear: justice

was being raped by the campaign the ANC and its allies were waging against the courts, which were trying Zuma on various corruption and racketeering charges.

Published in the *Sunday Times* in September 2008, the cartoon caused a furore as it catalysed a debate on how far cartooning can go before it is defamatory. Zapiro faced a firestorm, even from supporters like political analysts Sipho Seepe and Xolela Mangcu who felt he had drawn too far. The ANC threatened to sue and the already fiery atmosphere blazed. The following Friday, Zapiro drew again in the *Mail & Guardian*. He drew a twin image and this time a word bubble from Zuma said: "With respect ...".

The implication was clear again: all week, the ANC had protested that it respected the judiciary and the outcome of judgements. On the same day that the second cartoon was published, High Court judge Chris Nicholson threw out the charges against Zuma and claimed that he had been subject to a political conspiracy. The ANC was ecstatic and outside court, deputy president Baleka Mbete attacked Zapiro and accused him of racism. The incident has hardened the cartoonist laureate whose work is often dark with anger now; it is a far cry from the role he has played as court jester to a ruling party he has always supported. Cartoonists are meant to push the envelope and enjoy, arguably, a higher freedom of expression than other journalists, said media freedom advocates. It is a space worth watching especially as all signs point to Jacob Zuma becoming president in 2009.

## And now for the evening bulletin

Media Tenor, the media analysis company, found that the SABC suffered a massive dent to its reputation if the tally of negative versus positive publication was accepted. Throughout 2008, the SABC was engaged in an internecine battle with its chief executive, officer Dali Mpofu, who was suspended and later fired by the board's chairperson, Kanyisiwe Mkhonza. Mpofu, fought the board in the courts and the year followed a pattern of reinstatement and suspension.

Mpofu said that he was the victim of political interference exercised through the board by the former president, Thabo Mbeki. He found an ally in this assertion in the ANC's communications portfolio committee at parliament which used the interregnum after Mbeki's firing to attempt to change the board to which the former president had appointed several favoured associates and allies. The Broadcasting Amendment Bill sought to give hiring and firing powers to parliament but civil society opposed the bill because it felt it to be opportunist.

At the time of writing, it had not been passed. A buffeting year is likely at the SABC as the CEO, Gab Mampone, is only serving in an acting position. The chief operations officer (COO) is also acting while the board is being sued by two disgruntled applicants for this important role.

A 'Save our SABC' coalition has been formed to lobby for the transformation of the broadcaster through changes to legislation and public advocacy. It is chaired by Kate Skinner and is a broad front of organisations keen to set the keeling ship SABC straight.

Questions have been raised about the role of ICASA in ensuring that the SABC keeps to its licence condition. Both the regulator and the Communications Minister, Ivy Matsepe Cassaburi, have been silent throughout a year of crisis at the SABC.

The *Sunday Independent* reported that the broadcaster is operating on a deficit/overdraft facility of R500 million (about US\$55 million), while it is well known in industry circles that advertising revenue on television is slowing down.



## The good news

It was not all gloom on the media freedom front. Astute parliament-watchers and lobbyists ensured that two potentially pernicious pieces of draft legislation – the Companies Bill (in so far as it applied to the media) and the Protection of Information Act – were amended to make them more media friendly.

The Protection of Information Act would have dragged a veil of secrecy over much wider areas of public and private information. It would have dulled the democratic effect of access to information legislation. At the time of writing, the draft had been sent back to the drawing board.

The Companies Bill, a broad-ranging draft law to reform South African corporate law, would have hampered investigative journalists if the media had not picked up the issue. It sought to keep secret the companies' register, an essential resource for investigative journalists. After representations to parliament by the *Mail & Guardian*, drawn up by Webber Wentzel-Bowens, the draft law was changed to keep the register public.

In February, the Film and Publications Amendment Bill, which allows potential pre-publication censorship across a wide range of coverage was sent back to parliament by President Kgalema Motlanthe in a step welcomed by the South African National Editors' Forum.

## Looking ahead to 2009

In 2009, the media and its allied organisations will have to operate at a number of levels to protect its freedom:

Politically, the ruling ANC is often on the attack against the media as it tries to portray journalists as an elite out of touch with the aspirations of the people. The term used most often, and usually spittingly, is: "the bourgeois media".

Zuma is a far more litigious president of the ruling party than his two predecessors of the democratic era, Nelson Mandela and Mbeki.

There are constant draft laws, which need to be assessed to ensure that they are in line with the constitutional protection of freedom of expression. This will require a legal response and possibly a permanent monitoring function.

Across the industry, journalists are being retrenched and newsrooms restructured to counter a steep downturn in advertising revenue. This is an internal threat to media freedom that is not spoken about often enough. Watch-dogs are only as good as the teeth they are given by their owners and, with a decline in journalism, the dogs are being de-fanged.

The media industry is in serious need of an audit of both the impact of the financial crunch and of measures that can be taken to protect quality journalism, which is essential to South Africa's development.

*Por Ferial Haffajee*  
*Farieal é editor do Mail & Guardian da África do Sul*



## Africa do Sul

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**E**m 2008, as relações entre o governo e os medias e entre instituições dos medias calcificaram tendo se destacado quatro questões.

- Primeiro, o Congresso Nacional Africano (ANC) partido no poder definiu o tom para o ano ao aprovar, na sua conferência nacional realizada em Polokwane no fim de 2007, uma resolução que declara a sua intenção de instituir um tribunal de recursos dos medias como uma maneira de se assegurar de que melhor equilíbrios fossem instituídos no quarto poder.
- A segunda questão foi sobre o cartoonista e os políticos pois o ANC instaurou um processo contra o cartoonista Zapiro pelo desenho de crítica desagradável ao seu presidente Jacob Zuma na qual o retrata estuprando a Juíza conselheira. Jonathan Shapiro, é o nome do cartoonista, que está enfrentando diversas acusações de difamação do presidente do ANC.
- Terceiro, a SABC fez mais manchetes do que radiofundo, pois uma série de batalhas prejudiciais para ambas as partes viu o seu conselho de administração oposto tanto contra a Direcção e o ANC no parlamento que procurou aprovou uma lei com vista a exonerar um colectivo de administradores que achava que lhe tinha sido impingido pelo expressamente Thabo Mbeki. Na altura da elaboração, a comissão das comunicações estava tentando aprovar uma proposta de emenda da Rádio e Televisão que permitisse que alterasse a composição do Conselho de Administração.

## **Tribunal de Recurso dos Medias**

Até o fim de 2008, o ANC enfrentou muitos desafios que parecia ter retirado a ideia de um tribunal da sua agenda imediata. Mas durante todo o ano, a porta-voz do ANC a Jessie Duarte bem como o presidente da subcomissão do ANC para as comunicações Pallo Jordão bem como outros membros da ampla aliança tripartida continuou a advogar para o tribunal. Em termos gerais, o ANC acredita que o sistema auto-regulador do regulamento dos medias não é acérrimo e não responsabiliza os medias suficientemente na verificação. Os planos iniciais visavam um tribunal estatutário dos meios mas actualmente o partido no poder é contraditório nisto, afirmando que nenhuma decisão firme foi tomada sobre se o tribunal deve ser estatutário ou não-estatutário.

Um sistema auto-regulador com um Provedor de imprensa activo e actual e um conselho da imprensa é reconhecido mundialmente como o padrão de ouro da auto-regulação. A indústria jornalística sul africana reforçou recentemente a Provedoria, nomeando o veterano jornalista Joe Thlolo para o cargo de Provedor de imprensa. Além disso, é sabiamente assistido por um conselho de imprensa composto por uma gama diversificada de sul africanos. Na altura da elaboração, a indústria de imprensa escrita tinha decidido melhorar ainda mais a Provedoria nomeando um a Provedor adjunto e demais assistentes.

O tribunal teria autoridade sobre tanto a imprensa, rádio e televisão quanto os sectores dos medias ligados a rede também coloca perguntas complexas sobre onde é que isto deixa a comissão de queixas da rádio e televisão e do sistema de queixas disponíveis ao público através do regulador, Autoridade Independente das Comunicações da África do Sul. O tribunal deve ser o tópico chave na lista de verificação de fiscais em toda a nossa região.

## **O cartoonista e o presidente**

Tratava-se de uma imagem completa de replica de qualquer pessoa. A Juíza conselheira deitada numa dor evidente, com as mãos fixadas soa por um grupo que incluía o secretário-geral da Cosatu Zwelinzima Vavi, o secretário-geral da SACP Blade Nzimande, o líder da liga da juventude do partido no poder Julius Malema e o secretário-geral do ANC Gwede Mantashe.

Zapiro tinha-os desenhado com aspecto de um bando de ladrões comuns, todos olhando para o seu mestre a medida que este se preparava para o estupro com a mão na fivela, estava aberta e pronta para o ataque. O chuveiro constante do desenho, anexado à cabeça da imagem de Jacob Zuma, parecia mais fálico do que ela geralmente parece. A implicação foi clara: a justiça estava sendo violada pela campanha que o ANC e seus aliados estavam empreendendo contra os tribunais que estão julgando Zuma nas várias acusações de corrupção e extorsão.

Publicado no Sunday Times em Setembro de 2008, o cartoon causou um furor pois catalisou um debate sobre até que ponto se pode admitir a publicação de cartoon sem que seja difamatória. Zapiro enfrentou uma tempestade de fogo, mesmo dos simpatizantes como analistas políticos Sipho Seepe e Xolela Mangcu que acharam que ele havia exagerado. O ANC ameaçou processá-lo e o clima já impetuosa chamejou.

Na sexta-feira seguinte, Zapiro voltou a publicar um cartoon. Desta vez, no Mail&Guardian, desenhou uma imagem gêmea, desta feita uma bolha da palavra de Zuma dizia: "Com respeito..."

Uma vez mais, a implicação foi clara: durante toda a semana, o ANC protestara que respeitou o judiciário e o resultado dos julgamentos. No mesmo dia que se publicou o segundo cartoon, o juiz do Tribunal Supremo Chris Nicholson acusou o Zuma e reivindicou que tinha sido sujeito a uma conspiração política.

O ANC foi era extática e fora do tribunal, a Vice-presidente Baleka Mbete atacou Zapiro e acusou-o de racismo. O incidente endureceu o laureado cartoonista cujo o trabalho é frequentemente ambíguo agora com raiva; é muito gritante do papel que desempenhado como gracejador do tribunal para o partido no poder que sempre apoiou. Os cartoonists existem para impulsionar a cobertura e alegria, sem dívida, uma liberdade de expressão mais elevada do que os outros jornalistas, ditos advogados da liberdade dos medias. Trata-se de espaço digno de acompanhamento especialmente por que tudo indica que Jacob Zuma em 2009 vai-se tornar o presidente.

## E agora para o boletim da noite

Media Tenor, a companhia da revista de imprensa, constatou que a SABC sofreu um entalhe maciço a sua reputação se o registro do negativo contra a publicação positiva for aceite. Durante todo 2008, o SABC empenhou-se numa batalha destrutiva com o seu Director Executivo Dali Mpofu que foi suspenso e mais tarde exonerado pelo Presidente do Conselho de Administração Kanyisiwe Mkhonza. Mpofu enfrentou o Conselho de Administração em tribunais e o ano seguiu um padrão de reinstalação e suspensão.

Mpofu disse que era a vítima da interferência política exercida através da Conselho de Administração do ex- presidente Thabo Mbeki. Encontrou um aliado nesta afirmação na comissão parlamentar das comunicações do ANC que usou o interregno após a demissão de Mbeki para tentar mudar o Conselho de Administração que o ex-presidente tinha nomeado os diversos associados e aliados favorecidos. A Proposta de Emenda da Rádio e Televisão procurou conferir poderes de contratação e despedimento ao parlamento mas a sociedade civil opôs a proposta porque achou-a ser oportunista.

Na altura da elaboração, não tinha sido aprovada. Prevê-se um ano de retrocesso na SABC porque o PCA Gab Mampone está exercendo o cargo interinamente, o Director de operações está também exercendo o cargo interinamente enquanto o Conselho de Administração está sendo e processando por dois queixosos descontentes por este papel importante.

Constitui-se uma coligação salvemos a nossa SABC para influenciar a transformação deste canal através das mudanças à legislação e à advocacia do público. Trata-se de ampla frente de

organizações, ávidas salvar o barco SABC à deriva, presidida por Kate Skinner.

Colocam-se perguntas sobre o papel de Icasa em assegurar-se de que o SABC mantenha a sua condição da licença. O regulador bem como ministro das comunicações, o Ivy Matsepe Casaburi mantiveram-se silenciosos durante todo o ano da crise no SABC.

O Sunday Independent reportou que o canal televisivo opera num défice/facilidade de descoberto de ZAR500.000.000,00 quando é bem sabido em círculos da indústria que o rendimento da publicidade na televisão está reduzindo.

## A boa nova

Nem tudo eram trevas na frente da liberdade dos medias. Os fiscais parlamentares e os influenciadores asseguraram que duas peças potencialmente perniciosas de proposta de legislação - a Proposta de Lei de empresas jornalísticas e a Lei de protecção de informação - foram emendadas com vista a torná-las mais propícias.

A Lei de protecção de informação teria arrastado um véu de sigilo sobre áreas muito mais amplas de informação pública e privada. Teria ensombrado o efeito democrático do acesso à legislação da informação. Na altura da elaboração, a proposta tinha sido devolvida ao conselho de extracção.

A Proposta de Lei de empresas jornalísticas, uma prostra de lei de amplo alcance para reformar o Direito Sul Africano de Empresas, teria impedido jornalistas investigativos a não ser que a questão fosse escolhida pelos medias. Procurou manter o sigilo daquilo que as empresas registam, um recurso essencial para jornalistas investigativos. Após representações ao parlamento pelo Mail&Guardian, formulados por Webber Wentzel-Bowens, mudou-se a Proposta de Lei para manter o registo público.

Em Fevereiro, a proposta de emenda da lei cinema e publicações que prevê a potencial censura pre-publicação sobre uma larga escala de cobertura foi devolvida ao parlamento pelo presidente Kgalema Motlanthe numa etapa saudada pelo fórum nacional dos editores Sul Africanos.

## Perspectivas para 2009

Em 2009, os medias e as suas organizações aliadas terão que operar-se em vários níveis para proteger a sua liberdade.

- \* Politicamente, o ANC partido no poder está frequentemente no ataque contra os medias enquanto tenta retratar os jornalistas como uma elite intocável com as aspirações do povo. O termo mais usado frequentemente e é geralmente em forma de repúdio: "os medias burgueses". Zuma é um presidente muito mais litigioso do partido no poder do que os seus dois antecessores da era democrática - Nelson Mandela e Mbeki.
- \* Há propostas de leis constantes que devem ser avaliadas para se assegurar que estejam em consonância com a protecção constitucional da liberdade da expressão. Isto carecerá de uma resposta legal e possivelmente uma função de monitoria permanente.
- \* Em toda a indústria, os jornalistas estão sendo diminuídos e as redacções reestruturadas para fazer face queda vertiginosa do rendimento da publicidade. Esta é uma ameaça interna à liberdade dos medias de que não se falava bastante. Os fiscais são somente tão bons quanto poder que lhes é pelos seus proprietários e com o declínio do jornalismo, fiscais são afectados.

A indústria jornalística precisa bastante de uma auditoria tanto do impacto da crise financeira e das medidas que podem ser tomadas para proteger o jornalismo de qualidade que é essencial para o desenvolvimento da África do Sul '.

• COMMUNIQUE

Date: May 23, 2008

Person/institutions: Media

Violation/issue: Other

The Deputy President of the ruling Africa National Congress (ANC) party, Kgalema Motlanthe (now President), says the South African media lacks diversity. Addressing journalists at a Media Forum in Johannesburg on May 22, 2008, Motlanthe says news is being homogenised. “We have observed that rather than becoming more diverse, the local and global media terrain is becoming less so,” said Motlanthe.

He bemoaned what he called the commercialisation of media outlets and that the democratising role of the media is yet to be realised. Motlanthe added that as part of a corrective measure the ANC agreed at its Polokwane conference in 2007 to increase funding to the Media Development and Diversity Agency (MDDA). The MDDA’s objective is to “help historically disadvantaged communities and persons gain access to the media”.

• ALERT

Date: June 16, 2008

Institutions: SABC

Violation/issue: Other

The head of content enterprise at the South African Broadcasting Corporation (SABC), Gab Mampono, has once again been appointed acting group CEO, the broadcaster reported on June 14. The appointment of an acting CEO comes hard on the heels of the second suspension of SABC CEO Dali Mpofu by the board. Mpofu was suspended by the board for the second time on June 12. Mpofu was first suspended on May 7, a day after he suspended his news chief, Snuki Zikalala, who was accused of leaking a memorandum on Mpofu’s alleged bad management of the SABC. Mpofu challenged his suspension and the Johannesburg High Court ruled in his favour. The court ruled that the meeting where the suspension was decided did not follow the correct legal procedures, including giving reasonable notice of the board meeting to all relevant parties.

• ALERT

Date: August 21, 2008

Institutions: SABC

Violation/issue: Other

The board of the South African Broadcasting Corporation (SABC) released a statement on August 19 announcing that suspended SABC Head of News Snuki Zikalala has been cleared of all charges of misconduct against him. SABC Group CEO Dali Mpofu suspended Zikalala on May 6. Mpofu suspended Zikalala for allegedly leaking the corporation’s confidential documents and an internal memorandum.

• ALERT

Date: September 21, 2008

Institutions: *Grocott’s Mail* newspaper

Violation/issue: Threatened/ Banned

In September 2008, Grahamstown community newspaper, *Grocott’s Mail*, won its case against the Grahamstown Council, which in May 2007 banned all advertising in the newspaper. The municipality issued an internal instruction, leaked to *Grocott’s*, that the paper would no longer be the “service provider” for municipal advertising. The step was punishment for *Grocott’s* having run stories that the municipality deemed too critical about local governance finances. The newspaper’s chairperson, Professor Guy Berger, said the move by council was politically driven, misguided and illegal. Efforts to talk the matter over failed as the municipality stuck to its guns. With support from MISA’s Legal Defence Fund, the newspapers challenged this ban resulting in the municipality yielding. In a signed settlement, the council agreed to resume

its former advertising relationship with the paper – one which has existed since the paper's founding in 1871.

- **ALERT**

**Date:** November 4, 2008

**Institutions:** SABC

**Violation/issue:** Other

The online edition of the *Mail & Guardian* reported that the South African Broadcasting Corporation (SABC) has been criticised by various sectors in South Africa for bias in its news coverage of political developments in the country. On October 4, United Democratic Movement (UDM) leader Bantu Holomisa complained to the Independent Communications Authority of South Africa (ICASA) about the SABC being “a serial offender when it comes to bias in favour of the ANC”. Meanwhile, the *Cape Argus* reported on November 3 that the SABC board would be in the hot seat over its “biased” coverage of the emerging party when it faced the ANC in parliament in two weeks’ time. Khotso Khumalo, spokesperson for the ANC’s parliamentary committee for communications, said the ANC had laid a complaint against the SABC with ICASA on November 2. The SABC responded to the charges of bias on November 6 by setting up the office of a complaints officer who will deal with all complaints submitted in writing by political parties within 72 hours of submission. This follows a special meeting of the SABC board news committee held in Johannesburg, in which the board reaffirmed its commitment to its news division’s unfettered editorial independence.

- **ALERT**

**Date:** November 15, 2008

**Institutions:** SABC

**Violation/issue:** Threatened

MISA South Africa expressed concern over allegations that South African Broadcasting Corporation (SABC) journalists, and especially the editorial team, are being intimidated by political parties as South Africa prepares for the 2009 general elections. The comment from MISA South Africa came at a time when the SABC board was to appear before the Parliamentary Portfolio Committee on Communications on November 18 to respond to allegations of incompetence. Last year, the Portfolio Committee passed a vote of no confidence in the board, saying it is failing to meet its mandate of effectively governing the public broadcaster. MISA South Africa cautioned all South African political parties to allow media freedom and fair reporting during the upcoming elections. Some of the SABC workers reported having received SMSes and been called by political party representatives, threatening them and forcing them to report favourably towards certain political parties. MISA South Africa urged the Portfolio Committee to make its decision based on fairness and due course as stated in the Broadcasting Bill. MISA South Africa is part of the Civil Society Coalition that facilitates the ‘Save Our SABC’ Campaign.

## *National overview*

*By Thandi F. Khumalo, a lecturer in the Department of Sociology, University of Swaziland*



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# Swaziland



The lack of democracy in Swaziland impacts on all the official structures and operations within the country. The democratic principles of accountability; transparency; respect for human rights; and acknowledgement of the dignity of persons have been eroded in the process.

The much-anticipated opening up of the airwaves appeared to become a reality in September 2008, even though the concept had been under pilot for one year. While the government had allocated five radio licenses to radio stations, three to community and two to commercial stations, these have since been reversed and the whole process now in the limbo.

Journalists continue to face the challenge of balanced reporting without fear of retaliation from the government, politicians and public figures. Censorship of media content continues to be exercised through lawsuits, harassment and legislation. This has resulted in journalists from both the private and state-owned media censoring themselves. The biggest challenge for journalism and democracy as a whole in Swaziland lies in the lack of a vibrant civil society.

## The state of the media

It was anticipated that relations between the government and media would improve with the new Constitution, which came into force in February 2006. The Swaziland Constitution is notorious for giving rights and then quickly taking them away in subsequent provisions. For example, while freedom of expression and freedom of the media are guaranteed and protected by the Constitution, there are no complimentary pieces of legislation that protect these freedoms. In addition, the failure to review laws that inhibit these freedoms continue to curtail media vibrancy.

Attempts were made to rectify the situation in 2007, but once again progress has stalled on seven draft bills. The bills include the Freedom of Information and Protection of Privacy Bill; the Swaziland Media Commission Bill; the Protected Ceremonies, Places and Areas Bill; the National Film Bill; the Swaziland Public Broadcasting Corporation Bill; and the Books and Newspapers (Amendment) Bill, all of 2007. Media stakeholders voiced concerns that they had with some of the draft bills and their input was submitted to the relevant authorities, who promised to consider their views. It has happened in the past that bills are delayed indefinitely if the authorities are unhappy with some sections. Bills that favour the status quo are passed into law almost immediately.

On the surface it looks like media-government relations are improving, yet in practice little has changed. The breakfast meetings between former Prime Minister Absalom Thembu Dlamini with media editors seemed noble at face value, yet it transpired to be nothing less than a window-dressing exercise. It was government's attempt to present a good image to the international community in order to retain donor support in the wake of unending calls for Swaziland to democratise. The return of Barnabas Sibusiso Dlamini as Prime Minister in September 2008 might even present more problems for the media, judging by his treatment of the sector in the past administration.

Generally, there has been tolerance of freedom of speech, although critics and dissenting voices are still intimidated by government and politicians. Public advocacy gatherings and civic education exercises are still monitored by government, thus limiting freedom of expression and association. The Attorney General threatened media workers with arrest should they be seen to support purported "terrorists" in their reporting. Swaziland has recently adopted an anti-terrorism law known as the Suppression of Terrorism Act, 2008. Traditional authorities have also made their contempt for the media very clear, judging by the careless pronouncements made by Jim Gama, a traditional governor, dubbed as the traditional Prime Minister. He said: "offending journalists should be punished using 'umphini'", a traditional form of capital punishment.

## The state of broadcasting and telecommunications

Government has finally headed calls to free the airwaves, however an independent regulator does not grant the licences. The Swaziland Posts and Telecommunications Corporation (SPTC) and the Swaziland Television Authority (STVA) are still regulators of the different media. However, initiatives to review this anomaly are underway. Both the Broadcasting Draft Bill 2007, which repeals the STVA Act of 1983 and seeks to establish an independent regulator, and the Public Broadcasting Corporation Draft Bill 2007, which seeks to transform the state broadcasters into public broadcasters, are at an advanced stage.

## The state of print media

There continues to be a lack of diversity within the print media sector, with the privately owned *Times of Swaziland* still dominating private media. The *Swazi Observer*, owned by Tibiyo TakaNgwane, a conglomerate effectively owned by the Swazi royal family, also enjoys considerable circulation. The *Nation* magazine has reasonable readership, although its exercise of critical journalism has resulted in it being slapped with three lawsuits that are likely to cripple the publication. Other publications are struggling to keep afloat, such as the *Connexion* youth magazine. Commentators have pointed out that the government controls media content indirectly through advertising power, as it is the single largest advertiser in the country and advertising is the prime source of income for the print media.

On the whole, the print media in 2008 was generally informative and provoked many public interest issues, which in turn provoked anger and retaliation from certain quarters. As such, civil litigation against journalists and media houses by public servants and politicians increased. *The Nation* magazine suffered the worst fate with three lawsuits running into millions in claims still pending before the court.

## Projections for 2009

Without a democratic Swaziland it is unrealistic to expect changes that would satisfy the basic principles of freedom expression and freedom of the media. The continued pressure for a democratic dispensation is angering government, as reflected in the swipes civil servants take at the media at every opportunity. Media violations are, therefore, expected to increase as government feels the pressure for change. Evidently, the two years the Constitution has been in operation have not made an impact in fast-tracking law review to create a conducive environment for the media.

In 2008, media violations were overwhelming, with minimum victories attained. The media was harassed, threatened, censored and assaulted. These violations are manifestations of a non-democratic society. The development of the country is dependent, among other things, on a media that is free to assess the operations of public offices critically. The media is the voice of the public and should not be deterred in doing the work of reporting and informing the society without fear or favour.



*Por Thandi F. Khumalo*  
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Suazilândia

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## Introdução

A falta de democracia na Suazilândia tem impacto em todas as esferas e formas de fazer as coisas. Princípios democráticos de responsabilidade, transparência, respeito dos direitos universais do Homem e dignidade das pessoas têm sido perigosamente corroídos no processo.

A muito ansiada libertação dos meios de comunicação social tornou-se realidade em Setembro de 2008, mesmo assim, como projecto-piloto por um ano. Cinco estações de rádio foram lhes cedidas licenças para operarem. Este é um passo de louvar por parte do governo, apesar do pagamento de valores exorbitantes para obter a licença e uma cobertura limitada de watts, questões que podem ser ultrapassadas durante o período de experiência.

O desafio de uma reportagem equilibrada sem medo de retaliação a partir do governo, de políticos e figuras públicas ainda se nota na cabeça dos jornalistas. Há uma censura contínua do conteúdo da *Media* exercido através de processos legais, perseguição e legislação. Isto tudo culminou com a auto-censura por parte do jornalista em ambos domínios, privado e público, dos *Media*. O grande desafio para o jornalismo e democracia como um todo na Suazilândia reside no facto de não existir ressonância da sociedade civil.

## Situação dos Meios de Comunicação Social

Alguém podia pensar que com a nova Constituição as relações entre os meios de comunicação social e o governo podiam melhorar. A Constituição da Suazilândia concede alguns direitos e logo os tirar nas provisões subsequentes. Por exemplo, enquanto as liberdades de expressão e dos *Media* são protegidas pela Constituição, não existem quadros da legislação complementares que protejam essas liberdades. Também, o insucesso em rever as leis que inibem estas liberdades continuará a fazer a ressonância dos *Media*. Tentativas foram feitas para corrigir a situação em 2007, mas, uma vez mais o progresso nos sete Projectos de Lei foram atolados.

As propostas incluem o Projecto de Lei da Liberdade de Informação e Protecção da Privacidade, Projecto de Lei da Comissão dos Meios de Comunicação Social da Suazilândia, Projecto de Lei das Cerimónias Protegidas, Lugares e Áreas, Projecto de Lei do Filme Nacional, Projecto de Lei da Rádio e Televisão Públicas da Suazilândia e o Projecto de Lei dos Livros e Jornais (Emenda), todos de 2007. Apesar dos parceiros dos *Media* terem algumas reservas acerca dos Projectos de Lei, as suas contribuições foram submetidas às autoridades competentes que prometeram ter em conta as opiniões da sociedade civil. Aconteceu no passado que os Projectos de Lei fossem demorados indefinidamente se as autoridades não estivessem satisfeitas com algumas secções. Os Projectos de Lei que favorecem o estado actual das coisas são aprovados num abrir e fechar dos olhos.

Superficialmente, parece que as relações entre os meios de comunicação social e o governo estão a melhorar, mas na prática as coisas permanecem as mesmas. As conferências matinais do antigo Primeiro-ministro A. T. Dlamini com os editores dos *Media* parecia nobre no aspecto exterior, mas ainda sabia nada menos do que puro disfarce, com o objectivo de apresentar uma boa imagem para a comunidade internacional para manter o apoio em donativos, seguindo a chamadas intermináveis para a democratização da Suazilândia. O regresso de Barnabas Sibusiso Dlamini como Primeiro-ministro pode ainda apresentar um pior pesadelo para o julgamento da *Media* pela forma como tratou os meios de comunicação social na antiga administração.

De uma maneira geral, tem havido tolerância de liberdade de discurso, embora ainda haja muita intimidação aos críticos e vozes discordantes pelo governo e políticos. Reuniões de advocacia pública e exercícios de educação cívica ainda são monitorados pelo governo, limitando assim,

a liberdade de expressão e associação. O Procurador-geral ameaçou os *Media* com detenções se eles fossem vistos a apoiar supostos “terroristas” na sua reportagem.

A Suazilândia adoptou recentemente uma lei anti-terrorista como é o caso da Lei da Supressão do Terrorismo em 2008. As autoridades tradicionais também fizeram claramente a sua transgressão contra os *Media* a julgar pelos pronunciamentos descuidados feitos pelo governo tradicional, Jim Gama, apelidado como sendo o tradicional Primeiro-ministro. Ele disse, “jornalistas injuriosos devem ser punidos usando ‘Umphini’”, que é a forma tradicional de pena de morte.

## Situação da Rádio e Televisão e Telecomunicações

O governo finalmente tomou a decisão de libertar os meios de comunicação social, o que é um passo de louvar, mas as licenças ainda não são concedidas por um regulador independente. A Sociedade dos Correios e Telecomunicações da Suazilândia (SPTC) e a Autoridade da Televisão da Suazilândia (STVA) ainda são reguladores dos diferentes meios de comunicação social. Contudo, iniciativas para rever estas anomalias estão em curso. O Ante-Projecto de Lei de Transmissão de 2007 que revoga a Lei STVA de 1983 e procura estabelecer um regulador independente e o Ante-Projecto de Lei da Rádio e Televisão Públicas de 2007 que pretende transformar as Rádios e Televisões Estatais em Rádios e Televisões públicas estão num estágio avançado.

## Situação da Imprensa Escrita

Ainda continua a existir falta de diversidade com o *Times of Swaziland* ainda a dominar a imprensa privada. O *Swazi Observer* também está a gozar de uma considerável circulação, pese embora a sua ligação com a entidade real *Tibiyi TakaNgwane*. A revista *Nation* conta com uma vasta audiência, contudo, o seu exercício de jornalismo crítico tem lhe enchido de processos judiciais capazes de a manchar. Outras estão a tentar manterem-se a boiar, como é o caso da revista juvenil *Connexion*. Comentadores dizem que o governo controla os *Media* indirectamente através do poder da publicidade, uma vez que é o único maior anunciante, sendo a publicidade a maior fonte fiável de rendimento para a imprensa escrita.

De uma maneira geral, a imprensa escrita em 2008 foi de todo informativo e provocou muitas questões que eram do interesse público, que em contra partida tenderam em provocar aborrecimento e retaliação a partir de certos quadrantes. Daí que contenciosos civis contra jornalistas e instituições de comunicação social por parte dos funcionários públicos aumentaram. A revista *Nation* teve o pior destino, com três processos criminais, que atingem milhões com a revindicação ainda pendente no tribunal.

## Perspectivas para 2009

Sem uma Suazilândia democrática, não seria realístico esperar mudanças que pudessem satisfazer os princípios básicos de liberdade de expressão e dos *Media*. A contínua pressão para uma ordenação democrática está a aborrecer o governo, reflectido na pancada que dá jornalistas de cada vez. As violações aos *Media* são daí tendentes a aumentar à medida que o governo sente a pressão para uma mudança. Obviamente, os dois anos em que a Constituição tem estado a vigorar ainda não tiveram impacto para rapidamente rever a lei e criar um ambiente favorável para os *Media*.

## Conclusões

Em 2008 as violações aos meios de comunicação social foram esmagadoras com poucas vitórias conseguidas. Os *Media* foram hostilizados, ameaçados, censurados e agredidos. Estas violações são uma manifestação de uma sociedade não democrática.

O desenvolvimento do país é dependente, dentre outras coisas, dos *Media* s serem livres para avaliar de forma crítica o funcionamento das instituições públicas. Os *Media* são a voz do povo e não deviam ser desencorajados a fazer o seu trabalho de reportar e informar a sociedade sem medo.

### • ALERT

Date: May 12, 2008

Person/institutions: Media/ACHPR

Violation/issue: Other

The Special Rapporteur on Freedom of Expression at the African Commission on Human and People's Rights (ACHPR), Pansy Tlakula, lamented the lack of freedom of expression in Africa, saying the enjoyment of this right is in trouble on the continent. Speaking on May 10 at a lunch meeting hosted by the Swaziland chapter of the Media Institute of Southern Africa (MISA), Tlakula made reference to the situation in the Gambia about which she has written letters of appeal to that country's leader, Yahya Jammeh. Tlakula also mentioned a letter she wrote to Zimbabwe's President Robert Mugabe in March 2007 after the arrest and assault of two journalists there. To date, she has not been favoured with any responses. Tlakula called on MISA and other interested organisations to organise a seminar on the role of the media in strengthening an electoral and constitutional democracy. Tlakula said this should prepare journalists and other stakeholders to work together and understand each others' role during elections.

### • COMMUNIQUÉ

Date: May 14, 2008

Person/institutions: Media

Violation/issue: Legislation

The government of Swaziland is set to avail five frequencies to aspiring radio stations in the country, the Ministry of Public Service and Information revealed on May 8. This was announced at a media meeting hosted by the Prime Minister of Swaziland, Absalom Themba Dlamini, for media and non-governmental organisation (NGO) delegates attending the 43rd Ordinary Session of the ACHPR in Swaziland. The Prime Minister hosted the meeting after complaints were made by delegates on the state of media development in Swaziland, as well as the respect and enjoyment of media and freedom of expression rights. Responding to a question from MISA on when the broadcast media would be opened to new players, the Ministry of Public Service and Information informed the ACHPR delegates that four frequencies have been designated for radio stations. The ministry also informed the gathering that two Broadcasting Draft Bills are being finalised and will be tabled to Parliament in 2008. The Ministry says these bills, once made into law, would allow more broadcasting players.

### • ALERT

Date: July 4, 2008

Person/Institutions: Non-governmental organisations (NGOs)

Violation/issue: Banned

Freedom of expression came under threat when the government banned a march organised by civic organisations protesting rising ritual killings in Swaziland. The government said it feared the march would embarrass both the country and the king, who is currently abroad on a world tour. This has resulted in a standoff between the government and the organisers of the march

who have vowed to continue with it despite the government ban. The march was scheduled for July 5 in Manzini, the country's second major city. Its organisers said that despite the ban, they planned to go ahead with the march.

- **ALERT**

**Date:** June 14, 2008

**Person/institutions:** Media

**Violation/issue:** Threatened

On June 14, traditional governor Jim Gama, who is regarded as the traditional prime minister, launched a scathing attack on the print media and threatened journalists for what he claimed was negative reporting of a national gathering called by King Mswati III at Ludzidzini royal kraal, the traditional capital. Gama accused the print media of having reported negatively about the national gathering where people had been called to debate national issues under a forum called People's Parliament. Speaking in the presence of King Mswati III, Gama said the offending journalists should be punished using "umphini", which in Swazi traditional folklore is tantamount to capital punishment.

- **ALERT**

**Date:** September 25, 2008

**Person/institutions:** State-owned newspapers

**Violation/issue:** Threat

Swazi police unearthed a plot to bomb the state-owned *Swazi Observer* newspaper. This is in the wake of the arrest of a suspect who survived what the police call a "terrorist" act in which two other men were killed when a bomb exploded prematurely during an attempt to bomb an overhead bridge on September 20 near the palace of King Mswati III at Lozitha, outside the capital, Mbabane. Police claim that the man, Amos Mdedzi, a South African from the Limpopo Province, confessed before a magistrate that he and his friends were on a mission to bomb government structures including the *Swazi Observer* newspaper offices situated in Mbabane. MISA Swaziland condemns any acts of violence targeted at the media.

- **ALERT**

**Date:** October 14, 2008

**Person/institutions:** NGOs

**Violation/issue:** Banned

The government has banned an Africa Social Forum (ASF) meeting, hosted by civil society that was set to be held in Mbabane with international speakers in attendance. The ban follows ongoing pressure for Swaziland to embrace multi-party democracy. In response, the government has taken a hard-line stance on free speech and public gatherings, threatening to use the law against those who dissent. A statement issued on October 13 by acting head of government, Bheki Dlamini, said government was of the view that hosting the international forum would not be in the national interest "and will compromise peace, security and stability of the country".

- **ALERT**

**Date:** October 27, 2008

**Person:** Sisho Magagula

**Violation/issue:** Harassed

On October 27, Sisho Magagula, a journalist with the state-owned *Swazi Observer* newspaper, was harassed and had his digital camera confiscated and images deleted by South African police while covering a border blockade protest by Swazi and South Africa trade unions. This harassment took place at the Oshoek Border Post.

According to Magagula, the police demanded to know why he was taking pictures in South Africa when he was a Swazi journalist. His explanation that the Swazi press had an interest



in the issue as the reported border blockade was targeted at Swaziland fell on deaf ears. The officers forcefully grabbed Magagula's camera and went on to delete all the images from it before they handed it back to him.

- **ALERT**

**Date:** October 30, 2008

**Person/institutions:** Media

**Violation/issue:** Banned

On October 29, Swazi journalists were kicked out of a meeting in which the newly elected and appointed Members of Parliament discussed their pay. The journalists had been allowed to cover the earlier discussions, but when the legislators began to discuss their pay, the media was shown the door. Clerk at Table, Ndvuna Dlamini, who was chairing the proceedings, told the journalists that they would not be allowed to cover the part in which the parliamentarians would be discussing their salaries. The journalists were then asked to leave the meeting.

- **ALERT**

**Date:** November 18, 2008

**Person/institutions:** Media

**Violation/issue:** Threatened

Attorney General Majahenkhaba Dlamini on November 17 warned that journalists reporting critically on the government would be viewed as supporting "terrorists" and arrested. "If you appear to be supporting terrorists in your reporting, woe unto you," Dlamini told journalists. This comes in the wake of growing tension in Swaziland following government's moves to deal strongly with dissent. The government has outlawed political activities and popular forms of free expression, such as marches and demonstrations.

- **ALERT**

**Date:** November 19, 2008

**Person/institutions:** Phesheya Sibiya

**Violation/issue:** Harassed

Phesheya Sibiya, a cameraperson employed by the privately owned Channel Swazi television station, was harassed and had his camera confiscated by a traditional group performing sacred rituals for King Mswati III. The group, known as Water Party or 'Bemanti', who were on their way back from the sea where they had gone to fetch sea water for the King's power strengthening rituals, pounced on Sibiya, grabbed his camera and held him hostage for three hours for allegedly recording a clip of their cultural activities. The TV station was ordered to apologise to the traditionalists before the camera was returned.

- **ALERT**

**Date:** December 3, 2008

**Person/institutions:** MISA Swaziland

**Violation/issue:** Threatened

On December 3, plainclothes police stormed a MISA training workshop and threatened to disrupt it if they were not allowed to monitor it. The two-day workshop on media management was held in Matsapha, outside Manzini. MISA Swaziland's Information Officer Michael Motsa explained to the police that the workshop was open only to media personnel, including editors and marketing managers. In a statement, MISA Swaziland National Director Comfort Mabuza expressed shock at the police action to threaten a professional training workshop. He said this underscored the government's frustration at the increasing number of dissenting voices, such that they now regard lobby groups like MISA as threats to state security.

- **ALERT**

Date: December 16, 2008

Person/institutions: Journalists

Violation/issue: Harassed and banned

The media covering Swaziland's traditional "Incwala" (or first fruits) traditional ceremony had it tough as journalists, both local and foreign, were harassed, banned and had their equipment confiscated.

On December 12, Brian Mohammed, a journalist with the *Times of Swaziland*, was banned and kicked out of a royal residence where he had gone to cover the first day of the Incwala main event. A police officer, who gave no reasons for his actions, told Mohammed that he was not welcome to cover the event and ordered to leave.

On December 13, a television crew from the South African Broadcasting Corporation (SABC) also felt the brunt of the police harassment. They had their equipment confiscated by the police when they were caught filming the event. This was despite the crew having the necessary accreditation. Members of the SABC crew were quoted in the local media saying the police confiscated their equipment without giving any valid reason. It was not until the intervention of traditional authorities that the journalists were able to get their equipment back. But even then, they were told to stop covering the event.

During the highlight of the festival on December 15, the situation deteriorated as a blanket ban on media coverage of the event was declared. Police officers refused to allow journalists to photograph the event. Those who attempted had their cameras confiscated. No reasons were given for the blanket ban.

MISA Swaziland frowns at actions that violate the freedom of the press and plans to raise this with the relevant government and traditional authorities.

- **ALERT**

Date: December 29, 2008

Person: Ackel Zwane

Violation/issue: Assaulted

On December 26, Ackel Zwane, news editor of the private newspaper, the *Swazi Observer*, was attacked by a knife-wielding man who stabbed him once, claiming that the journalist wrote negatively about the man's father, a well-known church bishop in Swaziland. Zwane was buying meat from a butchery on the outskirts of Manzini when his attacker charged violently at him. The journalist was punched three times in the face and cut above the ear. Zwane was pelted with stones as on-lookers helped him into a car in which he locked himself for safety. Zwane reported the matter to the police. The man later handed himself over to the police in the company of his father, Bishop of the Devine Healing Ministries, a popular church in Swaziland. The man was formally charged but not booked in. He appeared in court on December 29 where he was not allowed to plead and the case was postponed to March 2009.

MISA Swaziland condemned the attack and has been giving support to Zwane. The chapter will follow this case closely. Zwane's attacker is well-known for violent behaviour. Coincidentally, a few days after this incident, the man stabbed his police officer wife seven times and had to be arrested again. He is out on bail.



## *National overview*

*By Attilio Tagalile, a media consultant and former managing editor of the Habari Corporation, publishers of The African, Rai, Mwanza and Dimba newspapers*



## Tanzania

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The year 2008 will remain indelible in the minds of most Tanzanians and, in particular, members of the media for one historic development: the arrest and appearance before the court of former Minister of Finance Basil Mramba; former Minister of Energy and Minerals Daniel Yona; and the permanent secretary in the Ministry of Finance and Planning, Gray Mgonja. All three are facing eight similar charges that include, among others, the misuse of power that led the country to lose US\$10 million.

Before the three appeared before the court, 20 other high profile personalities – including businesspeople; a treasurer of the ruling party, Chama Cha Mapinduzi (CCM), in the western Region of Kigoma; and former officials from the Central Bank – were arrested and appeared in court on charges of fraud and theft. The charges revolved around the embezzlement of US\$130 million from the central bank, the Bank of Tanzania, through the use of fake companies.

Tanzanian President Jakaya Kikwete has already warned that more high profile Tanzanians will appear before the court to answer various charges, including corruption. With the exception of Mgonja, who remained behind bars for less than 10 days, the two former ministers and 20 others were remanded in custody for not less than 15 days before they were later released under tough bail conditions.

An overview of the state of media freedom in Tanzania would have been incomplete without highlighting these high profile court cases. This is because the arrest of the 23 people was the culmination of excellent investigative reporting by a section of the Tanzanian media, which started almost immediately after the inauguration in December 2005 of President Kikwete.

The word ‘section’ of the Tanzanian media has been used deliberately, because less than half of the Tanzanian media was responsible for the crusade against grand corruption and other ills in society, with the rest of the media outlets either sitting on the fence or embarking on the dirty job of cleansing the culprits. This goes to explain why the Tanzania Media Workers’ Association (TAMWA) was very selective when it presented a handful of certificates to members of the media that helped in the fight against corruption and other ills.

## The state of media freedom

The government’s position as far as freedom of the media is concerned has remained much the same as before: hostile. This is evident by the continued existence of the draconian 1976 Media Law that was borrowed from the British colonial government. That the Tanzanian media has been able to survive 16 years after the re-introduction of the multiparty system in the country, even in cases where they exposed scandals both in the government and the ruling party, has not been due to the protection of media freedom from the law, but rather political support, especially from former presidents Mwinyi, Mkapa and now Kikwete.

For instance, when the managing editor of the Swahili weekly, *Mwanahalisi*, Saed Kubenea, was attacked in his office and had acid thrown in his eyes, President Kikwete was one of the first people to console him at his bedside at Dar es Salaam’s National Muhimbili Hospital. The following day, the president called on the media to leave no stone unturned in exposing whatever ills they came across without fear. It was, however, due to the lack of legislation to protect media freedom in Tanzania that a few months later the Minister for Culture, Information and Sports, George Mkuchika, slapped a three-month suspension on the *Mwanahalisi*, through the use of the 1976 Media Law, on the grounds that the weekly had debased the president and his family. The minister’s act and argument revolved around a story which claimed that Kikwete’s son, Ridhwani Kikwete, was being used by others to ensure that his father does not

serve the second five-year term. The three-month ban on *Mwanahalisi* is expected to end on January 12, 2009. Interestingly, this time the president remained mum on the saga, giving rise to more questions than answers.

During 2008, a number of journalists went the extra mile to ensure that ills afflicting the nation were laid bare for everybody to see, thereby forcing the government to take action. Media reporting, for example, forced the resignation of Prime Minister Edward Lowassa and two energy and minerals ministers: the then-incumbent minister Nazir Karamagi and his predecessor, Dr Ibrahim Msabaha. The resignation of Lowassa and the two ministers in February 2008 followed their involvement in what has come to be known as the 'Richmond saga'. This involved their decision to force the Tanzania Electricity Supply Company, Tanesco, to enter into an agreement with a dubious company for hiring of gas-to-power generators. The deal was meant to solve power cuts caused by drought.

The Richmond saga would not have come to light had it not been for the media's persistence on the issue. A few months later, the then Minister for Infrastructure Development, Andrew Chenge, was forced to resign after a British corruption watchdog, the Serious Fraud Office (SFO), accused him of having stashed US\$1 million of corruption proceeds in an offshore account. The minister had earned the money as a kickback for the supply of Radar to the Tanzanian government during the administration of former President Mkapa.



*Por Attilio Tagalile*

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Tanzânia

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## Introdução

O ano de 2008 permanecerá indelével nas mentes da maioria dos cidadãos Tanzanianos, e em particular, no seio dos profissionais de comunicação social por causa de um desenvolvimento histórico.

A comparência de dois ex-ministros titulares das pastas de Finanças, Energia e Recursos Minerais, Basil Mramba e Daniel Yona respectivamente e o Secretário Permanente do ministério das Finanças e Planeamento, Gray Mgonja perante o tribunal para responderem várias acusações. Todos três homens estão enfrentando mais ou menos oito acusações similares que incluem, entre outras, o abuso de poder que conduziu o país a uma perda na ordem de USD10 milhões. Antes dos três comparecerem perante o tribunal, outras 20 personalidades de alto perfil que incluíam empresários, um tesoureiro do partido no poder, CCM, na região ocidental de Kigoma e ex-funcionários do Banco Central compareceram perante o Tribunal Judicial de Dar es Salaam para responder as várias acusações de fraude e furtos.

As queixas estão envolvidas em torno do desfalque de USD 130Milhoes do Banco Central (conhecido oficialmente como Banco de Tanzânia) através do uso de empresas fictícias.

O Presidente da República Unida de Tanzânia, Jakaya Kikwete já fez saber que mais Tanzanianos de alto perfil comparecerão perante o tribunal para responder às várias denúncias que incluem a corrupção.

À excepção de Mgonja que esteve detido menos de dez dias, os dois ex-ministros e os outros 20 foram colocados sob prisão preventiva sob custódia durante 15 dias no mínimo antes que fossem soltos sob severas condições de caução.

Em poucas palavras, o estado da liberdade dos media em Tanzânia em 2008 teria sido incompleto sem dar ênfase, embora breve, sobre a detenção e comparência perante o tribunal dos dois ex-ministros, um secretário permanente que estava de férias preste a reformar e os outros 20 Tanzanianos de alto perfil.

A importância de aflorar as detenções de 23 Tanzanianos de alta nomenclatura reside no facto de que este é o culminar do trabalho esplêndido realizado por uma secção dos media Tanzanianos que começaram quase imediatamente após a investidura em Dezembro de 2005 do Presidente Kikwete.

A secção da imprensa escrita dos media Tanzanianos é usada deliberadamente porque menos do que a metade dos media Tanzaniano era responsável pela cruzada de combate de grande corrupção e outros males na sociedade com os restantes órgãos de comunicação hesitando ou embarcando no trabalho sujo de purificação dos acusados.

Isto serve para explicar pois, uma das associações mais eficazes dos media no país, a associação dos profissionais de comunicação social da Tanzânia, Tamwa, foi muito selectiva quando entregou certificados aos media que tinham desempenhado um papel excelente na luta contra a corrupção e outros males.

Somente um punhado de órgãos de comunicação social recebeu os certificados.

É este desenvolvimento que nos traz agora a uma condição na qual possamos agora avaliar o estado da liberdade dos media em Tanzânia no ano em análise.

## Estado da liberdade dos media em Tanzânia

Resumindo, a posição do governo no que refere a liberdade dos media no país permanece inalterável, hostil, conforme correctamente reflectido pela existência contínua da lei draconiana de 1976 sobre os media que foi herdada do governo colonial britânico.

Os media Tanzanianos puderam sobreviver 16 anos após o reintrodução do sistema multi-partidário no país, mesmo nos casos onde expuseram escândalos tanto do governo quanto do partido no poder, não foram devido à protecção da liberdade dos meios da lei, mas ante o apoio político, especialmente dos ex-presidentes Mwinyi, Mkapa e o actual Kikwete.

Por exemplo seria de recordar que quando o Editor Geral de um semanário em swahili, Mwanahalisi, o Sr. Saed Kubenea foi atacado no seu escritório e lhe foi atirado ácido a sua vista, foi o Presidente Kikwete que foi uma das primeiras pessoas que foram o consola-lo internado no Hospital Nacional Muhimbili de Dar Es-Salaam.

No seguinte dia, o Presidente instou os profissionais de comunicação social a manterem-se firmes na divulgação dos males que apurarem. Entretanto, deveu-se a esta falta da legislação que assegura a existência da liberdade dos media em Tanzânia que alguns meses mais tarde o Ministro da Cultura, Informação e Desportos, Sr. George Mkuchika suspendeu por três meses o Mwanahalisi (com recurso a Lei dos media de 1976) argumentando que o semanário humilhara, no seu artigo de fundo, o Chefe d Estado e a sua família.

A acção e o argumento do ministro em torno da história do efeito de que o seu filho, Sr. Ridhwani Kikwete, estava sendo usado, aparentemente sem o seu conhecimento, por indivíduos (provavelmente prestes a enfrentar a intensidade extrema da lei por causa das suas práticas corruptas) com vista a assegurar que o seu pai não seja reconduzido ao actual cargo para mais um mandato de cinco anos.

Prevê-se que o banimento por três meses do Mwanahalisi tenha o seu termo no dia 12 de Janeiro de 2009. Curiosamente, desta vez o Presidente manteve-se silencioso na saga, suscitando mais questões do que respostas. Por conseguinte, se se tivesse que resumir o estado da liberdade dos media em Tanzânia ao longo de 2008, não seria uma distorção afirmar que o ano registou esforços adicionais empreendidos por vários jornalistas a fim de se assegurar que os males que afligem a nação fossem revelados de forma que todos vissem e desse modo forçar o governo a tomar medidas.

As reportagens dos media forçaram a exoneração do Primeiro-Ministro, Edward Lowassa e dois Ministros de energia e de Recursos Minerais (na altura ministro em exercício) Nazir Karamagi e o seu antecessor, Dr. Ibrahim Msabaha.

A exoneração de Lowassa e dos dois ministros ocorreu na sequência da sua participação no que veio sendo conhecido como a saga de Richmond.

Isto envolveu a sua decisão de forçar a Empresa de Abastecimento de Electricidade da Tanzânia, Tanesco, a celebrar um acordo com uma Empresa suspeita de aluguer de geradores de gás. O negócio visava resolver as interrupções no abastecimento de electricidade causados pela seca.

O saga de Richmond não teria vindo à luz se não fosse a persistência dos media sobre o assunto. Alguns meses mais tarde o então ministro para o desenvolvimento de infra-estruturas, o Sr. Andrew Chenge foi forçado a renunciar após um fiscal britânico de combate a corrupção, SFO, acusa-o de ter depositado um milhão dólares Norte Americanos, tratando-se de rendimentos de corrupção, numa conta bancária no exterior. O ministro ganhara o dinheiro como luvas pelo fornecimento do Radar ao governo tanzaniano durante a administração do ex-Presidente Mkapa.

- **ALERT**

**Date:** January 7, 2008

**Persons:** Saed Kubenea and Ndimara Tegambwage

**Violation/issue:** Beaten, assaulted/ threatened

On January 5, two editors of the weekly Kiswahili-language newspaper Mwanahalisi were attacked and beaten by three anonymous machete-wielding assailants in their media house in Kinondoni, Dar es Salaam. Saed Kubenea and Ndimara Tegambwage were beaten and disfigured when their assailants poured acid on their faces. Kubenea, was admitted to Muhimbili Hospital, lost his sight and was expected to be flown to India for further treatment. Tegambwage, one of the founding members of MISA Tanzania, sustained head injuries requiring 15 stitches. He was treated and discharged from hospital. Talking to the media from hospital, Kubenea said he understood that the event was directly related to their work as journalists. Kubenea said the attack came after a series of death threats sent by text message, and after his car was torched by unidentified individuals in June 2007.

- **ALERT**

**Date:** May 7, 2008

**Person/institutions:** Tanzania Broadcasting Corporation

**Violation/issue:** Legislation

The Coalition on the Freedom of Information and Expression, comprising nine media and legal and human rights organisations, held a press conference on May 7 expressing concern about statements by the Minister for Information, Culture and Sports, George Mkuchika, who attacked them for not understanding and appreciating the proposed Media Services Bill. Mkuchika argued that concerns by non-governmental organisations (NGOs) on government ownership of media outlets were misplaced. He stated that it was preposterous for the stakeholders to recommend that the Government should not own media, while even big western democracies like the United States and Britain owned them. The coalition countered that they consulted nationwide in a bid to get legislation that will be supportive to the growth of a free and vibrant media that would articulate the right of citizens to free expression and to get informed as articulated in Article 18 of the Constitution of the United Republic of Tanzania, 1977 as amended thereafter.

- **COMMUNIQUE**

**Date:** July 19, 2008

**Person/institutions:** Media

**Violation/issue:** Legislation

The stakeholders' proposed Media Services Bill, 2008 together with the proposed Right to Information Bill, 2008 were submitted to the Parliamentary Committee on Community Development for consideration and support. The two proposed bills were officially handed to the Chairperson of the Parliamentary Committee, Jenista Muhagama, and guest of honour, the Deputy Speaker of the Parliament of Tanzania, Anna Makinda, during a two-day workshop on sensitisation that was held in Dodoma from July 17 to 18.

- **ALERT**

**Date:** July 26, 2008

**Person:** Vicky Ntetema

**Violation:** Threatened

A Tanzanian journalist, who is the Bureau Chief of the British Broadcasting Corporation in Dar es Salaam, Vicky Ntetema, has gone in hiding after receiving threats because of her undercover work exposing the dangers faced by albinos from witchdoctors. In her article published in Tanzanian tabloids titled: "Albino killings: Journalist in hiding for exposing Tanzanian witchdoctors", Ntetema explained how she managed to enter the compounds of witchdoctors in Lake Victoria zones, especially the Mwanza, Shinyanga and Mara areas. She says that people living

with albinism are killed because their body parts are alleged to provide the potent ingredient for magic charms, which many local people use to bring about success in business and love.

• **ALERT**

Date: July 29, 2008

Person/institutions: Saed Kubenea/*Mwanahalisi* newspaper

Violation/issue: Threatened/censored

On July 18, Tanzania police detectives entered and searched Hali Halisi Media House and the residence of the chief executive and managing editor of *Mwanahalisi* newspaper, Saed Kubenea. The Police, who had a search warrant that was issued by the Resident Magistrates' Court of Dar es Salaam at Kisutu, were searching for information relating to banking information of government and some public figures. The Police did not find any information but took an office computer that Kubenea was using and copied personal information from his laptop. *Mwanahalisi* has exposed embezzlement and graft.

• **ALERT**

Date: October 8, 2008

Person/institutions: Media

Violation/issue: Legislation

On October 8, Tanzania's Freedom of Information Bill Coalition Campaign submitted a draft Media Services Bill proposal to the Minister of Information and Culture, George Mkuchika. The draft is part of efforts to push for media policy changes in Tanzania. The minister commended stakeholders' efforts, which he described as geared towards improving press freedom, professionalism and accountability. He urged both public controlled and privately owned media to take responsibility to train journalists in order to enhance professionalism and accountability in the sector.

• **ALERT**

Date: October 13, 2008

Person/institutions: Saed Kubenea

Violation/issue: Other

On October 12, the office of the Director of Criminal Investigations summoned the managing editor of the *Mwanahalisi* newspaper, Saed Kubenea, for an interrogation in a matter yet to be identified. The summons came four days after the Ministry of Information and Culture issued a strong warning to *Mwanahalisi* for allegedly publishing a false story. The warning issued on October 8 followed a story published by the newspaper's Kiswahili issue of October 7, which claimed that there was a plot within the ruling Chama cha Mapinduzi (CCM) party to oust President Jakaya Kikwete in the 2010 elections.

• **ALERT**

Date: October 14, 2008

Person/institutions: *Mwanahalisi* newspaper

Violation/issue: Banned

MISA Tanzania expressed concern at the suspension of the weekly privately owned *Mwanahalisi* newspaper for three months from October 13 on allegations of continually running stories with the ill intention of inciting public hatred against the country's president and thus contribute to the misunderstanding within president's family and the ruling party. MISA Tanzania strongly opposed the unconstitutional suspension because it violated the right of the paper to media and freedom of expression. MISA Tanzania also said the government criminalised the media story that should have been taken up by those who were not happy with the story as a civil matter. It urged those who felt aggrieved by the story to utilise the Media Council of Tanzania to remedy the situation

• ALERT

Date: October 15, 2008

Person/institutions: *Mwanahalisi* newspaper

Violation/issue: Banned

Tanzania journalists, editors and media associations on October 14 condemned the ban of the weekly privately owned *Mwanahalisi* newspaper and resolved from October 15 to boycott publishing all news concerning the Minister of Information, Sports and Culture, George Mkuchika. The government, through the Ministry of Information, Sports and Culture, banned the publication of *Mwanahalisi* newspaper for three months from October 13, allegedly for running false stories about President Jakaya Kikwete's family and the ruling Chama Cha Mapinduzi (CCM). During the press conference held in Dar es Salaam yesterday, the Tanzania Editors' Forum resolved to 'black out' the minister from privately owned print and electronic media. At the meeting, which was also attended by MISA Tanzania and the Tanzania Media Women Association, editors and journalists from various media outlets deliberated to go to court to challenge the ban; planned to stage a demonstration to the Ministry of Information, Sports and Culture head offices in Dar es Salaam to submit their concerns; and write a letter to President Kikwete conveying the disappointment of media professionals in relation to the incident. Another measure decided on was to inform the international community about the concerns of the stakeholders.

• ALERT

Date: October 30, 2008

Person/institutions: Media/ *Mwanahalisi* newspaper

Violation/issue: Banned

Journalists from various media houses demonstrated their displeasure at the suppression of press freedom in Tanzania during a protest march on October 29. Editors and reporters from various media organisations staged the protest against the recent three-month ban imposed on the critical *Mwanahalisi* newspaper by the government of President Jakaya Kikwete. For the first time in the history of Tanzania, local journalists expressed open outrage in the streets against the government, accusing it of trying to stifle media freedom in the country. The scribes held placards denouncing the "state's disrespect of media freedom" and sealed their mouths with tape to dramatise the authorities' bid to silence the press.

## *National overview*

*By Clayson Hamasaka, head of the Journalism Department  
at Evelyn Hone College*



## Zambia

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The year under review opened on a rather promising note with the then Zambian President, Dr Levy Mwanawasa, promising the media on January 11, 2008, during the official opening of Parliament, that Government would re-introduce the Freedom of Information Bill back into Parliament following wide consultation. Mwanawasa also said that Government intended to put in place the board of directors for the Zambia National Broadcasting Corporation (ZNBC) and make operational the Independent Broadcasting Authority (IBA) Act of 2002 through appointment and ratification of board members by Parliament.

However, when the president fell ill on June 29, the glimmer of hope seemed to have been washed away. During his illness, the media struggled to access timely and accurate information on the status of his health from Zambian officials to pass on to the anxious citizens. The Zambian media seemed confused and lagged behind major international media organisations in terms of information about the president's health as a result. The situation was worsened when the international media reported that the president had died, yet no official confirmation was made by Zambian officials. Sections of the Zambian media aired the news and commenced playing solemn music. However, then Minister of Information Mike Mulongoti dispelled the rumour on ZNBC and stated that the Zambian president was still alive and was in a stable condition. On August 19 then Acting President, Rupiah Banda, announced Mwanawasa's death in a national address on ZNBC television and radio.

## The current media situation

During the year under review most media violations were within the context of the presidential by-election of October 30. For example, between September and November 2008, MISA Zambia recorded and reported 16 media freedom violations compared to just six between January and August 2008.

However, in the same period two victories in favour of freedom of expression were recorded. On January 24 the Supreme Court of Zambia upheld the 2004 decision of the Lusaka High Court not to deport satirical columnist Roy Clarke, a British national permanently resident in Zambia. On April 3, the Lusaka High Court Deputy Registrar Edward Musona dismissed an appeal by the defence lawyer of former Zambia Air Force (ZAF) Commander Lieutenant General Sande Kayumba facing charges of abuse of office and corruption requesting the Magistrate to caution *The Post* editor Fred M'membe to desist from commenting on a case that was before the court.

Besides these victories, journalists in Zambia during 2008 were beaten, verbally abused, threatened, faced court injunctions, were ejected from political meetings and faced direct censorship. The media in Zambia also came under heavy criticism following the polarisation that characterised major media organisations in terms of coverage of presidential candidates. Key civil society organisations (CSOs) stated that the major media organisations were not fair in the coverage of the October 30 presidential by-elections. The CSOs said this in a joint statement released on November 14. They included the Foundation for Democratic Process (FODEP), Anti-Voter Apathy (AVAP), the Southern Africa Centre for Constructive Resolution of Disputes (SACCORD) and the Zambia Women's Lobby (ZNLW). In addition to these concerns, the Law Association of Zambia (LAZ) on November 9 called for the amendment of the Electoral Code of Conduct to provide effective sanctions against erring media organisations during the time of elections.

The concerns raised on the conduct of the major media by the above organisations were also raised by some of the most influential opposition Members of Parliament (MPs). Some of the MPs who were the strongest advocates of media freedom in the Zambian Parliament called for statutory media regulation because of the way the press covered the October 30 elections.

Concerns were also raised about why some major media organisations were not part of the voluntary Media Ethics Council of Zambia (MECOZ). MECOZ came under fire and was accused of lacking teeth to punish erring media organisations. This made the calls for self-regulation even stronger because the Zambian media seemed divided on the matter.

Therefore, MISA Zambia and other media associations like the Press Association of Zambia (PAZA), Zambia Union of Journalists (ZUJ), the Zambia Media Women Association (ZAMWA), Press Freedom Committee of *The Post* and MECOZ joined hands to prevent the state from establishing a regulatory body for the media. They outlined a number of activities that culminated in a meeting with the newly appointed minister who advised the media to unite and address the issue of an all inclusive and effective voluntary media ethics regulatory body.

During the year under review the media bodies exhibited great unity of purpose and, despite the increase in number of violations and calls for statutory regulation, the media-government relationship was relatively good as government was willing to engage in dialogue on several concerns raised by the media.

## Broadcasting growth

While the broadcasting sector recorded growth in terms of a new television station, Central Broadcasting Corporation, and plans to establish new community radio stations, there were no tangible results in terms of implementation of the IBA and ZNBC Acts. The television licence fee has continued to be the only aspect that is being implemented, while the Ministry of Information has continued to regulate the sector illegally.

Because the IBA was not implemented, community radio stations suffered from government interference during the election period. The Ministry of Information on two notable occasions issued instructions to radio stations to stop, especially, live political phone-in programmes and interviews on more than one instance.

A case in point was when Permanent Secretary in the Ministry of Information and Broadcasting, Emmanuel Nyirenda, on September 12 instructed all broadcasters, both commercial and community, to desist from live phone-in broadcast programmes that involve members of the public, saying that some radio stations had political programmes which provided unbalanced and, in some cases, unfair coverage to political parties during election campaigns.

Another notable incident was on October 20 when James Kapita, provincial chairperson of the ruling Movement for Multiparty Democracy (MMD), instructed Solwezi FCC radio station programmes manager to stop running political adverts for opposition parties and threatened to revoke its license once the ruling party won the presidential by-elections. In addition to the threats one radio station was gutted by fire and its studio and library material were destroyed.

While the community and private radio stations received threats or suggestions for live programmes to be stopped, ZNBC was faced with continued criticism in the way it was covering the participating political parties in the presidential by-election. For instance, on September 25, an opposition party, the Patriotic Front (PF), threatened to commence legal proceedings against ZNBC if it did not cover PF's campaign activities in a fair and professional manner.

The private broadcast houses have generally done well in terms of accessing the voices of opposition political parties and civil society. But, because of these anti-government voices on these stations, they have regularly come under fire from government, which targets them with a view to silence such views.



## Print media

There are currently three leading daily newspapers in Zambia: *The Post*, *Zambia Daily Mail*, and *The Times of Zambia*. There are also a couple of other weekly and some irregular tabloid newspapers that are being published. During the 2008 presidential elections, *The Post* was perhaps the only one that suffered the most threats from the government followed by the *Zambia Daily Mail*. This may also be attributed to the highly anti-government stance it took in its coverage of elections and an apparent open support for one opposition candidate, Michael Sata of the Patriotic Front.

In terms of fair coverage, all the main newspapers were seriously guilty of open bias towards their preferred candidates, with the government-owned media clearly favouring the ruling party candidate.

Public media journalists also faced threats of being fired if they did not publish articles in support of the ruling MMD party. *The Post* suffered threats of closure if the ruling party won the election, and the paper's reporters suffered numerous incidents of harassment from ruling party cadres and party officials. Besides media freedom violations that characterised the election period, the sector continued to face economic hardships, such as the high cost of production. A number of private newspapers continued to struggle because of this as well as inadequate capital and high taxes on inputs. The cost of producing a print publication was still high compared to printing the same or better work in South Africa. As a result some newspapers such as *The New Nation* newspaper and *The Weekly Angel* battled to print editions consistently. *The New Nation* has resorted to going online. The cost of newspaper production has restricted circulation of the newspapers and disadvantages them from income on advertising because the corporate companies and many other organisations demand wider circulation. Despite the hardships, new publications, such as the privately owned *Bliss* magazine, and the Christian magazines *Billionaire Capsules* and *Harvest* magazines came on the scene. Another development is the establishment of *The Post* newspaper's Internet Service Provider (ISP) project that has started providing internet services.

The *Zambia Daily Mail* also readied itself to acquire new printing equipment and had managed to raise some funds towards the venture. Also noteworthy was the Zambia Printing Company's purchase of state-of-the-art equipment that they indicated could print ballot papers of required standard.

## Projections for 2009

There are some indications that the ZNBC and IBA Acts of 2002 and FOI Bill could record some movement after so much inertia. The National Constitutional Conference (NCC) presents an opportunity for the media to have favourable provisions in the revised constitution. This is because the Human Rights Committee of the NCC under which the media associations' are represented will be sitting in 2009 to review the recommendations on media in the Mungomba Draft Constitution. This draft constitution contains progressive media provisions and it is hoped that these provisions will be maintained. Moreover, the media association's unity of purpose presents an opportunity for the media to address the issue of self-regulation in a more holistic manner. This could spell the beginning of a more inclusive and strengthened self-regulatory media body, because the media associations seem geared to remodel the Media Council of Zambia (MECOZ) and make it more effective. This move could avert proposed statutory media regulation.

*Por Clayson Hamasaka  
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Zâmbia

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## Introdução

O ano em análise abriu uma nota um tanto promissora com o então presidente zambiano, Dr. Levy Mwanawasa a prometer os media no dia 11 de Janeiro de 2008, durante a abertura oficial do parlamento, que o governo resubmeteria a proposta de lei da liberdade de informação ao parlamento na sequência de ampla auscultação. O Dr. Mwanawasa afirmou igualmente que o governo pretendia instituir um Conselho de Administração para a Zâmbia National Broadcasting Corporation (ZNBC) e tornar operacional o Decreto Lei 2002 da Autoridade Independente de Rádio e Televisão (IBA) através da nomeação e ratificação dos Administradores pelo parlamento. Entretanto, quando o presidente zambiano aos 29 de Junho de 2008 caiu doente, a noção da esperança parecia ter sido assolado pela fúria da tempestade. Durante o período em que o presidente esteve doente, os media enfrentaram um obstáculo enorme para aceder a informação oportuno e exacta sobre o estado de saúde do presidente dos oficiais zambianos a fim de levar ao conhecimento dos cidadãos ansiosos.

Consequentemente, os media zambianos pareceram confusos e atrasados em relação as principais organizações internacionais dos media em termos da saúde do presidente. A situação agravou-se quando os media internacionais reportaram que o presidente havia falecido sem que contudo houvesse alguma confirmação oficial por parte dos oficiais zambianos. As secções dos media zambianos retransmitiram a notícia e começou-se a difundir música solene.

Entretanto, o Sr. Microfone Mulongoti, então ministro da informação, desmentiu o rumor no canal ZNBC e anunciou que o presidente zambiano estava ainda vivo e estava numa condição estável.

No dia 19 de Agosto de 2008 o Vice- Presidente, Rupiah Banda um discurso em que se dirigia a nação através do canal televisivo e radiofónico ZNBC anunciou a morte do Dr. Mwanawasa.

## Actual situação dos media

Durante o ano em análise a maioria das violações dos meios ocorreram no contexto da campanha das eleições presidenciais registados no país aos 30 de Outubro de 2008. Por exemplo, entre Setembro e Novembro de 2008, a MISA-Zâmbia registou e reportou 16 violações de liberdade dos media comparadas a seis (6) despregáveis entre Janeiro e Agosto de 2008.

No entanto, no mesmo período duas vitórias a favor da liberdade de expressão foram registadas quando no dia 24 de Janeiro de 2008, o Tribunal Supremo da Zâmbia defendeu o acórdão pronunciada pelo Tribunal Superior de Recurso de Lusaka em 2004 para não deportar o colunista satírico Roy Clarke, um cidadão britânico permanentemente residente na Zâmbia e na quinta-feira 3 de Abril de 2008, o Vice Secretario Geral do Tribunal Superior de Recurso de Lusaka Edward Musona recusou o recurso do advogado de defesa do ex- Comandante da Força Aérea da Zâmbia (ZAF), Tenente General Sande Kayumba que enfrenta acusações de abuso de cargo e corrupção que requerem que o juiz advirta o editor do *The Post Newspaper* Fred M'membe a desistir de comentar sobre o caso que estava perante o Tribunal.

Para além destas vitórias os jornalistas foram espancados, verbalmente abusados, ameaçados, enfrentaram proibições do Tribunal, expulsos de reuniões políticas e enfrentaram censura directa. Os media na Zâmbia foram igualmente alvos de fortes críticas na sequência da polarização que caracterizou as principais organizações dos media nos termos da cobertura de candidatos presidenciais.

As principais Organizações da Sociedade Civil(OSSs) indicaram que as organizações dos media não foram imparciais na cobertura a margem das eleições presidenciais de 30 de Outubro. As OSSs afirmaram que tratava-se de uma declaração conjunta comunicada na quinta-feira, 14 de Novembro de 2008 que incluíam a Fundação para o Processo Democrático (FODEP), Apatia Anti-Eleitor (AVAP) Centro Regional de Resolução Construtiva de Litígios(SACCORD) e a Zambia Women's Lobby(ZNWL).

Para além das preocupações das OSSs, a Ordem dos Advogados da Zâmbia (LAZ) no dia 9 de Novembro de 2008 também acrescentou a sua voz na matéria e apelou a emenda do Código Eleitoral de conduta para prever sanções eficazes contra organizações errantes dos media durante a época das eleições.

As preocupações suscitadas sobre a conduta dos principais media pelas organizações acima mencionadas foram levantadas também por alguns dos membros do parlamento(MPs) mais influentes pela bancada da oposição.

Alguns MPs que eram os advogados mais fortes da liberdade dos media no parlamento zambiano apelaram para que haja um regulamento estatutário dos media por causa da maneira como a imprensa cobriu as eleições de 30 de Outubro. Suscitaram-se igualmente preocupações sobre porque algumas organizações principais dos media não integram actualmente o Conselho de Ética dos Media da Zâmbia (MECOZ), um auto-regulador voluntário dos media.

O MECOZ esteve sob o fogo cruzado e foi acusado de não ter competência para punir organizações errantes dos media. Isto tornou os apelos a auto-regulação cada vez mais forte porque os media zambianos pareceram divididos na matéria.

Por conseguinte a MISA-Zâmbia e outras associações dos media tais como a Associação da Imprensa da Zâmbia (PAZA), Sindicato dos Jornalistas da Zâmbia (ZUJ), a Associação das mulheres de Carreira Jornalística da Zâmbia (ZAMWA), o Comité da Liberdade da Imprensa dos Correios e a MECOZ juntaram-se para prevenir que isto aconteça. Delineou-se uma série de actividades que culminaram numa reunião com o recém-nomeado Ministro que recomendou os media para se unirem e resolver adequadamente a questão de um órgão inclusivo regulador voluntário e eficaz de ética dos media.

Durante o ano em análise, os órgãos dos media exibiram uma grande unidade da finalidade e apesar do aumento do número das violações e apelos para o regulamento estatutário o relacionamento do governo com os meios foi bom, visto que o governo predispunha-se a empenhar no diálogo em diversas preocupações suscitadas pelos media.

## Rádio e Televisão

Embora o sector da rádio e televisão tenha registado crescimento em termos de uma nova estação da televisão, a *Central Broadcasting Corporation* planeia abrir novas estações de rádio comunitária, não havia nenhum resultado entrelaçado em termos da execução dos Decretos-Lei da IBA e ZNBC. A taxa de licença da televisão continuou a ser o único aspecto que está sendo executado enquanto o Ministério da Informação continuou a regular ilegalmente o sector.

Porque a IBA não foi executado, as estações de rádio comunitária sofreram da interferência do governo durante o período das eleições. O Ministério da Informação em duas ocasiões notáveis emitiu instruções para as estações de rádio interromperem, especialmente, programas e entrevistas políticos interactivos via telefónica ao vivo em mais de uma ocasião.

O caso em questão ocorreu quando o Secretária Permanente do Ministério da Informação e Comunicação, Emmanuel Nyirenda, no dia 12 de Setembro de 2008 instruiu todas as estações de rádio e televisão tanto comerciais quanto comunitárias, a desistir dos programas interactivos via telefónica ao vivo que envolvem membros do público afirmando que, algumas estações de rádio realizavam programas políticos cuja cobertura mostrou-se desequilibrada e, em alguns casos, imparcial aos partidos políticos durante as campanhas eleitorais.

Outro momento registou-se quando aos 20 de Outubro de 2008, James Kapita, o 1.º Secretário Provincial do Movimento para a Democracia Multipartidária (MMD), partido no poder instruiu o director de programas de rádio da estação do FCC de Solwezi a parar de publicar propaganda política dos partidos da oposição e ameaçou-o revogar a sua licença uma vez que, o partido no poder venceu as eleições presidenciais.

Além das ameaças uma estação de rádio foi reduzida a cinzas por um incêndio tendo se destruído o seu material de estúdio e a biblioteca.

Apesar das ameaças ou sugestões para que os programas ao vivo sejam interrompidos nas estações de rádio privadas e comunitárias, a ZNBC foi enfrentado com a crítica contínua na maneira como cobria os partidos políticos participantes da campanha da eleição presidencial. Por exemplo no dia 25 de Setembro de 2008, um partido da oposição, a Frente Patriótica, PF ameaçou instaurar processos contra a ZNBC se esta não cobrisse actividades de campanha do PF de maneira imparcial e profissional.

De um modo geral as estações de rádio e televisão privadas têm um bom desempenho em termos de acessar os partidos políticos da oposição e de vozes da sociedade civil. Mas por causa destas vozes anti-governamentais nestas estações, regularmente estão sob o fogo do governo numa acção que visa silenciar tais opiniões.

## Imprensa escrita

Presentemente existem três jornais diários de maior circulação na Zâmbia, *The Post Newspaper*, *Zambia Daily Mail*, e *The Times of Zambia*. Publicam-se também alguns semanários e de alguns jornais irregulares em tabloide. Durante as eleições presidenciais de 2008, o jornal *The Post* foi talvez o único que sofreu mais ameaças do governo seguido pelo *Zambia Daily Mail*. Isto se pode também atribuir a posição altamente anti-governamental tomada na sua cobertura das eleições e um aparente apoio aberto a um candidato da oposição, Michael Sata da Frente Patriótica.

Em termos da cobertura imparcial, todos os jornais de maior circulação foram bastante culpados pelos preconceitos abertos para com os seus candidatos preferidos com os media públicos favorecendo claramente o candidato do partido no poder.

Os jornalistas dos media públicos enfrentaram também ameaças de despedimentos se não publicassem artigos em apoio ao partido no poder, MMD. Quanto ao *The Post Newspapers*, estes sofreram ameaças de encerramento se o partido no poder ganhasse a eleição.

Os repórteres do jornal sofreram numerosos assédios dos quadros do partido e dos funcionários do partido no poder.

Para além das violações da liberdade dos media que caracterizaram o período eleitoral, o sector continuou a enfrentar dificuldades económicas tais como o elevado custo de produção. Vários jornais privados continuaram a esforçar-se por esta causa e devido aos capitais inad-equados e altos impostos sobre os insumos.

O custo de produzir uma publicação escrita era ainda elevado comparado a imprimir o mesmo trabalho na África do Sul.

Em consequência alguns jornais tais como o The New Nation newspaper and The Weekly Angel enfrentavam dificuldades para imprimir consistentemente as edições. A The New Nation recorreu a uma ligação em tempo real.

O custo da produção do jornal restringiu a circulação dos jornais e prejudica-os na receita de publicidade porque as empresas e muitas outras organizações exigem uma circulação mais ampla.

Apesar das dificuldades, novas publicações, tais como a Bliss Magazine que é propriedade privada, as revistas Billionaire Capsules and Harvest que são ambas revistas cristãs, entraram em cena.

Um outro desenvolvimento é o estabelecimento do projecto do Provedor do Serviço de Internet (ISP) do The Post newspaper que começou a prestar serviços da Internet.

O The Zambia Daily Mail também estabilizou-se para adquirir o novo equipamento de impressão e conseguiu angariar alguns fundos para o investimento.

Digno também de realce foi o avanço da Zambia Printing Company na aquisição de equipamento de última geração que anunciaram que estava capacitado para imprimir boletins de voto do padrão requerido.

## **Projecções para 2009**

Há algumas indicações que os Decretos Leis de 2002 da ZNBC e IBA e a proposta de Lei de FOI poderiam registar algum avanço após tanta inércia. A conferência Nacional Constitucional (NCC) apresenta uma oportunidade para que os media tenham disposições favoráveis na constituição revista.

Este facto deve-se ao acto de o Comité dos Direitos Humanos da NCC na qual as associações dos media estão representadas reunir-se-á em 2009 para rever as recomendações sobre os media na Proposta de Constituição de Mungomba. Proposta essa na qual constam disposições progressivas dos media e espera-se que estas disposições serão mantidas.

Além disso, a unidade de finalidade da associação dos media apresenta uma oportunidade para que os media resolvam a questão de auto regulação de maneira mais holística. Isto poderia significar o início de um órgão auto-regulador dos media mais inclusivo e fortalecido pois as associações dos media parecem engrenadas para remodelar o Conselho dos Media da Zâmbia (MECOZ) e torna-lo mais eficaz. Este avanço podia prevenir o proposto regulamento estatutário dos media.

• ALERT

Date: April 3, 2008

Person/institutions: *The Post* newspaper/Fred M'membe

Violation: Victory

On April 3, Magistrate Edward Musona dismissed an appeal by the lawyer of former Zambia Air Force (ZAF) Commander Lieutenant General Sande Kayumba attempting to bar *The Post* newspaper from commenting on the corruption charges against Kayumba. Kayumba is on trial on charges of abuse of office and corruption. He requested the Magistrate to caution *The Post* editor Fred M'membe to desist from commenting on his trial. Magistrate Musona, however, dismissed the appeal stating that it was baseless and the comments by M'membe did not amount to contempt of court because the comments were based on what two former Zambian presidents had said in stories published by *The Post* and not the case that was before the court. He said as evidenced from what *The Post* defence lawyers submitted before him, the editorial written by M'membe did not in any way have connections with the case that was before him of the accused who was being tried along with former chief logistics Brigadier General Andrew Nyirongo and Lusaka businessman Amon Sibanda. Kayumba's lawyer argued that the editorial by M'membe subjected his client to two separate trials, one by *The Post* that had tried and convicted him and one before Magistrate Musona.

• ALERT

Date: April 17, 2008

Person/institutions: Kaiko Namusa

Violation: Censored/harassed

On April 17, senior reporter Kaiko Namusa from the state-owned newspaper, *Times of Zambia*, was assaulted and detained for over an hour by the Chipata Central Police, in the Eastern province of Zambia, for taking pictures of police officers who were manhandling a cyclist for allegedly breaking traffic rules.

Namusa, who was on an assignment with Programme Against Malnutrition (PAM), said the police officers jumped on him when they noticed that he was taking photographs of them as they were beating up a cyclist. The police officers grabbed his camera after beating him and demanded that the photos be deleted.

He explained that when he demanded for his camera, the officers got annoyed and sought permission from their superiors to have him locked up. One of their supervisors agreed that he be locked up "for conduct likely to cause a breach of peace". Namusa was only released when one of the officers managed to delete the pictures from the camera. Police spokesperson Bonnie Kapeso condemned the beating of the reporter saying police officers should respect the work of the media. Kapeso wondered how a journalist with just a pen and a notebook could pose a danger to the peace of the police officers.

Meanwhile, MISA Zambia condemned the act and has called on the Police Inspector General to address the issue because the number of officers and other law enforcers beating and harassing journalists as they carried out their duties was on the rise.

• ALERT

Date: August 29, 2008

Person/institutions: *Zambia Daily Mail* journalists

Violation: Threatened

Former Zambian Ambassador to Libya, Mbita Chitala, on August 29 threatened journalists working for the state-owned newspaper *Zambia Daily Mail* that they risk losing their jobs if they did not publish his articles. In an interview with MISA Zambia, Nigel Mulenga, who is acting deputy editor of the newspaper concerned and also Zambia Union of Journalists secretary general, said that Chitala approached him and four of his colleagues outside the office premises demanding an explanation why his articles were not being published in the newspaper.

“I have been following what the *Daily Mail* is doing you don’t know ... that you can be fired,” Chitala said.

Mulenga said that Chitala, who claimed he was in Vice President Rupiah Banda’s campaign team for the MMD presidency, warned them that this was a matter of life and death. When contacted for a comment by *The Post*, Chitala said that the assertion of threats was a falsehood that did not deserve any apology.

• **ALERT**

Date: September 24, 2008

Person/institutions: Broadcasting stations

Violation: Censored

The Zambia government, through the Permanent Secretary in the Ministry of Information and Broadcasting, instructed in a written letter, all broadcasters, both commercial and community, to desist from live phone-in broadcast programmes that involve members of the public. In a letter dated September 12 the Permanent Secretary in the Ministry, Emmanuel Nyirenda wrote that: “It has been observed that some radio stations have political programmes which provide unbalanced and, in some cases, unfair coverage to political parties during election campaigns.” This move was dismissed by MISA Zambia and other media freedom organisation as a violation of media and freedom of expression rights. In a statement the chairperson of MISA Zambia, Henry Kabwe, said: “This move is a desperate attempt by the government to muzzle the media in the run up to the October 30 presidential by- elections.”

• **ALERT**

Date: September 25, 2008

Person/institutions: Zambia National Broadcasting Corporation

Violation: Threatened

On September 25, the opposition Patriotic Front (PF) threatened to commence legal proceedings against the state-owned Zambia National Broadcasting Corporation (ZNBC) if it did not cover PF’s campaign activities in a fair and professional manner.

According to a letter dated September 25 to ZNBC director general, PF’s lawyers stated that the opposition party had observed that ZNBC had discriminated the party in its coverage of campaign activities contrary to the electoral act regulations. The lawyers stated that the position was supported by the electoral act regulations, which ZNBC had ignored in favour of the ruling MMD.

• **ALERT**

Date: September 27, 2008

Person/institutions: *The Post* newspaper

Violation: Censored

On September 27 the Lusaka High Court granted Acting President Rupiah Banda an injunction restraining *The Post* newspaper and any of its agents from publishing libellous words against him. The *Sunday Mail* of September 28 reports that according to a court order, the newspaper was directed to stop printing, circulating or distributing libellous words until an inter-party hearing set for October 3 is held or until further orders of the court. Earlier this month, the ruling Movement for Multiparty and Democracy (MMD) party complained to the Media Council of Zambia (MECOZ) of the alleged scandalous coverage by *The Post* newspaper of Banda, who is also the party’s presidential candidate in the October 30 election. *The Post* vowed to continue publishing stories and editorial comments questioning Banda’s actions, decisions and personality.



- **ALERT**

Date: October 1, 2008

Person/institutions: *The Post* newspaper/Fred M'membe

Violation: Charged

On September 30, the Lusaka High Court allowed Acting President Rupiah Banda to commence contempt of court proceedings against *The Post* newspaper's managing editor, Fred M'membe, for defying a court injunction that restrained the media organisation from publishing alleged libellous words against him. The *Zambia Daily Mail* reported that High Court Judge Charles Kajimanga has granted Banda an application for leave to start proceedings following an application filed by the acting president's lawyer, Christopher Mundia. In a statement of claim, Mundia alleged that *The Post* had on several dates carried out unjustified, unprovoked and libellous statements against Banda.

- **ALERT**

Date: October 1, 2008

Person/institutions: *The Post*

Violation: Threatened

On October 1, Information and Broadcasting Services Minister Mike Mulongoti reiterated his earlier threats to close down the privately owned *Post* if it does not co-operate with the government and courts of law. Speaking in the western province of Zambia on Mongu's radio Lyambai good governance programme sponsored by MISA Zambia, Mulongoti said the government would use laws in the statute books to stop the newspaper operating. "When you have a part of the media which even when they are taken to court they still continue to act with impunity, what are you saying? What you are encouraging is that people should take the law into their own hands. We cannot allow that," said Mulongoti.

MISA Zambia chairperson Henry Kabwe has expressed concern at the threats and urged the minister to desist from issuing any further threats that undermine media freedom and freedom of expression of citizens.

- **ALERT**

Date: October 3, 2008

Person/institutions: *The Post*

Violation: Censored

On October 3, *The Post's* managing editor Fred M'membe lost the case in which he wanted the contempt of court charge against him to be dismissed. Zambia President Rupiah Banda filed contempt of court charge against M'membe for continuing to publish comments, which he alleges were libellous, even after an injunction was granted to stop such publications.

- **ALERT**

Date: October 14, 2008

Person/institutions: State-owned media

Violation: Other

The Anti-Rigging Zambia civic grouping has sued the public media, the Electoral Commission of Zambia (ECZ) and the Attorney General for alleged unbalanced coverage, *The Times* newspaper online reported on October 14. The organisation has sued the Zambia National Broadcasting Corporation (ZNBC), Times Printpak, *Zambia Daily Mail*, the ECZ and the Attorney-General as first, second, third, fourth, and fifth respondents. Anti-Rigging Zambia lawyers claim the allocation of unequal public air time on ZNBC radio and television to some political parties, particularly the opposition, was contrary to the provisions of section 13 of the Electoral Code of Conduct.

- **ALERT**

Date: October 18, 2008

Person/institutions: ZNC and Muvi TV reporters

Violation: Beaten

On October 18, ruling Movement for Multiparty Democracy (MMD) supporters beat up reporters from Zambia National Broadcasting Corporation (ZNBC) television and Muvi Television. The supporters undertook a solidarity march in favour of their presidential candidate, Rupiah Banda.

- **ALERT**

Date: October 20, 2008

Person/institutions: Solwezi FCC Radio

Violation: Threatened

On October 20, James Kapita, provincial chairperson of the ruling Movement for Multiparty Democracy (MMD) in Zambia's North Western province, instructed Solwezi FCC community radio station programmes manager to stop running political adverts for opposition parties and threatened to revoke its license once the ruling party won the presidential by-election. Station manager John Kamwanga said in a statement dated October 21 and emailed to MISA-Zambia and later in a telephone interview on October 27 that Kapita called the radio station claiming that he had received instructions from the Minister of Information and Broadcasting, Mike Mulongoti, not to allow any political advertisements and programmes on the station. Kamwanga said that Kapita, who was speaking over the phone, started issuing threats when he was asked to produce the letter from the Ministry of Information and Broadcasting to back his claims. Kapita accused the radio station of turning down MMD political adverts. The station however explained that MMDs Benny Teatamashimba collected quotations from the station on October 16 and never came back to pay and book airtime.

- **COMMUNIQUE**

Date: October 22, 2008

Person/institutions: ZNBC

Violation: Other

The Zambia National Broadcasting Corporation (ZNBC) says it temporarily withdrew Patriotic Front (PF) political adverts from television because the party violated the terms of contract by not remitting payments. The Watchdog, a Zambian online publication, reported on October 22. ZNBC Public Relations Manager Mirriam Tonga says other political parties except the PF had paid for their political adverts as of last week. Tonga told ZNBC news in Lusaka that the PF only made part payments to date, despite several reminders. She said ZNBC had resumed airing PF's political advert following the advancement of payments. PF President Michael Sata was quoted by *The Post* newspaper threatening to take legal action against ZNBC for not airing his party's political adverts.

- **ALERT**

Date: October 30, 2008

Person/institutions: Mutuna Chanda

Violation: Banned/Threatened

On October 28, Mutuna Chanda, a reporter with *The Post* newspaper, was ejected from the ruling Movement for Multiparty Democracy (MMD) campaign rally in Kitwe, a town in the Copperbelt province of Zambia. Party supporters told him they did not want the newspaper at the rally. According to a report by *The Post* on October 30, Chanda was forced out of Freedom Park, the venue of the rally, by threatening supporters who accused *The Post* of reporting lies about their presidential candidate. Chanda was saved from being beaten outside the campaign venue through the intervention of the police and other MMD supporters.

- **ALERT**

**Date:** October 31, 2008

**Person/institutions:** Julius Sakala

**Violation:** Harassed

Julius Sakala, the news editor of Phoenix radio station, was harassed and manhandled by the police on October 31 as he tried to access the Mulungushi International Conference, the election management centre for the just-ended Zambia presidential by-election. Sanday Chongo, a reporter with the same radio station, told MISA Zambia that police officers denied Sakala entry into the premises even when he had all the necessary accreditation. Chongo said that the police officers, who could not justify their actions, later allowed Sakala entry after they heard him filing a radio programme by phone.

- **ALERT**

**Date:** November 1, 2008

**Person/institutions:** Media

**Violation:** Censored

On November 1, Information and Broadcasting Services Minister Mike Mulongoti advised all radio stations to desist from allowing live interviews to people wishing to comment on the presidential by-election results while the results were still trickling into the elections management centre in Lusaka.

According to a press statement obtained by MISA Zambia dated November 1, Mulongoti said government was concerned that some people had been making inflammatory statements protesting against the results that were being released from various constituencies in Zambia. He said the inflammatory statements could incite some members of the general public to engage in violence.

- **ALERT**

**Date:** November 12, 2008

**Person/institutions:** Frank Bwalya

**Violation:** Arrested/Charged

On November 12, Police arrested the station manager of the Catholic-owned Radio Icengelo in Kitwe, Father Frank Bwalya, in connection with allegedly inciting people during a live post-election radio programme that has been running on the station for two weeks. Ndola based Mission Press Director Father Miha Dravensk called MISA Zambia on the evening of November 12 to report the incident. Bwalya was picked up after he finished presenting the programme by the plain clothes police officers and taken to Kitwe Police station where he was interrogated and briefly detained before he was taken to an unknown destination where he was detained overnight.

- **ALERT**

**Date:** November 13, 2008

**Person/institutions:** Media

**Violation:** Threatened/Legislation

On November 13, Members of Parliament (MP) called for the regulation of media houses through the use of statutory instruments as opposed to self regulation because of the alleged biased coverage of the media in the just ended presidential by-election. According to a report in the *Zambia Daily Mail* of November 15 and the live broadcast of Parliament radio which MISA Zambia monitored, the MPs alleged that there was a need for media organisations to be regulated by statutory instruments in order to stop journalists from publishing information that could incite violence.

• **ALERT**

Date: November 15, 2008

Person/institutions: *The Post*

Violation: Other

The opposition United Party for National Development (UPND) and the ruling Movement for Multiparty Democracy (MMD) have distanced themselves from UPND's Gwembe Member of Parliament Brian Ntundu's call on the government to "sort out" *The Post* newspaper. MMD party spokesperson Benny Tetamashimba said that the ruling party has got nothing to do with those calling on the government to sort out *The Post*. And UPND spokesperson Charles Kakoma said yesterday said that what the MP said in parliament was his personal view and did not reflect the views of the party and its policy on media freedom.

• **ALERT**

Date: November 17, 2008

Person/institutions: Media

Violation: Other

On November 17, newly appointed Information Minister Lieutenant General Ronnie Shikapwasha promised to look at the pending media laws. According to the report monitored by MISA Zambia on Muvi television on November 17, Shikapwasha said that he was waiting for the list of media laws to be compiled by his Permanent Secretary, Emmanuel Nyirenda, for him to commence work on the pending laws.

• **ALERT**

Date: November 24, 2008

Person/institutions: Media

Violation: Legislation

On November 24, MISA Zambia, the Press Association of Zambia (PAZA), the Media Council of Zambia (MECOZ), the Zambia Union of Journalists (ZUJ), the Zambia Media Women Association (ZAMWA) and the Press Freedom Committee (PFC) of *The Post* newspaper expressed strong concern over calls by some opposition Members of Parliament to regulate the media through a statutory body. In a press statement signed by the six media organisations and read by MISA Zambia chairperson Henry Kabwe the media associations condemned the calls for such regulation because media freedom and the public's right to know were the cornerstones of any vibrant democracy and could therefore not be regulated through a statutory body. He said that such regulation would stifle freedom of the media, an important platform on which the Zambian people expressed themselves.

• **ALERT**

Date: November 25, 2008

Person/institutions: Media

Violation: Threatened/Legislation

On November 25, Minister of Information and Broadcasting Lieutenant General Ronnie Shikapwasha said government had no choice but to regulate the media through statutory means because the press had failed to do so. In an interview with the *Times of Zambia*, Shikapwasha said that the media had proved during the presidential by-election of October 30 that it was incapable of self-regulation.

• **ALERT**

Date: November 26, 2008

Person/institutions: Frank Bwalya

Violation: Victory

On November 26, the Zambia Police dropped charges against Radio Icengelo station manager

Father Frank Bwalya. Bwalya was due to appear at the Kitwe magistrate court on November 27 to answer charges of broadcasting information intended to cause divisions in communities. The police allege this information was broadcast between November 1 and 12 in a post-election radio programme that Bwalya hosted on the radio station. Bwalya, said that Police informed him that the Director of Public Prosecutions (DPP) had directed that the charges be dropped for security reasons.

## *National overview*

*By Barnabas Thondlana, a media consultant and award-winning Zimbabwean journalist who has worked in various senior editorial positions at The Financial Gazette, The Zimbabwe Independent and the banned Daily News and Daily News on Sunday*



## Zimbabwe

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Zimbabwe's political, economic and social landscape during 2008 remained riddled with insidious events, with no light at the end of the tunnel. It is this state of affairs which resulted in the direct intervention of the Southern African Development Community (SADC) through a mediation process that was to see the main political parties in Zimbabwe negotiate Constitutional Amendment Number 18 in December 2007 ahead of the elections slated for March 2008. In the immediate aftermath of this amendment, the political parties also agreed to amend three of the most infamous media laws in SADC: the Access to Information and Protection of Privacy Act (AIPPA), the Broadcasting Services Act (BSA) and the Public Order and Security Act (POSA) in tandem with the Electoral Act.

Indeed, as with any mediated process, there was hope and anticipation, not only on the part of the Zimbabwean people but specifically the media fraternity, that these amendments would yield democratic reforms to the regulation of the media, not only just for the elections scheduled for March 2008, but beyond. However, the legislative changes to media regulation and the enjoyment of the right to freedom of expression have proven to be more cosmetic than democratic; more a papering over the cracks than fundamental democratisation of the media.

It is against that background that the media landscape did not register any changes from the previous year, with independent papers *The Daily News*, *The Daily News on Sunday*, *The Tribune* and *The Weekly Times* remaining closed. The existing independent publications continued to operate on very thin budgets during the year under review as a result of the hyperinflationary environment and prohibitive operating costs due to shortages of newsprint and reduced circulations which impacts negatively on the citizens' rights to access alternative and diverse information, opinions and views affecting their daily lives.

This is despite the signing of the Global Political Agreement (GPA) underwritten by SADC through the mediation efforts of former South African President Thabo Mbeki to break the political impasse arising out of the discredited June 27 2008 presidential election run-off. Under Article 19 of the GPA, which deals with freedom of expression and communication, the parties agreed to ensure the immediate processing by the appropriate authorities of all applications for re-registration and registration in terms of AIPPA and BSA as amended and signed into law by President Robert Mugabe in January 2008. *The Daily News* remained banned four months after the signing of the agreement despite its pending application to be duly licensed in terms of AIPPA following its ban in September 2003.

## The state of the media

The government of Zimbabwe retained a formidable and lethal arsenal against the media in the form of an array of suppressive laws, which include AIPPA, POSA, BSA as well as the Interception of Communications Act (ICA), Criminal Law (Codification and Reform) Act and Official Secrets Act (OSA).

In early 2008, cosmetic changes were made to AIPPA, BSA and POSA in tandem with the Electoral Act to ensure that the pending elections subsequently held on March 29 complied with SADC Guidelines and Principles on the Conduct of Elections in Southern Africa. The SADC guidelines, among other issues, stress the need for equal and equitable access by citizens and political parties to the public broadcaster. In the case of Zimbabwe this meant access to the state-controlled Zimbabwe Broadcasting Corporation (ZBC). But these changes did not bring about any improvement in the media landscape, as they were only cosmetic, as opposed to fundamental democratisation of the media.

Critically, the amendments retained statutory regulation of the media despite the name change

of the state-controlled Media and Information Commission (MIC) to the Zimbabwe Media Commission (ZMC), assuming the task of statutory media regulation, registration of mass media and accrediting of journalists from the former. Members of the ZMC, which is still to be constituted, will consist of nine members appointed by the president from a list of persons nominated by the Parliamentary Committee on Standing Rules and Orders in terms of the amendments to AIPPA.

Statutory regulation is anathema to media diversity and pluralism and is not conducive to the creation of an enabling environment for the entry of new private players into both the print and broadcasting sector. Foreign funding and ownership in the print media remains restricted and can only be considered at the absolute discretion of the responsible minister. A subsidiary body, the Zimbabwe Media Council, will also be put in place to enforce media ethics despite the existence of the Voluntary Media Council of Zimbabwe, which came into being in June 2007 in compliance with the Banjul Declaration on the Principles of Freedom of Expression that guarantees self-regulation of the media.

Media freedom violations increased in 2008 in the period between March 29 and the June 27 presidential election run-off. The violations were in the form of resurrecting old cases against journalists, which had hitherto been quashed for lack of evidence, and re-arrests of foreign journalists set free by the courts. Government even came up with a blacklist of journalists who were barred from covering the elections. The increase in the cases of media violations should be viewed as having been designed to instil fear among journalists deemed critical of the government, thereby limiting the availability of alternative information during the election campaign period more so when viewed against the ban against foreign news organisations such as the British Broadcasting Corporation (BBC), Cable News Network (CNN), Britain's Sky News and South African television channel e.tv.

Caught in the vortex of the political violence was president of the Zimbabwe Union of Journalists (ZUJ), Matthew Takaona, who together with his brother was assaulted by assailants in military garb in the town of Chitungwiza. Freelance journalist Frank Chikowore spent two weeks as a 'guest of the state' on flimsy allegations of public violence relating to the torching of a bus in Harare's Warren Park suburb following his arrest in Harare on April 15, 2008. He was later granted bail and subsequently acquitted. Fellow freelance journalist Brian Hungwe was slapped with a one-year ban for allegedly breaching sections of AIPPA. With the support of MISA Zimbabwe, the Supreme Court quashed the ban.

In the eastern border city of Mutare, the police revived charges against freelance journalist Sydney Saize for contravening a section of POSA, which deals with communicating falsehoods. Freelance photojournalist Tsvangirai Mukwazhi was in early August forced to temporarily relocate with his family to South Africa after he was assaulted by the police and had his car confiscated. His crime was that he had covered MDC leader Morgan Tsvangirai in the run-up to the March 29 election.

As the year came to a close the assault on the media did not abate. Secretary for Information and Publicity George Charamba threatened to ban all foreign bureaux or local reporters working with foreign news organisations, accusing them of embarking on a propaganda assault on Zimbabwe. He directed the warning at Reuters, Al Jazeera, Agence France Presse (AFP), BBC, France 24 International and Associated Press (AP). He accused the bureaux of quoting President Mugabe out of context following his remarks that the country had arrested the cholera outbreak when addressing mourners at the burial of ruling party Zanu-PF Political Commissar Elliot Manyika in Harare on December 11, 2008.



Suffice to say the government continues to trash the various charters and conventions it has signed or ratified willingly, including the Universal Declaration of Human Rights, the 1991 Windhoek Declaration, the African Charter on Broadcasting and the Banjul Declaration, all of which guarantee freedom of expression, access to information and freedom of the media.

## The state of broadcasting and telecommunications

In the broadcasting sector, the state-controlled ZBC remains the sole broadcaster in the country. Restrictions alluded to earlier under the BSA, make it difficult for the Broadcasting Authority of Zimbabwe (BAZ) to level the playing field for more private players to enter the sector in compliance with the African Charter on Broadcasting, which espouses the three-tier broadcasting comprising public, commercial and community broadcasting.

In terms of clause five of the amended BSA, the appointment functions were transferred to the president who has the power to appoint nine members to the BAZ after consultation with the minister and Parliamentary Committee on Standing Rules and Orders.

Fundamentally the amendments still retain restrictive provisions on issues relating to foreign funding and ownership in the otherwise capital-intensive broadcasting sector. In terms of foreign ownership and directorship, this will be decided at the absolute discretion of the minister without any well-defined criteria. These bodies need to be replaced by a truly independent communications regulator that will oversee these sectors. This new regulator's independence must be guaranteed by the law and must have financial, structural and functional independence in order to regulate the sector effectively and impartially for the development of the information and communication technology (ICT) sector to be guaranteed.

## The state of print media

The print media is dominated by the state-owned Zimbabwe Newspapers group, which publishes the only circulating dailies *The Herald* and *The Chronicle*. There has been no introduction of any private newspapers and banned publications, such as *The Daily News*, *The Daily News on Sunday*, *The Tribune* and *The Weekly Times*, have not been granted permission to resume publications. Although the government had said the thorny issue of the registration of *The Daily News* was soon to be concluded, the paper's quest for registration has dragged on before the Media and Information Commission against a labyrinth of court cases in its legal battle to be granted an operating licence. This is despite undertakings to speedily process applications for registration or re-registration of media houses in terms of Article 19 of the Global Political Agreement (GPA).

It was hoped that following a meeting of minds between Zanu-PF and the two Movement for Democratic Change (MDC) formations following the signing of the GPA in Harare on September 15, 2008, there would be an opening of the media space. The GPA recognises the importance of the right to freedom of expression and communication and the crucial role that the media plays in a multi-party democracy. Parties to the agreement agreed to the expeditious processing of all applications for re-registration and registration in terms of both the BSA and AIPPA. This is still to come to fruition, increasing uncertainty about the fate of *The Daily News* and other banned publications.

One can only surmise that there is an absolute lack of political will to open up the media landscape and provide competition to *The Herald* and *The Chronicle*, thereby providing a variety

of alternative opinions to the reading, listening and viewing public. While independent weeklies – *The Standard*, *The Zimbabwe Independent* and *The Financial Gazette* – are still holding fort, they are constricted by limited circulation, acute shortage of newsprint and prohibitive production and transport costs fuelled by the hyper-inflationary environment.

The few Zimbabweans with access to the internet relied on online publications such as Zimonline, Zimbabwe Times, Zimdaily and NewZimbabwe.Com, in a country that is still to issue licenses to community radios, notwithstanding the serious mobile and fixed line phone connectivity problems, which has a negative impact on the free exchange of information and ideas on national issues.

## Projections for 2009

Chances for significant change to the country's media landscape in 2008 look slim unless a political solution to the current impasse is found. The government will undoubtedly be proceeding with the establishment of the media council, appointed by the statutory ZMC and chaired by a member of the same commission. This flies in the face of the Banjul Declaration on the Principles of Freedom of Expression in Africa, which clearly states that "self regulation is the best system of instilling professionalism in the media". It is against that background that delegates to a media law reform conference convened under the auspices of the Media Alliance of Zimbabwe (MAZ) in Harare on December 4 – 5, 2008 gave the statutory media council the thumbs down, saying they would not support it nor accept invitations to sit on the council.

An independent, free and pluralistic media can play its role effectively in the democratic processes that inform national reconstruction and healing. The resultant domino effect is that would-be investors in the print and broadcasting sector will be guaranteed security on their investments, notwithstanding the potential for employment and economic growth.

Only through a constitutional provision that protects media freedom will the media be firmly anchored and positioned to undertake its ethical and responsible obligations of informing the citizenry without fear of falling foul of AIPPA, POSA, BSA, ICA and the Criminal Law (Codification and Reform) Act, among other laws intended to suppress media freedom and freedom of expression, association and assembly.



*Por Barnabas Thondhlana*

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Zimbabwe

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## Introdução

O panorama político e sócio- económico do Zimbabwe permaneceu insidioso em 2008 sem nenhuma luz no fundo do túnel.

Foi nesta esteira de governação que resultou a intervenção da Comunidade de Desenvolvimento da África Austral (SADC) através de um processo de mediação que pretendia ver os principais partidos políticos no Zimbabwe negociarem a Emenda Número 18 da Constituição em Dezembro de 2007 antes das eleições marcadas para Março de 2008.

Como resultado imediato dessa emenda, os partidos políticos concordaram também em emendar três das mais infames leis de informação na SADC, que são: a Lei do Acesso à Informação e Protecção da Privacidade, a Lei dos Serviços de Rádio e Televisão e por fim a Lei da Ordem e Segurança Públicas (POSA) conjuntamente com a Lei eleitoral.

De facto, como um processo mediado, houve esperança e expectativa, não apenas da parte do povo zimbabweano mas também da classe dos media em particular, de que essas emendas poderiam produzir reformas democráticas para a regulação dos meios de comunicação social, não somente para as eleições agendadas para 2008, mas para além disso.

Contudo, as mudanças legislativas para a regulação e satisfação do direito de liberdade de expressão tem se revelado cosmético do que democrático, mais fachada do que a essencial democratização dos media.

É neste contexto que o panorama dos meios de comunicação social não registou nenhuma mudança nas realizações de 2007 com os jornais independentes *The Daily News*, *The Daily News on Sunday*, *The Tribune* and *The Weekly Times* permanecendo fechados.

As publicações independentes existentes continuaram a operar com orçamentos muito deficitários durante o ano em exercício, como resultado do ambiente hiper-inflacionário e custos operacionais proibitivos devido a carência de jornais e circulação reduzida que têm impacto negativo nos direitos dos cidadãos de aceder à informação alternativa e variada, opiniões e pontos de vista que afectam suas vidas quotidianas.

Isto é a propósito da assinatura do Acordo Político Global subscrito pela SADC através dos esforços de mediação do antigo Presidente Sul-Africano Thabo Mbeki, para quebrar o impasse político resultado da desacreditação da corrida eleitoral às presidenciais de 27 de Junho de 2008.

Nos termos do Artigo 19º do APG que lida com a liberdade de expressão e comunicação, os partidos concordaram em garantir o processamento imediato pelas autoridades apropriadas de todos os requerimentos para o registo em termos de AIPPA e BSA conforme havia sido emendado e assinado na lei pelo Presidente Robert Mugabe em Janeiro de 2008.

O *Daily News* permaneceu interditado quatro meses depois da assinatura do acordo apesar do seu requerimento pendente a ser devidamente dada licença em termos de AIPPA na sequência do banimento em Setembro de 2003.

## Situação dos Meios de Comunicação Social

O Governo do Zimbabwe manteve firme um arsenal formidável e mortal contra os media em forma de lista de leis repressivas que incluem a Lei do Acesso à Informação e Protecção da Privacidade (AIPPA), a Lei da Ordem e Segurança Públicas (POSA), a Lei da Intercepção das Comunicações (ICA), o Decreto da Lei Criminal (Codificação e reforma), a Lei dos Serviços de Rádio e Televisão (BSA) e a Lei dos Oficiais Secretos (OSA).

Nos princípios de 2008, mudanças cosméticas foram feitas à AIPPA, BSA e POSA conjuntamente com a Lei Eleitoral para garantir que as eleições pendentes tidas subsequentemente a

29 de Março, obedecendo as directrizes e princípios da SADC sobre a Condução das Eleições na África Austral.

As directrizes da SADC, dentre outras questões, realça a necessidade de um acesso uniforme e equitativo pelos cidadãos e partidos políticos à Rádio e Televisão públicas. Criticamente, as emendas conservaram a regulação legal dos media apesar da mudança do nome da Comissão dos Media e Informação (MIC) controlada pelo Estado para a Comissão dos Media do Zimbabwe (ZMC) assumindo a tarefa de regulação legal dos media, inscrição dos meios de comunicação de massas e acreditação de jornalistas dos antigos membros do ZMC, que ainda está para ser constituído; isto irá consistir em nove membros indicados pelo Presidente a partir de uma lista de pessoas nomeados pela Comissão Parlamentar sobre Normas Permanentes e Regras Parlamentares em termos de emendas à AIPPA.

A regulação estatutária é anatema à diversidade dos *media* e o pluralismo e não é favorável à criação de um ambiente que permite o ingresso de novos actores privados dentro de ambos os sectores imprensa e radiodifusão.

O financiamento estrangeiro e o direito de propriedade na imprensa escrita permanece restricta e pode ser apenas considerada na discreção absoluta do respectivo ministro.

Um corpo subsidiário, O Conselho dos Meios de Comunicação Social do Zimbabwe será colocado para fazer valer a ética dos *media* apesar da existência do Conselho Voluntário dos Meios de Comunicação Social do Zimbabwe que surgiu em Junho de 2007, de acordo com a Declaração de Banjul sobre os Princípios da Liberdade de imprensa, que garante uma regulação própria dos *media*.

As violações da liberdade dos *media* aumentaram entre o período da corrida eleitoral presidencial de 29 de Março e 27 de Junho de 2008. As violações foram com objectivo de ressuscitar casos antigos contra jornalistas que até agora tinham sido anulados por falta de provas, e a retenção de jornalistas estrangeiros liberto pelos tribunais.

O governo Zimbabueano apresentou uma lista negra de jornalistas que foram impedidos de cobrir as eleições.

O aumento de casos de violação do direito dos *media* podia ser visto como tendo sido designado para instilar medo dentre os jornalistas considerados críticos do governo, deste modo limitando a disponibilidade de informação alternativa durante o período da campanha eleitoral, mais ainda quando visto contra o banimento contra canais televisivos estrangeiros tais como a BBC, CNN, Sky News e E-tv.

Apanhado no turbilhão da violência política estava o presidente da União Zimbabweana dos Jornalistas Matthew Takaona, que juntamente com irmão foi atacado por assaltantes trajados a militares na cidade-dormitório de Chitunwiza. Frank Chikowore passou duas semanas como hóspede do Estado sobre frívolas alegações de violência pública relacionadas com a queima de um autocarro no suburbio de Parque Warren de Harare seguindo a sua detenção em Harare a 15 de Abril de 2008, mais tarde foi absolvido por caução.

O jornalista freelance Brian Hungwe foi esbofeteado com um banimento de um ano por alegadamente transgredir sectores da AIPPA. Todavia com apoio da MISA-Zimbabwe o banimento foi revogado pelo tribunal.

Na fronteira da cidade oriental de Mutare a polícia ressuscitou acusações contra Syney Saize por transgredir uma secção do POSA que tem a ver com falsidade de comunicação. O fotojornalista freelance Tsvangirai Mukwazhi foi, nos princípios de Agosto, obrigado a transferir temporariamente a sua família para África do Sul, depois de ter sido assaltado pela polícia e o carro ter sido confiscado. O crime foi de ter coberto o líder do MDC Morgan Tsvangirai na corrida eleitoral de 29 de Março.

À medida em que o ano caminhava para o final o assalto aos *media* não diminuía. O Secretário para a Informação e Publicidade George Charamba ameaçava banir a todos as Agências Estrangeiras de Informação ou reporteres nacionais que trabalham com Canais televisivos estrangeiros, acusando-os de empreender um assalto propagandístico sobre o Zimbabwe. O aviso foi direccionado a Reuters, Al Jazeera, AFP, BBC, France 24 International e AP. George Charamba acusou as Agências de citar o Presidente Mugabe fora do contexto, seguindo os seus comentários de que o país apreendeu a eclosão da cólera quando falava aos enlutados no enterro do Comissário Político da Zanu-PF Elliot Manyika em Harare a 11 de Dezembro de 2008.

O governo Zimbabueano continua a violar várias cartas e convicções que assinou ou ratificou voluntariamente tais como a Declaração Universal dos Direitos Humanos, a Declaração de Windhoek de 1991, a Carta Africana sobre a Rádio e Televisão e a Declaração de Banjul que garante a liberdade de expressão, acesso à informação e liberdade dos *media*.

## Situação da Rádio e Televisão e Telecomunicações

O sector da Rádio e Televisão do Zimbabwe controlado pelo Estado, permanece a única Rádio e Televisão Nacional. As restrições aludidas inicialmente sob o BSA, tornam difícil para a Autoridade de Rádio e Televisão do Zimbabwe (BAZ) nivelar o campo de acção para que mais actores privados entrem no sector em consonância com a Carta Africana sobre a Rádio e Televisão que congrega as três categorias de Rádio e Televisão que abrangem as Rádios e Televisões públicas, comerciais e comunitária.

Em termos da cláusula 5 da emendada BSA, as funções de nomeação foram transferidas para o Presidente que tem o poder para nomear nove membros para a BAZ depois de consultar o Ministro e a Comissão Parlamentar sobre Normas Permanentes e Regras Parlamentares.

Fundamentalmente as emendas ainda retêm cláusulas restritivas sobre questões relacionadas com financiamento estrangeiro e a propriedade no sector de Rádio e Televisão de capital intensivo. Em termos de propriedade e direcção estrangeira, isto será decidido sob a discreção absoluta do ministro sem nenhum critério definido.

## Situação da Imprensa Escrita

A imprensa escrita é dominada pelo grupo de jornais sob égide do Estado que publicam os únicos diários que circulam *The Herald* and *The Chronicle*. Não tem havido introdução de nenhum jornal privado e as publicações banidas tais como *The Daily News*, *The Daily News on Sunday*, *The Tribune* and *The Weekly Times* não lhes foram concedidos permissão para retomar as publicações, embora o governo tenha dito que o assunto espinhoso da inscrição do *The Daily News* estava prestes a ser concluído. o documento de pedido para a inscrição arrastou-se perante a Comissão dos Meios de Comunicação Social e Informação contra um labirinto de casos de tribunal na sua batalha legal para ser concedido uma licença operacional. Isto é, apesar de intencionalmente rapidamente processar requerimentos para inscrição ou reinscrição das casas dos media em termos do artigo 19 do Acordo Político Global.

Tendo em conta do encontro e das opiniões entre a Zanu-PF e as duas formações da MDC e seguindo a assinatura do Acordo Político Global (APG) em Harare a 15 de Setembro de 2008, esperava-se que haveria uma abertura do espaço aos *media*.

O AGP reconhece a importância do direito à liberdade de expressão e comunicação e o papel crucial que os media desempenham numa democracia multipartidária.

As partes do acordo concordaram num rápido processamento de pedidos de reinscrição e inscrição em termos da Lei dos Serviços de Rádio e Televisão (BSA) e AIPPA.

Sendo assim, apenas se pode supor que há uma absoluta falta de vontade política de abrir o panorama dos *media* e proporcionar uma concorrência ao *The Herald* and *The Chronicles* dando desse modo uma diversidade de opiniões alternativas ao público leitor, ouvinte e telespectador. Enquanto os semanários independentes – *The Standard*, *The Zimbabwe Independent* and *The Financial Gazzett* – ainda se mantêm firmes, eles são constrangidos por uma circulação limitada, redução aguda de imprensa de jornais, proibição da produção e custos de transporte agudizados pelo ambiente hiperinflacionário.

Os poucos zimbabweanos que têm acesso à internet contam com publicações *on-line* tais como Zimonline, Zimbabwe Times, Zimdaily and NewZimbabwe, num país que ainda está para emitir licenças às radios comunitárias não obstante os problemas sérios de rede de telefonia móvel e fixa que têm impacto negativo sobre a livre troca de informação e ideias sobre questões nacionais.

## Perspectivas para 2009

A probabilidade de uma mudança significativa para o panorama dos *media*, parece pequena salvo se for encontrada uma solução política ao actual impasse.

O governo irá indubitavelmente proceder ao estabelecimento de um Conselho dos Meios de Comunicação Social, designado pelo legalmente estatuído ZMC e presidido pelo membro da mesma Comissão.

Este processo vai ao encontro da Declaração de Banjul sobre os Princípios da Liberdade de Expressão em África, que diz claramente: a regulamentação própria é o melhor sistema para instilar o profissionalismo no seio dos *media*.

Foi perante este cenário que os delegados para a conferência da reforma legal dos *media*, convocada pela Aliança dos Meios de Comunicação Social do Zimbabwe (MAZ) em Harare de 4 a 5 de Dezembro de 2008 repudiou o ZMC, afirmando que não iriam tolerá-la, nem aceitar convites para ocupar nenhum cargo no legalmente instituído Conselho dos Meios de Comunicação Social.

Os *media* independentes, livre e pluralista podem efectivamente jogar o seu papel no processo democrático informando sobre a reconciliação e reconstrução nacionais. O efeito Dominó resultante é de que havendo investidores nos sectores da imprensa e de Rádio e Televisão ser-lhes-à garantidos segurança sobre o seu investimento conquanto o potencial para o emprego e crescimento económico.

Por meio da disposição de uma lei constitucional que protege a liberdade dos *medias* estes poderão se fixar firmemente, de modo a levar a cabo responsabilidades e obrigações éticas de informar os cidadãos sem medo de cair nas malhas da AIPPA, POSA, BSA, a Lei Criminal (Codificação e Reforma), a Lei da Interceptação das Comunicações (ICA) e quaisquer outras leis que tencionam abolir a liberdade dos *media* e a liberdade de expressão, associação e reunião.



• **ALERT**

**Date:** April 23, 2008

**Person:** Frank Chikowore

**Violation:** Detained

A Harare lawyer representing freelance journalist Frank Chikowore, who was charged with public violence on April 23, filed an urgent High Court application for him to be granted bail that was denied by the Magistrates' Court. On April 22, Magistrate Olivia Mariga denied Chikowore and his co-accused bail when they appeared before her, saying the political climate in the country is still volatile and, as such, the accused persons may continue to incite violence. Chikowore and six other co-accused, among them opposition Movement for Democratic Change (MDC) director of information and publicity Luke Tamborinyoka, were remanded in custody to May 5, 2008. However, in his application to the High Court Chikowore's lawyer Harrison Nkomo is arguing that the case against Chikowore is weak as the state has failed to produce evidence implicating the accused. He also stated that if granted bail, Chikowore will not abscond as he is a professional journalist who is prepared to stand trial and clear his name.

**June 19, 2008:**

The trial of freelance journalist, Frank Chikowore, who is charged with public violence with 12 others, has been postponed to the July 14, 2008.

The matter was postponed after State Prosecutor Chikware, advised the court of the absence of the trial magistrate and moved for the postponement of the trial to June 25, 2008. The matter was heard before Magistrate Catherine Chimanda.

**July 14, 2008:**

Freelance journalist Frank Chikowore and the 13 alleged Movement for Democratic Change (MDC) supporters who are charged with inciting public violence and burning a bus, were on July 14 removed from remand. Presiding Magistrate Margaret Rusinahama granted the application for removal of remand made by the defence lawyer Alec Muchadehama on the condition that it would not prejudice the state in anyway.

• **ALERT**

**Date:** April 29, 2008

**Person:** Bright Chibvuri

**Violation/issue:** Charged/sentenced

Bright Chibvuri, the editor of *The Worker*, was on April 29 convicted of contravening section 83(1) of the repressive Access to Information and Protection of Privacy Act (AIPPA), which criminalises practicing journalism without accreditation.

Plumtree resident Magistrate Mark Dzira fined Chibvuri Z\$2 billion (US\$6) or 10 days' imprisonment. Dzira, who had no kind words for the now disbanded Media and Information Commission (MIC), however, still proceeded to convict Chibvuri of having practiced journalism on March 3, 2007 when he was not accredited.

Chibvuri argues that on the day in question he was in Plumtree to oversee a workshop, which was organised by his employer, the Zimbabwe Congress of Trade Unions. The court said the fact that Chibvuri had a tripod stand, camera and notebook indicated that he was indeed practicing journalism on the day in question.

**Date:** May 22, 2008:

Bright Chibvuri appealed to the High Court against both conviction and sentence. Chibvuri, who pleaded not guilty to the offence, was on April 29, 2008 convicted and fined Z\$2 billion (US\$6) or 10 days' imprisonment.

- **ALERT**

Date: May 14, 2008

Person: Henry Muradzikwa

Violation/issue: Other

Henry Muradzikwa, the chief executive officer of the state-controlled Zimbabwe Broadcasting Corporation (ZBC), was fired on May 14 for reportedly defying ministerial orders to deny the opposition political party, the Movement of Democratic Change (MDC), favourable coverage in the run-up to the March 29, 2008 elections.

Muradzikwa was fired for defying orders by Minister of Information and Publicity Dr Sikhanyiso Ndlovu and the ministry's Permanent Secretary, George Charamba, to deny positive radio and television publicity to the MDC. He was also reportedly accused of denying President Robert Mugabe favourable coverage.

- **ALERT**

Date: May 17, 2008

Person: Sydney Saize

Violation/issue: Beaten

Freelance journalist Sydney Saize sustained a swollen lip after he was assaulted by unknown assailants in the eastern border town of Mutare on May 16, 2008. The assailants accused him of being a sell-out. Saize told MISA Zimbabwe that the incident occurred around 20h30 when he was on his way home. He said he initially did not suspect anything when four men who were travelling in Nissan double-cab vehicle pulled over and offered him what was supposed to have been an innocent lift home. The vehicle, however, stopped some short distance later. "The four men then proceeded to assault me with booted feet and fists and accused me of 'selling' the country," said Saize. This comes hard on the heels of the assault of Mathew Takaona, the president of the Zimbabwe Union of Journalists (ZUJ). Takaona was assaulted together with his brother by assailants in military fatigues at a shopping complex in Harare's dormitory town of Chitungwiza. MISA Zimbabwe condemned these wanton attacks on journalists at a time when the country is witnessing unprecedented politically motivated violence in the aftermath of the March 29 elections and the interim period to the presidential election run-off set for June 27.

- **ALERT**

Date: May 20, 2008

Person/institutions: Media

Violation/issue: Other

MISA Zimbabwe complained to the African Commission for Human and Peoples' Rights (ACHPR) over delays in finalising the admissibility of the Capital Radio communication, which is currently before the commission. The communication on Capital Radio – filed jointly by MISA Zimbabwe, Article 19, the Institute for Human Rights and Development in Africa, as well as two proprietors of Capital Radio, Gerry Jackson and Michael Auret Jnr. – challenges various sections of the Broadcasting Services Act (BSA) as being inconsistent with the African Charter on Human Rights. Capital Radio, an aspiring commercial radio station in Zimbabwe was shut down violently by the Zimbabwe government and had its equipment confiscated by the police in 2000. The station had begun operating after successfully challenging the broadcast monopoly of the state owned, Zimbabwe Broadcasting Corporation (ZBC) in 2000.

- **ALERT**

Date: May 23, 2008

Person/institutions: *The Zimbabwean on Sunday*

Violation/issue: Destroyed/beaten

Unknown assailants on May 23 waylaid and set ablaze a truck-load of 60,000 copies of *The Zimbabwean on Sunday* newspaper and assaulted its driver, Christmas Ramabulana; and a

South African national and distribution assistant, Tapfumaneyi Kancheta. Ramabulana and Kancheta were stopped 67 km from Zimbabwe's southern town of Masvingo and forced to drive along the Chivi-Mandamabwe road for 16 km before turning into Mandamabwe Road where the truck and its contents were set alight. The two were severely beaten and dumped in that area. Wilf Mbanga, the publisher of *The Zimbabwean on Sunday* and its stablemate *The Zimbabwean*, noted that the incident comes hard on the heels of remarks by Zanu-PF Secretary for Administration Emmerson Mnangagwa blaming *The Zimbabwean* for the party's electoral defeat in the March 29 elections.

**May 23, 2008:**

MISA Zimbabwe condemned the burning of *The Zimbabwean on Sunday* newspapers as well as the beating of its staff. MISA Zimbabwe called this an unwarranted onslaught on the citizens' right to access alternative information and ideas through publications such as *The Zimbabwean on Sunday*.

"These acts of lawlessness and disregard for human life continue at a time when the country is preparing for the June 27, 2008 presidential election run-off, raising mounting fears that the high stakes contest between President Robert Mugabe and MDC leader Morgan Tsvangirayi will not be free and fair in the wake of the determined efforts to shut out any form of dissent and opposing views", said MISA Zimbabwe.

• **ALERT**

**Date:** May 23, 2008

**Person:** Harrison Nkomo

**Violation/issue:** Charged

Zimbabwe media lawyer Harrison Nkomo, charged under Section 33 or alternatively Section 41 of the Criminal Law (Codification and Reform) Act on May 23, applied to be removed from remand, arguing that there was no reasonable suspicion that he committed the alleged offence. Beatrice Mtetwa, who appeared on behalf of Nkomo, told Harare Magistrate Doris Shomwe that Nkomo is accused of having uttered words, which are insulting of or undermine the authority of the President by allegedly saying in the Shona vernacular: "My friend, go and tell your father to vacate office. He has failed to rule, we are suffering in this country."

It is alleged by the state that Nkomo said these words to a court official, Michael Mugabe, who shares the same surname with President Robert Mugabe.

**June 3, 2008:**

Media lawyer, Harrison Nkomo, facing charges of insulting President Robert Mugabe, has applied to have the matter referred to the Constitutional Court. Nkomo's lawyer Beatrice Mtetwa made the application before Harare Magistrate Gloria Shomwe in terms of Section 24(2) of the Constitution of Zimbabwe. In terms of that section, a matter may be referred to the Supreme Court, which will sit as a Constitutional Court to determine whether a section of the law under which the accused person is being charged violates the Bill of Rights.

**June 25, 2008:**

Harare Magistrate Doris Shomwe on June 25 referred the matter involving media lawyer Harrison Nkomo, who is facing charges of insulting the president of Zimbabwe in contravention of section 33 and 41 of the Criminal Law (Codification and Reform) Act (the code), to the Constitutional Court. In a very brief ruling, Magistrate Shomwe underscored the fact that for an application to refer the matter to the Constitutional Court to fail, the application should be frivolous and vexatious. She said for the court to come up to that conclusion, the application should be devoid of merit and unreasonable.

**June 30, 2008:**

Harare Magistrate Doris Shomwe on May 30 dismissed an application for removal from remand, which was made by media lawyer Harrison Nkomo on May 23. In dismissing the application, Magistrate Shomwe cited that Article 13 subsection (2e) of the Zimbabwe Constitution states that for one to be deprived of his personal liberty as may be authorised by law there should be reasonable suspicion of him/her having committed or being about to commit a criminal offence. The defence counsel failed to submit a second application which questions the constitutionality of the sections under which Nkomo is being charged, after Prosecutor Public Mpfu asked for the postponement of the matter to June 5, 2008.

**•ALERT**

**Date: May 23, 2008**

**Person/institutions: Davison Maruziva, *The Standard*, Arthur Guseni Oliver Mutambara**  
**Violation/issue: Charged**

The trial date for Davison Maruziva, the editor of privately owned weekly *The Standard* newspaper was set for June 5, 2008 by Harare Magistrate Doris Shomwe. Maruziva stands accused of publishing or communicating a statement prejudicial to the state in contravention of the Access to Information and Protection of Privacy Act (AIPPA). Defence lawyer Advocate Depak Metha, at the instructions of Harare lawyer Author Mutsonziwa, requested the Attorney General's Office to avail them with the necessary documents, namely the charge sheet, state outline and witness statements to enable the defence counsel to prepare its case:

**June 4, 2008:**

Leader of a faction of the Zimbabwe opposition party, the Movement for Democratic Change (MDC), Arthur Guseni Oliver Mutambara, appeared in court on June 3, 2008 charged with contempt of court and communicating falsehoods prejudicial to the state. Harare Provincial Magistrate Mishrod Guvamombe is presiding over the matter. Appearing for the state, Harare area prosecutor Jonathan Murombedzi alleged that Mutambara wrote an opinion article published in *The Standard* newspaper of April 20, 2008, which the prosecution said was false and thus undermined public confidence in the law enforcement agents, defence forces and the prison services.

**June 6, 2008:**

The hearing on the matter in which *The Standard* newspaper is being charged under Section 31 of the Criminal Law (Codification and Reform) Act, which deals with the publication of a statement prejudicial to the State, has been set for June 17, 2008 by Harare Magistrate Doris Shomwe. Prosecutor Teddy Kamuriwo, from the Attorney General's office, stated that the reason for setting the trial date for June 17 was to enable the State to combine the case of the newspaper's editor, Davison Maruziva, also charged under the same section, and MDC faction leader Arthur Guseni Oliver Mutambara, who authored the article. Kamuriwo stated that it is the state's prerogative to join the cases. The defence lawyers objected to the joining of the cases stating that they would have expected prior notice on the State's intentions. The defence lawyer also requested that the state present them with the state papers, which include the charge sheet, state outline and the witness statements, well before the trial date, failure to which the defence will make it an issue at the hearing of the trial.

**June 18, 2008:**

The joint trial of the independent newspaper, *The Standard*, its editor Davison Maruziva and MDC faction leader Arthur Guseni Oliver Mutambara has been postponed to July 10, 2008. *The Standard* newspaper, Maruziva and Mutambara stand charged under Section 31 of the Criminal Law (Codification and Reform) Act following the publication of an opinion piece by Mutambara in the weekly newspaper. The postponement was made on June 17, 2008 by the

Magistrates' Court in Harare. The matter was postponed after Prosecutor Edmore Nyazamba said the prosecution was still to provide the defence counsel with state papers and that the prosecutor who is responsible for the case, Tawanda Zvekare, was attending to other commitments in Chiredzi. Lawyers representing the accused argued against the postponement of the case stating that the state's failure to provide the papers in question would result in their clients' continued remand.

#### **July 10, 2008:**

Harare Regional Magistrate Morgan Nemadire on July 10 dismissed an application for refusal of further remand by *The Standard* weekly newspaper, its editor Davison Maruziva, and MDC faction leader Arthur Guseni Oliver Mutambara. Nemadire refused the application by the trio's lawyers, Beatrice Mtetwa for Mutambara; Advocate Erick Morris for *The Standard* newspaper, which is represented in the proceedings by its Group Projects Editor Iden Wetherell; and Advocate Deepak Mehta for Maruziva. They are being jointly charged for publishing falsehoods in violation of the repressive Access to Information on and Protection of Privacy Act (AIPPA), as well as contempt of court as defined in the Criminal Law (Codification and Reform) Act. The charges arise from the publication of an opinion piece written by Mutambara.

#### **November 12, 2008:**

Harare Magistrate Morgan Nemadire on November 12, 2008 referred to the Supreme Court the matter in which *The Standard* newspaper, its editor, Davison Maruziva and MDC faction leader Arthur Guseni Oliver Mutambara are jointly charged with contravening the Criminal Law (Reform and Codification) Act.

The ruling followed submissions on October 22, 2008 by defence lawyer Beatrice Mtetwa for the case to be referred to a higher court, arguing that the Magistrates' Courts did not have jurisdiction to hear the matter if it was deemed that there was contempt of court by the accused.

#### **• ALERT**

**Date:** May 27, 2008

**Person/institutions:** Media consumers

**Violation/issue:** Threatened

As reports of acts of lawlessness and politically motivated violence continued to rock Zimbabwe, war veterans reportedly ordered villagers in Matabeleland South to remove satellite television receivers from their homes. According to *The Standard* newspaper of May 25, terrified villagers said war veterans had set up bases throughout the province from where they were conducting all night political re-orientation vigils. The war veterans ordered the villagers to remove the receivers on May 21 because foreign broadcasters were "misleading" them into voting against Zanu-PF. Most villagers in the area can only watch and listen to South African and Botswana television and radio stations because of the poor transmission signals from Zimbabwe Broadcasting Corporation (ZBC), the sole state broadcaster in Zimbabwe.

#### **• ALERT**

**Date:** May 28, 2008

**Person/institutions:** Bennet Hassen Sono, Resemate Chauke and Simon Maodi (aka Musimani)

**Violation/issue:** Detained/charged/sentenced

Police in Esigodini in the southern province of Matabeleland arrested three media workers reportedly employed by Sky News, which is among foreign news organisations banned from reporting in Zimbabwe. The journalists – Bennet Hassen Sono, Resemate Chauke and Simon Maodi (aka Musimani) – were arrested on May 23, 2008. The three media workers, believed to be South Africans, were charged under the Access to Information and Protection of Private Act (AIPPA) and the Broadcasting Services Act (BSA) following their arrest and confiscation

of broadcasting equipment which included satellite dishes, cellphones, cameras and the VW Kombi in which they were travelling.

#### **May 30, 2008:**

Bennet Hassen Sono, Resemate Chauke and Simon Maodi (aka Musimani), reportedly employed by Sky News, appeared in court in Bulawayo on May 29 on charges of contravening provisions of the Post and Telecommunications Act. The trio are being jointly charged with Bulawayo resident Craig Mark Ram Edy, at whose house some of the equipment was allegedly stored. The journalists' defence lawyers, Advocate Tim Cherry and Tavengwa Hara, said the trio appeared in court upon their insistence as the police had said they wanted time to investigate further and scan through the equipment to establish the contents and owners of the boxes found at Edy's house. Advocate Cherry stated that it had been agreed that the accused plead guilty to the charge. The trio and Edy were remanded in custody to May 30, 2008.

#### **June 2, 2008:**

Three South African media workers were on June 2, 2008, sentenced to six months in prison in Zimbabwe. Magistrate John Masimba delivered the sentence, which the defence lawyers said they would challenge. Bennet Hassen Sono, Resemate Chauke and Simon Maodi (aka Musimani), who pleaded guilty to the charge, were given no option for bail or payment of a fine. The trio's lawyer Tavengwa Hara will on June 3, 2008 file an urgent High Court application appealing against the sentence. The magistrate granted Walter Bongani Dube of the Attorney General's Office a state application for forfeiture of the motor vehicle and the broadcasting equipment that was recovered following the three men's arrest.

#### **June 3, 2008:**

Lawyers representing three South Africans arrested on May 23, 2008 for possessing broadcasting equipment and who were subsequently jailed for six months have appealed against the jail sentence at the Bulawayo High Court. The appeal was filed on June 3, 2008. Magistrate John Masimba on June 2, 2008 sentenced the three South Africans – Bennet Hassen Sono, Resemate Chauke and Simon Maodi (aka Musimani) – to an effective six months each in jail. Lawyers for the South Africans said in the appeal that the jail sentence was excessive and that a fine would have been adequate punishment. "The sentence is unheard of and a shock. The magistrate should have considered the option of a fine and not a jail term. The magistrate did also not look at the proper provisions of sentence of such an offence," said Tavengwa Hara. The magistrate found the three guilty of contravening Section 33 of the Postal and Telecommunications Act Chapter 12:03 that prohibits the possession of broadcasting equipment without a licence.

#### **July 11, 2008:**

Three South African nationals employed by Sky News – Bennet Hassen Sono, Resemate Chauke and Simon Maodi (aka Musimani) – who were serving a six-month jail term were released after a High Court judge reviewed the sentence and commuted it to a fine.

The three were convicted on their own plea to contravening Section 33 (1) of the Postal and Telecommunications Chapter 12:03 by illegally bringing broadcasting equipment into the country without a licence. Justice Maphios Cheda of the High Court ruled that the trial magistrate had misdirected himself by imposing a custodial sentence in circumstances that warranted a non-custodial sentence. They were each fined Z\$50 billion (US\$1) and were deported immediately after paying the fines.

#### **• ALERT**

**Date:** May 29, 2008

**Person/institutions:** Blessed Mhlanga, James Muonwa and Whycliff Nyarota

**Violation/issue:** Charged/sentenced

Three journalists – Blessed Mhlanga, James Muonwa and Whycliff Nyarota – accused of contravening the Access to Information and Protection of Privacy Act (AIPPA) applied for discharge after the state closed its case on May 28, 2008. All three are employed by the *Network Guardian*, a weekly based in Zimbabwe's city of Kwekwe in the Midlands province. The three were charged under Section 80 (1) (a) (2) of AIPPA, which prohibits the publication of falsehoods. The state alleges that on March 26 the three or one of them unlawfully and intentionally published a false story in the *Network Guardian* newspaper that George Muvhimi and Tatenda Munhanga were having an affair and were seen in a compromising position at a shopping centre in Kwekwe.

#### June 3, 2008:

The trial of two Kwekwe-based journalists accused of publishing falsehoods in breach of the Access to Information and Protection of Privacy Act (AIPPA) was on July 2 postponed to July 15 after the trial magistrate dismissed the defence application to stop proceedings pending an appeal against his refusal to discharge them.

#### June 16, 2008:

Kwekwe journalist Blessed Mhlanga was on June 11 acquitted on charges of contravening Section 80 (1)(a)(2) of AIPPA, which prohibits the publication of falsehoods, but his colleagues Wycliff Nyarota and James Muonwa were put to their defence. In a brief ruling Kwekwe Magistrate Oliver Mudzongachiso ruled that none of the state witnesses implicated Mhlanga in the commission of the alleged offence of abuse of journalistic privileges. He, therefore, found him not guilty of the offence and acquitted him at the close of the state's case. The magistrate, however, said he was convinced that the state had established a *prima facie* case against Nyarota and Muonwa and ordered that they be put to their defence.

#### July 16, 2008

Journalists Wycliff Nyarota and James Muonwa, accused of publishing falsehoods in breach of the Access to Information and Protection of Privacy Act (AIPPA), opened their defence case on July 15. Nyarota and Muonwa are facing charges under Section 80 (1) (a) (2) of AIPPA for allegedly unlawfully and intentionally publishing a false story in *The Network Guardian* that George Muvhimi and Tatenda Munhanga were caught in a compromising position in a vehicle at the Mbizo Shopping Centre.

#### • ALERT

Date: May 29, 2008

Person/institutions: Flata Kavinga and Kudakwashe Zvarayi

Violation/issue: Threatened

The editor of the *The Midlands Observer*, Flata Kavinga, was on May 29 threatened by a war veteran. The newspaper is based in Zimbabwe's city of Kwekwe in the Midlands province. According to Kavinga, he was approached by a war veteran named Diva while he was standing in a bank queue. Diva began by asking Kavinga if he knew *The Midlands Observer* editor because there was a "programme of action" to deal with him. The war veteran accused the paper of being pro-opposition by supporting the Movement for Democratic Change (MDC) and writing articles critical of the state. Furthermore, he accused the paper of being anti-government as it only publishes articles meant to discredit Zanu-PF. Meanwhile, another *Midlands Observer* journalist, Kudakwashe Zvarayi, was on June 1 threatened by top Zanu-PF officials of Kwekwe district after being spotted putting on a MISA Zimbabwe World Press Freedom Day t-shirt. According to Zvarayi, the officials said: "Who are you to demand media freedom? Who has deprived you of this freedom, which you are clamouring for? If you continue putting on this t-shirt we are going to beat you up and burn the t-shirt also."



• **ALERT**

**Date:** June 3, 2008

**Person:** Howard Nicholas Burditt

**Violation/issue:** Sentenced

Howard Nicholas Burditt, a photographer with Reuters news agency who was convicted on his own guilty plea of contravening Section 27(1) of the Broadcasting Services Act (BSA), was on June 3 sentenced to pay a fine of \$20 billion (US\$28).

Harare Magistrate Archie Wochionga also suspended a two-month prison sentence on condition that Burditt did not contravene the BSA within the next five years. His satellite phone was forfeited by the state.

• **ALERT**

**Date:** June 4, 2008

**Person/institutions:** Robson Mhandu, Lawrence Maphosa, Patrice Makova, Sibonginkosi Mlilo, Monica Gavera and reporters Brian Paradza, Robert Tapfumaneyi and Garikai Chaunza

**Violation/issue:** Other

Eight Zimbabwe Broadcasting Corporations (ZBC) employees have been summarily sent on paid vacation leave for two months, as indicated by letters written to them in the last three days by the head of human resources, Benania Shumba.

The eight include senior employees at the state broadcaster: Robson Mhandu (television production general manager), Lawrence Maphosa (television production manager), Patrice Makova (news editor), Sibonginkosi Mlilo (executive producer, Nhau/Indaba), Monica Gavera (executive producer – national language) and reporters Brian Paradza (business correspondent), Robert Tapfumaneyi and Garikai Chaunza.

In a letter viewed by MISA Zimbabwe one of the allegations levelled against some of the journalists is that they were “acting in a manner inconsistent with the fulfilment of the implied conditions” of their contracts. MISA Zimbabwe expressed its gravest concern over what can reasonably be perceived as the deliberate purging of journalists at the state broadcaster for the purposes of partisan political expediency on the part of those who are still in charge of the state media. Furthermore, MISA Zimbabwe noted that in the face of a presidential election run-off, this deliberate purging of media personnel at the ZBC can only be construed as being part of an orchestrated campaign to intimidate, not only state media personnel, but the Zimbabwean media fraternity as a whole.

**June 16, 2008:**

Six suspended Zimbabwe Broadcasting Corporation (ZBC) journalists have lodged appeals with the Labour Court challenging their suspensions as illegal. Patrice Makova, Sibonginkosi Mlilo, Brian Paradza, Robert Tapfumaneyi, Garikai Chaunza and Monica Gavera in papers state that their suspension is not only “dubious but illegal”. Part of their urgent chamber application reads: “It is unheard of in terms of our law a concept of forced leave, which envisages a suspension. Clearly if the vacation leave is a legitimate one, it should be by consent.” The journalists allege that they were forced to go on “paid vacation leave” shortly after the appointment as acting chief executive officer of Hapison Muchechetere, adding that they should be reinstated on full salaries and benefits as a matter of urgency. The suspensions came barely a month after the dismissal of chief executive officer Henry Muradzikwa on May 14 for defying ministerial orders to deny the opposition Movement of Democratic Change (MDC) favourable coverage in the run-up to the March 29 elections.

• **ALERT**

**Date:** June 8, 2008

**Person/institutions:** Abel Chikomo, Maureen Kademaunga and Abel Kaingidza



**Violation/issue: Detained**

Binga Police in Zimbabwe's Matabeleland North province on June 8 arrested and detained Abel Chikomo, Maureen Kademaunga and Abel Kaingidza who are employed by the Media Monitoring Project of Zimbabwe (MMPZ) and accused them of holding a public meeting without police clearance. The three together with other 10 members of the MMPZ's Public Information Rights Forum (PIRF) who are in custody in Binga are expected to appear in court on June 11, 2008. MMPZ co-ordinator Andy Moyse confirmed their arrest together with that of the other 10 local members of the PIRF and said that the meeting in question was not a public meeting but a professional meeting, which did not require notification or clearance with the Police in terms of the Public Order and Security Act (POSA).

**June 11, 2008:**

Three Media Monitoring Project of Zimbabwe (MMPZ) employees – Abel Chikomo, Maureen Kademaunga and Abel Kaingidza – were on June 11 released without charge. MMPZ co-ordinator Andy Moyse said they were all released and that the state had indicated that it would proceed by way of summons.

**• ALERT**

**Date: June 23, 2008**

**Person/institutions: *The Zimbabwean***

**Violation/issue: Banned/confiscated**

Wilf Mbanga, publisher of *The Zimbabwean*, said the Zimbabwe Revenue Authority (ZIMRA) refused to release a consignment of 60,000 copies of the weekly independent newspaper. Mbanga said copies of the June 19 edition of the newspapers had been flown into Harare by a commercial carrier for distribution last Thursday. The publisher said the ZIMRA had told the local distributor that the order to impound the newspapers had come from the ruling Zanu-PF party. This comes hard on the heels of the burning of 60,000 copies, as well as a truck, of *The Zimbabwean on Sunday* newspaper on May 25. This comes at a time when Zimbabwe was preparing for an election run-off, which the opposition, Movement for Democratic Change (MDC) has pulled out of because of violence and intimidation.

**• ALERT**

**Date: June 23, 2008**

**Person: Noel Tichawana**

**Violation/issue: Detained/charged**

Zimbabwe Police have charged a street vendor for listening to a special news programme on Zimbabwe broadcast by the Voice of America, Zimonline news agency reports. Noel Tichawana was arrested early June 2008 and will appear in court on July 15 to answer to charges of committing criminal nuisance after he was caught listening to the programme, Studio 7, that broadcasts political, economic and general news on Zimbabwe. Studio 7 is a daily news programme of the Voice of America. Tichawana, who is probably the first person to be charged for listening to the Studio 7 programme that is considered hostile by Mugabe's government, faces up to six months in jail if found guilty. According to court papers, a Zimbabwe army soldier arrested Tichawana after having observed on several occasions the vendor listening to Studio 7 from his radio set that he kept at his vending site. "On several occasions, [the] accused person would play his radio set at high volume attracting a crowd as he would switch it to America's Studio [7] ... informant then arrested the accused and brought him to St Mary's police station," reads the charge sheet submitted to court.

**• ALERT**

**Date: June 27, 2008**

**Person/institutions: Frank Chikowore and Edgar Mwandiambira**

**Violation/issue: Detained**

Freelance journalists Frank Chikowore and Edgar Mwandiambira were arrested in the morning of June 27 while covering election proceedings at Mhofu Primary school in Harare's suburb of Highfield at the opening of the presidential election run-off poll. According to their lawyer, Aleck Muchadehama, the two were held at Machipisa Police station. Muchadehama said the two were arrested after making an enquiry from the presiding officer at the polling station whether they could proceed to cover proceedings at the polling station using their accreditation for the March 29 elections. The presiding officer is said to have professed ignorance and referred them to the Zimbabwe Electoral Commission. The two were then stopped by a police officer at the gate on their way out and taken to the CID Law and Order Section. Mhofu primary school is where Zanu-PF presidential candidate, President Robert Mugabe, was expected to cast his vote.

**June 30, 2008:**

Freelance journalists Frank Chikowore and Edgar Mwandiambira, who were arrested on June 27, while covering election proceedings at Mhofu Primary school in Harare's suburb of Highfield at the opening of the presidential election run-off poll, were fined and released a few hours after their arrest. Freelance photographers Richard Judson, Regis Marisamhuka and Agrisson Manyenge who were arrested on the same day in Harare were released without charges on June 29 after spending a night in police custody. News reporter Tumaole Mohlaoli and cameraperson Elelelwani Rampfumedzi, both from e.tv, were also reportedly arrested in the southern border town of Beitbridge on the same day while covering a protest march against the Zimbabwean elections. The e.tv staff members were also released after spending a night in the cells. Chikowore and Mwandiambira were fined under the Criminal Law (Codification and Reform) Act, while the other journalists were released without charges.

**• ALERT**

**Date: July 8, 2008**

**Person/institutions: Kholwani Nyathi**

**Violation/issue: Victory**

Police in Plumtree have dropped the case against Kholwani Nyathi, a Bulawayo-based *correspondent* with *The Standard*, a privately owned weekly. Nyathi was wanted for questioning over an unpublished story he had investigated following a visit to the south-western border town. Nyathi was ordered to present himself at the Police station by Plumtree officer-in-charge of the law and order section, Assistant Inspector Sifelani, and duly did so in the company of his lawyer, Munyaradzi Nzarayapenga, on July 7.

Davidson Maruziva, the editor of *The Standard*, told MISA Zimbabwe that the Police had recorded his accreditation details and said the case was over.

**• ALERT**

**Date: July 8, 2008**

**Person/institutions: Flata Kavinga**

**Violation/issue: Censored**

Police in Gweru have ordered Flata Kavinga, editor of the Kwekwe-based weekly *Midlands Observer*, to retract a story alleging that a Police officer had reportedly been dismissed for refusing to cast a postal vote in the June 27 presidential election run-off. Kavinga, who was summoned to report at Gweru police station on July 8, told MISA Zimbabwe that Inspector Chademana ordered him to retract the story as the Police officer in question, Constable Tafadzwa Gambiza, had been dismissed for insubordination and not for the reasons reported by the newspaper.

**• ALERT**

**Date: July 17, 2008**

**Person/institutions: Globecast Satellite**

**Violation/issue: Charged**

South African company, Globecast Satellite, whose two employees were acquitted of practicing journalism without accreditation in April 2008 by a Harare magistrate, is now being charged with illegal importation of broadcasting equipment in violation of the Broadcasting Services Act (BSA). At the commencement of the trial on July 15, Globecast Satellite, which was represented by Thabani Mpfu, pleaded not guilty to charges of contravening Section 7 (1) as read with Section 7 (4) and 7 (5) of BSA which outlaws the provision of broadcasting services or operating a signal carrier without a licence. Magistrate Archie Wochiunga heard evidence from Cloud Nyamundanda, chief executive officer of Transmedia Corporation. Nyamundanda told the court that the corporation invited Globecast to provide a satellite uplink during the March 29 elections. In terms of a contract signed between Transmedia and Globecast, which was tendered in court as the first exhibit, the contract would run from March 25, 2008 to April 6, 2008. Nyamundanda testified that two Globecast engineers arrived in Harare on March 27 and subsequently interviewed the Minister of Information and Publicity, Mr Sikhanyiso Ndlovu, which was also beamed by CNN without the corporation's knowledge in violation of the terms of the contract.

**July 22, 2008:**

The trial of Globecast Satellite continued on July 22 with the state leading evidence from an engineer with the Broadcasting Authority of Zimbabwe (BAZ). BAZ engineer Mathias Chakanyuka told Magistrate Archie Wochiunga how he had noted an interview that CNN conducted with the Minister of Information and Publicity, Dr Sikhanyiso Ndlovu, and later learnt that the interview had been beamed via a satellite uplink provided by Globecast Satellite. He was subsequently told that Globecast was not licensed. Under cross-examination by defence lawyer Beatrice Mtetwa, Chakanyuka confirmed that Transmedia, the signal carrier company which had a contract with Globecast operating from March 25 008 to April 6, 2008, was entirely to blame for not securing the licence and approvals as mentioned in the contract.

**• ALERT**

Date: July 28, 2008

Person/institutions: Munyaradzi Huni and Caesar Zvayi

Violation/issue: Other

Munyaradzi Huni and Caesar Zvayi, editors with the state-controlled Zimbabwe Newspapers Group (Zimpapers), have been slapped with European Union (EU) targeted sanctions, which have seen a number of senior Zanu-PF and government officials being issued with travel bans to Europe. Huni is the political editor with *The Sunday Mail*, while Zvayi was formerly employed in a similar capacity with *The Herald*, Zimpapers' flagship national daily. MISA Zimbabwe Chairperson Loughy Dube said he was not aware of the specific reasons for the EU to proceed in that manner, adding that he could therefore not comment much on the matter but nevertheless urged journalists to operate according to media ethics and codes of the profession.

**• ALERT**

Date: August 8, 2008

Person: Tsvangirayi Mukwazhi

Violation: Beaten

Freelance photojournalist Tsvangirayi Mukwazhi left Zimbabwe for South Africa with his family after being assaulted by the Police and having his car impounded. Mukwazhi says the Police accused him of possessing an "improperly registered vehicle". Mukwazhi had told MISA Zimbabwe a few days after the assault that the Police accused him of having travelled to cover the opposition MDC leader, Morgan Tsvangirayi, in the run up to the March 29 presidential elections. His domestic worker was also beaten up by the Police when they broke into his house. Tsvangirayi informed MISA Zimbabwe before he left the country that some plainclothes Police officers had come to his house on July 29 at around 05h30, broken down the main door

and beaten up him and the maid before taking him to Southerton Police station where he was released after a couple of hours without charge. His car was impounded by the Police. Tsvangirayi told MISA Zimbabwe he was concerned about his safety and that of his family. He had also seen his car being driven around the city centre by unknown persons.

• **ALERT**

**Date:** September 22, 2008

**Person:** Peter Muchengeti

**Violation/issue:** Victory

Peter Muchengeti, the regional chairman of the National Association of Non- Governmental Organisations (NANGO) in the Midlands Province, was on September 16 freed on charges of communicating falsehoods. Prosecutor Katherine Chisvo told Gweru Magistrate Irvine Mhlanga that the state was withdrawing its case against Muchengeti due to lack of evidence. The state was alleging that Muchengeti had told Voice of America's (VOA) Studio 7 programme in an interview broadcast from Washington DC that "six bodies" had been discovered in Matshek-andumba village at the 30-kilometre peg along the Kwekwe-Gweru highway.

• **ALERT**

**Date:** October 1, 2008

**Person/institutions:** Media

**Violation/issue:** Other/legislation

The Speaker of Zimbabwe's Parliament, Lovemore Moyo, says the incoming inclusive government should deliver on the letter and spirit of the agreement signed by Zanu-PF and the two MDC formations in view of the restrictive nature of laws, such as the Access to Information and Protection of Privacy Act (AIPPA), Public Order and Security Act (POSA) and Broadcasting Services Act (BSA). Speaking at the National Journalistic and Media Awards (NJAMA) on September 26 in Harare, Moyo conceded that Parliament had over the years passed various media laws such as AIPPA, POSA and BSA that "have hindered freedom of expression".

• **ALERT**

**Date:** October 20, 2008

**Person/institutions:** State media editors

**Violation/issue:** Other

Editors working for the state-controlled Zimbabwe Newspapers Group (Zimpapers) were in August 2008 put under surveillance to check their commitment to Zanu-PF government policies. This surveillance resulted in the hacking of the private e-mail of one of its editors, Bhengkosi Ncube, as authorised by the group's chief executive officer, Justin Mutasa. Mutasa told an internal disciplinary hearing following Ncube's suspension as editor of the vernacular tabloid, *Umthunywa*, that he authorised the hacking of the editors' private e-mails. Zimpapers publishes *The Herald*, *The Sunday Mail*, *The Chronicle*, *The Manica Post*, *Kwayedza* and *Umthunywa*. Ncube is accused of insulting President Robert Mugabe and the government in private e-mails exchanged with friends on the political situation prevailing in the country. According to minutes of the proceedings obtained by the weekly privately owned, *The Standard* newspaper, Tom Ndovi, Zimpapers' information technology manager, told the hearing that he accessed all the group editors' private e-mails using software known as "password cracker" and presented all the findings to the chief executive officer.

• **ALERT**

**Date:** October 30, 2008

**Person/institutions:** Tafadzwa Sikwila

**Violation/issue:** Beaten

Power FM state radio station disc jockey Tafadzwa Sikwila, also known as DJ Squila, sustained

serious head injuries on October 25 after being assaulted by four men alleged to be soldiers from the Zimbabwe National Army. The reason for this assault has been reported as being that the men accused Sikwila of wearing army replica pants without authorisation. The incident occurred in the Midlands city of Gweru. It is reported that Sikwila was bundled into a car by four men who drove off at a high speed towards the mining town of Shurugwi. The four men, who it is alleged claimed to be soldiers, later threw Sikwila out of the moving vehicle resulting in him sustaining serious head injuries.

- **ALERT**

**Date:** October 30, 2008

**Person/institutions:** Makomborero Mutimukulu

**Violation/issue:** Beaten

A sports reporter with the state owned weekly, *The Sunday Mail*, Makomborero Mutimukulu, was on October 26 assaulted by three bouncers soon after a CBZ FA Cup quarter-final match between Dynamos FC and Gunners FC. Mutimukulu said the bouncers accused him of “writing nonsense” as they assaulted him. Mutimukulu has professed ignorance as to what they meant in their accusations and added that up to now he does not know which story could have infuriated the bouncers.

- **ALERT**

**Date:** November 3, 2008

**Person:** Phillip Warington Taylor

**Violation/issue:** Detained/charged

A British journalist, Phillip Warington Taylor, was on October 30 arrested by members of the Central Intelligence Organisation (CIO) at Harare International Airport on allegations of practicing journalism in Zimbabwe without accreditation.

He was arrested aboard an aeroplane, which was about to take off, after he had spent 30 days in Zimbabwe. Taylor, who is being represented by Lawyer Harrison Nkomo, denied the charges, saying he was only a visitor and never practiced journalism during his stay in Zimbabwe. He was granted Z\$150,000 bail and ordered to surrender his travel documents.

- **ALERT**

**Date:** November 10, 2008

**Person:** Harrison Nkomo

**Violation/issue:** Threatened

MISA Zimbabwe received reports of the Police’s intention to arrest human rights lawyer, Harrison Nkomo, who was representing Phillip Warington Taylor, a British journalist who skipped bail. Taylor was expected in court on November 5 but failed to turn up after informing Nkomo through a text message that he had already left the country. Nkomo later told Harare Magistrate Catherine Chimanda that Taylor had already left the country and was in South Africa. It was reported that the Police wanted to charge Nkomo with defeating the course of justice under Section 184 subsection 1 paragraph A of the Criminal Law (Codification and Reform) Act. The Police officers from the law and order section reportedly visited Nkomo’s offices in Harare looking for the lawyer who was reported out of town.

- **ALERT**

**Date:** December 4, 2008

**Person:** Jestina Mukoko and Shadrack Manyere

**Violation/issue:** Other (missing, abducted)

The Media Alliance of Zimbabwe (MAZ) released a statement expressing its shock and concern over the alleged abduction of veteran broadcaster and Zimbabwe Peace Project Director, Jestina Mukoko, from her home in Norton on December 3, 2008. The veteran broadcaster’s

whereabouts were still unknown at the time of print, raising fears about her safety and well being. MAZ demanded that Police and other security bodies shed light on the circumstances surrounding her disappearance. MAZ expressed concern over the continued harassment of journalists and civic society activists, stating that this runs contrary to the spirit of the on-going power sharing talks and the Global Political Agreement (GPA).

“We urge all political parties to the agreement and the guarantors such as the SADC and AU to immediately get to the bottom of the matter concerning Jestina Mukoko,” said MAZ. MAZ consists of the Zimbabwe Union of Journalists, MISA Zimbabwe, the Federation of Africa Media Women - Zimbabwe, the Zimbabwe National Editors’ Forum, the Media Monitoring Project of Zimbabwe and the Zimbabwe Association of Community Radio Stations.

**December 18, 2008:**

Lawyers representing freelance journalist Shadrack Manyere, who has been missing since December 13, said they would file an urgent High Court application seeking an order for the Police to establish his whereabouts and bring him before the courts.

Manyere’s lawyer Alec Muchadehama told MISA Zimbabwe they expected to file the application before the end of the day on December 18. Manyere reportedly went missing after he had taken his vehicle to a garage in Norton, about 40km west of Harare on December 13. According to his lawyers the Police visited his home in Harare’s suburb of Westgate with a search warrant on December 14 and ransacked his house, confiscating a laptop, video camera and tapes.

**December 24, 2008:**

Jestina Mukoko, the director of the Zimbabwe Peace Project who had been missing since December 3, eventually appeared before the Harare Magistrates Courts on December 24, ending growing concern about her whereabouts and safety. Mukoko appeared together with freelance photojournalist Shadrack Manyere and other co-accused on charges of treason allegedly arising from recruiting people for banditry training to overthrow the government. Manyere reportedly went missing after he had taken his vehicle to a garage in Norton about 40km west of Harare on December 13 until his appearance in court on December 24.

Mukoko’s appearance in court has, however, opened a series of legal battles to secure her release after she was denied bail. Her lawyers appealed to the High Court where Justice Omerjee ordered her release on remand but the state challenged his decision through an appeal to the Supreme Court.

**• ALERT**

**Date:** December 9, 2008

**Person/institutions:** John Nyashanu and others

**Violation/issue:** Harassed

John Nyashanu, a correspondent with the South African Broadcasting Corporation (SABC), and three others suspected to be his colleagues were on December 3 picked up by riot Police in Harare and taken to the Harare Central Police Station where they were questioned and released without charges. Nyashanu told MISA Zimbabwe that the Police wanted to verify their identities as journalists. Nyashanu is an accredited journalist in terms of the Access to Information and Protection of Privacy Act (AIPPA). The Police still took him to Harare Central despite the production of his accreditation card saying they wanted more information. The crew was covering protests organised by the Zimbabwe Congress of Trade Unions (ZCTU).

**• ALERT**

**Date:** December 15, 2008

**Person/institutions:** Journalists/foreign media organisations

**Violation/issue:** Threatened

The Permanent Secretary for Information and Publicity, George Charamba, threatened to ban

accredited foreign media organisations and local reporters working for foreign news organisations after accusing them of embarking on a propaganda assault on Zimbabwe. In an interview during the Zimbabwe Broadcasting Corporation (ZBC) main television news broadcast on December 12, Charamba said the foreign media organisations accredited in Zimbabwe had quoted President Robert Mugabe out of context following his remarks that the country had “arrested” the cholera outbreak. He said Zimbabwe had no need to accredit the foreign news agencies as required under the repressive Access to Information and Protection of Privacy Act (AIPPA). The threat to deal with the foreign news organisations was given in greater detail the next day under the column entitled ‘The Other Side with Nathaniel Manheru’, published every Saturday by the state-controlled national daily, *The Herald*. The permanent secretary is widely believed to be the author of the column. Reuters, AFP, BBC, AP, France 24 International and Al Jazeera were singled out as undermining their bureaux in Zimbabwe and “reducing local reporters to mere runners, mere providers of raw copy which they then rewrite to suit their nations’ agendas. They have played little gods with copy on Zimbabwe, in the process rubbing the letter and spirit of AIPPA (Access to Information and Protection of Privacy Act). There has to be robust response,” wrote Manheru. The columnist also accused the USA’s State Department of creating a “full-blown structure” in Pretoria, South Africa, for purposes of compromising local journalists and stringers of foreign news organisations based in Harare. He said the elaborate operation was run by a female American intelligence officer from Pretoria who was in the newsrooms of Reuters and AFP in Zimbabwe “including inhabiting the heart of a well-known editor”. He accused Sydney Masamvu, a former political editor with the banned *Daily News* who is now based in South Africa; Sizani Weza of the US Public Affairs Section in Harare; freelance journalists Brian Hungwe and Frank Chikowore; and Luke Tamborinyoka, the director of information and publicity with the Movement for Democratic Change (MDC) led by Morgan Tsvangirai, of being part of the operation. “The line between these journalistic misdeeds and espionage grows thinner and thinner by the day. I happen to know that the authorities are about to place a price on those concerned and let no one cry,” warned Manheru.

• **ALERT**

**Date:** December 15, 2008

**Person/institutions:** O’Brian Rwafa

**Violation/issue:** Beaten/abducted

O’Brian Rwafa, a news assignment editor with the state-controlled Zimbabwe Broadcasting Corporation, was on December 13 allegedly abducted and severely assaulted by unknown assailants in Harare. Rwafa, who was admitted to a private hospital, reportedly sustained head injuries and bruises. He said three unidentified men who were driving a white vehicle approached him after he had parked his vehicle at his home in a Harare suburb. The assailants accused him of lying that things were “ok” in Zimbabwe and forced him into their vehicle along Bulawayo Road towards Norton, about 40 km west of Harare. He is quoted in the state-controlled national daily, *The Herald*, as saying that he wrestled with driver and the vehicle veered off the road and landed into a ditch. He managed to escape as the assailants concentrated on rescuing their vehicle from the ditch. Rwafa then phoned his relatives who picked him some distance from where the vehicle veered off the road. A report was made to the Police.



A stylized, thick-lined outline of the African continent is centered on the page. The background features a series of concentric, wavy lines in shades of gray, creating a ripple effect that emanates from behind the map.

# **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;

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

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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*Head of Media Project for Southern Africa*  
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# Lesotho 2008

**Civil society perceptions on the state of  
media freedom & freedom of expression**

# African Media Barometer Lesotho

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

<p><b>1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.</b></p>
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## ANALYSIS

Article 14 (1) of the Constitution of Lesotho guarantees freedom of expression, and provides for the right of response where one is aggrieved in the same medium. Freedom of the media is not expressly mentioned, but assumed to be encompassed by these provisions of the constitution.

However, this freedom of expression is greatly limited by derogations in subsequent clauses of Section 14. Clause 2 in particular states that freedom of expression is guaranteed as long as it does not interfere with provisions made in the interests of defence, public safety, public order, public morality or public health. Legislation can also limit this freedom

“for the purpose of protecting the reputations, rights, and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence...”.

In addition, Lesotho’s Broadcasting bill is yet to be approved and numerous laws that are an impediment to media are still in place. Among these are

The nature of exiting litigation suits show that we cannot have defamation laws exist with freedom of expression. Defamation nullifies freedom. The two should not exist side by side. There needs to be put in place a different legal framework such as libel and privacy laws.

There is reluctance on the part of government to develop media policy. Currently there are two drafts media laws on the table, i.e. draft Broadcasting Bill and Media Law, both emanating from processes that started as far back as 2005. In the absence of guidelines, the media tends to self-censor.

Issues of media freedom ought to be media driven. MISA is a custodian of media freedom, but government wants to take the lead even though it has other interests, and they are not necessarily related to advancing media freedom. Newspapers have to shut down because of those lawsuits. Generally speaking, the constitution guarantees freedom of expression, but the laws ought to build in mechanisms in which MISA should be a major player, because the courts are not the best placed mechanism for disputes. If a person claims they have been defamed, they should take it up with MISA.

Score – 1,2,2,2,2,2,2,2 = 1.9

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

The extent to which citizens claim their rights to free expression appears to be tied strongly to social and economic status, i.e. those who have the means and/or those in urban areas. Radio phone-in talk shows are patronised by the few who can afford the telephone call.

State control of resources prevents many citizens from expressing their opinions openly, as they fear that it may lead to restriction of access to benefits. In Qacha's Nek, the Prime Minister's constituency, families are receiving free maize. This creates the implicit fear that they may lose that benefit if they express anti-government opinions. Economic measures, such as the awarding of government contracts (tenders) have often had the effect of silencing critical voices. By the same token, government advertising in the media is also directed to media houses that appear "friendly" to government policies.

National security has been repeatedly used as a justification for, such as the 2007 state of emergency where the Commissioner of Police and Commander of the army instructed the public not to discuss security issues in the media.

Reporters are attacked while covering political rallies on both sides.

By the same token the media also polarises issues. Numerous debates in private media so journalists are free. But it depends on which position they are at, if they are in the government media they will be pro-government, if they are in the private media they are likely to be pro-opposition. The Principal Secretary of Communications was recently quoted saying, "The media shouldn't discuss the succession of the Prime Minister." Such statements make people fear expressing their opinions.

Government demands call records from telecommunications companies for radio talk shows, and taps phones, sometimes using security as the reason for these demands.

South Africa has a legislative framework where laws are specific about government access to private communications, the Zimbabwe government has all access, but Lesotho is not clear.

Consultants or businesses are labelled as opposition, depending on which media houses they use to air their views. Publicity of the 16 days campaign was restricted because an official was not happy with using a newspaper that had carried a story about him earlier.

Security agents are now working on a by-law to grant them access to phone records on demand.

Score – 1,2,1,1,1,1,1,1 = 1.1

## **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**

During the government and taxi operators' standoff, the Minister of Communications claimed

that operators were planning to assassinate ministers. LCN attempted to mediate to find out where the information had come from but the minister said he wouldn't disclose the sources, as it is a security matter. Such blanket statements, made under the guise of 'safety and security', are commonplace in Lesotho.

Score – 1,1,1,1,1,1,1,1 = 1.0

#### **1.4 Entry into and practise of journalistic profession is legally unrestricted.**

ANALYSIS:

Press cards are issued by government. It is felt that the MISA Lesotho office should be entrusted with this activity. Alternatively, an industry-created, professional regulatory body should be playing that role.

Whilst there are no direct barriers with the current arrangement where government issues press cards, i.e. not through a statutory regulator like Zimbabwe's Media and Information Commission, there are laws in place like the Aliens Control Act, which is often applied to foreign journalists.

Score – 4,3,4,2,2,2,3,3 = 2.9

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

ANALYSIS:

There is no legal protection of confidential sources.

Score – 1,1,1,1,1,1,1,1 = 1.0

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

ANALYSIS

Officials will not release 'government information' without permission.

Score – 2,1,1,1,1,1,3,1,1 = 1.4

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

ANALYSIS:

There is a very low level of awareness of media freedom. The general public is not sensitized about the importance of the media, so the media is not getting support. Even journalists don't

support their own cause.

Journalists must be sensitized to play a more active role. The African Peer Review Mechanism (APRM) process, especially the role of the media in good governance - is not promoted. MISA should be supported and assisted to be more active.

Until the population feels they are getting a better service from the media, there will not be much support from civil society for the media. In the absence of community media, the national media has to earn support from all sectors of the public.

MISA and Unesco have entered into a partnership to support a local community radio station, which will hopefully go on air in 2009. The project has received mixed feedback from media players: some claimed the move was spurred by a political agenda (giving the opposition a voice), while others complained that community stations offer lower advertising rates, and would take business away from private commercial broadcasters.

Political alignment of the media remains a challenge.

Score – 2,1,2,2,2,3,2,2 = 2.0

## **OVERALL SCORE FOR SECTOR 1: 1.6 (2006= 2.1)**

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

<b>2.1 A wide range of sources of information (print, broadcasting, and internet) is available and affordable to citizens.</b>
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#### **ANALYSIS:**

Newspapers: circulation is not reaching the rural areas. There are 65 registered publications, but the Post Office does not have a mechanism to keep track of which one is currently operational.

Broadcasting: only radio Lesotho reaches the whole country; other broadcasters' coverage is still limited. Private stations are beginning to increase coverage. There are 12 radio stations and 2 television stations (including the state TV)

Internet: broadband is available in Maseru only. Internet café usage costs an average M10 per hour. Mobile internet is inhibited by the price of internet compatible mobile phones and connection and usage fees.

There are six (6) registered ISPs.

Score – 1,2,2,2,2,1,2,2,= 1.8



## **2.2 State authorities do not restrict citizen's access to domestic and international media sources.**

### **ANALYSIS:**

Media sources are not restricted in Lesotho. Citizens have access. The challenge is in getting smaller players in Lesotho to connect to the government infrastructure that accesses the whole country.

Newspaper publishers have attempted to improve distribution services by contacting the Post Office to do so at a fee. However, when the deal was about to be signed, the Head of Postal Services said their services can't "help to distribute lies".

Nonetheless, panellists felt that if publishers and/or government were not actively doing something to provide a conducive environment – it amounted to a restriction. The restriction is not on the radar, it is below the surface.

Score – 3,3,5,3,3,3,5 = 3.5

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

### **ANALYSIS:**

Newspapers have high returns. Printers in Bloemfontein can confirm sizable print runs, but owners do not have effective means of distribution.

In past newspapers have offered to distribute examination results, and to ensure that a percentage of their circulation goes to the rural areas but they will recall those copies to save costs if the demand in urban areas is high.

MISA had launched a project to increase distribution of old newspapers to rural areas. The project did not succeed because there was no support from the private sector.

In the past primary schools were given publications about children's stories titled Mahlaseli, to encourage a culture of reading among young people. The project has since ended.

The fact that newspaper content is largely urban based also affects distribution and circulation to the rural areas. In addition, the demise of Lesotho Airways means there are no more domestic flights, and all distribution depends on road transport. As a result newspapers don't reach the whole country. There are more than 100 airstrips. Ministry of Communications had 52 depots for distribution. Areas like Ha Seshote have no road access, and this has a negative impact on literacy.

Score – 2,3,5,2,2,2,1,2 = 2.4

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

ANALYSIS:

The Lesotho Telecommunications Act has been passed but it doesn't provide a conducive environment.

Radio Lesotho is a state broadcaster. The telecommunications authority board is still appointed by the Minister of Communications.

The new act has introduced higher fees. Application for community radio licence, for example, has increased from M300 to M8 800, and renewal from M1 000 to M2 000.

Application fees for commercial radio licence have increased from M300 00 to M8 800, and renewal costs M10 000.

The current board is flawed. Several of the current board members should be requested to step down merely because of potential conflict of interest.

Score – 2,3,2,2,1,2,2,2 = 2.0

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

ANALYSIS:

Initially the LCA omitted provision for the licensing of community broadcasting, but now provision has now been made.

Score – 1,3,1,1,1,1,1,1 = 1.3

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

ANALYSIS:

Lesotho Today has no editorial independence.

Score – 1,1,1,1,1,1,1,1 = 1.0

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

### **ANALYSIS:**

News agencies gather news and distribute it unrestricted.

The Lesotho News Agency (LENA) offers services at very affordable prices:

- a. LENA – M2000 per annum
- b. Reuters – M8000 per month.

Score – 1,5,5,3,4,2,3,3 = 3.3

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

### **ANALYSIS:**

There is no Competition Regulation

Government is the largest local advertiser and thus the greatest source of advertising for local media. It is therefore unfair competition for government to withhold advertising from private players. The Lesotho government distributes its own newspaper.

Score – 2,1,1,2,1,1,2,2 = 1.5

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

### **ANALYSIS:**

The registration of a newspaper is a half-day process that does not even require a lawyer. Broadcasting is clear on allocation of frequencies.

There was a project for a mobile radio station that was frustrated by procedures and never took off. Regulations were developed for three years and the equipment is now a white elephant. High fees in the broadcasting sector – radio and television - mean government is not providing a conducive environment

Community Radio station licences are allowed a 20km radius. This capacity may full after only a few of these are licensed.

Private owners lack capacity to become active in the media sector: two private TV stations are currently being developed but are finding it hard to get a licence. They complain that fees will be very prohibiting. Even in telecoms, licences are approved, but applicants cannot meet implementation standards.

It is felt that Government is not doing enough to support private media.

Score – 2,2,1,1,1,1,1,3 = 1.8

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

### **ANALYSIS:**

Lesotho has the longest history of private media, since 1863. Even after independence it was in the hands of the private sector. While the sector is sufficiently skilled, there are concerns about capacity.

The industry has not organised itself, i.e. setting standards and developing codes. There is no culture of investigative journalism. There is no follow up of stories such as parliamentary business, the impact of ratifying conventions.

Most media houses do not implement professional business management principles from the perspective that sound business practice might positively impact on content/programming. Most media businesses are run as proprietorships, not companies.

Score – 3,2,1,3,2,1,2,2 = 2.0

## **2.11 State media are not subsidised with taxpayers' money.**

### **ANALYSIS:**

State media is subsidised 100%.

Score – 1,1,1,1,1,1,1,1 = 1.0

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

### **ANALYSIS:**

Public Eye has had to retrench six (6) people as a result of revenue loss after government pulled its advertising. This support is now being given to MoAfrika following its public declaration that it supports/is pro-government.

Government also advertises in the party newspaper.

Score – 3,1,1,3,2,1,3,1 = 1.9

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

### **ANALYSIS:**

Government holds the bulk of the advertising.

The economy certainly is not big enough to support the 1.8 million citizens. Lesotho is dependent on SACU remittances which it will lose in 2009.

Media outlets are too many for a reading population of less than 800 000. Most businesses are South African, and use their own newspapers and television, which are distributed in Lesotho.

Lesotho has a number of weekly newspapers, no dailies, which limits the scope for advertisers.

Score – 2,1,1,1,1,1,1 = 1.1

## **OVERALL SCORE FOR SECTOR 2: 1.9 (2006= 1.6)**

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### **Sector 3: Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public broadcaster.**

<b>3.1 Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.</b>
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#### **ANALYSIS:**

The composition of the Lesotho Communications Authority (LCA) board is a cause for concern; some members are relatives of government officials in positions of conflict of interest. It is not adequately protected against interference.

The Chief Executive has to consult the Minister on key decisions according to the recent amendment. This move caused an outcry, because prior to amendment it was progressive.

Score – 1,1,1,1,1,1,1 = 1.0

<b>3.2 The appointments procedure for members of the regulatory body is open and transparent and involves civil society.</b>
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#### **ANALYSIS:**

Calls for applications are made in the media. Initially, according to the Lesotho Telecommunications Act 2000, the procedure was that:

Candidates for appointment shall be selected and forwarded to the appointing authority by an Appointments Recommendation Committee which shall consist of-

- (a) a nominee of the Ministry of Communications;
- (b) a nominee of the Ministry of Finance;
- (c) a nominee of the Attorney-General's Chambers; and

(d) a nominee of the Ministry of Trade.

However in 2006 the law was amended by deleting the words “appointing authority”, and substituting with the word “Minister”, thereby giving the Minister full authority of appointment of the Board.

Score – 1,1,1,1,1,1,1 = 1.0

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

ANALYSIS:

Harvest FM was suspended for three months ending October 2008. Whilst the station might have been guilty of a level of recklessness, many stakeholders disapproved of the ban, saying it was too drastic. It was felt that the LCA could have used less harsh means.

‘Public interest’ in Lesotho is not defined. Government uses the fact they are elected to justify actions, saying people have given them the mandate, and everything done is sanctioned by election, and equating it to political interest. In this way the public will chastise any anti government sentiment.

In the absence of policy there is confusion. Public interest is conveniently used interchangeably with disturbing peace and stability.

Score – 1,1,1,2,1,1,1 = 1.1

### **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 broadcasting policy.

The current licences were not fairly contended. Khotso FM, a station that is run by the National University of Lesotho, is allocated a national frequency. This may have been done in the interest of closing the list.

The fact that forums of this nature have to grope in the dark for the regulatory environment means procedures are neither transparent nor inclusive.

Score – 1,1,1,1,1,1,1 = 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:

Radio and Television of Lesotho are government departments under and controlled by the Ministry of Communications.

Score – 1,1,1,1,1,1,1 = 1.0

**3.6 Persons who have vested interest 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:

There is no public broadcaster.

Score – 1,1,1,1,1,1,1 = 1.0

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

ANALYSIS:

There is no public broadcaster in Lesotho.

Score – 1,1,1,1,1,1,1 = 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 public broadcaster in Lesotho.

Score – 1,1,1,1,1,1,1 = 1.0

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

#### **ANALYSIS:**

There is no public broadcaster in Lesotho. Radio Lesotho, however, is technically and technologically accessible in the whole country.

Score – 1,1,1,1,4,1,1,1 = 1.4

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

#### **ANALYSIS:**

There is no public broadcaster in Lesotho. Radio Lesotho does cover diverse issues, and even works as a source of news in agriculture and other areas that are not considered mainstream.

Score – 1,1,2,1,1,1,1,1 = 1.1

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

#### **ANALYSIS:**

There is no public broadcaster in Lesotho.

Score – 1,1,1,2,1,1,1,1 = 1.1

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

#### **ANALYSIS:**

There is no public broadcaster in Lesotho.

Score – 1,1,1,1,1,1,1,1 = 1.0

**OVERALL SCORE FOR SECTOR 3: 1.1 (2006= 1.0)**

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## Section 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:

Efforts for the formation of a strong media force are frustrated by lack of political will and opportunism. At a gentlemen's level, agreements never worked. When *MoAfrika* was faced with a long list of court cases and were advised by other practitioners to be professional, they declared that they follow their own code. When Mohahlaula was confronted about the same, they responded that they were prepared to go to court for political ends.

Media houses have their own codes. Newsrooms have their own standards and generally strive for accuracy and fairness. Recklessness is rare, and would not go unnoticed. Regulation exists in an informal sense.

There is no national code. The concern is whether it will be accepted if MISA drafts it.

The LCN has a code of conduct for members, but it is not effective since more than 60% of its members don't comply.

Score – 1,1,1,1,1,1,2,1 = 1.1

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

#### ANALYSIS:

The media is still very partisan, most still go by traditional lines where church papers were aligned to parties. Moeletsi – Catholic Church – BNP, Leselinyana – Evangelical Church – BCP. Now that the LCD is in power, Moeletsi will be negative to government, and lack of objectivity. From 1966 to 1986 the ruling party was aligned to the Roman Catholic Church and Leselinyana was critical.

Apart from political party papers, accuracy and fairness are still practiced.

Post 1998 there was improvement in accuracy, but in the run up to and following the 2007 elections positions have shifted. Media managers said 99% of reporters shifted their papers, and they couldn't get rid of all of them at the same time.

Score – 2,2,2,3,2,3,1,2 = 2.1

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

#### **ANALYSIS:**

Rural areas are still left out. They only feature when they are visited by high-ranking government officials. Much needs to be done but it is advised that communities take action to establish their own media.

Investigative stories are still lacking, especially when compared to South African newspapers like the Mail and Guardian, Sunday Times and City Press.

The world believes that Lesotho has the best printing facilities, but newspapers are still printed in South Africa including Public Eye, which owns a printing press. The printing quality is poor, the machines are inefficient, making advertisers very unhappy. It is advised that laws are enacted to encourage investment in media infrastructure. An assessment of the economic viability of a printing press should be done for Lesotho.

Coverage of business and economy news is still very poor.

Score – 2,1,3,2,2,2,2 = 2.0

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

#### **ANALYSIS:**

There is weak gender mainstreaming. Where it is promoted, people don't know how to go about it.

Although gender imbalance is a reality, some owners still don't see the importance of giving women more opportunities than men just by virtue of being women. They insist opportunities should be given where they are due regardless of sex. Where gender mainstreaming is practiced it is to access donor funding.

Gender mainstreaming has two dimensions, quantitative and qualitative – which is sensitivity to women and other vulnerable groups, equality of opportunity, for women to have the same opportunities as men. Scandinavian countries report that they are seeing a different quality of information as a result of gender mainstreaming.

Score – 3,1,2,3,2,2,1,2 = 2.0

### **4.5 Gender mainstreaming is reflected in the editorial content.**

#### **ANALYSIS:**

Society is largely male dominated. Women are marginalized in the newsroom and the imbalance still reflects in editorial.

Score – 1,2,2,2,2,1,2,2 = 1.8

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

##### **ANALYSIS:**

Reporters and editors are still afraid of antagonizing authorities and business. Self-censorship is a reality in newsrooms.

Score – 2,1,1,1,1,1,2,1 = 1.3

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

##### **ANALYSIS:**

Owners still interfere with editorial independence.

Score – 1,1,1,1,1,1,2,1 = 1.1

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

##### **ANALYSIS:**

Since the arrival of Lesotho Times, media salaries have changed as owners tried to retain their staff that was being offered more competitive salaries by the new competitor. Lesotho Times' salaries meet regional standards. It was not unheard of for reporters to work for three years without payment. Journalists would attend events just to get a meal.

On the other hand media houses say they are not making enough money to offer high remuneration. It was suggested that MISA conducts a salary survey for journalists and other media workers.

Score – 1,2,2,1,1,1,1,2 = 1.4

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

##### **ANALYSIS:**

Formal qualifications are offered, but practitioners still come out with no knowledge:

IEMS (NUL) offers a media qualification but there is a concern that the programme is part of an English department which focuses attention on linguistics rather than media. In addition, media professionals are not involved in either training or development of the programme. Most students with an interest in the media still have to go to South Africa to further their studies. Unfortunately many do not return to Lesotho.

Limkokwing University of Creative Technology has just started their first programmes and will be evaluated in time.

Score – 1,1,2,2,3,2,2,1 = 1.8

<b>4.10 Journalists and other media practitioners are organized in trade unions and/or professional associations.</b>
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ANALYSIS:

There is a move in the southern African region to resuscitate journalist unions. Similar attempts in Lesotho resulted in the Labour Commissioner refusing to register the formation of a union, arguing that government employs the majority of journalists, and those in the private sector are employers.

Score – 1,2,2,1,2,1,2,1 = 1.5

Average Sector Score – 1.6

## **OVERALL SCORE FOR SECTOR 3: 1.6 (2006= 2.0)**

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### **Discussion and the way forward**

#### **1. Have there been any changes in the media environment over the last two years.**

- a. Media landscape
  - i. 12 radio stations
  - ii. 2 TV stations,
  - iii. 65 registered publications - newspapers and magazines.
- b. Legislation
  - i. Broadcasting fees have increased. See Sector 2.4 for details.
  - ii. Telecommunication Bill was amended to give the Minister of Communications the final approval on the issuing and revoking of licences.
  - iii. The Broadcasting Classification Regulations 2007 now specify and differentiate Public, Private, Commercial and Community broadcasting.
  - iv. New Advertising Agency Bill was passed.
  - v. Litigation against media houses has increased.
- c. Women Media ownership
  - i. Informative newspaper
  - ii. Public eye
- d. Media Education
  - i. Limkokwing University of Creative Technology opened.
- e. Lesotho Communications Authority suspended a Radio station (Harvest FM)
- f. Increase in hate speech - Independent media houses recommending others shouldn't get government advertising.
- g. Global Economic Crisis – printing costs have gone up about 27%
- h. More media recognition awards – Sports, Health, MISA Award.
- i. Process for the first community radio station started
- j. Two community councils have introduced newsletters.

- k. New Magazines: Leisure - tourism, Visions – business information, Mohloli - business
- l. New News Agency: Afrol
- m. Publishing achievements
  - i. Leselinyana newspaper celebrated its 175 anniversary;
  - ii. Moeletsi turned 75 years
- n. MISA's regional chairperson, Thabo Thakalekoala, resigned to join politics
- o. Lesotho film Industry produced 2 films: Kau la poho (HIV AIDS awareness funded by Global Fund) and 'Untitled' (part of the Sitengi initiative)
- p. Prime Minister talks to the media, and is more vocal about regional/global issues such as putting pressure on Zimbabwe's President Mugabe.

## **2. If positive changes, who or what has been the main cause?**

- a. Lesotho offers more investment opportunities in the media, specifically online media
- b. The 2010 Soccer World Cup is being actively promoted as an investment and development opportunity for the media
- c. Lesotho leading a number of global initiatives, EPAs, WTO, International Court of Justice
- d. Media and government relations have improved – MISA and Ministry of communications interacting more often. Thakalekoala's resignation prompted renewed commitment from government.
- e. Music industry is growing, more artists are recording.
- f. MISA Lesotho's strategic plan is now being developed.

## **3. What are the main obstacles for further positive change?**

- a. Lack of government involvement and commitment in the development of an enabling environment for the media.
- b. Laws: old proclamations are still in place, despite the country being a democratic constitutional rule, e.g. the Company Registration Act, the Society's Act etc. New laws that are conducive to business have to be developed. The World Bank funded Private Sector Competitiveness and Economic Diversification project is working the Companies Registration and the Business Licensing Acts. It is also addressing the Passport issuing backlog and the design of the National ID card.
- c. The global economic crisis
- d. Lack of skills of journalists resulting in low capacity
- e. Absence of standards and a Code for journalists and associations.
- f. Increased political animosity post the 2007 elections
- g. No public service broadcasting
- h. Lack of access-to-information legislation
- i. Absence of a national media policy
- j. Owners meddling in editorial policy
- k. Journalists themselves, not getting involved, driving media advocacy and internal fighting

## **4. If negative changes, who or what has been the main cause.**

- a. The increasing involvement of Zimbabwean journalists in Lesotho.
  - i. In June 08 a forum held by the LCN debated the xenophobic attacks in SA. The general feeling was that anti-foreign sentiment in Lesotho is largely as a result of the Chinese trading in small business, and Zimbabweans who seem to be given more opportunities than Basotho.
  - ii. Quoting the Minister of communications: "The media should watch its role because the media set Rwanda on a genocide path." People are using or abusing their access to the media to make it this issue what it isn't – xenophobia. MISA should step in, to call it what it is.

- b. Access to information – The lack of public service broadcasting. A regulator board appointed by the minister, defeats the whole purpose of appointing that board.

## **5. Who could be the drivers or actors for change in the future and what kind of activities are needed to over the next two years?**

- a. Journalists have to be an effective lobby group.
- b. Professional bodies like MISA have to run campaigns and advocate for change.
- c. Diverse institutions need to be involved, and other stakeholders - ISAS – (NUL) studies on media, APRM, IEMS, Editors' forum,
- d. Ideals enshrined in the APRM should be taken advantage of with a many other stakeholders.
- e. MISA should lead the process, but should first devise programmes relevant to NGOs for lobbying.
- f. Constitutional Reform – Media must become more organised and more vocal in advocating for constitutional reform.
- g. Put in place a MISA Lesotho Three-year Strategic Plan into action.

## **6. Five top Activities**

- a. Development of a Code of Ethics
- b. Media Advocacy and Lobby Strategy
- c. Formation of an Editors' Forum
- d. National Media Dialogue – Private sector, government, other stakeholders
- f. Public conscientisation of the role of the media

## **MISA involvement in the Lesotho APRM**

### **Overview**

1. Once it is adopted, the APRM cannot be changed. The media must therefore act now before the report is presented.
2. Thabo Thakalekoala should write a report about his involvement in the process.
3. MISA must engage the secretariat to establish what the media input has been to date, and determine if this is adequate. Interview the chairperson as a matter of urgency.
4. Submit the AMB report as a situation analysis and self-assessment for the APRM.

## **OTHER COMMENTS AND RECOMMENDATIONS**

1. There is need for a public broadcaster, answerable to parliament in terms of its budgetary performance and implementation of its public service mandate. It should have a Board independent of government involving the public and other stakeholders. Presently the board of the LCA is reporting to the minister. Initiatives should be undertaken to ensure the independence of the broadcaster.
2. MISA should increase its issue a statement coming out of the AMB.
3. The media is not strategic. Whilst other lobby sectors are able to take to the streets and campaign for change, the media in Lesotho shy away from their own issues. There is need to strategise a concerted approach.
4. The AMB should influence MISA Lesotho's programming, and be used as a tool to cultivate more interaction between media and other civil society organisations. MISA Lesotho should be more focussed on access to information and regulation through strategies that catch the imagination.

**The 2008 AMB Lesotho took place on December 5 – 7, 2008, at the Mohale Lodge, Mohale, Lesotho**

**The Panel:**

- Reverend John Khutlang – National University of Lesotho – Church Leader
- Ms Mpine Tente – Private Sector and Lecturer Mass Communications - NUL, Media management and production.
- Mr. Setsabi Setsabi – Lecturer – Geography NUL
- Mr. Thulo Hoeane – Public Eye
- Mr. Lawrence Keketso – Publisher Editor, Mopheme, AFrol SADC news
- Mr. Peshoane Tsikoane – Commissiner of Human Righs, LChaleN
- Ms Sophia Tlali – GEMSA
- Mr. Tsebo Matsasa - National Director MISA Lesotho

**The Facilitator:**

**Ms Zoé Titus**



# Malawi 2008

Civil society perceptions on the state of  
media freedom & freedom of expression



# African Media Barometer Malawi 2008

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

### 1.1 Freedom of expression, including of the media is guaranteed in the Constitution and protected by other pieces of legislation

#### ANALYSIS:

Section 35 of the Republic of Malawi Constitution guarantees freedom of expression, stating that:-

“Every person shall have the right to freedom of expression”.

Section 36 of the same warrants that:-

“The press shall have the right to report and publish freely in Malawi and abroad, and to be accorded the fullest possible facilities for access to public information”.

Section 37 of the Constitution which states that:-

“Subject to any Act of Parliament, every person shall have the right to access all information held by the State or any of its organs at any level of Government in so far as such information is required for the exercise of his rights”.

This section is intended to promote access to information. There have been efforts to enact a Bill for Access to Information which obliges public officers to give information to the public. The Bill, once made into law, will constitutionally safeguard access to information by all citizens.

#### SCORES:

Individual scores: 4, 4, 4, 3, 4, 4, 4, 4, 4  
Average score: 3.9 (2006 = 2.5)

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

#### ANALYSIS:

The right to freedom of expression can be increasingly witnessed in the repertoire of different artists who freely comment on contemporary issues in society. The works of these artists enjoy media attention as much.

The media have taken opportunity of the same freedom to mount provoking Talk Shows which tend to involve people in the rural areas and on the fringe of businesses. The media have also gathered and disseminated information to the public that is politically sensitive as to arouse the concern of politicians who had not been used to scrutiny and satire before.

However, this freedom is practised more in the urban rather than the rural areas where people are gradually gaining more conscience as to the realities of technology and general socio-political development.

What is apparent is that the culture of fear of the establishment and the politician has been wearing away over the past two years

**SCORES**

Individual scores: 4, 4, 4, 4, 4, 4, 4, 4  
Average score: 4.0 (2006 = 2.6)

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

**ANALYSIS:**

Malawi does have laws restricting freedom of expression. Most of the laws date back to the colonial era, when there was no plurality in the media industry. During that period, there was only one public radio and one commercial newspaper.

Most of these laws were never reviewed or repealed commensurate with the new political reality of multiparty democracy that has prevailed in the country since 1994. There has not been any alignment of the present day realities and practices with the old laws.

Al Osman, proprietor and director of Capital Radio has challenged in the Courts some of the laws such as the Protected Names, Emblems, Flags and Places Act. There have been no reviews of the challenges over the past two years and the status quo remains the same since 2006.

**SCORES:**

Individual scores: 1, 1, 2, 1, 2, 2, 2, 2  
Average score: 1.7 (2006 = 2.0)

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

**ANALYSIS:**

Entry into and the practice of journalism is not legislated to the effect that everyone is free to become a journalist in Malawi. There are, however, institutions that oversee standards in the practice of journalism such as the Malawi Media Council, which has to that effect a Code of Ethics and Professional Conduct. Visiting media personnel are required to clear themselves, by convention, with the Ministry of Information and Civic Education.

**SCORES:**

Individual scores: 5, 5, 4, 5, 5, 4, 5, 5, 4  
Average score: 4.7 (2006 = 5.0)

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

### **ANALYSIS:**

There is no law protecting sources or confidential sources of information in Malawi. In the absence of such law however, journalists are guided by journalistic codes and conventions such the Media Council Code of Ethics and Professional Conduct for safeguarding such sources.

### **SCORES:**

Individual scores: 1, 1, 1, 1, 2, 2, 1, 2, 2  
Average score: **1.4** (2006 = 2.4)

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

### **ANALYSIS:**

Section 37 of the Constitution obliges lawmakers to pass an appropriate Act to guarantee access to information. A Bill to that effect, called The Access to Information Bill has been in place over the past two years. It is yet to be passed into law.

In the absence of such a law, many organizations are investing in offices of Public Relations to manage external information requirements.

The media have also invested in a lot of goodwill amongst their sources, such that leaks are not unfamiliar as a result.

### **SCORES:**

Individual scores: 2, 1, 2, 2, 2, 3, 2, 1, 2  
Average score: **1.9** (2006 = 1.8)

## **1.7 Civil Society in general and media lobby groups actively advance the cause of media freedom**

### **ANALYSIS:**

There is a large surface area for the interface between the media and civil Society. It is a symbiotic relationship that has allowed each sector to advance its cause by drawing support from the other. Civil society places considerable advertising in the media and where there are incidences of media infringement it is not unusual for civil society to rally up to the media. For most of civil society campaigns, there is always a media component that concretizes the interface between the two sectors.

### **SCORES:**

Individual scores: 3, 3, 3, 3, 3, 3, 3, 3, 3  
Average score: **3.0** (2006 = 4.1)

**OVERALL SCORE FOR SECTOR 1: 2.9 (2006 = 2.9)**

## 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:**

The mix of government and private ownership of the print media still obtains in Malawi. The private publishing sector has since lost the Chronicle of the Jamieson Publications and the weekly Courier. Both were published in Lilongwe, the Capital City. None of the Blantyre-based publications folded.

However, access to print products is sometimes limited in the rural areas resulting from circulation bottlenecks as the publications are produced from commercial cities.

Broadcasting continued to grow with the setting up of new religious radiostations such the of the Seventh Day Adventist and the assemblies of God ministries. Otherwise, the Malawi Broadcasting Corporation (MBC) remained a state controlled radio operating without funding after the National Assembly in 2007 withheld its allocation due to what was termed 'bias' broadcasts.

A new television, owned by former state President, Bakili Muluzi by the name of Joy Tv was temporarily on air and was stopped pending its application for a broadcast licence. The State controlled television, Television Malawi is expected to merge with MBC in accordance with the provisions of the Communications Act 1998.

Internet services were maintained. The government is meanwhile implementing tele centres in the rural areas to make internet services widely accessible to rural people.

### Scores:

Individual Scores: 3, 3, 3, 3, 4, 3, 3, 3, 2  
Average Score: **3.0** (2006 = 2.6)

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

**ANALYSIS:**

Access to media sources is not restricted by the state. However, there is the Censorship and Control of Entertainment Act which establishes a Classification Board empowered to censor books and audio-visual Materials.

**SCORES:**

Individual scores: 5, 5, 5, 5, 5, 4, 4, 2, 1  
 Average score: 4.0 (2006 = 2.6)

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

**ANALYSIS:**

There have not been any new publications specifically for rural Communities. The reach of existing publications in the rural areas is assisted by the establishment of rural libraries by civil society such as the National Initiative for Civic Education (NICE).

**SCORES:**

Individual scores: 3, 2, 2, 2, 3, 3, 2, 2, 2  
 Average score: 2.3 (2006 = 1.5)

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

**ANALYSIS:**

The existing legislation is the Communications Act 1998 which creates a unitary regulatory body, the Malawi Communications Regulatory Authority (MACRA). The regulator is responsible for telecommunications, postal services and the broadcasting sector in line with the Communications Sector Policy Statement of 1998.

MACRA has altered the licence rules of broadcasting without the amending of the Act.

**SCORES:**

Individual scores: 4, 5, 4, 4, 5, 4, 4, 1, 4  
 Average score: 3.9 (2006 = 3.3)

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

**ANALYSIS:**

Under the licence revision, community broadcasting has been broadened To include 'private community' licensees. The initiative, however, does not give special dispensation to the sector.

**SCORES:**

Individual scores: 1, 1, 2, 1, 2, 2, 1, 1, 1  
 Average score: 1.3 (2006 = 1.9)

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

### **ANALYSIS:**

The Government publishes the Weekly News, Boma Lathu and This is Malawi which all carry government positions. The publications are under the Ministry of Information and Civic Education. Employees are civil servants and the editorial policy is guided by the proprietor of the day, the incumbent government, through the Ministry.

### **SCORES:**

Individual scores: 1, 1, 1, 1, 3, 2, 2, 1, 1  
Average score: **1.4 (2006 = 1.6)**

## **2.7 Independent news agencies gather and distribute information for all**

### **ANALYSIS:**

Apart from the government news agency, Malawi News Agency (MANA), there are no independent news agencies in Malawi.

There are, however, efforts by local entrepreneurs to establish news Agencies, although the market does not seem favourable due to the proliferation of foreign news sources on the internet.

### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1  
Average score: **1.0 (2006 = 1.0)**

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

### **ANALYSIS:**

Anyone interested in operating a media firm in Malawi is required to register their firm with the Registrar of Companies. There is also MACRA that licences broadcasters.

A Fair Trading and Competition Act which establishes a Competition Commission has been in existence since 2005.

### **SCORES:**

Individual scores: 2, 1, 2, 1, 2, 2, 2, 1  
Average score: **1.7 (2006 = 2.1)**

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

### **ANALYSIS:**

The government-media relationship does not indicate a conscious effort of government to promote media diversity. The Communications Sector Policy 1998 is emphatic on regulation rather than media diversity. The licensing problems of Joy Tv seem to indicate some resistance towards media diversity

Although print media registered with the Postmaster General have concessionary rates for distribution of printed matter, the service is unreliable such that publishers prefer to do own deliveries to sell outlets and subscribers.

### **SCORES:**

Individual scores: 3, 1, 2, 2, 3, 2, 3, 2, 2  
Average score: 2.2 (2006 = 3.8)

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

### **ANALYSIS:**

There is evidence of efficiency and professionalism in the private media. This can be evidenced by the fact that there has been significant expansion in radio signal on FM, and that no radio station has folded in Malawi. There have also been no significant print media casualties.

The annual media awards by the National Media Institute of Southern Africa (NAMISA) have also assisted in professionalizing the media as many vie for the annual awards. No one media outlet has monopolised these awards, and that serves as evidence of intense competition in the production of quality output.

### **SCORES:**

Individual scores: 4, 4, 4, 3, 4, 3, 4, 4, 4  
Average score: 3.8 (2006 = 3.7)

## **2.11 State media are not subsidized with tax payers' money**

### **ANALYSIS:**

Government print and broadcast media are financed from the state budget. The production of the print media, however, is intermittent and carries minimal to no advertising.

Broadcasters MBC and TVM received 50 percent funding in 2006 and no penny in 2007 from the national budget for perceived lack of professionalism. They continued to be funded through votes other than their submissions.

### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 3  
Average score: 1.2 (2006 = 2.1)

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

### **ANALYSIS:**

Almost 80 per cent of advertising in print media comes from Government and Government-funded projects. Most of the advertising is placed in the dailies because of the regularity of their publication and the spread of their target audiences.

Although there is no clear-cut policy on government advertising, procurement procedures would almost certainly favour the same private commercial print media. Private commercial and community media, however, do not enjoy such voluminous advertising from government.

The market forces seem to dictate government advertising more than issues of power do.

### **SCORES:**

Individual scores: 5, 4, 4, 4, 5, 4, 5, 2, 4  
Average score: **4.1** (2006 = 3.2)

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

### **ANALYSIS:**

The current growth of the media in Malawi outweighs the advertising market. In addition, the economic downturn has put a squeeze on the advertising budgets of many companies such that the corporate culture in Malawi is hard to analyse and predict.

Indications are that the marketing strategies of the media seem challenged to attract advertising. One of the strategies is in running advertising supplements for niche audiences.

### **SCORES:**

Individual scores: 3, 1, 2, 2, 3, 3, 3, 2, 2  
Average score: **2.3** (2006 = 2.2)

**OVERALL SCORE FOR SECTOR 2: 2.5** (2006 = 2.4)

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## **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:**

Broadcasting in Malawi is regulated by MACRA, which was established by the Communications Act of 1998. The authority is nominally independent.

The previous board of MACRA was dissolved by the Courts as illegal for being chaired by a politician. The board's independence was questionable in its discretionary granting of licence to Joy Radio which is owned by a politician and which contravenes the Act. Currently, a disabled person has a radio station in Lilongwe, Pakiso, but which MACRA granted a licence waiver and is, again, a contravention of the Act.

The current wrangle of stopping Joy Tv from airing until it applies and acquires a licence is perceived as political interference from the present regime, since Joy Tv is owned by the former State President, Bakili Muluzi, who has had his share of political squabbles with the incumbent Head of State, Bingu Wa Mutharika

#### **SCORES:**

Individual scores: 2, 1, 2, 2, 2, 1, 2, 1, 2  
Average score: 1.7 (2006 = 1.8)

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

#### **ANALYSIS:**

According to the Communications Act 1998, members of the Board of MACRA are appointed by the State President who uses his own Appointments Committee without the involvement of the public and civil society.

#### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 1.4)

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

#### **ANALYSIS:**

MACRA has licensed all broadcasters who are mandated to put in place mechanisms for dealing with complaints from the public. Complainants are also encouraged to forward their grievances

to the Authority, although complaints about public broadcasting have never been resolved.

The lack of resolve of complaints about public broadcasting resulted in the National Assembly withholding 50 per cent of their allocation in 2006 and denying them funding in 2007. The Authority is usually 'active' in taking to task private and commercial broadcasters on complaints.

**SCORES:**

Individual scores: 1, 2, 1, 2, 2, 2, 1, 2  
Average score: 1.7 (2006 = 2.8)

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

**ANALYSIS:**

The guide for licensing is the Communications Act 1998. The Act and subsequent revisions have not been developed in an independent, open and transparent manner.

**SCORES:**

Individual scores: 1, 2, 1, 3, 3, 2, 2, 2  
Average score: 2.0 (2006 = 1.6)

**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 boards of MBC and TVM consist of a Chairman, the Secretary of Information and Civic Education (ex-officio) and six other members appointed and dissolvable by the State President in consultation with the Public Appointments Committee of the National Assembly. It can not, therefore, be said that the public broadcaster is accountable to the public.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 2, 1, 1, 2  
Average score: 1.2 (2006 = 1.3)

**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 financial interest in the broadcasting industry**

**ANALYSIS:**

Political office bearers are 'officially' excluded from membership, although some are perceived to be proxies for politicians. The Secretary for Information and Civic Education sits on the board as ex-officio and may be political.

Licensees of other broadcasting services are also disqualified from board membership.

**SCORES:**

Individual scores: 3, 2, 3, 3, 3, 3, 3, 2, 2  
Average score: 2.7 (2006 = 2.1)

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

**ANALYSIS:**

The current squeeze of public funding for the public broadcasters does create room for pressure from advertisers, who are seen as the major sources of funding of public broadcasting. This takes the form of choice of content and choice of placement of their advertisements and programming times.

Although the Communications Act 1998 s 87 (2) guarantees the broadcaster “to function without any political bias and independently of any persons”, the withholding of funding by Parliament for the past two years on account of ‘bias’ has largely gone unchallenged and casts doubt on the independence of the broadcaster.

Further s 45 (2) of the Act allows the broadcaster to “seek the general direction of the Minister in carrying out its duties” that include those of editorial nature.

The bias and general direction advice of the Minister has thus resulted in acts of self-censorship of the public broadcaster.

**SCORES:**

Individual scores: 3, 3, 2, 3, 3, 3, 3, 2, 2  
Average score: 2.7 (2006 = 1.6)

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

**ANALYSIS:**

Both MBC and TVM depend on state subsidy for the bulk of their funding. The 50 per cent subsidy in 2006 and the non-funding in 2007 greatly interfered with their work. The turn around strategies have been to turn to advertising and innovate on some programmes which might earn the operator some income.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 2, 1  
Average score: 1.1 (2006 = 1.8)

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

#### **ANALYSIS:**

MBC's two radio channels are technically accessible in 90 per cent of the country, while TVM boasts 70 per cent coverage.

#### **SCORES:**

Individual scores: 5, 3, 4, 4, 5, 4, 4, 4, 4  
Average score: **4.1 (2006 = 3.8)**

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

#### **ANALYSIS:**

MBC Radio One tends to carry a diverse range of a general nature of programming, while Radio Two is slightly tilted towards commercialisation and entertainment. They both carry news bulletins in all key languages of Malawi.

TVM has educational and children's programmes as well as entertainment and business programmes. However, the bulk of their programmes, lately, are spiritual.

#### **SCORES:**

Individual scores: 4, 4, 4, 3, 4, 3, 4, 1, 4  
Average score: **3.4 (2006 = 3.6)**

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

#### **ANALYSIS:**

MBC and TVM offer a diversity of views but deliberately slant them towards the dominant view of the government. In the process, the opposition's side of the story is usually lacking or pronounced only when it is negative. There is thus diversity with minimal political difference.

#### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 2, 2, 1, 2  
Average score: **1.3 (2006 = 2.1)**

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

#### **ANALYSIS:**

MBC's radio programming thrives on local content with as much creativity. The current financial squeeze has seen the broadcaster trying outdo its creativity to unfathomable depths.

TVM's content is challenged by foreign programming and soap operas. The latest additions are free religious feeds from international spiritual channels.

**SCORES:**

Individual scores: 4, 4, 4, 4, 5, 5, 5, 4, 4  
Average score: 4.3 (2006 = 3.2)

**OVERALL SCORE FOR SECTOR 3: 2.3 (2006 = 2.3)**

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**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 Malawi media has several journalistic codes. These include the Malawi Media Council Code of Ethics and Professional Conduct 1995, revised 1999; the Third Schedule of the Communications Act 1998; the Malawi Electoral Commission Code for Media in Elections Coverage and the draft Broadcasting Policy.

**SCORES:**

Individual scores: 5, 4, 4, 3, 4, 5, 5, 5, 3  
Average score: 4.2 (2006 = 3.0)

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

**ANALYSIS:**

From an audience point of view, there have been few complaints to the Media Council and MACRA to signal dissatisfaction with the general objectivity and fairness by the media. There have also been very few litigation cases involving the media.

In practise, however, there are observable leanings by the media to either the right or the left of the political spectrum, thus compromising the degree of their fairness. There are also attempts at sensationalising stories by use of picture, headlining and self-justification. These result in retraction of stories, apologia and corrigenda.

**SCORES:**

Individual scores: 4, 4, 4, 3, 3, 3, 4, 5, 4  
Average score: 3.8 (2006 = 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 diversity of content in the Malawi media is self-evident and has been well captured by NAMISA's annual media awards which recognise excellence in sports, environment, business, education, investigation and photo-journalism.

There is specialization going on in the broadcast media, for example where issues of business, health, the environment and culture are gaining popularity.

The coverage of these issues is also being recognised by the different training courses such as on investigating corruption by such missions as the Cassals and Associates of the United States Agency for International Development (USAID) and business reporting by the Programme on Economic Governance of the Canadian International Development Agency (CIDA)

#### **SCORES:**

Individual scores: 4, 4, 4, 4, 3, 4, 4, 5, 3  
Average score: 3.9 (2006 = 3.3)

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

#### **ANALYSIS:**

There are in Malawi role model lady media workers that are gaining or have gained recognition. These include Villant Ndasowa (independent film maker), Maria Chidzanja Nkhoma (Zodiak Radio), Rhoda Zulu (Story Workshop) and June Lutwama (Director, Star Radio).

Over the past two years there have been lady journalists who have claimed media awards such as Rebecca Theu (Nation Publications Limited) and Thereza Chirwa (Zodiak Radio).

There are also lady media trainers who have enthused many female students interested in the media. The general mood is that it should be possible in the near future for both sexes to compete evenly for media ventures.

#### **SCORES:**

Individual scores: 3, 3, 3, 3, 3, 4, 3, 3, 4  
Average score: 3.2 (2006 = 2.3)

### **4.5 Gender mainstreaming is reflected in the editorial content**

#### **ANALYSIS:**

There has been increased coverage of women issues over the past two years as a result of increased participation of women in society. This is reflected in the editorial content of newspapers such as Malawi News' Female supplement or Weekend Nation's 'Society' supplement. Women

achievers are visible in Malawi media. This is a departure from their stereotypical representation of the past, when women were associated only with beauty, homemaking and baby sitting.

The challenge of motivating women to take part in public debates remains.

**SCORES:**

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

Average score: 3.2 (2006 = 2.3)

#### **4.6 Journalists and editors do not practise self-censorship**

**ANALYSIS:**

Journalism in Malawi was previously concentrated and practised within state/party-controlled media where self-censorship was a creed. New and independent media are challenged to be independent within the legal framework that has remained intact. Libel and defamation laws still loom.

In addition, there is commercial pressure from large advertisers who have strong ties with politics of the day. Journalists have to handle such clients with care by treading carefully.

By balancing the interests of the old and new media owners, and in fear of losing advertisements, journalists tend to 'conform' in order to protect their jobs. Self-censorship becomes a reality in their working lives.

Others accept gratifications from news sources.

**SCORES:**

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

Average score: 1.9 (2006 = 2.3)

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

**ANALYSIS:**

Owners of private media need to make money to survive. They tend to guard their investment jealously. Some of the owners are former or active journalists who have interest in the media craft and business. They thus tend to influence the practise as well as the direction of the private media. Therefore, viewed from a narrow perspective and in the strict interpretation of the term, it can be said that owners of the media do interfere editorial independence.

However, their interference is perceived in a positive way, and not as rather negatively impinging on job satisfaction and security.

**SCORES:**

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

Average score: 2.3 (2006 = 1.7)

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

##### **ANALYSIS:**

Malawian journalists worked for a long time under a patronage system. An independent Journalists' Union has just been set up. In the absence of a union, journalists were easily divided to respective loyalties of their employers and they would switch allegiances by moving into different camps that thrived on patronage.

Most media houses do not have adequate facilities and tend to accept offers of transport, phone facilities and allowances from news sources. This is prone to corruption. It is not unusual to hear of political parties having a 'media task force' whose intention is to embellish and create stories in favour of the sponsoring party.

The salary of a school leaver on entry is usually equivalent of \$100 a month, while the Cost of Living Index (at the time of writing the report) shows that it takes about \$150 for one to survive in Malawi for a month. Journalists have to supplement their income in some way. They easily become corruptible.

##### **SCORES:**

Individual scores: 2, 2, 2, 1, 2, 1, 2, 2, 2  
Average score: 1.8 (2006 = 1.1)

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

##### **ANALYSIS:**

Malawi has an abundance of training institutions that offer formal qualification programmes ranging from certificate to bachelors level. The qualifications from within Malawi include the Malawi Institute of Journalism certificates and diplomas and the University of Malawi's diploma and bachelors.

Other institutions offer qualifications of foreign examining boards such as the Association of Business and Management (ABMA); (CIMA) and the Shareworld Open University of Cyprus diplomas and degrees.

The current requirement is that all institutions be accredited by the Higher Committee on Education for recognition and standardization of the qualifications.

Courses for upgrading journalists are very rare in the country. These are either hosted in-house or are often tenable outside the country at a higher cost.

##### **SCORES:**

Individual scores: 4, 4, 4, 3, 4, 4, 4, 5, 3  
Average score: 3.9 (2006 = 4.3)



#### **4.10 Journalists and other media practitioners are organized in trade unions and/or professional associations**

##### **ANALYSIS:**

There are at least three media unions operating in Malawi at the moment. These are the Communication Workers Union of Malawi (COWUMA); MBC Workers Union and the Journalists' Union of Malawi (JUMA). They are all voluntary.

There are also a number of media associations, the most popular of which is MISA Malawi. The others are the Nyika, Mzuzu, Lilongwe and Kabula Press Clubs; the Malawi Women Media Association (MAMWA) and Malawi chapter of Gender and Media Southern Africa (GEMSA); the Community Radio Association and the National Editors Forum (NEFORM)

##### **SCORES:**

Individual scores: 4, 4, 4, 5, 5, 4, 4, 4  
Average score: **4.2** (2006 = 3.7)

**OVERALL SCORE FOR SECTOR 4: 3.2 (2006 = 2.7)**

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**OVERALL COUNTRY SCORE: 2.7 (2006 = 2.6)**

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### **Follow-up questions in Round Two**

**Have there been any changes in the media environment over the last two years?**

**The period 2006-2007 has registered**

- The withholding of budgetary allocation for public broadcasting due to perceived bias by public broadcasters
- Consultations for the Access to Information Bill, pending its passage into law
- The resuscitation of the Media Council of Malawi and the birth of the Journalists' Union of Malawi (JUMA). The Broadcasters Association of Malawi (BAMA) and the National Editors Forum (NEFORM) have since gone to sleep
- Inauguration of sign language on TVM
- The wrangle of the licence of Joy Tv continued while a Lilongwe-based broadcaster, Radio Pakiso, gets a licence waiver to go on air
- Jamieson Publications' *The Chronicle* and independent *Weekly Courier* folded

##### **Agents of positive change**

- MISA Malawi has been a major catalyst for the Access to Information Bill, the revival of the Media Council and the founding of the JUMA

##### **Agents for negative change**

- MACRA's refusal to regulate the public broadcaster finally culminated into Parliament

taking the law into its own hands by withholding funding for the broadcaster. The Ministry of Information and Civic Education did not help matters by defending and congratulating the public broadcaster on the occasion of being denied funding.

### **Change agents and programmes for the future**

- MISA Malawi has to take the country through to the passage of the Access to Information Bill
- Parliament has to drive through the amendment of the Communications Act to enact public broadcasting away from state broadcasting and to reform MACRA
- Training institutions should seriously engage in mid courses for upgrading skill of journalists rather than concentrating on offering formal qualifications only
- There is need for a national conference in Malawi at which a national media policy could be forged by merging the ICT policy, broadcasting policy and other media policies that could be lying around
- There is need to rethink the advertising quantities for radio from government and donors. The current scenario favours print media and may stifle broadcast media

**The panel meeting took place at Masongola Hotel, Zomba on May 17 and 18, 2008**

#### **The Panel:**

**Rhoda Zulu; Producer Story Workshop; June Lutwama, Director Star Radio and Media Lecturer; Miriam Kamoto, banker; Mabvuto Bamusi, human rights and justice activist; Mandla Mabulasa, lawyer; Levi Manda, Media analyst and lecturer; Felix Mponda, news agency correspondent; Marcel Chisi, human rights activist; Al Osman, owner Capital Radio**

#### **The Facilitator:**

**Fernando Gonçalves**

#### **The Rapporteur:**

**Costly Mtogolo**





# South Africa 2008

**Civil society perceptions on the state of  
media freedom & freedom of expression**

# African Media Barometer South Africa

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

<b>1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.</b>
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### ANALYSIS:

South Africa is governed by a constitution, passed in 1996, which is widely respected as one of the most progressive in the world. It guarantees and protects the right to freedom of expression including media freedom. Section 16 states:

- “(1) Everyone has the right to freedom of expression, which includes -
- (a) freedom of the press and other media;
  - (b) freedom to receive or impart information or ideas;
  - (c) freedom of artistic creativity; and
  - (d) academic freedom and freedom of scientific research.
- (2) The right in subsection (1) does not extend to –
- (a) propaganda for war;
  - (b) incitement of imminent violence; or
  - (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.”

The Constitution further in section 32 protects the right to access information:

- “(1) Everyone has the right of access to -
- (a) any information held by the state; and
  - (b) any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden of the state.”

In Section 192, the Constitution requires that an independent body to regulate broadcasting be established:

“National legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society.”

The necessary rights and protections are therefore built into the Constitution and the laws required by the Constitution have been put in place, namely the Protection of Access to Information Act No 2 of 2000 (Paia) and the Independent Communications Authority Act (No 13 of 2000). The Constitutional Court and its judges are widely respected – and their judgements have proven their independence from stakeholders, including government. The Court has consistently shown firmness in defending the constitution and sensitivity in its balancing of freedom of expression against other individual rights. There have been few specific tests of the right

to freedom of expression before the Constitutional Court since 1994 – particularly in relation to the media. The Court has, however, on several occasions highlighted the importance of the right to freedom of the media and freedom of expression. For example, in a case dealing with defamation law it emphasized that “the print, broadcast and electronic media have a particular role in the protection of freedom of expression in our society ... The ability of each citizen to be a responsible and effective member of our society depends upon the manner in which the media carry out their responsibility ... The media thus rely on freedom of expression and must foster it ... Furthermore the media are important agents in ensuring that government is open, responsive and accountable ...” (Constitutional Court ruling handed down 14/06/2002).

The President has referred laws back to the legislature over concerns of possible violations of the Bill of Rights – further emphasizing the weight of the Constitution. In April 2006, for example, President Thabo Mbeki asked Parliament to reconsider an Amendment Bill to the Independent Communications Authority of South Africa (ICASA) Act, the reason being that clauses allowing the minister to appoint councillors to the Council could violate the constitutional protection of independence of the broadcasting regulator.

But there is still not sufficient understanding amongst communities and in some government departments of how to implement constitutional rights, including freedom of expression. City councils frequently use municipal laws on gatherings to disallow demonstrations by social movement groups. They are thus denying the people the right to express their views by marching – marching being “the media of the poor people”.

Civil society groups are not actively conscientising citizens on their rights any more as they had been doing during the first years after the adoption of the constitution. More has to be done to educate and inform people of their constitutional rights.

There are still laws in place from the apartheid era which can be used to restrict freedom of expression – these have not yet been revised, rescinded or legally tested against the constitution.

## SCORES:

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

Average score: 4.3 (2006=5.0)

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

## ANALYSIS:

The South African media enjoy considerable freedom of expression. This is evidenced by the frequency with which the media criticize the government, the ruling political party, the police and many other public institutions and services. Investigative reporting is prominent and widely respected. Headlines such as “Manto is a drunkard” are possible – topping a story in the *Sunday Times* which exposed the Health Minister Manto Tshabalala-Msimang as having misbehaved during a stay in a hospital.

There is a perception that the ruling African National Congress’s conference in Polokwane in December 2007, which voted Mbeki out of office as ANC President and elected Jacob Zuma instead, has opened up more space for frank debate in the media and even in parliament. Some journalists and other opinion makers seemed to fear Mbeki – with the question remaining whether this fear was just a sentiment or had any basis in fact. It remains to be seen, however,

whether the new-found extended public space will endure when the new ANC leadership takes over state power after the elections due next year.

On the down side, defamation cases are increasing with Jacob Zuma taking the lead as complainant against a number of newspapers and Zapiro, a well respected cartoonist. While intimidation of journalists by provincial governments is decreasing, there are still incidents of media practitioners getting angry phone calls from officials. The situation is worse at local level where especially community media are from time to time threatened by ANC councillors. In many cases, allegations of corruption are not investigated for fear of reprisals. Generally, there seems to be a lack of tolerance of criticism amongst politicians.

South African media publish a significant amount of advertising from the government, and there are cases where government officials have threatened to withdraw their custom from publications they regard as being excessively critical. Commercial interests tend to exert even more pressure: To a large extent commercial enterprises escape the critical attention of the mass media fearful of annoying the big advertising spenders.

### SCORES:

Individual scores: 3, 4, 4, 2, 3, 4, 3, 3, 3  
Average score: 3.2 (2006 = 2.6)

### **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 media.**

#### ANALYSIS:

Section 205 of the Criminal Procedures Act, which compels journalists to reveal their sources of confidential information, remains one of the biggest problems. Although in a “record of understanding” media and government representatives agreed in 1999 that such disclosure would not be enforced as a matter of course but only as a last resort, the uncertainty about this section remains.

Defamation is largely a civil rather than criminal matter in South Africa, with the legal provisions designed to protect a person’s reputation. Claims are usually used post publication to sue the newspaper for damages or retractions, but have also been cited in applications to interdict a newspaper from publishing.

Increasingly during recent years, individuals and organisations have lodged urgent interdicts in a bid to stop newspapers from publishing information. The Mail & Guardian weekly seems to have borne the brunt of such attempts: between May 2006 and July 2007 six interdicts were lodged against the paper in the Johannesburg High Court. While only two of them were temporarily successful, the constant threat of interdicts and high litigation costs makes it increasingly risky to embark on investigative reporting.

A landmark judgement by the Supreme Court of Appeal in May 2007, however, will hopefully limit the granting by the lower courts of last minute interdicts to stop newspaper publication. As things stand there is some danger that South Africa might be turning into a litigation society, a situation which would limit the immediate enjoyment of constitutionally guaranteed rights. Another point of concern is the Film and Publications Amendment Bill 2006 which seeks to

remove the bar on pre-publication classification of newspapers and broadcasters and which has been causing quite a furore amongst media and civil society organisations. Hearings were held by Parliament in 2007 and objections raised. The Bill was amended to reinstate media exemptions for licensed broadcasters and for members of the Newspaper Association.

In a submission to the National Council of Provinces (the final legislative authority before Bills are signed into law by the President), the South African National Editors Forum stated that the amendments did not go far enough as not all publications are members of the Association and that the Bill potentially conflicted with constitutional provisions. They suggested, among other things, that the exemption be extended to all publications which subscribe to the Press Code.

**SCORES:**

Individual scores: 4, 2, 4, 4, 3, 3, 3, 4  
Average score: 3.3 (2006 = 2.8)

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

**ANALYSIS:**

There are no legal restrictions to becoming a journalist and no laws regarding registration.

**SCORES:**

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5  
Average score: 5.0 (2006 = 5.0)

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

**ANALYSIS:**

The Criminal Procedures Act in its section 205 compels journalists to reveal their sources – or face imprisonment. There is, however, an interim agreement between the Ministers of Justice and of Safety and Security, the National Director of Public Prosecutions, and the South African National Editor's Forum which recognizes the need to balance the demands of law and order on the one side and the rights of journalists to protect their sources and work without hindrance on the other.

**SCORES:**

Individual scores: 2, 1, 1, 2, 1, 2, 2, 1, 2  
Average score: 1.6 (2006 = 1.1)

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

**ANALYSIS:**

South Africa's constitution guarantees every person the right of access to information. The Promotion of Access to Information Act of 2000 gives effect to this right.



The act guarantees access to information held by the state and “by another person ... required for the exercise or protection of any rights” – with the legal term “another person” applying mainly to commercial enterprises. The inclusion of information held by the private sector as subject to disclosure makes the South African legislation unique in the world.

In reality the situation is not quite as straightforward. The act is not easy to grasp and prospective users will require some guidance. Applying for documents is cumbersome. Many government officials do not have a proper understanding of the act. Government departments’ recording and filing systems are inefficient. Records are often lost. If an application is rejected and an applicant wants to appeal the decision, he/she has to go the (expensive) court route. A suggestion that the Human Rights Commission – which oversees the implementation of the act – establish an ombud for complaints is only at the very early stages of consideration.

Sometimes the act has a boomerang effect. Officials who fear communication and accountability are reluctant to release even the most basic information, and insist that citizens and journalists use the mechanisms of the act and apply formally for the release of even the most mundane information required.

#### **SCORES:**

Individual scores: 3, 1, 1, 2, 2, 3, 3, 3, 3  
Average score: 2.3 (2006 = 2.7)

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

#### **ANALYSIS:**

There are media-focused groups such as the South African Editors Forum (Sanef), the Media Institute of South Africa (MISA) and the Freedom of Expression Institute (FXI). The Institute for a Democratic South Africa (IDASA), the Media Monitoring Project and Genderlinks also actively campaign to extend media freedom.

There is, however, no journalists’ association or trade union. This was one of the reasons why the Forum of Black Journalists (FBJ) was revived in early 2008. The FBJ aims, among many other things, to debate the issues of “white domination in newsrooms” and news values among black journalists themselves. Critics say that it is dangerous to divide media professionals on racial terms and that the exclusion of white journalists from membership is probably unconstitutional.

FXI and – to a lesser extent - MISA have become increasingly visible over the last two years and are being recognized more and more as the representatives of media interests and activists for freedom of expression. Their activities, however, are limited to Johannesburg and do not extend to other major cities, let alone rural areas.

In broader society there is no clear understanding of the need for media freedom and freedom of expression and why these are such important rights. Civil society does not campaign for media freedom and the media themselves are not doing enough to link media freedom to the right of each and every citizen to freedom of expression.

In part the media need to blame themselves for this state of affairs. When they talk about and fight for media freedom issues they are not able to make it clear to civil society in general

that they are talking also about their rights and that any limitation of media freedom is bound to infringe individual freedoms as well. Media freedom is therefore widely misunderstood as concerning media practitioners and media companies only – and not society at large.

#### **SCORES:**

Individual scores: 4, 3, 4, 4, 4, 4, 4, 4  
Average score: 3.9 (2006 = 3.1)

### **OVERALL SCORE FOR SECTOR 1: 3.4 (2006 = 3.1)**

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

<b>2.1 A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens.</b>
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#### **ANALYSIS:**

##### **Print media:**

Overall, 44.4 % of all South Africans read one or other of all newspapers, up from 40.0 in 2005 (2007 All Media Products Survey).

This means that the majority of South Africans still do not buy or read newspapers. Some choose not to buy them, whilst for others they are unaffordable or inaccessible (a copy of the *Cape Times*, for example, costs R 5.30, nearly the costs of a loaf of bread (R 7). In some areas – such as in Gauteng and regions around city centres – a wide range of print media are available, in other areas there is little or no choice of media.

The increase in the number of readers is partly caused by the steady growth of tabloids such as the *Daily Sun*. The *Sun* has a readership of 4,755 million and a market share of 15,3%, up from 2,9 % in 2003 (AMPS), and is thus well ahead of its nearest competitor *The Star* with 1,045 million readers per day and a market share of 3.4 %.

The mainstream print media are mostly in English or Afrikaans. This means that most people cannot get print media in their home languages. However, publishing in isiZulu has been revitalised in KwaZulu-Natal:

*iLanga*, which has been around for decades, is now published twice a week and has a Sunday edition and a free edition on Wednesdays, and its readership has grown to 604.000 (AMPS 2007). In 2001 the first daily isiZulu newspaper was launched: *Isolezwe* now has a daily readership of 702.000 (2007).

The weekly *UmAfrika* had been liquidated in 2001, but was restarted in 2005 and now has 135.000 readers (2007).

Some small vernacular newspapers do exist in other areas of South Africa, but, unlike the Zulu language papers, they are not commercially profitable. There are steps under way, though, to

revitalize old Xhosa language titles.

### **Broadcasting:**

Radio has the widest reach of any media in the country – and its reach is increasing. In 2007, 81.1 % of South Africans listened to radio, up from 78.1 % two years ago (AMPS 2007). Television is up from 66.9 % in 2005 to 70.5 % last year.

There is a wide range of radio stations accessible in all South African languages – a total of 105 licensed community and 34 non-community radio stations. Community radio has a combined listenership of 18.6 % of the audience over the last seven days while the public/commercial stations boast a combined 91.0 % (AMPS 2008 – respondents named more than one station).

The *South African Broadcasting Corporation's (SABC)* television stations have the most viewers, with *SABC's* viewership of 70.2 % taking the lead, *SABC 2* coming in second with 58.3 % and *SABC 3* third with 44.9%. The private terrestrial free-to-air station *e-tv* has a share of 58.4 % and the satellite subscription service *DSTV* reaches 8.3% (AMPS 2007). – In late 2007, a first TV community station opened (*Soweto TV*) and another (in Cape Town) is about to go on air in August this year.

### **Internet:**

Survey figures for internet usage are very low, and internet is only being used by people in the top income brackets. According to AMPS 2007, 7.3 % of the total population had access to the internet at home, whilst 7.6 % of the total population had used e-mail in the past four weeks.

Most newspapers and weeklies have online editions which have received widespread acceptance among consumers and businesses.

### **SCORES:**

Individual scores: 2, 3, 3, 3, 5, 4, 4, 3, 4  
Average score: 3.4 (2006 = 2.8)

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

### **ANALYSIS:**

There is no restriction of access by state authorities and there is no censorship.

### **SCORES:**

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5, 5  
Average score: 5.0 (2006 = 4.8)

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

#### **ANALYSIS:**

Circulation in rural areas is increasing. Some tabloids such as the *Sun* have set up their own distribution networks – which is, though, in danger of collapsing: some newspaper vendors take the upfront payment of R30 and dump the newspapers instead of selling them.

Small newspapers who are members of the Association of Independent Publishers are challenging the monopoly on distribution networks held by the big media houses by setting up their own mechanisms.

#### **SCORES:**

Individual scores: 4, 3, 3, 5, 5, 5, 3, 3, 3  
Average score: 3.8 (2006 = 3.0)

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

#### **ANALYSIS:**

Broadcasting legislation has been passed and implemented. There is a three-tier system of broadcasting – public, commercial, community - in place and there is growth in all three sectors.

#### **SCORE:**

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5, 5  
Average score: 5.0 (2006 = 4.6)

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

#### **ANALYSIS:**

Community radio has been well resourced and supported over the past 14 years. Millions of rands have come in from a range of national and international funding institutions, such as the Open Society Foundation, and provide ongoing support for non profit radio stations.

Government and the private media sector together are funding a Development and Diversity Agency (MDDA) which focuses on the development of media, especially radio, in rural and poor areas. Government is said to be planning to almost double its spending on the MDDA from 2007 to 2009.

The Electronic Communication Act has simplified the process of applying for a community radio licence. Community broadcasting licences are now recognised as class licences and the process is one of registration rather than application. Registration can take place at any time and it is deemed to have been approved if there is no response from the regulator, the Independent Communications Authority of South Africa (ICASA), within 60 days of lodging the request.

ICASA and the MDDA together with the National Community Radio Form (NCRF) have also proactively sought applications from the most deprived areas with the result that 14 more stations have been licenced.

The first community television station, *Soweto TV*, is majority-owned (70 %) by the TV production company Urban Brew, raising questions whether its status is really that of a community station.

**SCORES:**

Individual scores: 5, 4, 4, 5, 5, 4, 4, 3, 4  
Average score: 4.7 (2006 = 4.6)

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

**ANALYSIS:**

There are no major state-financed and controlled print media in South Africa, although at the local level there is a growing number of small print media published by municipalities. The number of these publications is not significant yet and therefore this indicator is not applicable in South Africa.

**SCORES:** N/A (2006 = N/A)

**2.7 Local and regional independent news agencies gather and distribute information for all media.**

**ANALYSIS:**

There is one national news agency: The South African Press Association (SAPA), owned by the big media houses.

Although there have been attempts to develop specialised news agencies (focussing either on a geographic area or specific subject matter), only a few have so far succeeded. These include *African Eye News Service*, *Eastern Cape News Agency*, *Health-e*, *I-net Bridge*, *Backpage Pics* and *Touchline*.

**SCORES:**

Individual scores: 5, 5, 5, 5, 5, 5, 5, 4, 5  
Average score: 4.9 (2006 = 3.2)

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

**ANALYSIS:**

There are effective competition laws in place that provide for a competition commission to ensure a vibrant market economy. The commission is regarded as a strong and independent body.

Although there are obvious tendencies towards monopolies especially in the print sector, no

challenges have been brought before the commission yet. In the broadcasting and telecommunications sector, however, the commission has ruled on proposed mergers – for example Primedia’s planned buy-out of *Kaya FM*, where strict conditions were imposed (Primedia is not allowed to have a seat on the board of the radio station). The commission also refused a merger between Telkom, the largest telecommunications provider in South Africa, and Business Connexions, its main competitor.

#### **SCORES:**

Individual scores: 5, 5, 5, 5, 3, 5, 4, 5, 5  
Average score: 4.7 (2006 = 3.0)

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

#### **ANALYSIS:**

The media work in a capitalist environment that allows diversity in some areas and not in others.

The MDDA is not in a position to address or change the wider economic environment, but is confined to supporting non-profit and small media. Community radio has grown through outside funding.

The government has a general policy of non-subsidisation for all areas of the economy including media. The public broadcaster gets 4 % of its budget from government.

Ownership of print media is not sufficiently diverse. Unlike other branches of the economy the industry does not have its own Black Economic Empowerment Charter yet which has to be drafted by Print Media SA.

#### **SCORES:**

Individual scores: 3, 4, 3, 4, 2, 4, 3, 4, 4  
Average score: 3.4 (2006 = 2.6)

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

#### **ANALYSIS:**

According to Nielsen Media Research’s Multimedia, the adspend for print media in South Africa has risen from 6480.2 million rand in 2005 to 7683.3 million in 2006 (no newer figures are available). This indicates that the industry is doing well.

The oligopoly status of the print media, with four major companies (AVUSA Ltd [former Johnnic], Caxton, Independent Newspapers and Nasionale Pers) dominating the industry, secures a profitable economic framework. Competition from new titles such as the *Daily Sun* comes from within these conglomerates and thus does not put the comfortable status quo in danger.

#### **SCORES:**

Individual scores: 5, 4, 5, 4, 4, 5, 5, 5, 5  
Average score: 4.7 (2006 = 3.7)

## **2.11 State print media are not subsidized with tax payers' money.**

### **ANALYSIS:**

This indicator is not applicable as there are no state print media in South Africa. A government publication, *Vukuzenzele*, explains basic access to services and is seen as mostly educational and therefore a legitimate government activity.

**SCORES:** N/A (2006=N/A)

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

### **ANALYSIS:**

In 2006, 5.8 % of the total adspend came from government – a small figure in percentage terms, but a huge one in actual money terms: an amount of 1165.6 million rand.

There are, from time to time, vague threats from government to withdraw their custom if specific media publishers are seen to be too adversarial. After an in-depth and highly critical exposé on the health minister in 2007, the minister in the Presidency, Essop Pahad, intimated that government might no longer be prepared to advertise in the *Sunday Times*.

Especially at regional and local levels, government officials seem to be exercising their power over the placement of advertisements unreasonably. There is, for example, a pending court case lodged by *Grocotts Mail* against the municipality in Grahamstown for boycotting the newspaper.

**SCORES:**  
Individual scores: 1, 3, 3, 3, 2, 3, 3, 3  
Average score: 2.7 (2006 = 1.4)

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

### **ANALYSIS:**

Total adspend in 2006 was R 20093.9 million – and the amount is growing. The bulk of this money, however, goes to the four print media conglomerates and to the South African Broadcasting Corporation (SABC) – thus cementing the oligopolistic character of the industry. There still appears to be a lack of understanding amongst advertising agencies of the importance and value of middle class and poorer markets. Advertisers have recently signed a transformation charter which should help spread the placement of advertising over a greater diversity of media.

**SCORES:**  
Individual scores: 5, 4, 4, 5, 3, 3, 4, 3, 4  
Average score: 3.9 (2006 = 2.5)

**OVERALL SCORE FOR SECTOR 2: 3.9 (2006 = 3.3)**

## **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:**

The broadcasting and telecommunications regulator, the Independent Communications Authority of South Africa (ICASA), is an independent body, protected by the constitution and the ICASA Act. It has more independence than most regulators around the world.

A 2006 amendment to the ICASA Act, however, reduces the regulator's independence and seems to be in conflict with the guarantee of independence stipulated in the constitution. In general, the role of the Minister of Communications has been strengthened in regard to the appointments procedure for the Council (see indicator 3.2) but also in regard to the body's supervisory and policy making powers.

The new legislation introduces a performance management system which enables the minister to judge the performance of the chairperson and councillors on an annual basis. Such scrutiny by government certainly endangers the independence of ICASA. To date, however, this provision has not been implemented.

Furthermore, the minister is entitled to give policy directions to the regulator (with the exception of licencing). Even though these directions are not legally binding, they could put unwarranted pressure on the regulator. And while legislation explicitly prohibits ministerial involvement in licensing, the Minister of Communications issued draft directions in 2007 suggesting that a broadcasting licence be given to *World Space*. After strong protests, these directions were subsequently withdrawn.

The Amendments also allow for other funding apart from parliamentary allocations as had been the case previously. Now ICASA may receive funds through other mechanisms as determined by the Minister of Communications together with the Minister of Finance and Cabinet. However, no such determination of alternative sources of funding has yet been made. The licence fees that ICASA raises still go straight to Treasury.

All these and other changes to the original ICASA Act have been criticised by a Parliamentary Ad Hoc Committee (mandated to assess constitutionally independent authorities in South Africa) as endangering the constitutionally guaranteed independence of ICASA. The committee suggested, among others, that both the performance system and the funding mechanism be reviewed. According to the committee, ICASA should be financed by a direct parliamentary allocation and not through the Department of Communications. The report was released in August 2007, tabled in parliament in February 2008 and still has to be debated.

Due to a lack of funding, ICASA is not able to pay really competitive salaries to attract the necessary top technical skills and the best legal minds. This makes ICASA vulnerable to interferences of an economic nature and results in the body making overly cautious decisions at times in order to avoid possible litigation.



**SCORES:**

Individual scores: 4, 2, 3, 4, 3, 3, 4, 4, 3  
 Average score: **3.3** (2006 = 4.3)

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

**ANALYSIS:**

The ICASA Amendment Act 2006 changed the appointments procedure for the chairperson and councillors:

The parliamentary portfolio committee on communications calls for public nominations for members of the council – as previously.

After public interviews of short-listed candidates, the committee submits a list of names numbering at least one and a half times the number of vacancies to the Minister. Previously Parliament recommended the actual proposed appointees to the President.

The Minister then selects his/her proposed candidates from the list and submits their names to Parliament for final approval. Parliament can request the Minister to review his/her decision if it is not satisfied with the proposals. Previously, the President only had the power to either appoint or refer the list back to Parliament for review.

If Parliament approves of the proposed candidates, the Minister will appoint them and select the chairperson of the council. Previously the President appointed both the councillors and the chair.

The Parliamentary Ad Hoc Committee stated in its report that it regarded the new procedure as being “inappropriate”. It recommended that the original appointment process be reinstated, saying that it was “dissatisfied” with the Minister’s involvement in appointments as “this may create a perception that the Authority is not an independent institution”.

Apart from these shortcomings, the process is still transparent and involves civil society.

**SCORES:**

Individual scores: 4, 5, 5, 3, 4, 4, 3, 5, 3  
 Average score: **4.0** (2008 = 4.2)

**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 law stipulates that ICASA regulate broadcasting in the public interest and ensure fairness and a diversity of views. Should ICASA not meet this legal requirement, the authority can be challenged in court. Currently one of the unsuccessful bidders for a new subscription TV licence is taking ICASA to court on this issue.

**SCORE:**

Individual scores: 4, 4, 4, 4, 4, 4, 5, 5, 3  
 Average score: **4.1** (2006 = 4.0)

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

#### **ANALYSIS:**

ICASA's broadcasting policy is based on a Triple Inquiry process undertaken by its predecessor, the Independent Broadcasting Authority (IBA) in 1995. The IBA held public hearings on three key issues: the protection and viability of public broadcasting, cross media control of the media, and local television content and South African music. The results partly informed a government White Paper on Broadcasting Policy published in 1998 which in turn was the basis of the 1999 Broadcasting Act.

In similar fashion ICASA develops its own regulatory policies through an open process by at first publishing a discussion paper, inviting comments and organising public hearings.

#### **SCORES:**

Individual scores: 4, 5, 5, 5, 4, 5, 5, 5  
Average score: 4.8 (2006 = 4.3)

### **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 SABC board consists of twelve non-executive members and the Group Chief Executive Officer, the Chief Operations Officer and the Chief Financial Officer. According to section 13 of the Broadcasting Act, the non-executive members are appointed by the President "on the advice of the National Assembly". The procedure preceding formal appointment by the president is as follows:

- The portfolio committee of parliament in charge of communications places adverts in newspapers to ask for nominations.
- Members of the public can nominate anyone – except people with a financial interest in the industry.
- The committee examines the nominations, looking for representivity, skills and commitment to freedom of expression, and then shortlists candidates.
- Candidates are interviewed in public.
- The portfolio committee draws up a list of persons needed to fill the vacancies.
- This is passed to Parliament for ratification.
- The list then goes to the President for appointment.

The appointments procedure outlined above can – in legal theory – produce an independent board. But experience over the years has shown that in a country where the ruling party enjoys a majority of more than two-thirds among members of parliament, the procedure is open to misuse.

This became apparent during the selection of a new board in 2007. There was obvious direct interference from the ANC's headquarters which insisted on the inclusion of four names which had not appeared on the list drawn up by the committee, thus overruling decisions by its own

parliamentarians. This approach caused a public outrage. After the ANC conference held in December 2007 in Polokwane, the ANC under a new leadership is now dissatisfied with the composition of the board, claiming that representatives of trade unions and the youth are missing. The conflict caused a major crisis in the SABC.

#### **SCORES:**

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

Average score: **2.9** (2006 = 4.6)

<b>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.</b>
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#### **ANALYSIS:**

Before the first independent boards of the SABC (and the IBA) were appointed in 1993 all parties involved in the multi-party negotiations at Kempton Park had agreed upon a number of disqualifications for membership. The same disqualifications are still listed in the ICASA Act of 2000. The 1999 Broadcasting Act, however, dropped public servants, members of parliaments and office bearers with a political party from the original list of those who do not qualify, thus making it possible for persons with vested political interests to become members. Persons who have a conflict of interests arising from a financial interest in the telecommunications, broadcasting or printed media industry, however, may not be appointed to the board.

Because of this relaxation of conditions for membership there is now the occasional office bearer with the state on the SABC board. For example, one previous board member was a spokesperson for the KwaZulu Natal provincial government - and this was not deemed to constitute a conflict of interest. Similarly one of the new board members is currently employed as a consultant by a Ministry.

#### **SCORES:**

Individual scores: 4, 5, 4, 1, 4, 5, 3, 5, 3

Average score: **3.8** (2006 = 3.1)

<b>3.7 The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practiced.</b>
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#### **ANALYSIS:**

Protection against political interference is guaranteed by the first clause of the SABC charter. In practice, however, there are doubts whether this guarantee is indeed effective.

The first problematic area is the appointment of the three top executives of the corporation. Because the SABC is a company with the state as the sole shareholder, consecutive boards saw fit to seek the prior approval of cabinet for such appointments although by law government only has a veto right. This procedure, of course, opens the door for indirect interference in the editorial independence of the public broadcaster.

There is no clear delimitation of the different roles of the board on the one hand and management as well as editors on the other. The board regularly interferes in the day-to-day running of the SABC including news and programming. One indication of this unduly hands-on approach is the fact that the board and its committees held no less than 45 meetings in 2007.

Top management through its chief executive for news and current affairs also interferes with the day-to-day work in the news rooms by issuing questionable decrees. One example was a scandal caused by the alleged blacklisting of commentators (later in effect confirmed by a commission of inquiry) who did not find favour with the then CE. Another example was the fact that the CEO Dali Mpofu appeared at ANC conferences as a “deployed delegate” – casting serious doubt on his political neutrality.

Direct interference from politicians seems to be rare. From time to time, high ranking politicians at provincial level demand to appear on the news with interviews or statements. In most cases, editors do not bow to such pressures.

Regarding commercial influence, the public broadcaster SABC relies heavily on commercial revenue (advertising) which makes up 83% of its funding. Despite this dependence on commercial income, the SABC, compared to other broadcasters, is able to withstand direct pressure due to its near monopoly over the television airwaves and thus the TV advertising market: advertisers simply cannot afford not to be on the SABC. However, in programming other than news there is concern that content is overly influenced by sponsors (e.g. through product placement), although ICASA has strict regulations regarding the enforcement of editorial independence from advertisers and sponsors.

#### **SCORES:**

Individual scores: 3, 2, 2, 2, 3, 5, 3, 4, 4  
Average score: 3.1 (2006 = 2.7)

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

#### **ANALYSIS:**

The public service of the SABC is funded by “revenues from advertising and sponsorships, grants and donations, as well as licence fees levied in respect of the licensing of persons in relation to television sets, and may receive grants from the State” (Broadcasting Act). In addition, the corporation’s public service arm may be subsidised from its commercial division. In fact, the SABC is overwhelmingly (83 %) funded by revenues from commercial activities and has become a “commercial public broadcaster” – with the attendant risk of commercial considerations impacting on editorial decisions. Licence fees amount to 13 % of the budget. State funds (4 % of the corporation’s income) are usually granted for special programmes such as educational material. Thus, the possibility of interference by government using its financial muscle seems minimal. There are, however, other avenues for such interference, i.e. via the requirement to obtain the minister’s approval on a number of financial matters.

This dependence on mainly one (commercial) source is seen as dangerous. Steps are under way to arrive at a healthier mix of income – but such reform will take time.

**SCORES:**

Individual scores: 2, 2, 3, 2, 4, 4, 3, 2, 3  
Average score: 2.8 (2006 = 1.9)

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

More than 90 % of South Africans can receive SABC's radio and television signals with radio coming close to 100 %. The broadcaster's programmes are also accessible through web casts, mobile phones and satellite.

**SCORES:**

Individual scores: 5, 4, 5, 4, 5, 5, 5, 4  
Average score: 4.7 (2006 = 4.0)

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

Local productions on TV have increased remarkably over the last few years and this makes for more interesting viewing and diverse programming. Unfortunately, such material is often not broadcast during prime time and there are still too many repeats. Investment in South African drama productions and documentaries is still limited.

It seems that programme designers at SABC TV are mainly concerned with satisfying the younger generation – a prime target group for advertisers.

There is a lack of meaningful talk shows and discussions on TV. Those that do exist, are very short (30 minutes) and interspersed with repeated long commercial intervals. Satire or political comedy are missing completely.

The coverage of events in Africa has improved with the opening of bureaus in several countries on the continent. The quality of reporting on recent elections in Kenya and Zimbabwe was evidence of this positive development. - There is still a paucity of productions from the rest of Africa.

SABC education continues to produce quality programmes, partly sponsored by government and not influenced by commercial interests.

Radio programming is much more diverse with quite a number of talk shows, radio drama, and interesting music shows.

**SCORES:**

Individual scores: 4, 4, 5, 2, 5, 5, 3, 4, 3  
Average score: 3.9 (2006 = 3.0)

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

#### **ANALYSIS:**

The number of information programmes, in many different languages, has increased. But there are doubts about the impartiality of news and current affairs offerings.

A case in point is the saga around the blacklisting of certain commentators in 2006/2007. An inquiry found that especially the chief executive for news and current affairs displayed bias towards the ruling party in his decisions and meddled in the day-to-day running of newsrooms. Recommendations on how to remedy the situation have never been implemented.

Another example is the coverage of the succession battle in the ANC when Thabo Mbeki and Jacob Zuma were competing for the post of ANC president in the second half of 2007. It was alleged that the SABC took sides in favour of Mbeki.

One of the root causes of such bias seems to be a lack of understanding in the higher echelons of the SABC of the role of journalists as unbiased reporters and analysts of facts rather than conveyors of political messages or upholders of the status quo. A number of good journalists have left the corporation over the years because they could not accept this unprofessional blurring of identities.

Despite clear managerial shortcomings, quite a number of media workers on the ground seem to be doing their level best to produce news which are credible and fair.

This goes especially for radio. Radio, by means of a large number of popular talk shows, is also being successfully used as a means of communication for people from all walks of life to express their opinions on all sorts of topics and across the spectrum of possible views.

#### **SCORES:**

Individual scores: 4, 3, 2, 2, 3, 3, 2, 4, 3  
Average score: 2.9 (2006 = 3.3)

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

#### **ANALYSIS:**

While this might be said by and large for radio, television leaves much to be desired. Local content has increased over the past few years. But SABC TV offers very few really creative programmes. There are a number of different formats but most of them are licenced or copied from other broadcasters, such as game shows ("The Weakest Link" as one example). Locally produced soaps and sitcoms are quite popular and dominate the programme line-up.

#### **SCORES:**

Individual scores: 4, 3, 3, 2, 4, 3, 3, 3, 3  
Average score: 3.1 (2006 = 3.0)

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**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:****Print Media**

Print Media South Africa has set up a new self-regulatory mechanism in addition to the previous one-person body, the Press Ombudsman. In August 2007 the industry established a Press Council which adjudicates complaints from the public through the Ombudsman and the Press Appeals Panel.

Participation is voluntary but nearly 700 publications subscribe to this system, including all major newspapers and magazines.

The Press Council consists of six public and six media representatives. Media organisations nominate their representatives. An appointments panel comprising three council members and a judge appoints public representatives on the basis of nominations in response to advertisements in the press.

The Ombudsman will deal with complaints in the first instance. If he cannot resolve the case, he will hold a hearing with two Appeals Panel members. Any of the parties may take the decisions at the Ombudsman's level on appeal to the full Press Appeals Panel, headed by a retired judge.

On average some 200 more serious cases are being handled per year.

Findings are based on a code of conduct which was developed by media stakeholders. Given the inclusion of public representatives in the Council in 2007, it may be necessary to review this code in a process which ensures participation of the public at large.

In addition to the common body, some newspapers such as the *Mail & Guardian* and the *Saturday Star* have set up their own in-house complaints mechanism or ombud.

The ruling party ANC in December 2007 announced plans to look into the need for setting up a statutory body at parliamentary level, a Media Appeals Tribunal, which would deal with appeals against findings of the Press Council's Appeals Panel. The concept is still very vague. Legal experts are of the view that the ANC's plan will not fly because it goes directly against the constitution. The media are determined to fight it right up to the Constitutional Court, because any regulation from outside the media would limit freedom of expression.

**Broadcast Media**

In broadcasting, there are two complaints bodies – one statutory and one voluntary – and broadcasters themselves decide which one they want to fall under. The statutory Complaints and Compliance Committee (CCC) is part of ICASA. The Broadcasting Complaints Commission of SA (BCCSA) is a self-regulatory body under the National Association of Broadcasters (NAB). Both bodies have essentially the same code and similar sanctions. *SABC* and commercial operators, being members of the NAB, have opted for self-regulation. Most community broadcasters fall under the CCC, because they cannot afford membership in the NAB.

The CCC comprises eight members who are appointed by ICASA after a public nominations process and are supposed to be independent from ICASA (although presently one ICASA councillor also sits on the committee). With ICASA being in charge of regulating broadcasting and telecommunications, CCC deals with complaints from both sectors. - For some strange reason, the NAB commission is currently chaired by an ICASA councillor, a fact which puts the independence of the BCCSA into question.

There is also the Advertising Standards Authority, which is self-regulatory. It seems to be truly independent, given the fact that its decisions are frequently criticized by the advertising agencies which make up the membership of the authority.

#### **SCORES:**

Individual scores: 4, 4, 4, 3, 3, 3, 5, 5, 3  
Average score: 4.2 (2006 = 4.2)

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

#### **ANALYSIS:**

Since the advent of tabloids two years ago, there seems to be less concern with facts **also** in mainstream media and a tendency to sensationalise stories in order to outstrip the competition. There are sometimes screaming headlines which do not match the story. Billboards also use misleading headlines to sell papers, such as “Zuma: Shower cures AIDS”, referring to the admission of Jacob Zuma in court that he had taken a shower after having sex with an HIV positive woman – implying to the innocent reader that showers might indeed be an effective antidote to AIDS.

Tabloids obviously do not adhere to codes of professional journalistic standards. Although there may be reasonable doubt that these products are indeed newspapers, people buy them as such – with the result that their reckless treatment of facts and ‘news’ tends to damage the reputation of the entire profession.

There is subliminal bias and racism in many papers. Inaccuracies occur by omission of important facts.

There is a high level of awareness of these problems in all sections of the media industry and all media assert that they are striving for accuracy and fairness. They are hampered in part by a severe skills shortage and the ongoing juniorisation of news rooms. Retiring full time employees such as experienced subeditors are often replaced by contract workers.

Sometimes editors seem to have lost touch with realities on the ground. A case in point is the



coverage of the run-up to the ANC's Polokwane elective conference in December 2007. Most editors totally misjudged the prospects of the incumbent president Thabo Mbeki even though to close observers it was quite clear that the mood in the ANC branches had decisively turned in favour of Jacob Zuma. Wishful thinking obviously coloured too many comments ...

**SCORES:**

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

Average score: 2.9 (2006 = 2.8)

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

**ANALYSIS:**

Generally, the media are seen as covering the full spectrum of events. But there are serious gaps.

Events in rural areas and small towns are only rarely covered. Television news – both on the SABC stations and even more on e-tv - concentrate mainly on events in big cities such as Johannesburg, Cape Town or Durban.

The specialised beat system seems to have been abandoned because it is regarded as unprofitable – the consequence is a lack of in-depth stories. Overall the number of journalists working in the news rooms has been reduced to cut costs.

Many managers of publishing companies see their job as no different from that of running any other profit-oriented business, rather than as a mission coupled with a special kind of responsibility like old-fashioned publishers did.

On the other hand, in recent years investigative journalism has become a lot stronger. Examples for this positive trend are *Mail & Guardian*, *Sunday Times*, *Noseweek*, *City Press* and SABC's *Special Assignment*. Investigate reporting is being encouraged through lucrative awards.

**SCORES:**

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

Average score: 3.2 (2006 = 3.2)

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

**ANALYSIS:**

There are still pay and position disparities that disadvantage women in the work place.

The last few years, however, have seen an increase of women in leading positions of media houses. Newspapers appointed a number of women to posts in the upper echelons and there are more women in the news rooms. In the broadcasting sector in particular more women now work as reporters and presenters as well as producers. Even traditionally male jobs such as those of cameramen are now increasingly taken on by camerawomen.

At broadcasting houses there are now more female board members than two years ago. The SABC has gender mainstreaming policies in place and transformation has become more visible. These improvements have been helped by the fact that gender equity is part of the licence conditions for all broadcasters.

The Employment Equity Act requires that equity targets be met in all industries. In the print media, though, there is still a tendency to fast-track black males at the expense of women.

#### **SCORES:**

Individual scores: 3, 4, 3, 4, 3, 4, 4, 3  
Average score: **3.6** (2006 = 2.6)

### **4.5 Gender mainstreaming is reflected in the editorial content.**

#### **ANALYSIS:**

With the rise of women to elevated positions in government and business in South Africa, more women's voices and images are appearing in the media. There has been much publicity around this area and most media make a conscious effort to be more sensitive about women's issues.

Despite this positive development, women are still not consciously sought out as sources for news and views. Commentary is still coloured by male perspectives as most of the commentators and columnists are men.

There are also many examples of women still being portrayed as sex objects, for example on the back pages of some newspapers, through sexy images in tabloids and advertisements and in the way women are directed to move, dress and act in music videos.

#### **SCORES:**

Individual scores: 4, 4, 3, 2, 3, 2, 4, 3, 3  
Average score: **3.1** (2006 = 2.4)

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

#### **ANALYSIS:**

Editors and journalists are aware of the potential pitfalls of reporting unpopular news especially when it concerns prominent people or where it involves advertisers. Editors in particular weigh the consequences of their decisions – is it worth the risk to publish a certain story? The facts in the exposé on the health minister's alleged unbecoming behaviour during a hospital stay, for example, had been known to many in journalistic circles for some time but it was left to a powerful newspaper like the *Sunday Times* to actually publish them. Corruption stories around the preparations for the 2010 Soccer World Cup are frequently spiked – to protect the interests of the country.

#### **SCORES:**

Individual scores: 3, 1, 3, 2, 3, 3, 1, 1, 3  
Average score: **2.2** (2006 = 2.3)

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

##### **ANALYSIS:**

Editors are increasingly being roped into managerial decisions at board level. Managements of media houses underline the fact that they, too, must play their part in making their publications profitable. This leads to the danger of editors paying more heed to commercial considerations rather than editorial commitments, with all the negative impact on their independence and the quality of stories.

What used to be known as the “Chinese wall” - the strict separation between editorial and advertising content – seems to have broken down, in both print and broadcast media (with the exception of the *Mail & Guardian*). Stories with a possible negative impact on advertisers (and thus on advertising revenue) are not as readily published now as they were perhaps a decade ago.

Advertorials are on the increase and all too often not distinguishable from editorial content, for example in the *Financial Mail* and *Tribute* magazines.

Budget issues and commercial pressures to appeal to particular audiences are also seen as limiting an editor’s ability to choose her/his editorial mix.

##### **SCORES:**

Individual scores: 3, 1, 3, 1, 2, 4, 2, 1, 2  
Average score: 2.1 (2006 = 2.5)

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

##### **ANALYSIS:**

Salaries in the media industry are generally high enough to discourage corruption. An SABC survey showed journalists’ salaries to be market-related or better.

On the other hand, in a bid to save money and increase profits media companies are increasingly hiring non-permanent staff as reporters or sub-editors, people who might be more vulnerable to temptations. It does not help the situation that there is no trade union for journalists in place.

The biggest problem in this regard is one experienced by all media: a lack of resources to cover stories. In order to travel and cover stories, financial help for accommodation and transport is accepted. This relates to political stories, coverage of government activities, sports, travel, motoring, entertainment, arts and culture etc. This constitutes a serious threat to journalistic independence as journalists feel indebted to their sponsors and under pressure not to be too critical. It also results in editorial choices being made not because of news value but because of the generosity (or otherwise) of the organisers of events. Occasionally, some print media acknowledge the fact that it was possible to realise a particular story thanks to such financial help – but this is not a widespread practice except in relation to travel stories.

Freebees (such as cash, cellphones or free travel) from the motor, sports and entertainment industries are quite common and readily accepted by many journalists.

Print media and broadcasting have codes and processes meant to prevent corruption. No prom-

ises are allowed to be made regarding coverage in exchange for trips. The rule is that coverage and reviews will be critical but balanced, and news choices will be based only on news values. Many newspapers have ethics codes in place which, for example, prevent journalists from accepting gifts valued at more than R100 (an unrealistically low figure) or from going on trips when they are not covering a story.

Cases of “brown envelope journalism” (stories that are paid for) are rare but they do occur.

#### **SCORES:**

Individual scores: 3, 2, 3, 3, 2, 3, 3, 4, 3  
Average score: **2.9 (2006 = 2.9)**

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

#### **ANALYSIS:**

Journalism and/or media studies qualifications are offered at most universities and technikons. A few universities also offer post-graduate journalism degrees.

The media industry complains, however, that tertiary journalism qualifications are not of sufficiently high standard, that practical skills are not adequately imparted and that those who received tertiary training have been found to lack competency when put into newsrooms. It seems that institutions like the previous Technikons have a more hands-on approach than the traditional universities. The latter, though, are also introducing more and more practical components into their curricula and the quality of their graduates is improving.

There are some training institutions, in particular the Institute for the Advancement of Journalism, that run short courses for on-going training of working journalists. Most of these previously offered only certificates of attendance, but with the institution of the National Qualifications Framework and the Sector Education and Training Authorities (Setas), a basic journalism qualification has been drawn up with three possible areas of specialisation. Setas are supposed to be financed by the National Skills Levy obtained from the industry which in turn can claim expenses from this fund for skills programmes and training towards qualifications.

In practice, however, the Seta has all but collapsed. This had a negative impact also on in-house training. But most media houses have continued their efforts to provide journalism training, e.g. cadet courses, and further education to staff.

#### **SCORES:**

Individual scores: 3, 5, 3, 2, 3, 4, 5, 5, 4  
Average score: **3.8 (2006 = 4.0)**

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

#### **ANALYSIS:**

The South African National Editors’ Forum (SANEF), a professional organisation for editors

and senior journalists, is active and most editors are members of the forum. The Media Institute of Southern Africa (MISA) has an operational South African chapter. Other organisations are the Forum of Black Journalists (FBJ) which was revived in early 2008, the Association of Independent Publishers and the National Community Radio Forum (NCRF).

However, there are presently no specialised trade unions which would look after the interests of journalists and media workers in general.

#### **SCORES:**

Individual scores: 1, 2, 1, 1, 1, 3, 2, 2, 2  
Average score: 1.7 (2006 = 3.4)

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**OVERALL SCORE FOR SECTOR 4: 3.0 (2006 = 3.0)**

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**OVERALL COUNTRY SCORE 2008 3.5 (2006 = 3.2)**

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### **Developments since 2005 and the Way Forward**

#### ***Positive developments in the media environment in the last two years:***

- Succession battle in the ANC opened up more space for open and vigorous debate; more politicians make themselves available for comments and information.
- More newspapers and publications on the market, especially in languages other than English or Afrikaans.
- Number of South African blogs on the internet is rapidly increasing.
- Litigation in courts of law resulted in judgements supporting freedom of expression and the media.
- Parliamentary Ad Hoc Committee recommended that real independence of the regulator ICASA be re-established.
- More community radio stations thanks to an easier licensing process.
- Debate on race relations is more vigorous and more honest.
- Improvement in quantity and quality of investigative stories.

#### ***Negative developments in the media environment in the last two years:***

- All media (with the exception of community radios) are increasingly run as commercial businesses.
- ICASA Amendment Act infringes on the independence of the regulator.
- Editorial independence of SABC in question due to unwarranted interferences by chief executive news and current affairs and the board.
- Weaknesses in the Access to Information legislation.
- No specialised trade unions looking after the interests of journalists.
- Failure on the part of media lobby groups to project freedom of expression as a public issue.
- Lack of coverage of social movements protests.
- Lack of understanding of the real meaning of democracy among top political leaders.

#### ***Activities needed over the next few years:***

- Protection and enhancement of the independence of ICASA and SABC.
- Initiating revival or establishment of trade unions for journalists.

- Comparative survey on journalists' salaries and working conditions.
- Improved monitoring of community radio stations to check whether they really fulfill their mandate.
- Review of Access to Information legislation.
- Awareness campaign with the objective to improve the understanding of the role of the media amongst the general public, e.g. through regular public meetings with media editors.
- More interaction between judges and the media.
- Encouragement of more specialised in-depth reporting.
- The panel meeting took place at Zulu Nyala Country Manor and Conference Centre, Fourways, Johannesburg, April 12 to 13 April 2008.

**The panel meeting took place at Zulu Nyala Country Manor and Conference Centre, Fourways, Johannesburg, April 12 and 13, 2008.**

**The Panel:**

**Ms Amina Frense, broadcaster and media activist; Ms Libby Lloyd, media consultant; Mr Cyril Madlala, editor and publisher; Ms Virginia Magwaza-Setshedi, social movement activist; Mrs Thoko Makhanya, health and environment activist; Ms Jeanette Minnie, freedom of expression expert; Mr Simphiwe Sesanti, media lecturer Stellenbosch University; Mr Mfanafuthi Sithebe, former trade unionist; Mr Tseliso Thipanyane, human rights lawyer.**

**The Rapporteur:**

**Ms Joan Chomakhidze**

**The Facilitator:**

**Mr Hendrik Bussiek**





# Tanzania 2008

**Civil society perceptions on the state of  
media freedom & freedom of expression**



# African Media Barometer Tanzania

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

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

#### ANALYSIS:

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

- a freedom of expression and of opinion;
- b seek, receive and impart information without regard to national boundaries;
- c communicate and the right to non-interference of that communication;
- d Be informed at anytime on important happenings that are of importance to the life and wellbeing of citizens and about important issues of concern to the society.

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

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

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

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

The panellists held the same opinion on Zanzibar, where although there are Constitutional

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

guarantees on the right to free expression and information these rights are abrogated by the existence of laws such as Newspapers and Broadcasting Acts which do not support access to information, freedom of expression and are unfriendly to the media.

#### **SCORES:**

Individual scores: 3, 1, 2, 2, 3, 2, 4, 3, 2  
Average score: 2.4 (2006= 2.8)

<b>2.2. The right to freedom of expression is practised and citizens, including journalists, are asserting their rights without fear.</b>
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#### **ANALYSIS:**

There was general consensus that free expression of opinion especially among the citizens is still low. Although people do discuss a lot of issues in informal settings such as in dalalas<sup>2</sup>, it is still difficult to do so in open forums without fear of repercussions. However, there was also consensus that perhaps due to the tolerance of the current Government, a lot is now being discussed freely than ever before.

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

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

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

#### **SCORES:**

Individual scores: 3, 1, 3, 2, 3, 4, 3, 4, 2  
Average score: 2.8 (2006= 2.1)

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<sup>2</sup> Dala Dalas – public buses

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

#### **ANALYSIS:**

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

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

#### **SCORES:**

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

Average score: 1.7 (2006= 1.6)

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

#### **ANALYSIS:**

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

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

#### **SCORES:**

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

Average score: 2.5 (2006= 2.4)

### **3.5 Protection of confidential sources of information is guaranteed by law.**

#### **ANALYSIS:**

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

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

#### **SCORES:**

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

Average score: 2.3 (2006= 1.6)

<b>3.6 Public information is easily accessible, guaranteed by law, to all citizens including journalists.</b>
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**ANALYSIS:**

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

**SCORES:**

Individual scores: 2, 1, 1, 1, 1, 2, 2, 1, 1  
Average score: 1.3 (2006= 1.1)

<b>3.7 Civil society in general and media lobby groups actively advance the cause of media freedom.</b>
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**ANALYSIS:**

It is estimated that there are over 10,000 registered NGO's in the country. There are also about 11 registered media associations. However, most of the media associations are weak and not effective.

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

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

**SCORES:**

Individual scores: 3, 2, 2, 3, 1, 4, 3, 3, 3  
Average score: 2.7 (2006= 2.8)

**Overall score for sector 1:**

**2.2 (2006= 2.1)**

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

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

#### **ANALYSIS:**

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

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

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

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

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

#### **SCORES:**

Individual scores: 2, 2, 2, 3, 4, 4, 3, 2, 3  
Average score: 2.8 (2006= 2.9)

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

#### **ANALYSIS:**

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

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

#### **SCORES:**

Individual scores: 4, 3, 2, 5, 5, 5, 4, 5, 4  
Average score: 4.1 (2006=3.1)

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

### **ANALYSIS:**

The panellists noted that even though newspapers are started almost everyday, circulation is still limited to regional centres and to a very small extent to district level. Also the 'mortality' rate of newspapers is very high and many fold up in the first year of operation because of a poor economic base. There are very few banks that would provide loans for one to run a newspaper as it is considered a high risk business. Some people also start newspapers without conducting a feasibility study that would show how it would sustain itself economically.

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

### **SCORES:**

Individual scores: 1, 3, 2, 1, 2, 3, 1, 1, 2  
Average score: **1.8 (2006= 2.4)**

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

### **ANALYSIS:**

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

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

### **SCORES:**

Individual scores: 3, 3, 1, 2, 4, 3, 3, 3, 3  
Average score: **2.8 (2006= 2.6)**

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

### **ANALYSIS:**

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

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

### **SCORES:**

Individual scores: 1, 2, 2, 1, 2, 2, 3, 2, 1  
Average score: 1.8 (2006= 2.7)

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

### **ANALYSIS:**

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

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

### **SCORES:**

Individual scores: 1, 1, 1, 2, 2, 3, 3, 2, 2  
Average score: 1.9 (2006= 1.6)

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

### **ANALYSIS:**

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

### **SCORES:**

Individual scores: 2, 1, 1, 1, 1, 1, 1, 2, 2  
Average score: 1.3 (2006= 1.1)

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

### **ANALYSIS:**

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

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

### **SCORES:**

Individual scores: 2, 2, 2, 3, 3, 3, 3, 2, 2  
Average score: 2.4 (2006= 1.6)

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

### **ANALYSIS:**

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

The panellists noted that the Government which is a major advertiser chooses the media outlets that are "friendly" to it to advertise. TBC, supposedly a public broadcaster gets tax payers money to run it and at the same time competes for advertisements with the private radio and



TV stations. It was noted that it is easy for TBC to undercut its competitors because it receives subventions from the Government.

**SCORES:**

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

Average score: 2.1 (2006= 3.2)

<b>2.10 Private media outlets operate as efficient and professional businesses.</b>
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**ANALYSIS:**

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

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

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

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

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

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

**SCORES:**

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

Average score: 1.9 (2006= 1.8)

<b>2.11. State print media are not subsidized with taxpayers' money.</b>
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**ANALYSIS:**

State media like Zanzibar Leo newspaper receives Government subsidy. Daily News and its sister paper Habari Leo are run by a parastatal company but it was not clear if it also gets direct

subsidies from the Government. They also receive other support such as guarantees of loans to buy their printing press and low rents for their premises.

**SCORES:**

Individual scores: 2, 2, 1, 2, 2, 2, 2, 2  
Average score: 1.9 (2006= 2.4)

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

**ANALYSIS:**

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

There are media outlets which do not receive any Government advertisements because they are deemed to be too critical of Government. There have been even attempts by Government to restrain advertisements that are deemed too critical of Government. For example the Haki Elimu advertisements which depicted a glaring disparity in the education standards and opportunities for Tanzanian children from poor and affluent families were discontinued from being aired on radio and television because the Government felt that they distorted its image.

**SCORES:**

Individual scores: 1, 1, 1, 1, 4, 3, 3, 2, 2  
Average score: 2.0 (2006= 2.4)

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

**ANALYSIS:**

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

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

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

**SCORES:**

Individual scores: 1, 1, 1, 2, 3, 3, 2, 2, 2  
Average score: 1.9 (2006= 2.1)

**OVERALL SCORE FOR SECTOR 2:**

**2.2 (2006=2.3)**

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

#### **3.1 Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.**

##### **ANALYSIS:**

The Tanzania Communications Regulatory Authority (TCRA) was established through Act no. 12 of 2003. The Director General of TCRA is a presidential appointee and the Chairperson and Vice Chairperson of its Board of Directors are also presidential appointees. It thus casts a shadow of doubt on allegiance when the Director General is appointed by the President.

It was noted that TCRA is perhaps one of the richest institutions in the country in terms of revenue collection because apart from collecting licensing fees from broadcasting stations, it is also responsible for licensing fees and other related revenues from mobile phone companies, and other communications utilities.

However, its budget allocation is provided through the Ministry of Communication and Infrastructure, and this may jeopardize the regulatory body economically.

##### **SCORES:**

Individual scores: 2, 3, 3, 3, 2, 2, 2, 3, 2  
Average score: 2.4 (2006= 1.9)

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

##### **ANALYSIS:**

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

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

##### **SCORES:**

Individual scores: 1, 3, 4, 1, 1, 2, 2, 1, 1  
Average score: 1.8 (2006= 2.0)

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

#### **ANALYSIS:**

There is some inconsistency noted in the distribution of frequencies. One of the panelist cited the case of the Tanzania Media Women's Association (TAMWA) which had applied for a frequency but was denied because TCRA said the frequency spectrum for Dar es Salaam was full. TAMWA was advised that if it wanted to establish a radio station outside Dar es Salaam, then a frequency would be granted. However, TAMWA noted that even though they were denied a frequency Passion FM which had applied after them got a frequency to broadcast in Dare es salam. Habari Corporation was denied too. TCRA advised TAMWA to negotiate with TBC which apparently was in possession many frequencies which they were not using. TAMWA declined.

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

#### **SCORES:**

Individual scores: 2, 4, 3, 3, 3, 3, 3, 2, 2  
Average score: 2.8 (2006= 3.0)

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

#### **ANALYSIS:**

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

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

#### **SCORES:**

Individual scores: 4, 2, 4, 3, 3, 3, 4, 5, 4  
Average score: 3.6 (2006= 3.8)

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

#### **ANALYSIS:**

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

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

**SCORES:**

Individual scores: 2, 1, 1, 2, 2, 2, 3, 1, 1  
Average score: 1.7 (2006= 1.5)

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

**ANALYSIS:**

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

**SCORES:**

Individual scores: 2, 2, 4, 3, 1, 2, 1, 1, 1  
Average score: 1.9 (2006= 1.3)

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

**ANALYSIS:**

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

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

**SCORES:**

Individual scores: 2, 2, 4, 3, 2, 2, 3, 1, 3  
Average score: 2.4 (2006= 1.3)

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

**ANALYSIS:**

As stated above TBC is funded through the ministry's budget allocations and advertising revenue. It must balance the act of maintaining the friendship and expectations of the government

in power so that it maintains adequate levels of funding, and at the same time ensure that it is in the good books of its commercial clients so that it continues to attract advertisements. Both funding mechanisms can not guarantee non- interference of its budget.

**SCORES:**

Individual scores: 3, 2, 3, 3, 1, 2, 3, 1, 2  
Average score: 2.2 (2006= 2.5)

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

**ANALYSIS:**

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

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

**SCORES:**

Individual scores: 5, 4, 4, 5, 5, 4, 5, 4, 4  
Average score: 4.4 (2006=4.0)

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

**ANALYSIS:**

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

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

**SCORES:**

Individual scores: 5, 4, 4, 5, 4, 4, 5, 4, 4  
Average score: 4.3 (2006= 3.9)

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

**ANALYSIS:**

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

being aired. There is therefore a need for the public broadcaster to be adequately funded and not compete for advertisements because it becomes difficult to balance its public role when it has to look for money.

**SCORES:**

Individual scores: 3, 3, 4, 4, 3, 4, 3, 4  
Average score: 3.6 (2006= 3.1)

<b>3.12 The public broadcaster offers as much diverse and creative local content as economically achievable.</b>
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**ANALYSIS:**

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

**SCORES:**

Individual scores: 4, 2, 3, 4, 3, 4, 4, 4, 4  
Average score: 3.6 (2006= 3.9)

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

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## **Sector 4. The media practice high levels of professional standards.**

<b>4.1 The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies.</b>
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**ANALYSIS:**

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

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

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

**SCORES:**

Individual scores: 2, 3, 3, 3, 2, 4, 3, 3, 3  
Average score: 2.9 (2006= 3.4)

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

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

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

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

**SCORES:**

Individual scores: 2, 2, 3, 3, 3, 3, 3, 3, 3  
Average score: 2.8 (2006= 2.1)

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

The standard of professionalism is still low. A study conducted in 2007 on media coverage indicated that politics followed by crime and sports stories take prominence. Reporting on HIV/AIDS and Gender is still characterised with stigmatization and stereotyping respectively. There is also a lot of sensationalism. However, it was noted that generally speaking there are efforts being made to improve the state of affairs. One panellist said that since there is improvement even academia is now accepting media citations in academic work.

Investigative journalism is on the rise and the media has in the recent past exposed major scandals involving high placed government and ruling party officials. However journalists still lack skills in analyses and interpretation of issues.

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



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

**SCORES:**

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

Average score: 2.3 (2006= 3.1)

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

**ANALYSIS:**

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

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

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

**SCORES:**

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

Average score: 2.3 (2006= 2.8)

**4.5 Gender mainstreaming is reflected in the editorial content**

**ANALYSIS:**

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

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

**SCORES:**

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

Average score: 2.7 (2006= 2.5)

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

##### **ANALYSIS:**

Self –censorship is practiced quite a lot because they are very few media houses with known policies to its editors and journalists and which the policies are enforced. Self censorship is overt in content and layout of papers. The degree of self censorship is based on minimizing harm.

##### **SCORES:**

Individual scores: 2, 1, 1, 3, 1, 1, 3, 3, 3  
Average score: 2.0 (2006= 2.1)

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

##### **ANALYSIS:**

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

##### **SCORES:**

Individual scores: 2, 1, 2, 2, 1, 1, 3, 2, 3  
Average score: 1.9 (2006= 1.4)

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

##### **ANALYSIS:**

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

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

##### **SCORES:**

Individual scores: 1, 1, 3, 2, 2, 2, 2, 2, 3  
Average score: 2.0 (2006= 2.0)

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

##### **ANALYSIS:**

There are a number of journalism training institutions offering courses in the country. At Bachelors level, they include the University of Dar es Salaam, St. Augustine University, Tumaini University and the Muslim University. Other training institutions also exist but lack facilities. Some have been registered as business entities.

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

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

##### **SCORES:**

Individual scores: 2, 2, 3, 2, 2, 2, 3, 3, 2  
Average score: 2.3 (2006=3.2)

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

##### **ANALYSIS:**

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

##### **SCORES:**

Individual scores: 2, 1, 2, 2, 3, 2, 3, 3, 3  
Average score: 2.3 (2006= 2.2)

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

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## **Sector 5 Follow- up questions in Round Two: To facilitate a new strategy for the next two years.**

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

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

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

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

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

### **3) What are the main obstacles for (further) positive change?**

- Lack of resources financial and technical. Most of the reforms/ changes are donor supported;
- Not everyone is on board in the Government as well as in the public. There is resistance by certain conservative people who do not want to accommodate changes;
- Some of the changes are externally engineered and do not have the local support;
- Problem of infrastructure;
- Absorption capacity of the reforms differs quite a lot. If you are not well informed you may be left behind while if you are ahead, you will be frustrated by those pulling you back.
- Poor quality of manpower/lack of professionalism;
- Monopoly/media concentration is getting tighter; and
- Fragmentation of media owners who do not speak with one voice.

### **4) If negative changes: who or what has been the main cause?**

- "High mortality rate" of media outlets mostly caused by a weak economic base;
- Degradation of moral standards in which the media has contributed;
- Standards have fallen down in the profession even though they are more graduates joining the profession. This may be due to theoretical training rather than practical

- training emphasized by the training institutions;
  - Media houses bought by politicians for example Habari Corporation caused a major upset in the media scene when it was sold to a politician. It was the only media owned and managed by the journalists;
  - The purchasing power of the people has gone down making it difficult for them to afford media products. This has also seen circulation going down.
- 5) Who could be the drivers/actors for change in the future?
- The media professionals in consultations with the stakeholders in particular the civil society and the public;
  - MISA to coordinate the professionals to undertake the changes that the media deems necessary;
  - The Government should have a role to play as it is a major stakeholder of the media.
- 6) What kind of activities are needed over the next two years?
- Intensification of the national debate on the status of journalism in Tanzania especially whether it is a trade or profession;
  - Continue with policy and legal reforms;
  - Unionization of journalists;
  - Creation of media literacy programmes;
  - Capacity building of journalists;
  - Harmonization of the training of journalists, and push to have a standardized curriculum;
  - Government to level the playing field in terms of advertising revenue;
  - Give feedback/disseminate to the media about the results of the African Media Barometer.

**The panel meeting took place at the Zamani Kempinski Hotel, Zanzibar, Tanzania on July 5 and 6, 2008.**

**The Panel:**

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

**The Rapporteur:**

**Ms. Pili Mtambalike**

**The Facilitators:**

**Ms. Grace Githaiga and Zoé Titus**

## Appendices

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

**Appendix 1: a list of laws which impede access to information, press freedom and freedom of expression that need to be either repealed, amended or reviewed from a study conducted by the Coalition on Freedom of expression and Media**

			Regulation 7(1), (2) and (3)	Annul Regulation 7(1), (2) and (3)	<p>Regulation 7 is in total infringement of the best international practice on access to information by requiring the requestor of information to assign reasons or lodging complaint before obtaining information</p> <p>It is also a breach of natural justice of “audi alteram Partem” meaning “ no one shall be convicted unheard” especially when the requestor alleges before getting relevant information against the leader.</p> <p>Prior disclosure of a cause may lead to obtaining false or manipulated information.</p>
2	Cap. 322 R.E. 2002	The Police Force and Auxiliary Police Act, Cap. 322, R.E. 2002	Sections 43, 44, 45 and 46	Amend Sections 43, 44, 45 and 46 to promote right to information, procession and expression as guaranteed by the Constitution of the United Republic of Tanzania 1977	<ul style="list-style-type: none"> <li>- the provisions provide too much subjective discretionary powers to police officers and do not lay down objective criteria for issuing stop orders. Such powers may be arbitrarily exercised.</li> <li>- The provisions do not impose duty on police officers to facilitate the guaranteed freedom of assembly. Protection to assemblies and processions is not legally guaranteed in the Act.</li> </ul>

Cap. 328, R.E. 2002	The Petroleum (Exploration and Production) Act, Cap. 328, R.E. 2002	Section 10	Amend section 10 to remove restrictions against disclosure of information	The prohibition of disclosure of information in Section 10 is unnecessary as it does not serve any purpose.
		Section 57	<ul style="list-style-type: none"> <li>- Amended by adding, immediately after subsection (1) a new subsection (2) with the following words “ 2. All such information as prescribed in the first schedule shall be laid before Parliament by the Minister”</li> <li>- Renumbering the subsections accordingly</li> </ul>	The information obtained must be subjected to public scrutiny
Cap. 123, R.E. 2002	The Mining Act, Cap. 123, R.E. 2002	Section 21	Amend section 21 to remove restrictions against disclosure of information based on consent of the mineral rights holder	- Minerals are public resources the information on which should be readily available to the public.
		Section 99	Amendment by adding immediately after subsection (1) the words “ and such information shall be laid before Parliament by the Minister”	
Cap. 399, R.E. 2002	The Tanzania Revenue Authority Act, Cap. 399, R. E. 2002	Section 8	Repeal Section 8	The provision promotes tax evasion. It is contrary to right to access information as provided in the Constitution and the Right To Information Act 2008.
Cap. 58, R.E. 2002	The Prisons Act, Cap. 58, R.E. 2002	Sections 93	Amend by renumbering it as a new section 93 (1). Add another subsection (2) with the following words: “The Commissioner shall not unreasonably withhold information relating to condition of prisons and prisoners, experience in prison and administration of any prison to any person.”	<ul style="list-style-type: none"> <li>- This is to limit the arbitrariness of the Commissioner.</li> <li>- The amendment is aimed also at promoting compliance with international human rights standards relating to the rights of prisoners and treatment of offenders</li> </ul>



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

10	Cap. 306, R.E. 2002	The Broadcasting Services Act (Act No. 6 of 1993)	The Whole Act	Repeal the whole Act	<ul style="list-style-type: none"> <li>- The necessary provisions are included in the TCRA Act, 2003 and the Media Services Bill, 2008.</li> <li>- Broadcasting is now regulated under the Media Services Act, 2008 which recognizes the existence of a three tier broadcasting ( Public service, Private and Community Broadcasting)</li> </ul>
11	Act No. 12 of 2003	The Tanzania Communications Regulatory Authority Act, 2003	Section 25	Amendment by deleting the following words in the first paragraph: “Charter” means an agreement entered between the Government and the Tanzania Broadcasting Services with regard to the provision of public service broadcasting in the country;	The requirement for a Charter is no longer relevant. In order to have equal and balanced regulation of media, all media should comply with the rules and regulations set out by law as implemented by TCRA.
			Section 27 (1) (d)	Repeal Section 27 (1) (d)	The powers to deal with issues of media ethics have been vested on the independent stakeholders’ media council under the Media Services Bill, 2008

			Part V	Repeal part V	The part establishes TUT- now called TBC which is also established under section 4 of the Public Corporations Act. The provisions of Part V also creates conflict of interest between the regulatory body (TCRA) and the service provider (TBC). It is provided in the Media Services Bill, 2008 that TBC should be transformed into the Public Service Broadcasting and not to transact commercial or community broadcasting. The requirement of a Charter between TCRA and TBC is considered unnecessary. The Regulator, TCRA, should treat all media outlets equally and fairly without bias.
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12	Act No. 21 of 2002	The Prevention of Terrorism Act, 2002	Section 9	Repeal the whole of section 9	The provision contradicts the right to seek, receive and impart information within Tanzania as guaranteed by the Constitution. Besides, a number of acts that constitute an offence under the section are also offences under the Penal Code and or the National Security Act, 1970.
			Sections 30 and 31	Repeal both sections and renumbering	Right to privacy and protection against interference as guaranteed under Article 18(c) of the Constitution of the United Republic of Tanzania, 1977

13	Cap 47, R.E. 2002	The National Security Act (Act No. 3 of 1970)	Section 2	Definition of “specified authority” shall be amended by deleting paragraphs (b), (c ) and (d) and insert new paragraphs as follows: “(b) the Government of the United Republic of Tanzania” and “(c) the Revolutionary Government of Zanzibar”	The repealed paragraphs were too broad to include unnecessary persons
			The National Security (Classified Matters) Notice, G.N. 133 of 1970	Annul the whole G.N. 133 of 1970	The whole Notice is contrary to the best practice on access to information. All classified information should be redefined to comply with the Right to Information Act, 2008.
14	Cap 255, R.E. 2002	The General Loan and Stock Act (Ordinance No. 21 of 1948)	The whole Act	Repeal the whole Act	The Act contravenes the Constitution. The right to access information is highly infringed for Tanzanian nationals and media.
15	Cap. 351, R.E. 2002	The Statistics Act (Act No. 1 of 2002)	Section 18(1)	Repeal section 18(1) and renumbering	The Section contravenes the Right to Information guaranteed by the Constitution. Concealing statistics is a curtailment to development of people.

			Section 21	Amend the last statement to Section 21 by deleting the words “...the Bureau shall take such steps as are necessary to ensure the security and confidentiality of the statistical information” and replacing it with the words: “the Bureau shall take such steps as are necessary to ensure the security and integrity of the statistical information”	Statistics are public information. They should be available to the public whenever necessary without unnecessary restrictions.

16	Act No. 11 of 2004	The Income Tax Act 2004	Section 140	Repeal Section 140	The continued concealment of information relating to tax is to promote mismanagement of public funds. Access to information should only be restricted as provided by the Constitution or the Right to Information Act, 2008
17	Cap 309, R.E. 2002	The Records and Archives Management Act (Act No. 3 of 2002)	Section 9(1)(d)	Repeal Section 9(1)(d) and renumbering	The grounds stated therein are contrary to the Constitution and RTI Act, 2008
			Section 16	Repeal Section 16	The Thirty years exemption from disclosure of public information is likely to be abused. The relevant provision has been set out under section 20 of the Right to Information Act 2008 for a maximum of ten years. However, certain information may remain exempted from disclosure after expiry of ten years.



# Zimbabwe 2008

**Civil society perceptions on the state of  
media freedom & freedom of expression**

# African Media Barometer Zimbabwe

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

<b>1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.</b>
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### ANALYSIS:

Section 20 (1) of the Constitution of Zimbabwe says: “No person shall be prevented from exercising his or her freedom of expression, which includes the freedom to hold opinions and to receive and/or communicate ideas and information without interference.” Clause 2 of the same section, however, provides that freedom of expression can be limited if it is necessary

- in the interest of defence, public safety and economic interest of the state, public morality/ public health;
- to protect the independence of courts and parliament;
- to protect the freedoms and reputation of others.

These statutory limitations are not permissible “as far as that provision ... is shown not to be reasonably justifiable in a democratic society”. This means that the individual seeking to assert the right to freedom of expression must prove that a particular restriction is not justifiable.

Freedom of the press and/or the media is not expressly guaranteed.

Pieces of legislation restricting the right to freedom of expression include but are not limited to the Public Order and Security Act Chapter 11:7 (POSA), the Access to Information and Protection of Privacy Act Chapter 10:27 (AIPPA), the Broadcasting Services Act Chapter 12:06 (BSA) and Criminal Law Amendment Act. These Acts make it difficult to assert the constitutional right to freedom of expression as they override it.

Although POSA, AIPPA and BSA were amended on 21 December 2007 the overall frameworks of the Acts remain the same. Media lobby groups and activists noted with concern that the three pieces of legislation were passed in one day in one sitting of Parliament. Cynics regard these changes as cosmetic and a smokescreen put up by Government to give the impression of conceding to requests made by the opposition during mediation talks between the ruling ZANU (PF) and opposition Movement for Democratic Change brokered by South Africa’s President Thabo Mbeki.

Under the amended AIPPA, the Media and Information Commission has been replaced by the Zimbabwe Media Commission which will comprise a chairperson and eight other members. The ZMC will be appointed by the President from a list of 12 nominees to be submitted by Parliament’s Committee on Standing Rules and Orders. The functions of the ZMC will be similar to those of the MIC.

The amendments include a new section which authorises the ZMC to establish a Media Council headed by a chairperson and consisting of representatives from different sectors that will be nominated by:

- an association of accredited journalists
- an association of publishers
- an association of advertisers
- an association of mass media trainers
- an association of churches
- an association of trade unions
- an association of womens' groups
- an association of youth.

According to AIPPA, the various associations must “in the opinion of the Commission be fairly representative” of their respective sector. If any association fails or refuses to submit nominations the Commission will then appoint a person of their own choice. In the final analysis, therefore, government appointees will determine the composition of this Media Council.

This creation of a Media Council is a parallel process that directly conflicts with and undermines the formation of the (voluntary) Media Council of Zimbabwe in June 2007 by the Media Alliance of Zimbabwe, comprising the Media Monitoring Project Zimbabwe, the Zimbabwe Union of Journalists and the Media Institute of Southern Africa. The Council was set up after wide consultation with media practitioners, media organisations and key stakeholders which included relevant government ministries and personnel.

Another amendment to AIPPA concerns the accreditation of journalists. Section 83, which stated that “no person other than an accredited journalist shall practise as a journalist nor be employed as such or in any manner holding himself out as or pretend to be a journalist”, was scrapped. It is therefore no longer a criminal offence to practice journalism without an official accreditation, even though other restrictions remain in place.

Amendments to the Broadcasting Services Act maintain the monopoly of the Zimbabwe Broadcasting Holdings over the airwaves in the provision of broadcast media services. In regard to commercial broadcasting, another amendment now allows for minimal foreign ownership and funding.

Certain sections of POSA have also been amended. Appeals against the banning of a march, for example, are no longer decided by the executive but by a magistrate's court. On the other hand, there is now a general ban on demonstrations outside Parliament, the courts and other public institutions. An addition to the Act includes submission of more detailed information before a meeting or march can be held. Names of the convenor and deputy convenor now have to be provided to the police. This allows them to arrest and charge individuals whereas before they charged organisations as a whole.

In the 17th Amendment of the Constitution, lawmakers added a unique standard for measuring the legitimacy of freedoms and arguably that of expression, i.e. through the determination of whether the action/activity is of “national interest”. Outcomes of court cases now depend entirely on how the individual judge will interpret “the national interest”.

## **SCORES:**

Individual scores:	2, 2, 2, 1, 2, 1, 2, 2, 2
Average score:	<b>1.8</b> (2006 = 1.3)



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

### **ANALYSIS:**

Panelists were split in their opinion on this indicator and felt that there are two systems at play in Zimbabwe.

One group of participants felt that ordinary Zimbabweans are willing and able to express themselves and that they are doing so without fear.

They pointed out that ordinary people are giving their forthright opinions about a range of issues - economy, inflation, shortages and the president. They do this mainly in their neighbourhoods. This debate is not instantly evident because there is only one national broadcaster and ordinary people do not have access to that broadcaster. However they are freely expressing themselves on alternative media such as Studio 7 of Voice of America, SW Radio Africa and Voice of the People.

The majority of panelists disagreed and stated that the atmosphere in Zimbabwe is not conducive to free expression. People voice their opinions freely only within their own group and often consider carefully where they are, who they are with and what they say under the circumstances. In rural Zimbabwe there is fear of victimisation and fear of disappearance, torture and violence when one expresses oneself.

Security is everywhere and repression has become a norm which people have accepted. They fear being branded “infidels” if they disagree with the views of officialdom and so become subservient to the political status quo: “You can’t even talk about the President’s age”.

Fear is further instilled by bloody images of activists, lawyers, opposition party members and ordinary citizens being assaulted by the police and the militia published in newspapers and broadcast by TV.

Apart from the few alternative media which are difficult to access, there are no channels to express opinions publicly. As a result politicians are removed from what people think. Government communicates its policies through the various media under its control (The Herald, Zimbabwe Broadcasting Corporation television and radio) but citizens do not have the same access to these media when they want and need to express themselves.

This constraint on free expression is not confined to political issues. Every issue in Zimbabwe is seen as being a political issue with a political meaning. People are generally afraid to talk and this culture of fear permeates everything. In the courts, there are certain issues that lawyers cannot talk about because they are off limits. Politicians and policy makers are even more restricted than the average citizens, as they cannot openly express their views: they make totally different statements on one and the same issue depending on whether they are in private or in public.

At universities, traditionally the hotbed of free debate, lecturers are often afraid to include certain contentious topics in their course outlines or comment on them. This “culture of self-censorship” is described as widespread and universal amongst Zimbabweans. Equally, students no longer freely debate issues without fear.

One cannot speak freely on the bus or in public or go to the national broadcaster or the media with one's views, if these are not in line with the views of government.

Zimbabweans have realised that normal channels of communication are not open to them and they find alternative ways of expressing their disgruntlement through theatre and music. A number of musicians are composing songs in a way that allows their consumers to interpret the lyrics they way they want. Drama is another medium that is being chosen as a way for people to convey their sentiments.

In the Afro Barometer, which researches opinions and attitudes of people in 18 countries, Zimbabwe always comes out worst. Up to 35 % of respondents say "don't know" in reply to what they perceive to be politically sensitive questions, preferring to give non-committal responses since they do not dare to give clear answers.

### SCORES:

Individual scores: 1, 3, 1, 2, 1, 1, 1, 1, 1, 1  
Average score: 1.3 (2006 = 1.1)

### **3.3 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 media.**

#### ANALYSIS:

Zimbabwe has laws in place that take away the little freedom of expression that the constitution allows. These are, among many others, the Official Secrets Act, POSA, BSA and AIPPA.

POSA, for example, makes it a criminal offence to publish or communicate "false statements prejudicial to the state". A person may be fined or imprisoned for up to five years for publishing a "false" statement likely to incite public disorder, affect the defence and economic interests of the country, or undermine public confidence in the police, armed forces or prison officers. Section 16 makes it an offence to make a public statement with the intention of, or knowing that there is a risk of "undermining the authority of or insulting the President". This includes statements likely to engender feelings of hostility towards the President, cause "hatred, contempt or ridicule" of the President, or any "abusive, indecent, obscene or false statement" about his person or his office. The offence attracts imprisonment for up to one year.

The Criminal Codification Act 2005 is the most threatening piece of legislation regarding freedom of expression – the "mother of all repressive acts". It forbids the publication or communication of "false statements prejudicial to the state" (section 31). Although the provision directly targets journalists and the mass media, its ambit is wide enough to include citizens generally. According to section 33 of the Act, a person is guilty of undermining the authority of or insulting the President if they publicly make a statement by words, by an act or by a gesture that will "(i) engender feelings of hostility towards; or (ii) cause hatred, contempt or ridicule of the President or an acting President, whether in person or in respect of his office ...".

The Criminal Codification Act together with POSA severely restrict citizens' right to freedom of association, assembly and movement, thus suppressing any form of dissent.

The State has fine-tuned the apparatus that impedes citizens from expressing themselves and a large number of people feel they may be arrested anywhere at any time for anything.

Editors can be forced to reveal their sources under the Parliamentary Privileges Act, and under the Defence Act the state can punish a journalist who has access to “sensitive” information considered seditious or treasonous. The same act restricts journalists from uncovering or revealing how the Ministry of Defence utilises funds allocated to it.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 2  
Average score: 1.1 (2006 = 1.3)

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

**ANALYSIS:**

As from December 2007 the accreditation of journalists with the Zimbabwe Media Commission is no longer compulsory.

Nevertheless, the practice of the journalistic profession remains partly restricted. Journalists who are not accredited may be barred from access to public places (such as Parliament, polling stations), state facilities and state functions (Independence Day celebrations etc). This is seen as a severe restriction on the exercise of their profession.

**SCORES:**

Individual scores: 2, 3, 2, 3, 2, 2, 4, 2, 2, 3  
Average score: 2.5 (2006 = 1.4)

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

**ANALYSIS:**

Confidential sources of information are not protected by any law and journalists can be forced to reveal their sources. The above mentioned Parliamentary Privileges Act makes provision for enforcing such disclosure.

**SCORES:**

Individual scores: 1, 2, 2, 1, 1, 1, 1, 1, 1, 1,  
Average score: 1.2 (2006 = 1.0)

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

**ANALYSIS:**

AIPPA – the Access to Information and Protection of Privacy Act – professes to make access to public information possible. But this is not the case. The criteria to gain access to informa-

tion in the hands of government are very restrictive, as is the process. Only the heads of public bodies are allowed to respond to requests for information and in the case of the police, only two people are allowed to comment – the police commissioner or the police spokesperson. They often refuse to provide information or are simply unavailable particularly to journalists from the privately owned media.

Journalists requiring information from a public body are expected to put their request in writing and the institution has 30 days in which to reply. During this period the application can be delayed or denied and the applicant can then complain to the minister – the same minister heading the ministry that refused access in the first place. There have been a number of cases where journalists submitted a request for information on a certain issue. That request was neither denied nor complied with, but often an article containing the information requested would subsequently find its way into the state controlled media.

Whether access is granted or not very much depends on the person applying: whether one is seen as a supporter of government or “being against the establishment”. Journalists applying for access to official records and documents are viewed with suspicion. For example, a reporter looking for a copy of a newspaper published in 1979 could not get it from the National Archives simply because he was a journalist from the independent media and therefore perceived to have sinister motives for wanting to get hold of it.

Government keeps tight control over its own publications such as the Government Gazette. Even the Hansard, the transcript of parliamentary debates, has not been published for a while. Citizens who wanted information relating to investments by a government-run social security organisation were denied the right to such information. A workers’ organisation was equally denied access. Such withholding of information also extends to normal comment from official government spokespersons who routinely refuse to speak to journalists in the private media on the basis that “you know I do not speak to your paper”.

<b>SCORES:</b>	
Individual scores:	2, 1, 1, 1, 1, 1, 1, 2, 1, 1
Average score:	<b>1.2            (2006 = 1.1)</b>

3.7

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

ANALYSIS:

Some civil society groups are supportive of media causes but as some of the issues being fought are also pursued by opposition politics, media activism is often perceived as “regime change” campaigning. The situation is worsened by the polarisation of media lobby groups into those regarded as “pro-regime” and “anti-regime” factions.

Civil society groups frequently fail to speak with one voice because they compete for space and influence and most importantly for donor funding. This results in the various groups looking after their own specific causes without adopting a broader approach.

Human rights and media freedom activists are “trying to fight a repressive system within the framework of the repressive system”. Despite the daunting odds, core groups of media practitioners and activists have generally been making efforts to advance the cause of media freedom,

among them the Media Institute of Southern Africa – Zimbabwe Chapter (MISA), the Zimbabwe Union of Journalists, the Zimbabwe Independent Editors Forum (ZINEF), the Independent Journalists Association of Zimbabwe and the Media Monitoring Project of Zimbabwe (MMPZ). MISA, ZUJ and the MMPZ have formed the Media Alliance of Zimbabwe (MAZ) which is now working as a united front in the struggle for media freedom and freedom of expression.

More needs to be done to ensure media lobby groups spread their work throughout Zimbabwe. Often they are preaching to the converted and grassroot communities are overlooked. Only the Media Monitoring Project of Zimbabwe has outreach programmes in the rural areas.

#### SCORES:

Individual scores: 4, 3, 3, 3, 3, 3, 4, 3, 3, 2  
Average Score: 3.1 (2006 = 2.5)

**Overall score for sector 1: 1.7 (2006 = 1.4)**

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## **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:

##### **Print media**

Over the last few years the print media market has been shrinking due to the struggling economy.

The print media currently available include the state-owned *The Herald*, *The Sunday Mail*, *The Sunday News* (Bulawayo-based), *The Chronicle* (Bulawayo-based), *The Manica Post* (Mutare-based) and *Gweru Times*.

The Financial Gazette is said to be owned by the governor of the Reserve Bank. The weeklies *The Standard* and *The Zimbabwe Independent* are privately owned. The People's Voice, a publication of the Information Department of the ruling ZANU (PF), was at one time out of circulation but is now back in print; *The Worker* is published by the Zimbabwe Congress of Trade Unions and *The Agenda* by the National Constitutional Assembly. All these publications are becoming more and more expensive to publish. Other periodicals are lifestyle papers Trends, En Vogue and other specialised publications.

Circulation figures are very low. *The Herald*, for example, puts out 80.000 copies. On average 10 people read one copy of the dailies, with the figure rising to 20 per copy of weekly newspapers.

Newspapers are expensive to purchase on a daily basis and it is the weeklies that are being bought more consistently by middle and higher income earning groups. A copy of *The Herald* presently (19 January 2008) costs Z\$900 000, the price of two standard loaves of bread - and most people prioritise bread over newspapers.

South African newspapers like *Sunday Times* and *Mail & Guardian* are available and have a sizeable market in Zimbabwe.

## **Broadcasting**

Broadcasting in Zimbabwe has been described as “narrowcasting” because the state-controlled *Zimbabwe Broadcasting Holdings* has a monopoly over the airwaves. There is no other broadcasting operator in the country.

## **Internet**

Very few Zimbabweans have private access to Internet. Wider public access is via Internet Cafes, but they charge outrageous prices beyond the reach of many. Those who have access mainly use the facilities at their workplaces. Access is further hampered by regular electricity outages.

The Interception of Communications Act, passed in August 2007, legalises the surveillance of all communication including internet traffic. Officials who can make applications for the interception of communications include the Chief of Defence Intelligence, the Director-General of the President’s department of national security, the Commissioner of the Zimbabwe Republic Police and the Commissioner-General of the Zimbabwe Revenue Authority. E-mails for example could be monitored, automatically identifying sensitive phrases and thus stopping the message from being forwarded to the recipient. There is no legal obligation to inform the person under surveillance.

Although all Internet Service Providers (ISPs), freight forwarders, courier companies, postal and telephone service providers and any providers of any medium that facilitates communication are obliged to put in place at their own expense mechanisms to monitor and record all information that passes through their system, this part of the act has not been implemented yet. Already, though, the act has had the psychological effect that many people are now fearful of sending e-mails which could be seen as sensitive.

## **On-line newspapers**

There are around 30 on-line newspapers (!) run by Zimbabweans in the diaspora, with *ZimOnline* (news) and *ZimbabweTimes* (news analysis) being the most important ones.

## **Satellite stations**

DSTV is available for subscription but only against payment in foreign currency. South African and other international TV channels are accessible through free to air satellite receivers.

## **Informal communication channels**

Word of mouth is increasingly becoming both more important and restricted. People from urban areas carry news to the rural areas and vice versa. However, due to the ever rising costs of transport and a severe cash crisis many people cannot afford to visit their rural areas as often as they would wish. Thus, even this flow of information is diminishing.

## **External broadcasting**

Externally based radio stations are enjoying significant growth in popularity, in particular *Voice of the People* (VOP), *Studio 7* (a Voice of America programme produced by Zimbabweans)

and *SW Radio* (broadcast from London, produced by Zimbabweans in exile). All three are broadcasting on short wave. Their impact is limited by the shortage of SW radio receivers and attempts by government to jam their signals.

Radio stations from neighbouring countries are also popular in areas near to the borders.

#### **SCORES:**

Individual scores: 2, 3, 2, 3, 2, 2, 2, 2, 3  
Average score: 2.3 (2006 = 1.3)

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

#### **ANALYSIS:**

With the economy in free fall both access to and availability of local publications are decreasing. It is no longer standard practice to buy a newspaper together with a loaf of bread and a pint of milk. All three products are often unavailable or far too expensive for the majority of Zimbabweans.

There have been incidents of the authorities banning privately-owned newspapers from being distributed in certain, especially rural areas. In some cases, the secret service CIO buys them up in bulk.

Foreign papers available in Zimbabwe include *The Zimbabwean* (a London-based weekly produced by exiled Zimbabweans) and the *South African Mail & Guardian*, *The Sowetan*, *Sunday Times* and *The Sunday Independent*. There have been threats by the Media Commission to "deal" with those foreign newspapers which are "hostile" to government. A number of bookshops regularly sell a wide variety of leisure and specialist magazines including *Home and Garden*, *Shape*, *FHM*, *National Geographic*, *Cars* and *Living and Loving*.

Weak signals in the outlying areas of the country and frequent power cuts have made it increasingly difficult for people to watch television. Radio is the most popular medium in Zimbabwe but people are limited to the four radio stations run by the Zimbabwe Broadcasting Corporation. There have allegedly been several attempts by Government to jam the externally based shortwave radio stations broadcasting into Zimbabwe.

People who have access to the Internet enjoy a wide choice of online publications being produced by Zimbabweans in the diaspora. If and when the authorities begin seriously implementing the Interception of Communications Act, such on-line publications may be in danger of being filtered out by the internet service providers.

#### **SCORES:**

Individual scores: 2, 3, 2, 3, 4, 3, 2, 4, 2, 3  
Average score: 2.8 (2006 = 1.2)

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

#### **ANALYSIS:**

Due to a severe shortage of newsprint and fuel for transport there are presently no such efforts. The NGO Africa Community Publishing and Development is being hampered in its attempts to distribute books in rural areas by restrictions imposed by local authorities.

#### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 1.3)

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

#### **ANALYSIS:**

On paper the Broadcasting Services Act 2001 (BSA) provides for commercial and community radio but in practice Zimbabwe Broadcasting Holdings maintains its monopoly over the airwaves. The Broadcasting Authority of Zimbabwe created through the Act and appointed by and under the control of the Minister of Information, with the responsibility to issue licences for broadcasting, has not granted any licence since it was launched.

Applications were submitted in 2006 to set up community radio stations but none have been approved.

Of all pieces of media legislation in Zimbabwe, BSA is the most restrictive. Through the BSA the state is able to place restrictions on ownership, structure and even content.

All broadcasters ever to be granted a license will be required to set aside one hour per week for government programmes. For community broadcasters, there is a prohibition against broadcasting material of a political matter and this is loosely defined as “including the policy launch of a political party.”

#### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 2, 1, 1  
Average score: 1.1 (2006 = 1.0)

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

Community broadcasting is non-existent in Zimbabwe.

#### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 1.0)



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

### **ANALYSIS:**

Print media published under the Zimbabwe Mass Media Trust, whose major shareholder is the state, are controlled essentially by the Ministry of Information. It determines their editorial policy and appoints the boards which in turn formally appoint editors and other leading staff based on their support for the ruling party and government. All media have to follow the stable's proclaimed mission "to protect the interests of the government of the day". If someone does not toe the party line, he or she gets fired. Therefore, staff at these papers are exercising self-censorship.

### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 2  
Average score: 1.1 (2006 = 1.0)

## **2.7 Local or regional independent news agencies gather and distribute information for all media.**

### **ANALYSIS:**

The only news agency, New ZIANA, is a commercial enterprise owned by government and is thus not independent.

### **SCORES:**

Individual scores: 1, 1, 1, 1, 1, 2, 1, 1, 1, 1  
Average score: 1.1 (2006 = 1.1)

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

### **ANALYSIS:**

Although at face value pieces of legislation such as AIPPA and the BSA may appear to promote media diversity in Zimbabwe, the application of these laws so far has demonstrated that the government uses them to actually stifle such diversity. While the Broadcasting Authority of Zimbabwe is tasked with the licensing of new broadcasting stations, to date BAZ has thrown a lot of spanners in the works of potential operators and has not approved a single broadcasting licence.

There is very little competition in the print media and even privately owned newspapers act as a cartel. Advertising rates usually go up at the same time and by the same rates, giving the impression that there is collusion among owners. The same people who head state media institutions also control them in their capacity as board members. There is a constant recycling of the same people who sit on a range of boards in a variety of sectors.

The current economic situation and restrictive legislative requirements act as a deterrent to potential investors.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 2, 1, 1, 1, 1  
Average score: 1.1 (2006 = 1.0)

<b>2.9 Government promotes a political and economic environment which allows a diverse media landscape.</b>
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**ANALYSIS:**

The economy of Zimbabwe is imploding, with the result of – among many other things – hyper-inflation.

The prices of newsprint, ink, labour and fuel are rising steeply on a daily basis. Experienced personnel from the printing industry are migrating to other countries leaving a critical void in the technical pool of skills. This results in shoddy printing work which affects the media industry. The electronic media is also losing skilled staff as they shift to the corporate sector or migrate. The consequence of all this is a cutback in advertising as companies protest high prices, mediocre adverts and inferior media products.

As a result diversity in the media landscape is shrinking even further as media organisations downsize or close down.

**SCORES:**

Individual score: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 1.0)

<b>2.10 Private media outlets operate as efficient and professional businesses.</b>
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**ANALYSIS:**

Privately owned media houses try to operate as efficient and professional businesses but are unable to do so as a result of the economic situation outlined above.

The Zimbabwe Independent, for example, gets its paper out on time, and management is seriously committed to making a profit. Regular board meetings are held and the board does its best to leave editorial policy to the staff.

The management of human resources by private media outlets, on the other hand, has always been scandalous. There are strikes in media organisations by staff who are working in poor conditions. The remuneration received by qualified personnel working in the privately owned media is shocking. These media practitioners often work with scarce resources and outdated equipment yet they are being pushed to increase their output all the time. The papers do not often help staff to cover their communication or transport costs. There are no support systems to assist staff on a story where their life may be in danger. If they face litigation as a result of AIPPA there is often no moral support by their organisation.

**SCORES:**

Individual scores: 2, 1, 2, 2, 2, 2, 4, 2, 2  
 Average score: 2.3 (2006 = 3.6)

<b>2.11 State print media are not subsidised with tax payers' money.</b>
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**ANALYSIS:**

There are no clear indicators of direct budget subsidies but as state media, like any other, are suffering from the shrinking of advertising revenue due to economic and political reasons, it is highly likely that newsprint and fuel are being subsidised. However, there is no hard evidence to prove this.

**SCORES**

Individual scores: 3, 5, 4, 3, 3, 3, 4, 3, 2, 4  
 Average score: 3.4 (2006 = 1.4)

<b>2.12 Government does not use its power over the placement of advertisements as a means of interference with media content.</b>
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**ANALYSIS:**

Advertisements are screened by personnel at the state media organisations. Parastatal companies advertise overwhelmingly in the state run papers. Directives oblige all state run universities not to advertise in the private media. The state run media are also directed not to take advertisements from certain companies associated with the opposition.

**SCORES:**

Individual scores: 3, 2, 2, 3, 1, 3, 2, 1, 1, 3  
 Average score: 2.3 (2006 = 1.0)

<b>2.13 The advertising market is large enough to maintain a diversity of media outlets.</b>
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**ANALYSIS:**

Although there is a perception that the papers are full of ads, in reality only very few companies can still afford to advertise. Most if not all advertising budgets have been drastically slashed due to stringent cost cutting measures within the corporate sector. The only relief comes from three key areas: NGOs, banks and seasonal advertisements that are mandatory such as audited financial statements of companies listed on the Zimbabwe Stock Exchange at the end of March. Rates on radio are very low, so while there may be considerable volumes of advertising there is often no real income.

Advertising agencies are either downsizing or closing down.

All this has a direct and negative impact on the growth of the media industry and certainly does not assist in increasing the diversity of the media landscape.

**SCORES:**

Individual scores: 1, 2, 2, 3, 2, 2, 2, 2, 1, 2  
Average score: 1.9 (2006 = 2.3)

**Overall score for section 2: 1.7 (2006 = 1.4)**

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**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 Broadcasting Services Act 2001 established the Broadcasting Authority of Zimbabwe (BAZ) as the regulatory and licensing body. In line with amendments to the BSA passed in December 2007, the board of the Authority will be appointed by the President (not, as previously, by the Minister of Information) after consultation with the Minister of Information and the parliamentary Committee on Standing Rules and Orders. The board will comprise two broadcast professionals (technology and content), one traditional chief, one lawyer, one public accountant, one representative of churches as well as three members selected by the President from a list of 6 nominees submitted by the parliamentary committee.

The law is silent on the way the President will go about choosing people from the respective groups – obviously the choice is entirely his.

Thus, the BAZ and its board cannot be independent.

**SCORES:**

Individual scores: 1, 1, 1, 2, 1, 1, 1, 2, 1, 1  
Average score: 1.2 (2006 = 1.0)

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

**ANALYSIS:**

Civil society is not involved in the process of appointing nominees. The whole procedure is neither open nor transparent.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 1.0)

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

It is difficult to judge the new broadcasting authority as it has not been appointed yet, but the lack of transparency in the appointments procedure and the lack of independence of board members are likely to compromise the work of the body. If the previous record of BAZ is anything to go by, in particular the fact that it did not issue a single licence, there is clearly no regard for the public interest in general and no attempt to ensure either fairness or a diversity of views.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 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 formal broadcasting policy in place. BAZ works behind closed doors and is shielded from any public scrutiny.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 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 the holding company Zimbabwe Broadcasting Holdings (ZBH) is appointed solely by the Minister of Information, without any public input.

**SCORES:**

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.0 (2006 = 1.0)

<b>3.6</b>	<b>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.</b>
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ANALYSIS:

Members of the board of Zimbabwe Broadcasting Holdings are all politically interconnected and there is a great deal of patronage, thus ensuring that the political status quo is maintained. Most if not all members of the board have strong affiliations to the ruling party and government. Five out of the total of nine occupy senior positions in the state-run newspapers and thus have a vested interest in making all the state media in the country conform to one common editorial (party-) line.

**SCORES:**

Individual scores:	1, 1, 1, 1, 1, 1, 1, 1, 1
Average score:	<b>1.0</b> (2006 = 1.1)

<b>3.7</b>	<b>The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practised.</b>
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ANALYSIS:

No such legal guarantees are in place.

There is a great deal of interference that hinders the professional and efficient operations of the public broadcaster. The divisions and factionalism within political circles are often played out in the newsrooms. Ministers will phone and give a directive regarding a story and soon after a Permanent Secretary will call and give instructions that counteract the initial directive. Politicians will stipulate who to report on and who not to report on. The reality is that the system allows politicians and government personnel to interfere, manipulate and place political pressure on the national broadcaster.

There is a great deal of commercial influence by large advertisers who can then make their own demands. The business section in the news bulletins seems to be influenced by the interests of advertisers. A chimurenga (liberation war) song is played after every Reserve Bank of Zimbabwe advert and this subtle and strategic placement is powerful. It is clear that big advertisers are spared from stories that may prejudice their reputation. Sponsorship of highly popular programmes is often driven by political rather than commercial interests.

Although there is legislation specifying what is permissible and what is not during an election period, the unwritten policy is that as a “public” broadcaster, ZBC will put aside the need to operate commercially and in the interests of the public at such times. As Zimbabwe enters the pre-election period ZBC will be expected to campaign for the ruling party although they are legally obliged to provide equal coverage to all parties. There is no directive in this regard but editors at ZBC know what is expected from them.

ZANU PF politicians have the advantage of holding public office and so they will be covered extensively in their capacity as ministers, governors, etc. The timing of stories can also be

used to disadvantage opposition parties, i.e. by covering them at times when the public is not watching or listening to the national broadcaster. In this way the ruling party gets preferential treatment from ZBC while, on the face of it, the broadcaster will maintain it is operating within the requirements of the law.

ZBC staff – even if they want to act professionally - have no choice but to succumb to these pressures. People who love radio or television work have no other option but to join the state broadcaster.

#### **SCORES:**

Individual scores:	1, 1, 1, 1, 1, 1, 1, 1, 1
Average score:	<b>1.0</b> (2006 = 1.2)

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

#### **ANALYSIS:**

The last time ZBH got money from government was in 1994 when Jonathan Moyo, the then Minister of Information and Publicity, was in charge. ZBH is surviving on advertising and does not collect licence fees. It is not adequately funded as evidenced by the fact that salaries are sometimes paid late and there is a high staff turnover. The funding shortage is exacerbated by the fact that Government demands free advertising. ZBH has had some of its vehicles attached in a labour dispute brought by retrenched workers and has been reported to be unable to honour its debts.

#### **SCORES:**

Individual scores:	1, 1, 1, 1, 1, 1, 1, 3, 1
Average score:	<b>1.2</b> (2006 = 1.0)

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

#### **ANALYSIS:**

Frequent power outages have resulted in the malfunction of ZBC's technical equipment which directly affects accessibility especially in remote parts of Zimbabwe. People who have access to DSTV can pick up ZBC more clearly via satellite.

#### **Radio**

The reception of the radio channels depends on the station and the bandwidth. Shortwave is heard in most parts of the country. National FM and Radio Zimbabwe have the best signals nationwide. But reception is poor in areas such as Nyanga, Hwange and Beitbridge and people there listen to broadcasts from neighbouring countries.

#### **Television**

According to the chairperson of the parliamentary communications committee TV signals presently cover 40 % of the country. As transmitters are in a very sorry state, it is difficult to

receive television signals in a number of areas. The situation is not likely to improve in the near to mid term because the government-owned transmitter company Transmedia cannot afford new expensive transmission equipment.

**SCORES:**

Individual scores: 3, 2, 1, 2, 2, 2, 2, 1, 2  
Average score: 1.9 (2006 = 1.5)

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

**ANALYSIS:**

*ZBC* offers diverse programming but most of it is boring.

TV caters for all tastes: sports, soap operas (such as Studio 263), children's, drama and current affairs programmes, but provides no special offerings for the youth. Movies and international soaps are extremely old reruns. In current affairs in particular there is no diversity as most programmes are biased in favour of the ruling party and government.

Radio offers various channels with different formats, such as Sport FM or Power FM (youth radio).

The quality of most programmes on both radio and TV is poor as experienced people have left and are being replaced with young and inexperienced staff. Technical quality is also deteriorating as engineers are leaving the country.

*ZBC* is certainly not the first choice of the people – but they have no alternative.

**SCORES:**

Individual scores: 3, 3, 3, 3, 2, 3, 2, 3  
Average score: 3.3 (2006 = 2.2)

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

**ANALYSIS**

The broadcaster is biased towards advancing the cause of the ruling party and government. There is a lot of reporting on the President, government and the ruling party. Typically, news stories start off by saying: "The government warns the public", "The Minister urges civil servants", "ZANU(PF) cautions against ..." etc., regurgitating statements made at state functions and ruling party meetings. The public get to hear the opinions of politicians in power but there is no feedback from the people or the opposition. Programmes on radio and television are one-sided and not interactive.

**SCORES:**

Individual scores: 2, 2, 2, 2, 1, 1, 1, 1, 2  
Average score: 1.5 (2006 = 1.0)



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

#### **ANALYSIS:**

Jonathan Moyo in his time as Minister of Information introduced a local content quota for both radio and television. With the exodus of creative and technical staff it has become increasingly difficult to produce local programmes. The rising costs of production are another inhibitive factor. As a result ZBC hardly manages to fill even a 40% quota and “local” has been expanded to mean “African”. This quota is still in place but western music and programming are slowly being re-introduced.

75% of the music played on radio is locally produced material – not all of which is not very popular.

#### **SCORES:**

Individual scores: 1, 2, 2, 2, 1, 1, 1, 2, 1, 4  
Average score: 1.7 (2006 = 1.4)

**Overall score for section 3: 1.4 (2006 = 1.1)**

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## **Section 4: The media practise high levels of professional standards.**

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

#### **ANALYSIS:**

A self-regulatory Media Council of Zimbabwe was officially launched on June 8, 2007 by the Media Alliance of Zimbabwe which comprises the Media Monitoring Project Zimbabwe, the Zimbabwe Union of Journalists and the Media Institute of Southern Africa. The Council also has the backing of the Zimbabwe Independent Editors Forum (ZINEF) and the Federation of African Media Women of Zimbabwe (FAMWZ). Initially journalists and editors working for the state media had endorsed the concept of the voluntary media council and the code of ethics, but they later had to withdraw, obviously following pressure ‘from above’, because MISA and MMPZ are perceived as organisations of “regime change activists”.

After the amendment of AIPPA in December 2007 and the establishment of a statutory “Media Council of Zimbabwe”, it was decided to change the name of the self-regulatory body to Voluntary Media Council of Zimbabwe (VMCZ) to avoid confusion.

A code of ethics has been developed and the administrative structure of the VMCZ is in place. Its board comprises 14 members, seven public representatives and seven media representatives. At present only 13 of the 14 seats have been filled so as to leave space for the state editors to come on board.

A Media Complaints Committee will be established to adjudicate complaints from the public, using the code of ethics as a basis. Where applicable, the Committee has the right to demand that corrections be published. Because the state media are not (yet) part of the structure, the Committee can not officially adjudicate cases involving these media houses, but it may be possible to talk with state editors behind closed doors.

The work of the VMCZ will eventually extend beyond adjudication to monitoring, research and training of media practitioners on ethics and professionalism based on the issues and problem areas highlighted in the course of the body’s adjudication and monitoring processes. One of the hurdles is the fact that there are no professional media trainers left in the country – the Media Council will try to train editors as trainers.

At present, VMCZ has still not started operations – six months after its launch.

**SCORES:**

Individual scores:	1, 1, 1, 1, 2, 1, 2, 2, 3, 3
Average score:	1.7 (2006 = 1.1)

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

ANALYSIS

The standard of reporting in Zimbabwe has deteriorated over the years and the basic principles of accuracy and fairness are being disregarded by journalists. Reporters and sub editors are failing to cross-check even the most basic details of a story – the correct profession of a person or the spelling of their name. There are a lot of inaccuracies and there is certainly no fairness. Quite a number of seasoned media practitioners have left the country and many articles are not written by trained journalists.

Journalists and editors from the privately owned media face constraints when public institutions refuse to provide information. The police will often refuse to comment and so certain information is difficult to verify.

There is a lack of well-researched articles and proper reporting, with many journalists expressing their own opinions rather than trying to write a balanced story and get the people’s views. Sometimes a story will present only one view or be based entirely on one document. The regular lack of by-lines and the use of unnamed sources or unofficial sources further reduce the credibility of articles.

Problems of accuracy and fairness are exacerbated by the economic environment. Wages are demoralising and there is systematic corruption, with individuals giving journalists money to write puff pieces or prevent scandals from being published in the paper.

Newspapers are carrying more and more opinion pieces written by columnists who are not journalists. Some columnists write more accurately and knowledgeably than journalists especially on specialist subjects such as health, education and the law.

Editors of state media tend to give political stories written by their reporters a slant that suits their political masters. Sometimes the reporter would have done his/her best to balance an ar-

ticle only to find a different story printed. Polarisation of the media has resulted in hate speech and hate language being used particularly by columnists writing in the state media. Stories on health or social issues, on the other hand, are generally more balanced.

Politics also taint the way privately owned publications approach a story. Up until quite recently, political activists and thus private newspapers were generally in favour of the opposition MDC. Now, many journalists and editors feel disappointed by the party of their choice and are seeking to keep a greater distance – which may serve to professionalise their work.

Online publications are among the worst offenders against the principles of accuracy and fairness. Stories tend to have a sensational slant and many stories are based on rumour and not fact.

#### **SCORES:**

Individual scores: 2, 2, 3, 2, 2, 3, 2, 1, 2, 2  
Average score: **2.1** (2006 = 2.3)

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

#### **ANALYSIS:**

Business and political news are the two topics that are being taken seriously in newsrooms while other issues receive superficial treatment. There are hardly any investigative stories and there is little or no interest in social and cultural issues. Coverage of rural stories and social issues is extremely poor. Recently artists have reported that they are paying for coverage of their products in the print and the electronic media.

The Herald is predominantly political in nature while some independent papers try to give a total package by covering business and politics, as well as special interests among a broad range of issues.

The reasons for the lack of investigative stories are many:

- There is a shortage of personnel in the newsrooms and often journalists have to cover several beats. The Zimbabwe Independent has six journalists and The Standard eight. Among them they are expected to cover the broad range of topics to be carried in a weekly paper, including business and political news.
- There is a shortage of journalists who specialise in certain genres.
- Media organisations lack the resources to support their journalists in pursuing in-depth and well researched investigative pieces. Investigative stories currently being carried in the media rely exclusively on documents which are often minutes of meetings, memos or court records. Many have only one source.
- The majority of journalists are not mobile. Often so called investigative pieces get written when someone walks into the newsroom and provides information which is used without questioning the motives of the informer.

#### **SCORES:**

Individual scores: 2, 2, 2, 2, 3, 4, 2, 3, 2, 3  
Average score: **2.5** (2006 = 1.8)

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

##### **ANALYSIS:**

The number of women working in the print media is insignificant. At the Zimbabwe Independent, for example, there is only one woman in the production team of about 12. In the entire history of the state print media only two women have ever reached the top as editor-in-chief.

ZBC has a significant number of women in decision making positions, among them six executive producers.

The operating environment is not conducive for gender mainstreaming, with men regularly stereotyping and being hostile to women.

Media houses are described as being notorious for sexual harassment of women. It has been reported that “carpet interviews” happen with disturbing frequency, meaning that some women get a job and survive in the media houses only in exchange for sexual favours. Sexual harassment is also taking place at media tertiary institutions. Women are said to be systematically excluded from prestigious areas such as business and financial reporting and there is a lack of assistance in newsrooms for new female journalists eager to work in this field.

All this forces women to seek a better working environment outside the newsrooms. A large number of experienced female journalists leave the print media at mid career level and move on to work in the corporate or NGO sector.

##### **SCORES:**

Individual scores: 2, 3, 2, 2, 2, 2, 3, 2, 2, 2  
Average score: 2.2 (2006 = 1.4)

#### **4.5. Gender mainstreaming is reflected in the editorial content.**

##### **ANALYSIS:**

The newspapers are very male dominated. Stories on women are not fair and often not accurate. Women’s voices are scarce or non-existent in sports, economic and business stories. They are often only quoted on social issues – water, sanitation, or health. Male journalists claim that the dearth of women’s voices on the perceived ‘real issues’ is due to the fact that female professionals or experts are not willing to comment when they are approached.

A large number of male politicians and professionals are media savvy and their female counterparts have not been empowered with certain skills so they are often castigated for not having the ability to deal effectively with the media.

Zimbabwean society is patriarchal and the media content reflects the power relations in society.

##### **SCORES:**

Individual scores: 2, 1, 1, 2, 2, 2, 2, 1, 2, 2,  
Average score: 1.7 (2006 = 1.2)

#### **4.6. Journalists and editors do not practise self-censorship.**

##### **ANALYSIS:**

Self-censorship is practiced extensively in both the state and independent media – both consciously and unconsciously. Many reporters, whether working for the state or the private media, are “conditioned” in the sense that they know what is expected of them without anyone having to give them directions. They suffer from the ‘Publish and Perish Syndrome’, afraid to publish certain stories for fear of victimisation.

##### **SCORES:**

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

Average score: 1.4 (2006 = 1.7)

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

##### **ANALYSIS:**

Journalists working in the weekly privately owned newspapers maintain there is no interference from the owners of their publications. Often the owner will check on the paper – the layout and the choice of stories - but will not interfere in the content. But journalists are aware of what is expected from them and what editorial line they are expected to follow –stories that do not conform with these expectations will be spiked anyway.

With regard to editorial independence, the blurring of the separation of powers between owners and editors is of great concern. Owners sometimes call to say they want to see certain stories in the paper, or the chief executive will walk into the newsroom, look at the lead story and make comments on which direction the story should take. Problems occur when an editor-in-chief is also the publisher/owner of a media outlet. In these cases, there will always be active intervention as he/she will be part of the editorial team.

There are cases where the owner may phone journalists in the newsroom to alert them to events that might interest them but does not complain when the suggestion is not taken up.

##### **SCORES:**

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

Average score: 1.1 (2006 = 2.2)

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

##### **ANALYSIS:**

Salary levels at all media organisations are shockingly low. At the time of the panel meeting (19/20 January 2008) journalists working for a private weekly were being paid Z\$30 –Z\$70 million a month (the equivalent of US\$6-US\$14 on the parallel market, or 10 to 20 loaves of bread). Salaries in the state media organisations are slightly better (little more than Z\$100 mil-

lion). Journalists throughout the industry do not enjoy benefits such as housing loans, company cars or entertainment allowances.

Corruption is rampant – but this is not confined to journalists alone. It is a problem of society and the system as a whole.

Journalists from the privately owned media could be the most corrupt but they are not. Instead they have chosen to moonlight for foreign based organisations to earn foreign currency (typically US\$ 15 per story). This may become problematic and compromise the reputation and professionalism of the organisation that employs them: their stories often break in the foreign media outlets before they appear in the local media.

Brown bag journalism (a phrase coined because of hyperinflation and the necessity to carry vast amounts of money) is becoming rife as politicians, sports persons and business people bribe journalists to gain prominence. Journalists are also extorting money from personalities with the promise to keep their images untainted in return.

**SCORES:**

Individual scores: 2, 1, 1, 1, 1, 1, 1, 1, 1  
Average score: 1.1 (2006 = 1.4)

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

**ANALYSIS:**

Training varies within organisations with most of it being specialised. Most journalists pursue their own training opportunities.

Formal training is offered at the University of Zimbabwe Department of Media Studies, Harare Polytechnic, Christian College Of Southern Africa (CCOSA), ILSA, Midlands State University, National University of Science and Technology (NUST), Zimbabwe Open University (ZOU) and the UMAA institute. Editors regularly complain about the qualification of graduates from these institutions because they “do not know the basics of news writing and have to be re-trained in MISA workshops”.

Institutions such as NUST are facing numerous challenges with lack of resources being the main obstacle to quality teaching. Lecturers are trying to form an organisation of trainers to ensure professional standards are maintained at a high level.

The gradual lowering of entry qualifications for tertiary institutions and falling educational standards generally impact heavily on the calibre of students entering universities.

Trainers are leaving the country in droves for greener pastures. There are a number of lecturers who are not trained/qualified to teach some of the specialist subjects they are teaching. Training is more theoretical than practical. Infrastructure is dilapidated and equipment outdated.

Formal training is offered up to Masters level, while there are also opportunities for upgrading skills through in-house training, regional attachments through institutions such as MISA, and

regular workshops. The problem is that editors often send their most junior instead of their seasoned staff members, which results in the same ground being covered over and over again, but people not having the opportunity or capacity to utilise the information learnt.

**SCORES:**

Individual scores: 2, 3, 4, 3, 3, 4, 4, 3, 1, 3  
Average score: 3.0 (2006 = 4.0)

<b>4.10 Journalists and other media practitioners are organised in trade unions and/or professional associations.</b>
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**ANALYSIS:**

Journalists in Zimbabwe are well organised. They are members of the Zimbabwe Union of Journalists, the Media Institute of Southern Africa – Zimbabwe Chapter, the Zimbabwe Independent Editors Forum (ZINEF), the National Association for Freelance Journalists (which is not fully functional), or the Federation of African Media Women. MISA and ZUJ are members of the Media Alliance of Zimbabwe.

**SCORES:**

Individual score: 4, 5, 4, 4, 3, 3, 4, 4, 4, 4  
Average score: 3.9 (2006 = 4.5)

**Overall score for section 4: 2.1 (2006 = 2.1)**

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**OVERALL COUNTRY SCORE: 1.7 (2006 = 1.5)**

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## **Developments since 2006 and the Way Forward**

**Positive developments in the media environment in the last two years:**

- o Non-accreditation of journalists is no longer a criminal offence
- o Formation of the Media Alliance of Zimbabwe
- o Launch of the self-regulatory Media Council of Zimbabwe
- o Lawmakers interested in taking part in discussions with the media
- o Increase of online publications

**Negative developments in the media environment in the last two years:**

- o Catastrophic deterioration of the economy with impact on the media industry, circulation of papers and access to broadcasting
- o Continuation of political violence
- o Exodus of skilled media staff
- o Interception of Communications Act, passed in August 2007

**Main drivers/actors for positive change:**

- o The Media Alliance of Zimbabwe, designed to focus efforts and project a united front on media issues
- o Lobbying shifted from international to African organisations (SADC, African Union)
- o Opposition parties are more aware of dangers to freedom of expression

**Possible obstacles for further development:**

- o The overall political environment
- o Fear and intimidation
- o Economic deterioration
- o Weak opposition
- o Government's reluctance to involve citizens in political processes
- o Uninformed and counterproductive statements by the international community likely to jeopardize internal reform efforts
- o Lack of interest of SADC and AU in media freedom issues
- o Inadequate funding of civic society groups

**Activities needed over the next few years:**

- o Better coordination of pro-democracy groups
- o Journalists to form a united front across the political divide
- o Mobilisation of communities for freedom of expression issues
- o Strengthening of support for the Voluntary Media Council
- o Intensifying of advocacy efforts in the SADC region

**The panel meeting took place at the Holiday Inn, Mutare, January 18 - 20, 2008.**

**The Panel:**

**Loughty Dube - Media Institute of Southern Africa- Zimbabwe Chapter Chairperson**

**Emilar E Vushe – Media Monitoring Project of Zimbabwe**

**Vongai Tinarwo,**

**Patricia Magorokosho – Federation of African Media Women Zimbabwe**

**Earnest Mudzengi – National Constitutional Assembly**

**Stanford Matenda – Department of Journalism and Media Studies, NUST**

**Guthrie Munyuki – Journalist and media activist**

**Abigail Gamanya – Media Alliance of Zimbabwe**

**Lifaqane Nare - Journalist**

**The panel also had a practising journalist (male)**

**The Rapporteur:**

**Ms. Reyhana Masters**

**The Facilitator:**

**Mr. Hendrik Bussiek**



# MISA's Annual Press Freedom Award

## Call for Nominations

**T**he 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 is 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 given 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 4 August 2009.

Postal: Private Bag 13386 Windhoek Namibia,

Fax: +264 61 248016

Email: [jennifer@misa.org](mailto:jennifer@misa.org) / [director@misa.org](mailto:director@misa.org)

**Deadline:** 4 August 2009

For more information contact the Programme specialist: Gender, HIV/AIDS and Training on +264 61 232975 or [jennifer@misa.org](mailto:jennifer@misa.org) or visit [www.misa.org](http://www.misa.org)

The award will be presented to the winner at a gala dinner to be held alongside the MISA Regional Annual General Meeting at the end of August 2009.

*Brought to you in conjunction with*



# 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](mailto: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's 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's 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**

MISA has received funding from many donors over the years with its major source being Danida, Sida, Norad, Hivos, USAID, EU, Open Society Foundation, Heinrich Böll Stiftung, Friedrich Ebert Stiftung, Netherlands Institute for Southern Africa and Communication Assistance Foundation.

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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 - May 3, 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 Organisation Seminar on Promoting an Independent and Pluralistic African Press, held in Windhoek, Namibia, from April 29 to May 3, 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 broadcast 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 productions being given special status and recognised as cultural goods under the World Trade Organization rules.
- 6 UNESCO should take measures to promote the inclusion of the theme of media, communications and development in an appropriate manner during the UN Summit on the Information Society in 2003.

# 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**

<b>3.1</b>	Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.
<b>3.2</b>	The appointments procedure for members of the regulatory body is open and transparent and involves civil society.
<b>3.3</b>	The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.
<b>3.4</b>	The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.
<b>3.5</b>	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.
<b>3.6</b>	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.
<b>3.7</b>	The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practised.
<b>3.8</b>	The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.
<b>3.9</b>	The public broadcaster is technically accessible in the entire country.
<b>3.10</b>	The public broadcaster offers diverse programming for all interests.
<b>3.11</b>	The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.
<b>3.12</b>	The public broadcaster offers as much diverse and creative local content as economically achievable.

### **Sector 4 The media practice high levels of professional standards**

<b>4.1</b>	The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies
<b>4.2</b>	The standard of reporting follows the basic principles of accuracy and fairness.
<b>4.3</b>	The media cover the full spectrum of events, issues and cultures, including business/economics, cultural, local and investigative stories
<b>4.4</b>	Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process.
<b>4.5</b>	Gender mainstreaming is reflected in the editorial content.
<b>4.6</b>	Journalists and editors do not practise self-censorship
<b>4.7</b>	Owners of private media do not interfere with editorial independence
<b>4.8</b>	Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption
<b>4.9</b>	Training facilities offer formal qualification programmes for journalists as well as opportunities to upgrade their skills.
<b>4.10</b>	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, June 3, 2007**

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# So This is Democracy?

## State of media freedom in southern Africa, 2008

This is the 15th edition of *So This is Democracy?* This annual publication comes at a time when the southern African region still faces significant challenges around the respect and enjoyment of media and freedom of expression rights. In 2008 MISA issued 163 alerts. The highest number, 60, were from Zimbabwe as has become the trend over the past eight years. MISA Regional Secretariat expresses its appreciation to information officers in 11 of our national chapters in the region. This publication is a combined effort of MISA and its national chapters. Recording alerts, as part of monitoring the media environment and informing our work in the region, is a key function of MISA.

Serious violations were recorded in Tanzania with the attacks on journalists and closure of *Mwanahalisi* newspaper. South Africa grabbed the limelight for the wrong reasons with the continuing South Africa Broadcasting Corporation (SABC) saga.

MISA witnessed some positive strides in the region in past year, with the political changes in Zimbabwe giving us cautious hope. We hope that Zimbabwe can make a turn from its past of political violence, economic decline and suffering that has been ongoing since 2000. At the same time we also hope that the new Zambian government will take steps to finally pass media laws already approved by the previous government. As five countries in the region head to the polls in 2009, we hope that these processes can happen in a peaceful environment where media and freedom of expression rights are respected. Without a free media and access to information, no electoral process can be called free and fair.

*So This is Democracy?* remains a valuable record of the media environment in the region, and MISA hopes that this publication will be used as a research and advocacy tool by civic society and the media to push for positive media reforms. MISA would welcome feedback on this publication so that we can continue to respond to the needs of our stakeholders in the region and internationally.

